



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-062

AN ORDER to repeal Comm 32.27; to amend Comm 32.16 (intro.); and to create Comm 32.10, 32.205, 32.345 and 32.50 Table 32.50-1 items 11., 12. and 13., relating to public employee safety and health.

Submitted by **DEPARTMENT OF COMMERCE**

05-23-01 RECEIVED BY LEGISLATIVE COUNCIL.

06-21-01 REPORT SENT TO AGENCY.

RNS:RJC:rv;jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



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CLEARINGHOUSE RULE 01-062

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. It is assumed that the creation of s. Comm 32.10 should come at the end of subch. II of ch. Comm 32. However, it would be helpful to clarify the positioning of the newly created provision by including a parenthetical phrase after the treatment clause which would indicate its intended location. For example, “SECTION 1. Comm 32.10 is created to read (precedes subch. III):”.

b. Section Comm 32.16 (intro.) refers to the “following Wisconsin Administrative Codes.” Since there is only one administrative code, the provision should be amended to read: “the following chapters of the Wisconsin administrative code.” In addition, the last word of the provision should be changed to “chapters.” Also note that “Administrative Codes” was changed to “administrative codes” without using striking and underscoring. [See s. 1.06, Manual.]



P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018
TDD#: (608) 264-8777
www.commerce.state.wi.us

Scott McCallum, Governor
Brenda J. Blanchard, Secretary

May 23, 2001

Ronald Sklansky, Director
Administrative Rules Clearinghouse
Wisconsin Legislative Council
1 East Main Street, Suite 401
Madison, WI 53703

Dear Mr. Sklansky:

**TRANSMITTAL OF PROPOSED ADMINISTRATIVE RULES
FOR LEGISLATIVE COUNCIL REVIEW**

RULE NO.: Chapter Comm 32

RELATING TO Public Employee Safety and Health

Pursuant to section 227.15, Stats., agencies are required to submit copies of the proposed rules to the Legislative Council for review.

The attached proposed rules are in the form and style specified by section 227.14, Stats, and are being forwarded to you for review. Also attached are copies of an agency rule report, public notice, fiscal estimate, and initial regulatory flexibility analysis.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. Blanchard', with a long horizontal flourish extending to the right.

Brenda J. Blanchard
Secretary

STATE OF WISCONSIN
DEPARTMENT OF COMMERCE

**NOTICE OF
PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that pursuant to s. 101.055 (3) and (7), Stats., the Department of Commerce announces that it will hold public hearings on proposed rules relating to public employee safety and health.

The public hearings will be held as follows:

Date and Time:

Location:

Tuesday, July 24, 2001
11:00 a.m.

Room 105, Eau Claire State Office Building
718 W. Clairemont Avenue
Eau Claire

Wednesday, July 25, 2001
10:00 a.m.

Room 3B, Thompson Commerce Center
201 W. Washington Avenue
Madison

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **August 8, 2001**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing. Written comments should be submitted to Ronald Acker, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689.

These hearings are held in accessible facilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 261-6546 or TTY at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division web site at www.commerce.state.wi.us/SB/SB-HomePage. Paper copies may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, Email rward@commerce.state.wi.us, telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearings.



State of Wisconsin \ Department of Commerce

HEARING DRAFT of PROPOSED RULES

Rule No.:

Chapter Comm 32

Relating to:

Public Employee Safety and Health

The Department of Commerce proposes an order to repeal s. Comm 32.27; to amend s. Comm 32.16 (intro.); and to create ss. Comm 32.10, Comm 32.205, Comm 32.345 and Comm 32.50 Table 32.50-1 items 11., 12. and 13., relating to public employee safety and health.

Analysis of Proposed Rules

Statutory Authority: s. 101.055 (3) and (7), Stats.

Statutes Interpreted: s. 101.055 (3) and (7), 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. In accordance with section 101.055 (7) (a), Stats., the proposed rules contain a new requirement for public employers to report work-related injuries and illnesses to the Department. Beginning January 1, 2003, the report must be submitted by March 1 of each year. The proposed rules modify the OSHA standards by removing the governmental agency exemption from compliance with the OSHA regulations covering diving operations. The proposed rules also incorporate by reference 3 new OSHA standards relating to needlesticks/bloodborne pathogens, steel erection and recordkeeping.

