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Chapter SPS 308

MINES, PITS AND QUARRIES

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Note: Chapter Ind 3 as it existed on June 30, 1983 was renumbered as ch. ILHR 8 and revised, effective July 1, 1983; chapter ILHR 8 as it existed on September 30, 1994, was repealed and a new chapter ILHR 8 was created effective October 1, 1994. Chapter ILHR 8 was renumbered chapter Comm 8 under s. 13.93 (2m) (b) 1. and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, August, 1997, No. 500. Chapter Comm 8 as it existed May 31, 2001 was repealed and a new chapter Comm 8 was created, Register, May, 2001, No. 545, effective June 1, 2001. **Chapter Comm 8 was renumbered chapter SPS 308 under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672.**

Subchapter I — Administration and Enforcement

SPS 308.01 Purpose. Pursuant to s. 101.15 (2) (e), Stats., the purpose of this chapter is to establish rules to effect the safety of mines, quarries and related activities.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

SPS 308.02 Scope. (1) COVERED. This chapter covers openings or excavations in the earth for the purpose of extracting minerals or other materials and the equipment related to processing or manufacturing of ores, aggregates, cements, lime, clay and silica sands in a mine, pit or quarry.

Note: The department of natural of resources has administrative rules concerning metallic mineral exploration, metallic mineral prospecting, mineral mining and mine reclamation.

(2) NOT COVERED. This chapter does not cover openings or excavations in the earth created by a person for domestic or farm use at his or her residence or farm.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

SPS 308.03 Application. This chapter applies to both new and existing mines, pits and quarries, unless specifically stated otherwise.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

SPS 308.04 Definitions. In this chapter:

(1) "Department" means the department of safety and professional services.

(2) "Excavation" or "workings" has the meaning given in s. 101.15 (2) (a) 1., Stats.

Note: Section 101.15 (2) (a) 1., Stats., defines "excavation" or "workings" as any or all parts of a mine excavated or being excavated, including shafts, tunnels, drifts, cross cuts, raises, winzes, stopes and all other working places in a mine.

(3) "Mine" means a surface or underground opening or excavation in the earth for the purpose of extracting minerals or other materials.

(4) "Mineral" has the meaning given in s. 101.15 (2) (a) 2., Stats.

Note: Section 101.15 (2) (a) 2., Stats., defines "mineral" as a product recognized by standard authorities as mineral, whether metalliferous or nonmetalliferous.

(5) "Operator" means the person or firm that operates or is responsible for an excavation in the earth for the purpose of extracting minerals or other materials.

(6) "Pit" means a surface opening or excavation in the earth for the purpose of extracting minerals or other materials.

(7) "Quarry" means a surface opening or excavation in the earth for the purpose of extracting nonmetallic minerals or other nonmetallic materials.

(8) "Shaft" has the meaning given in s. 101.15 (2) (a) 3., Stats.

Note: Section 101.15 (2) (a) 3., Stats., defines "shaft" as an opening made for mining minerals, for hoisting and lowering persons or material, or for ventilating underground workings.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01; **correction in (1) made under s. 13.92 (4) (b) 6., Stats., Register December 2011 No. 672.**

SPS 308.05 Petition for variance. The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. SPS 303. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

Note: Chapter SPS 303 requires the submittal of a petition for variance form (SBD−9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. Chapter SPS 303 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

Note: Form SBD−9890 is available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison WI 53701−2509, telephone 608/266−1818.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01; **correction made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

SPS 308.06 Penalties. The department may impose penalties and obtain additional remedies for violations of this chapter, as provided in ss. 101.02 (12) and (13) (a) and 101.15 (2) (f) 2., Stats.

Note: Section 101.02 (12), Stats., indicates that every day during which any person, persons, corporation or any officer, agent or employee thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

Note: Section 101.02 (13) (a), Stats., indicates that if any employer, employee, owner, or other person violates ss. 101.01 to 101.25, Stats., or fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or fails, neglects or refuses to obey any lawful order given or made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, Stats., for each such violation, failure or refusal, such employer, employee, owner or other person shall forfeit and pay into the state treasury a sum not less than $10 or more than $100 for each such offense.

Note: Section 101.15 (2) (f) 2., Stats., indicates that the department may apply to a court of record for the closing of any underground mine, quarry, pit, zinc works or other excavation where the same is being operated in violation of any of its rules or orders, and the owners or operators have failed within a reasonable time to correct any unsafe methods of operation. The failure of any owner or operator to comply with the order or judgment of the court shall subject such party or parties to criminal contempt proceedings.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

SPS 308.07 Appeals. (1) APPEAL OF DEPARTMENT ORDER. Pursuant to s. 101.02 (6) (e), Stats., any employer or other person who owns or occupies a property that is affected by an order of the department may petition the department for a hearing on the reasonableness of the order.

Note: Section 101.01 (4), Stats., defines "employer" as any person, firm, corporation, state, county, town, city, village, school district, sewer district, drainage district and other public or quasi−public corporations as well as any agent, manager, repre-

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sentative or other person having control or custody of any employment, place of employment or of any employee.

(2) APPEAL OF LOCAL ORDER. Pursuant to s. 101.02 (7) (b), Stats., any person affected by a local order that is in conflict with an order of the department may petition the department for a hearing on the local order.

