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State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM

Rule No.: Chapter Comm 32

Relating to: Public Employee Safety and Health

Clearinghouse Rule No.: 04-009

COM-10535 (N.03/97)

The Department of Commerce proposes an order to amend ss. Comm 32.003 (2), Comm 32.35 (1), Comm 32.38 (1), and Comm 32.50 (1); to repeal and recreate s. Comm 32.50 Table 32.50-1; and to create ss. Comm 32.11 and Comm 32.39 (1) Note, relating to public employee safety and health.

Analysis of Proposed Rules

Statutory Authority: s. 101.055 (3), Stats.
Statutes Interpreted: s. 101.055 (3), Stats.

The Department of Commerce is responsible for adopting standards to protect the safety and health of public employees in the state of Wisconsin. The adopted standards must provide protection at least equivalent to that afforded to private sector employees under standards administered and enforced by the federal Occupational Safety and Health Administration (OSHA). Chapter Comm 32 currently contains general safety and health standards for all public employees through the incorporation by reference of several OSHA standards. Chapter Comm 32 also contains requirements that add to or modify the OSHA standards.

The proposed rules consist of revisions in chapter Comm 32, including the incorporation by reference of the new OSHA standards issued since the last chapter update in 2002. Those standards cover illness and injury reporting; signs, signaling and barricades; shipyard employment; exit routes, emergency action plans and fire prevention plans; and materials handling and storage.

The proposed rules also contain new requirements that more clearly articulate the need for the development and implementation of a safety and health program.

The proposed rules have been developed with the assistance of the Public Safety Advisory Council. The members of that citizen advisory council are as follows:

<u>Name</u>	<u>Representing</u>
Ken Blomberg	Wisconsin Rural Water Association
Jose Bucio	Wisconsin State AFL-CIO
Vance Forrest	Wisconsin Counties Association
Boyd Garey	DOA State Risk Management
David Hanneman	Wisconsin Education Association Council
Ron Kent	American Federation of State, County & Municipal Employees
Dave Kodel	Wisconsin Alliance of Cities
James Kropp	DOA Division of State Facilities
Don Lythjohan	Madison Metropolitan Sewerage district
Thomas Rowe	City of Milwaukee
Richard Stadelman	Wisconsin Towns Association
Ernest Stracener	University of Wisconsin System
Dennis Tweedale	League of Wisconsin Municipalities

SECTION 1. Comm 32.003 (2) is amended to read:

Comm 32.003 (2) CONFLICTS. If requirements of the Statutes, this chapter or other Wisconsin Administrative Code chapters specify varying requirements, the most restrictive requirement for the protection of employee safety and health shall govern.

SECTION 2. Comm 32.11 is created to read:

Comm 32.11 Safety and health program. (1) BASIC REQUIREMENT. Each employer shall develop and implement a safety and health program that describes the procedures, methods, processes and practices used to manage workplace safety and health. The program shall include, but not be limited to, elements for hazard identification and assessment, hazard prevention and control, and information and training.

(2) CONTACT PERSON. The employer shall designate an employee who the department can contact regarding the safety and health program.

SECTION 3. Comm 32.35 (1) is amended to read:

Comm 32.35 (1) SUBSTITUTION. In lieu of 29 CFR 1910.1000, July 1, ~~1998~~ 2003 edition, an employee's exposure to air contaminants shall be in accordance with the requirements of 29 CFR 1910.1000, July 1, 1992 edition.

SECTION 4. Comm 32.38 (1) is amended to read:

Comm 32.38 (1) GUARDING. A standard railing as specified in 29 CFR ~~1926.500 (f)~~ 1926.502 (b) or other approved guard or barricade shall be provided at or near the edge of an excavation as soon as possible, except where the installation of the safeguard will interfere with the excavation or other work.

SECTION 5. Comm 32.39 (1) Note is created to read:

Comm 32.39 (1) Note: For information regarding safety vests and clothing, see ANSI/ISEA standard 107 - High-Visibility Safety Apparel.

SECTION 6. Comm 32.50 (1) is amended to read:

Comm 32.50 (1) AUTHORITY. Section 101.055 (3) (a), Stats., permits the department to incorporate by reference the standards adopted in ~~sub. (2) Table 32.50-1.~~ Pursuant to s. 227.21 (2), Stats., the revisor of statutes and the attorney general have consented to the incorporation by reference of the standard adopted in Table 32.50-2.

SECTION 7. Comm 32.50 Table 32.50-1 is repealed and recreated to read:

Table 32.50-1

OSHA	Occupational Safety and Health Administration U.S. Government Printing Office 732 N. Capitol Street, NW Washington, DC 20401 Telephone: 866/512-1800 Online Bookstore: http://bookstore.gpo.gov
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1. Recording and Reporting Occupational Injuries and Illnesses, Title 29 CFR Part 1904, July 1, 2003.
2. Occupational Safety and Health Standards, Title 29 CFR Part 1910, July 1, 2003.
3. Occupational Safety and Health Standards for Shipyard Employment, Title 29 CFR Part 1915, July 1, 2003.
4. Occupational Safety and Health Standards for Marine Terminals, Title 29 CFR Part 1917, July 1, 2003.
5. Occupational Safety and Health Regulations for Construction, Title 29 CFR Part 1926, July 1, 2003.
6. Occupational Safety and Health Standards for Agriculture, Title 29 CFR Part 1928, July 1, 2003.

END

EFFECTIVE DATE

Pursuant to s. 227.22 (2)(intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.
