

Report From Agency

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
DEPARTMENT OF SAFETY AND : **CLEARINGHOUSE RULE 14-060**
PROFESSIONAL SERVICES :

I. THE PROPOSED RULE:

The proposed rule revisions and the analysis are attached.

II. REFERENCE TO APPLICABLE FORMS:

No forms are newly required by these rule revisions.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

Section 101.055 (3) of the Statutes requires the Department to adopt, by rule, standards to protect the safety and health of public employees. The standards must provide protection that is at least equal to the protection which is provided to private-sector employees under standards promulgated by the federal Occupational Safety and Health Administration (OSHA) and must be revised as necessary to maintain that equivalent protection, except definitions for toxic substances cannot be based solely on the federal registry of toxic effects of chemical substances. These proposed changes to chapter SPS 332 would primarily incorporate the July 1, 2010, editions of the following OSHA standards as replacements to the currently incorporated July 1, 2003, editions of these standards:

- Title 29 of the *Code of Federal Regulations*, Part 1904 – Recording and Reporting Occupational Injuries and Illnesses.
- 29 CFR 1910 – Occupational Safety and Health Standards.
- 29 CFR 1915 – Occupational Safety and Health Standards for Shipyard Employment.
- 29 CFR 1917 – Occupational Safety and Health Standards for Marine Terminals.
- 29 CFR 1926 – Occupational Safety and Health Regulations for Construction.
- 29 CFR 1928 – Occupational Safety and Health Standards for Agriculture.

These proposed rule changes would also clarify and update the chapter's scope, application, definitions, inspection criteria, and incorporation-of-standards provisions – and would update the Department's current modifications of the incorporated OSHA standards.

This update of chapter SPS 332 does not include consideration of any changes to the above OSHA standards that have occurred after July 1, 2010. The Department plans to consider those changes during its next update of this chapter.

V. SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, AND EXPLANATION OF ANY RESULTING MODIFICATIONS TO THE PROPOSED RULES:

The Department held a public Hearing on December 1, 2014.

No one testified or appeared at the Hearing, and no comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF COMMENTS:

In response to comment 2.k., the titles for s. SPS 332.22 (1) and (2) provide desired guidance to the reader of the rule, so they are not repealed.

In response to comments 4.c. and e., the Department prefers to not abbreviate “chapter” and “chapters” in the notes throughout the chapter because the purpose of these notes is to be explanatory – and abbreviated words may be less explanatory than unabbreviated words to some readers of this chapter.

All other changes recommended by the Legislative Council staff are included in the attached proposed rules and analysis.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules were not submitted to the Small Business Regulatory Review Board.

These rules are not expected to have an adverse economic impact on small businesses.

File reference: SPS 332/Legislative report