

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No. : Chapters SPS 307, 308, 303, 305, and 314

Relating to: Explosives, fireworks, mines, pits, and quarries

Rule Type: Permanent

1. Detailed description of the objective of the proposed rule:

The primary objective of this rulemaking project is to evaluate and update ch. SPS 307, *Explosives and fireworks*, and chapter SPS 308, *Mines, pits and quarries*. This rulemaking update is intended to keep these administrative rule chapters consistent with current regional and national public safety and fire prevention practices and standards, and with legislation enacted since the previous update of these chapters.

In addition, the project is expected to evaluate other administrative codes of the Department that may be affected by this update of chs. SPS 307 and 308, including chs. SPS 303, 305, and 314, relating to, administrative procedures; licenses, certifications and registrations; and fire prevention. This evaluation may result in changes and updates of the rules in these chapters.

2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter SPS 307 contains standards for the use of blasting materials and blasting resultants; and incorporates by reference the 2006 edition of the National Fire Protection Agency's (NFPA) 495, Explosive Materials Code. This chapter also includes provisions for the licensing and inspection of fireworks manufacturers.

Chapter SPS 308 establishes requirements and regulations for mines, pits and quarries in addition to the federal requirements in 30 USC 811, 957 and 961 and the safety and health standards in Title 30 CFR Parts 1 to 199.

The primary purpose of the codes under consideration is to protect public safety, health, and welfare. Periodic review and update of these codes is necessary to ensure that they still achieve that purpose. In addition, the review and update allows the opportunity to recognize and stay current with fire protection and public safety products and practices. The review and update under this scope statement will include

evaluation of the 2013 edition of the above-mentioned explosive materials code for incorporation. A review of regulations affecting mines, pits, and quarries will evaluate the existing code in relation to current day practice.

The primary alternative would be to not perform this rule-review process. This would reduce the public benefits that would otherwise occur by performing this review.

3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 101.02 (1), Stats. reads, “The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings.”

Section 101.15 (2) (e), Stats. reads: “The department shall promulgate rules to effect the safety of mines, explosives, quarries and related activities. Such rules shall provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or unreasonable annoyance to any person or property outside any controlled blasting site area.

Section 167.10 (6m), Stats. reads in part: The department of safety and professional services shall promulgate rules to establish safety standards for the manufacture in this state of fireworks and devices listed under...”

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The Department estimates approximately 500 hours will be needed to perform the review and develop any needed rule changes. The Department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

5. List with description of all entities that may be affected by the proposed rule:

The proposed rules may affect any business or other entity involved with the use, manufacture, or inspection of explosives or fireworks and any business or other entity involved with the operation or inspection of mines, pits, or quarries.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

Explosives and fireworks

Code of Federal Regulations – An Internet-based search for “federal explosives code” and “federal fireworks code” in the *Code of Federal Regulations* (CFR) did not identify any federal regulations pertaining to these topics.

Federal Register – An Internet-based search for “federal explosives code” and “federal fireworks code” in the *Federal Register* did not identify any proposed federal regulations pertaining to these topics.

The proposed rule package is expected to update the incorporation by reference of NFPA 495, Explosive Materials Code to the 2013 edition. The next version of NFPA 495 will be the 2018 edition, which is not expected to be published until late 2017.

Mines, pits, and quarries

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. The provisions of the United States Code (USC) and the *Code of Federal Regulations* (CFR) are occasionally updated by the federal government. There are no current planned updates of these sections.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The anticipated economic impact of implementing this rule is minimal. The rule is not likely to have a significant impact on a substantial number of small businesses.

Contact Person: Dan Smith, Rules Coordinator, daniel2.smith@wi.gov, (608) 261-4463.