

Report From Agency

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 17-034
DEPARTMENT OF SAFETY :
AND PROFESSIONAL SERVICES :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

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:

The proposed rules update Wisconsin's standards for the use of blasting materials and blasting resultants to the 2013 edition of the National Fire Protection Agency's (NFPA) 495, Explosive Materials Code, with certain specified modifications to the requirements of NFPA 495. On June 20, 2017, the Attorney General's Office consented to incorporation of 2013 NFPA 495 into ch. SPS 307.

Provisions concerning blasting notifications, preblasting surveys, and reporting of adverse effects of blasting have been updated to provide clarity and to reflect current industry and enforcement practices.

Current rules require the department to annually inspect fireworks manufacturing premises. The proposed rules revise this requirement to require an inspection at least once every 3 years and specify the fee for these periodic inspections will be assessed at a flat rate of \$80, \$120, or \$160.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department of Safety and Professional Services held a public hearing on June 6, 2017. The following individuals registered opposition or partial opposition to the proposed rules and provided testimony at the public hearing:

- Jim Biersach, Sun Prairie, WI
- Paul Biersach, Madison, WI
- Richard Sheard, Columbus, WI

- Barbara Schneider, Wausau, WI
- John Jagerson, Wausau, WI
- Steve Hubing, Granton, WI
- Jeannie Hubing, Granton, WI

A total of 40 individuals, including 37 individuals who identified themselves as members of the Wisconsin Pyrotechnic Arts Guild (WPAG), provided written comments or testimony concerning the proposed rules. All of the comments and testimony related to fees for the inspection of premises on which fireworks are manufactured.

Nearly all of the individuals request the Department to accept the recommendation of the Explosives, Fireworks, Mines, Pits, and Quarries Code Advisory Committee to exempt hobbyist fireworks manufacturers from inspection fees. There is concern that inspection fees are an undue financial burden on individuals pursuing fireworks manufacturing as a hobby and that any cost associated with inspections may prompt some hobbyists to manufacture fireworks without a license, which could adversely affect public safety.

Most of the individuals indicated if the Department will not exempt hobbyist fireworks manufacturers from inspection fees, an acceptable alternative is to revise the proposed rules to provide for a flat fee of \$80, \$120, or \$160 for an inspection in lieu of a fee of \$80 per hour plus expenses related to the inspection. These individuals also note this change is needed in order for the proposed rules to be consistent with the Department's estimate of the economic impact of the proposed rules as provided in the attached Fiscal Estimate and Economic Impact Analysis.

The Department agrees with the alternative of assessing a flat fee of \$80, \$120, or \$160 for an inspection and has revised the provisions of ch. SPS 307 accordingly.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All Legislative Council recommendations have been incorporated into the proposed rules.

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

N/A