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

<u>Name</u>	<u>Representing</u>
Sheri Ackley	State Risk Management
Ken Blomberg	Wisconsin Rural Water Association
Jose Bucio	Wisconsin State AFL-CIO
Vance Forrest	Wisconsin Counties Association
David Hanneman	Wisconsin Education Association Council
Ron Kent	American Federation of State, County & Municipal Employees
Dave Kodel	Wisconsin Alliance of Cities
James Kropp	Wisconsin Department of Administration
Ned Paschke	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 32.10 is created to read:

should this be in subch II or III (2)

Comm 32.10 Injury and illness report. Pursuant to s. 101.055 (7) (a), Stats., and beginning January 1, 2003, each employer shall report work-related injuries and illnesses to the department for the previous year by March 1 of each year. The report shall be made on form SBD-10710 or equivalent.

Note: Form SBD-10710 is available at no charge from, and the report can be returned to, the Safety and Buildings Division, P.O. Box 7302, Madison, WI 53707-7302, telephone 608/266-2780 or TTY 608/264-8777.

SECTION 2. Comm 32.16 (intro.) is amended to read:

Comm 32.16 Wisconsin administrative codes. ^{chapter of the} ~~The~~ Except as provided in s. Comm 32.003 (2), the following Wisconsin administrative codes shall ~~supercede~~ apply in place of the standards specified in s. Comm 32.15 for those safety and health issues which fall within the scope of the respective codes.

SECTION 3. Comm 32.205 is created to read:

Comm 32.205 Partial exemption from keeping records [29 CFR 1904.1 and 1904.2]. Sections 29 CFR 1904.1 and 1904.2 are not included as part of this chapter.

SECTION 4. Comm 32.27 is repealed.

SECTION 5. Comm 32.345 is created to read:

Comm 32.345 Commercial diving operations [29 CFR 1910.401]. Section 29 CFR 1910.401 (a) (2) (ii) is not included as part of this chapter.

SECTION 6. Comm 32.50 Table 32.50-1 items 11., 12. and 13. are created to read:

Comm 32.50 Table 32.50-1
(Partial Table)

11. Needlesticks/Bloodborne Pathogens, Title 29 CFR Part 1910, Federal Register, Vol. 66, No. 12, January 18, 2001.

12. Steel Erection, Title 29 CFR Part 1926, Federal Register, Vol. 66, No. 12, January 18, 2001.

13. Recording and Reporting Occupational Injuries and Illnesses, Title 29 CFR Part 1904, Federal Register, Vol. 66, No. 13, January 19, 2001.

(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.



JAN 03 2002

P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018
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www.commerce.state.wi.us

Scott McCallum, Governor
Philip Edw. Albert, Acting Secretary

December 20, 2001

Donald J. Schneider
Senate Chief Clerk
Room 501
119 Martin Luther King Blvd
Madison, Wisconsin 53703

John A. Scocos
Assembly Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 01-062

RULE NO.: Chapter Comm 32

RELATING TO: Public Employee Safety and Health

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

Philip Edw. Albert
Acting Secretary

December 20, 2001

Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53702

Representative Scott Jensen
Speaker of the Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Risser and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 01-062

RULE NO.: Chapter Comm 32

RELATING TO: Public Employee Safety and Health

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
 - a) Rule Report.
 - b) Public Hearing Attendance Record.
 - c) Public Hearing Comment and Agency Response Form.
 - d) Legislative Council Rules Clearinghouse Report.
 - e) Response to Legislative Council Rules Clearinghouse Report.
 - f) Fiscal Estimate.
 - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,



Philip Edw. Albert
Acting Secretary

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 01-062

RULE NO.: Chapter Comm 32

RELATING TO: Public Employee Safety and Health

Agency contact person for substantive questions.