Note: Section 101.01 (8), Stats., defines "local order" as any ordinance, order, rule or determination of any common council, board of alderpersons, board of trustees or the village board, of any village or city, a regulation or order of the local board of health, as defined in s. 250.01 (3), Stats., or an order or direction of any official of a municipality, upon any matter over which the department has jurisdiction.

(3) PETITION OF ADMINISTRATIVE RULE. Pursuant to s. 227.12, Stats., any municipality, corporation or any 5 or more persons having an interest in an administrative rule may petition the department requesting the adoption, amendment or repeal of the rule.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

Subchapter II − General Requirements

SPS 308.10 Notification to begin crushing operation. Each year before crushing work is commenced in a mine, pit or quarry, the person responsible for the crushing work shall notify the department that work is about to begin. The notification shall be made to the department at least 10 days prior to the beginning of crushing work in each mine, pit or quarry.

Note: The notice is required from the person responsible for the crushing work for all mines, pits and quarries where crushing work is performed, whether or not the person owns the mine, pit or quarry. Only one initial notice is required for a mine, pit or quarry where crushing work is performed on an intermittent basis during the year.

Note: Notification may be made on form SBD−6736, Notice to Begin Operation, which is available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison, Wisconsin 53701−2509, telephone 608/266−1818.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

SPS 308.11 Arrangements for medical assistance. Each year before any work is commenced in a mine, pit or quarry, the mine, pit or quarry operator shall make arrangements for obtaining emergency medical assistance and transportation for injured persons.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

SPS 308.12 Permits. (1) GENERAL. Before an excavation of a shaft may be commenced, a permit shall be obtained from the department. As provided by s. 101.15 (2) (c), Stats., this section does not apply to shafts less than 50 feet in depth wherein persons are not employed, shafts not equipped with power driven hoists used for hoisting persons in and out of shafts, or shafts not covered with a flammable building.

(2) APPLICATION FOR PERMIT. Application for a shaft excavation permit shall be made on form SBD−52 together with the payment of the permit fee.

Note: Form SBD−52, Mine Shaft Excavation Permit Application, is available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison, Wisconsin 53701−2509, telephone 608/266−1818.

(3) PLANS AND SPECIFICATIONS. Plans and specifications shall be submitted with the application for a shaft excavation permit which show that the shaft, excavation and workings are in compliance with this chapter.

(4) PERMIT PROCESSING TIME. The department shall review and make a determination on a shaft excavation permit application within 30 business days of receiving the required information and fees.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

SPS 308.13 Fees. (1) SAFETY SERVICE FEE. An annual safety service fee as specified in ch. SPS 302 shall be paid by the person or firm operating the crushing, screening or washing equipment.

(2) SHAFT EXCAVATION PERMIT FEE. A shaft excavation permit fee as specified in ch. SPS 302 shall be paid by the person applying for the permit.

(3) INSPECTION FEE. A miscellaneous inspection fee as specified in ch. SPS 302 shall be paid by the person requesting a consultation inspection of the person's operation, if that person is not required to pay a safety service fee under sub. (1).

(4) TRAINING FEE. A training fee as specified in ch. SPS 302 shall be paid by the person requesting annual refresher training provided by the department and required by the federal mine safety and health administration.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01; CR02−042: am. (4), Register October 2002 No. 562, eff. 11−1−02; **correction in (1), (2), (3), (4) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672.**

SPS 308.14 Inspections. (1) GENERAL. Pursuant to ss. 101.02 (15) (g) and 101.15 (2) (f) 1., Stats., the department may enter and cause the inspections of mines, pits and quarries in order to determine compliance with this chapter.

(2) OVERDUE INSPECTIONS. If the department determines that an inspection of a mine, pit or quarry as required under s. 101.15 (2) (f) 1., Stats., has not been performed, the department shall notify the federal mine safety and health administration that an inspection is due.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

SPS 308.15 Federal requirements. No person may operate a mine, pit or quarry unless the person complies with 30 USC 811, 957 and 961 and the safety and health standards in Title 30 CFR Parts 1 to 199.

Note: Authority over mines is given to the federal government under the federal Mine Safety and Health Act. The safety and health related requirements for the operation of surface and underground mines are contained in the Code of Federal Regulations issued by the Mine Safety and Health Administration, Department of Labor, under Title 30 CFR Parts 46, 56 and 57.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

Subchapter III − Additions to Federal Regulations

SPS 308.20 Additions to federal regulations. The additions to the federal mine safety and health administration regulations are specified in this subchapter and are rules of the department.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.

SPS 308.21 Abandoned shafts and wells. (1) PROTECTION. All abandoned mine shafts, exploration shafts and test wells in this state shall comply with s. 167.27 (5) and (6), Stats.

(2) MAPPING OF UNDERGROUND WORKINGS. (a) All underground workings shall be surveyed and mapped within a reasonable time as work develops. All underground workings shall be surveyed and mapped before they are allowed to become inaccessible. All surveys shall be tied to an exterior quarter section corner.

(b) Before any mine having underground workings is abandoned, the operator of the mine shall have an engineer or surveyor make a map, on a scale not smaller than 100 feet to the inch, showing all underground workings. A print or copy of such a map certified by the operator or designee as being accurate shall be filed with the department.

History: Cr. Register, May, 2001, No. 545, eff. 6−1−01.