

The Texas State Board of Plumbing Examiners (Board or TSBPE) proposes amendment to the existing rule at 22 Texas Administrative Code (TAC), Chapter 367.2 to update the codes adopted under the authority of Texas Occupations Code, Sec. 1301.255 to the 2021 Uniform Plumbing Code and the 2021 International Plumbing Code. The proposed change is referred to as the "proposed rule."

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

Under Texas Occupations Code §1301.255(a), the Texas State Board of Plumbing Examiners (Board or TSBPE) is required to adopt the Uniform Plumbing Code (UPC), as published by the International Association of Plumbing and Mechanical Officials (IAPMO), and the International Plumbing Code (IPC), as published by the International Code Council (ICC), as those codes existed on May 31, 2001. Section 1301.255(b) authorizes the Board to adopt later editions of those codes by rule.

The IAPMO and ICC regularly update the UPC and IPC to incorporate advances in plumbing technology, construction methods, materials, and safety standards. The Board currently has the 2018 editions of the UPC and IPC adopted by rule. After reviewing the changes included in the 2021 editions and surveying plumbing code adoption by jurisdictions throughout Texas, the Board determined that updating its adopted codes to the 2021 editions is appropriate. The 2021 UPC and IPC are the editions most commonly adopted by local jurisdictions across the state and reflect nationally recognized, current plumbing standards.

Adopting the 2021 editions will allow the Board's rules to remain consistent with modern plumbing practices, enhance public health and safety by recognizing updated code provisions, and promote greater uniformity between state and local plumbing requirements, thereby reducing regulatory inconsistencies for licensees, inspectors, and the public.

SECTION BY SECTION SUMMARY

Proposed Rule 367.2 shows simply that the 2018 UPC and IPC, and the codes incorporated by reference of the 2018 International Fuel Gas Code and 2018 International Residential Codes, are repealed, and the 2021 UPC and IPC codes, and the incorporated 2021 International Fuel Gas Code and 2021 International Residential Code, are adopted.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Lisa G. Hill, Executive Director for the TSBPE (Executive Director), has determined that for the first five-year period the amended rule is in effect, there are no foreseeable increases or reductions in costs to the state or local governments as a result of enforcing or administering the rule. The Executive Director has further determined that for the first five-year period the amended rule is in effect, there will be no foreseeable losses or increases in revenue for the state or local governments as a result of enforcing or administering the rule.

PUBLIC BENEFITS

The Executive Director has determined that for each of the first five years the amended rule is in effect, the public benefit anticipated as a result of enforcing or administering the amended rule will be enhanced public safety through adoption of current nationally recognized plumbing standards and increased regulatory consistency among Texas jurisdictions.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH THE PROPOSAL

The Executive Director has determined that for the first five years the amended rule is in effect, there are no substantial economic costs anticipated to persons required to comply with the amended rule.

ONE-FOR-ONE REQUIREMENT FOR RULE WITH A FISCAL IMPACT

Given that the amended rule does not have a fiscal note which imposes a cost on regulated persons, including another state agency, a special district, or local government, proposal and adoption of the rule is not subject to the requirements of Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

For each of the first five years the amended rule is in effect, the Board has determined the following: (1) the amended rule does not create or eliminate a government program; (2) implementation of the amended rule does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the amended rule does not require an increase or decrease in future legislative appropriations to the agency; (4) the amended rule does not require an increase or decrease in fees paid to the agency; (5) the amended rule does not create a new regulation; (6) the amended rule does not expand, limit, or repeal an existing regulation; (7) the amended rule does not increase or decrease the number of individuals subject to the rule's applicability; and (8) the amended rule does not positively or adversely affect this state's economy.

LOCAL EMPLOYMENT IMPACT STATEMENT

No local economies are substantially affected by the amended rule. As a result, preparation of a local employment impact statement pursuant to Texas Government Code §2001.022 is not required.

FISCAL IMPACT ON SMALL AND MICRO-BUSINESS, AND RURAL COMMUNITIES

The amended rule will not have an adverse effect on small or micro-businesses, or rural communities because there are no substantial economic costs anticipated to persons required to comply with the amended rule. As a result, preparation of an economic impact statement and a regulatory flexibility analysis, as provided by Texas Government Code §2006.002, are not required.

TAKINGS IMPACT ASSESSMENT

There are no private real property interests affected by the amended rule. As a result, preparation of a takings impact assessment, as provided by Texas Government Code §2007.043, is not required.

REQUEST FOR PUBLIC COMMENT

Written comments regarding the amended rule may be submitted by mail to Patricia Latombe at 7915 Cameron Rd, Austin, TX 78754, or by email to rule.comment@tsbpe.texas.gov with the subject line "Rule Amendments." All comments must be received no later than 30 days after publication in the Texas Register.

STATUTORY AUTHORITY

This proposed rule is made under the authority of Texas Occupations Code, Sec. 1301.251(2) which authorizes the Texas State Board of Plumbing Examiners to adopt rules as necessary to implement the Chapter, and Texas Occupations Code, Sec. 1301.255 which requires the TSBPE to adopt the Uniform Plumbing Code (UPC), as published by the International Association of Plumbing and Mechanical Officials (IAPMO) and the International Plumbing Code (IPC), as published by the International Code Council (ICC), as they existed on May 31, 2001 and allows any later editions of the codes to be adopted in rule.

No other statutes or rules are affected by the proposal.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Rule 367.2

(a) To protect the health and safety of the citizens of this state, the Board adopts the following plumbing codes:

(1) the ~~2018~~ 2021 Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials; and

(2) The ~~2018~~ 2021 International Plumbing Code, as published by the International Code Council and the codes incorporated by reference within the ~~2018~~ 2021 International Plumbing Code, including:

(A) the ~~2018~~ 2021 International Fuel Gas Code; and

(B) the ~~2018~~ 2021 International Residential Code.

(b) To ensure the proper design, installation, and maintenance of plumbing systems within its jurisdiction, a political subdivision may adopt a plumbing code with any amendments necessary to address local concerns provided that the amendments do not substantially vary with the rules or laws of this state.

(c) Plumbing must be installed in accordance with all applicable plumbing codes adopted by the political subdivision in which the plumbing is being installed.

(1) Plumbing installed by an individual licensed under the PLL in an unincorporated area of the county or other area where no plumbing code has been adopted must be installed in accordance with a plumbing code adopted under subsection (a) of this section.

(2) A plumbing installation that was started prior to the Board's adoption of the plumbing codes listed in subsection (a) of this section may be completed under the requirements of the codes in effect at the time permits for the installation were issued or work on the installation commenced.

(3) In addition to all applicable plumbing codes, Liquefied Petroleum Gas (LP-Gas) piping must be installed in accordance with all applicable rules adopted by the Texas Railroad Commission.

(d) Any piping connecting a plumbing fixture, including a water closet, to a potable water supply shall be installed to prevent the back flow of nonpotable substances into the potable water system in accordance with the applicable plumbing code and state laws. Water closet fill valves (ball cocks) shall be of the antisiphon, integral vacuum breaker type with the critical level (the air inlet portion of the vacuum breaker) installed at least one (1) inch above the flood level rim of the fixture (the inlet of the water closet overflow tube).

(e) Plumbing installed in compliance with a code adopted under subsection (a) or (b) of this section must be inspected by a Plumbing Inspector licensed under the PLL and Board rules.

(f) A licensee or registrant shall not install, and a person shall not require a licensee or registrant to install, plumbing that is not in compliance with the Plumbing License Law or any other laws of this state, Board Rules, or any applicable plumbing codes.