Name: Eric Hands

Title: Program Manager

Telephone No. 608/267-4434

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority [s. 227.15(2)(a)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

(Continued on reverse side)

RESPONSE TO

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
 - a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
 - a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
 - a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
 - a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
7. Review rules for permit action deadline [s. 227.15(2)(h)]
 - a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

RULE REPORT

Department of Commerce

Rule No.: Chapter Comm 32

Relating to: Public Employee Safety and Health

Agency contact person for substantive questions:

Name Eric Hands

Title Program Manager

Telephone Number (608) 267-4434

Agency contact person for internal processing:

Name Ronald Acker

Title Code Consultant

Telephone Number (608) 267-7907

1. Agency statutory authority under which the agency intends to promulgate the rule(s).
Section 101.055 (3) and (7), Stats.
2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).
The proposed rules adopt 4 new federal regulations under Title 29 CFR Parts 1904, 1910, 1917 and 1926.
3. Citation of court decisions which are applicable to the proposed rule(s).
None known.

4. Description of the proposed rule(s).

Chapter Comm 32 currently contains general safety and health standards for all public employees through the incorporation by reference of several federal Occupational Safety and Health Administration (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. In accordance with section 101.055 (7) (a), Stats., the proposed rules contain a new requirement for public employers to annually report work-related injuries and illnesses to the Department. Beginning January 1, 2004, the report must be submitted by March 1 of each year. The proposed rules modify the OSHA standards by removing the governmental agency exemption from compliance with the OSHA regulations covering diving operations. The proposed rules also incorporate by reference 4 new OSHA standards relating to marine terminals, needlesticks/bloodborne pathogens, steel erection and recordkeeping.

5. Reason for the proposed rule(s).

The proposed rules have been developed in order to update chapter Comm 32 so that public employees are provided safety and health protection at least equivalent to that afforded to private sector employees under the standards administered and enforced by the federal OSHA.

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 01-062

RULE NO.: Chapter Comm 32

RELATING TO: Public Employee Safety and Health

Final regulatory flexibility analysis not required. (Statement of determination required.)

The proposed rules will not affect any small businesses as defined in section 227.114 (1)(a), Stats. The proposed rules apply to public sector employers and employees.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

(Continued on reverse side)

3. Nature and estimated cost of preparation of any reports by small businesses,

REGULATORY ANALYSIS

Small Business Administration

4. Nature and estimated cost of other measures and investments required of small businesses.

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Clearinghouse Rule No.: 01-062		Hearing Location: Eau Claire	
Rule Number: Chapter Comm 32		Hearing Date: July 24, 2001	
Relating to: Public Employee Safety and Health			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
		No comments/recommendations were presented.	

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Clearinghouse Rule No.: 01-0662		Hearing Location: Mailed-in Comments	
Rule Number: Chapter Comm 32		Hearing Date: N/A	
Relating to: Public Employee Safety and Health			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
1	Robert Kraig Service Employees International Union Milwaukee, WI	<p>1. The proposed needlesticks/bloodborne pathogens rule should be adjusted to better fit the needs of public health care workers in Wisconsin by requiring more specific procedures for employee input. The rule should specify that employee input be solicited through their unions where the workers are represented. Furthermore, safety technologies should be evaluated and selected by union/management committees in each worksite, with equal membership for each.</p> <p>2. The rule should specify that the "most effective" devices and technologies be used; and that devices can be selected from all those available on the market, not just those offered through group purchasing agreements.</p> <p>3. Commerce should undertake targeted spot inspections like California has used. Relying on a complaint-driven process is too slow and uncertain for a grave public health issue such as needlestick prevention.</p> <p>4. In order to assure that workers know of their rights, Commerce should require a permanent posting in all workplaces. The department should also hold workshops throughout the state on the new requirements, using OSHA's power point presentation.</p>	<p>1. The new OSHA rule requires employee input through a new requirement that is performance oriented. No specific procedures for obtaining employee input are prescribed. This provides the employer with the flexibility to solicit employee input in any manner appropriate to the circumstances of the workplace. The rule also mentions that input from employees from a collective bargaining unit may also be requested through their authorized bargaining agent.</p> <p>2. In the Exposure Control Plan requirements of the new OSHA rule, it is made clear that employers must implement safer medical devices that are appropriate, commercially available, and effective. No one medical device is appropriate in all circumstances of use.</p> <p>3. The Department continues to allocate its resources in the most efficient manner possible. The Department utilizes a proactive education-first policy as well as an inspection process to promote health and safety in the workplace.</p> <p>4. The rule requires communication of hazards to employees through labels, signs and training. The rule requires all employees with occupational exposure to participate in a training program, provided at no cost to employees during working hours. The training is to be provided at the time of initial assignment to tasks where occupational exposure may take place, and at least annually thereafter.</p>

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Clearinghouse Rule No.: 01-062		Hearing Location: Mailed-in Comments	
Rule Number: Chapter Comm 32		Hearing Date: N/A	
Relating to: Public Employee Safety and Health			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
	Robert Kraig (continued)	5. Commerce should require that needles/tick data from each worksite be reported to the department. The department should keep records on injury rates by type of device and worksite, in order to assess where further enforcement efforts are needed.	5. Under newly published revisions to OSHA's recordkeeping rule (29 CFR 1904), employers are required to record sharps injuries involving contaminated objects on the OSHA Log of Work-Related Injuries and Illnesses. The recordkeeping requirements have been amended to require employers to maintain a sharps injury log to serve as a tool for identifying high-risk areas and evaluating devices. Each employer is required to make this log available to the Department upon request. The Department is adopting this revised OSHA recordkeeping rule in this current rule package.
2.	Ann McCormick Service Employees International Union District 1199W Lodi, WI	Presenter gave a detailed description of a needles/tick incident she received when recapping a needle that had been removed from a newborn baby at Meriter Hospital in Madison. Although the mother's test results came back HIV positive, the presenter's 12 month testing came back negative. Presenter also showed examples of the safety engineered sharps that are available in her workplace. Workers who use these products must be involved in the process of selecting which products will work best for them. This is the key to compliance. There are safe products available; needles/tick injuries are preventable.	Recapping of needles is a practice prohibited by the current OSHA rule. The new OSHA rule requires the input of workers responsible for direct patient care and potentially exposed to sharps injuries in the identification, evaluation and selection of effective engineering and work practice controls. The new rule addresses many of the concerns expressed by the presenter.

RA:h:\HearingComments\Comm32 - 2001

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect
DOA-2047(R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 32

Amendment No.

Subject

Public Employee Safety and Health

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

None known.

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category		
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	0	-0
Local Assistance	0	-0
Aids to Individuals or Organizations	0	-0
TOTAL State Costs By Category	\$ 0	\$ -0
B. State Costs By Source of Funds		
GPR	\$ 0	\$ -0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$ 0	\$ -0
GPR Earned	0	-0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
TOTAL State Revenues	\$ 0	\$ -0

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$ 0

\$ 0

NET CHANGE IN REVENUES

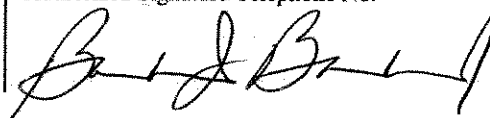
\$ 0

\$ 0

Agency/Prepared by: (Name & Phone No.)

Commerce/Ronald Acker 267-7907

Authorized Signature/Telephone No.



Date

5/10/01

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 32
Amendment No. if Applicable

Subject:

Public Employee Safety and Health

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive Mandatory

- 3. Increase Revenues
 - Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
- Counties Others _____
- School Districts WTCS Districts

- 2. Decrease Costs
 - Permissive Mandatory

- 4. Decrease Revenues
 - Permissive Mandatory

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

None.

Assumptions Used in Arriving at Fiscal Estimate

The Safety and Buildings Division currently administers and enforces the provisions of chapter Comm 32 as part of the public sector safety and health program. The proposed rules update the existing administrative rules now being enforced, and the new requirements should not significantly affect costs or revenues. Therefore, the proposed rules will not have any fiscal effect on the Division.

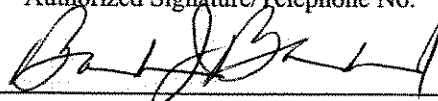
At the local government level, there should be no significant fiscal effect. Some of the new requirements may result in additional costs in time and equipment for some local governments; however, these costs should be minimal.

Long-Range Fiscal Implications

None known.

Agency/Prepared by: (Name & Phone No.)
Commerce/Ronald Acker 267-7907

Authorized Signature/Telephone No.



Date

5/10/01



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.: 01-062

The Department of Commerce proposes an order to repeal s. Comm 32.27; to amend ss. Comm 32.16 (intro.) and Comm 32.50 Table 32.50-1 heading; and to create ss. Comm 32.10, Comm 32.205, Comm 32.345, Comm 32.50 Table 32.50-1 items 11. to 14., and Comm 32.50 Table 32.50-1 Note, relating to public employee safety and health.

Analysis of Proposed Rules

Statutory Authority: s. 101.055 (3) and (7), Stats.
Statutes Interpreted: s. 101.055 (3) and (7), 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).

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The proposed rules consist of revisions in chapter Comm 32. In accordance with section 101.055 (7) (a), Stats., the proposed rules contain a new requirement for public employers to annually report work-related injuries and illnesses to the Department. Beginning January 1, 2004, the report must be submitted by March 1 of each year. The proposed rules modify the OSHA standards by removing the governmental agency exemption from compliance with the OSHA regulations covering diving operations. The proposed rules also incorporate by reference 4 new OSHA standards relating to marine terminals, needlesticks/bloodborne pathogens, steel erection and recordkeeping.

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

<u>Name</u>	<u>Representing</u>
Sheri Ackley	State Risk Management
Ken Blomberg	Wisconsin Rural Water Association
Jose Bucio	Wisconsin State AFL-CIO
Vance Forrest	Wisconsin Counties Association
David Hanneman	Wisconsin Education Association Council
Ron Kent	American Federation of State, County & Municipal Employees
Dave Kodel	Wisconsin Alliance of Cities
James Kropp	Wisconsin Department of Administration
Ned Paschke	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 32.10 is created to read (at the end of subch. II):

Comm 32.10 Injury and illness report. Pursuant to s. 101.055 (7) (a), Stats., and beginning January 1, 2004, each employer shall report work-related injuries and illnesses to the department for the previous year by March 1 of each year. The report shall be made on form SBD-10710 or equivalent.

Note: Form SBD-10710 is available at no charge from, and the report can be returned to, the Safety and Buildings Division, P.O. Box 7302, Madison, WI 53707-7302, telephone 608/266-2780 or TTY 608/264-8777.

SECTION 2. Comm 32.16 (title) and (intro.) are amended to read:

Comm 32.16 Wisconsin administrative codes code chapters. ~~The~~ Except as provided in s. Comm 32.003 (2), the following chapters of the Wisconsin ~~Administrative Codes~~ administrative code shall ~~supercede~~ apply in place of the standards specified in s. Comm 32.15 for those safety and health issues which fall within the scope of the respective ~~codes~~ chapters.

SECTION 3. Comm 32.205 is created to read:

Comm 32.205 Partial exemption from keeping records [29 CFR 1904.1 and 1904.2]. Sections 29 CFR 1904.1 and 1904.2 are not included as part of this chapter.

SECTION 4. Comm 32.27 is repealed.

SECTION 5. Comm 32.345 is created to read:

Comm 32.345 Commercial diving operations [29 CFR 1910.401]. Section 29 CFR 1910.401 (a) (2) (ii) is not included as part of this chapter.

SECTION 6. Comm 32.50 Table 32.50-1 heading is amended to read:

Table 32.50-1
(heading)

OSHA	Occupational Safety and Health Administration Standards Superintendent of Documents U.S. Government Bookstore 310 West Wisconsin Avenue, Suite 450 150W Milwaukee, WI 53203-2228 Telephone: 414/297-1304
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SECTION 7. Comm 32.50 Table 32.50-1 items 11. to 14. are created to read:

Table 32.50-1

(partial table)

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11. Marine Terminals, Title 29 CFR Part 1917, Federal Register, Vol. 65, No. 127, June 30, 2000.
 12. Needlesticks/Bloodborne Pathogens, Title 29 CFR Part 1910, Federal Register, Vol. 66, No. 12, January 18, 2001.
 13. Steel Erection, Title 29 CFR Part 1926, Federal Register, Vol. 66, No. 12, January 18, 2001.
 14. Recording and Reporting Occupational Injuries and Illnesses, Title 29 CFR Part 1904, Federal Register, Vol. 66, No. 13, January 19, 2001.
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SECTION 8. Comm 32.50 Table 32.50-1 Note is created to read:

Table 32.50-1 Note: The standards listed in Table 32.50-1 are contained in the July 1, 2001 edition of the OSHA standards.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (b), Stats., s. Comm 32.50 Table 32.50-1 item 14. shall take effect on January 1, 2003.

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