

RULES CERTIFICATE

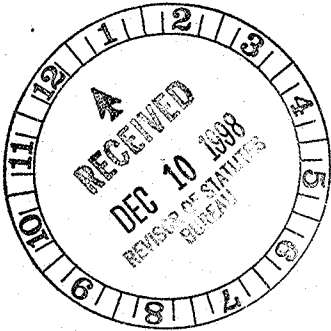
Department of Commerce

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Philip Edw. Albert, Acting Secretary of the Department of Commerce,
and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to
public employe safety and health
(Subject)

were duly approved and adopted by this department.

I further certify that said copy has been compared by me with the original on file in the department and
that the same is a true copy thereof, and of the whole of such original.



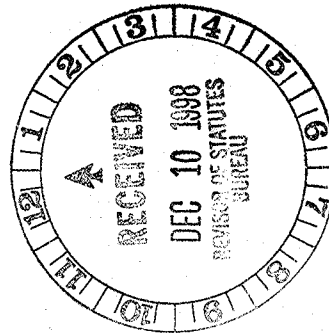
IN TESTIMONY WHEREOF, I have hereunto set
my hand at 201 West Washington Avenue
in the city of Madison, this 7th
day of December A.D. 19 98

Philip Edw. Albert
Secretary



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM



Rule No.: Chapter ILHR 32

Relating to: Public Employee Safety and Health

Clearinghouse Rule No.: 98-100

The Department of Commerce proposes an order to repeal ch. ILHR 32 and create ch. Comm 32, relating to public employe safety and health.

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1) and 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 employes in the state of Wisconsin. The adopted standards must provide protection at least equivalent to that afforded to private sector employes under standards administered and enforced by the federal Occupational Safety and Health Administration (OSHA).

Chapter ILHR 32 currently contains general safety and health standards for all public employes through the incorporation by reference of several OSHA standards. Chapter ILHR 32 also contains requirements that add to or modify the OSHA standards.

The proposed rules consist of a complete update of chapter ILHR 32, including the incorporation by reference of the 1998 edition of the OSHA standards. The following is a summary of the major changes contained in the proposed update of chapter ILHR 32.

1. Elimination of the rule that required the OSHA construction standards to apply where the OSHA general standards did not cover the activity involved.
2. Elimination of the rule that incorporated by reference the threshold limit values and biological exposure indices published by the American Conference of Governmental Industrial Hygienists.
3. Consolidation of the portable ladder rules into one section and a modification to include fiberglass ladders.
4. Revision of the exhaust ventilation rules by eliminating several prescriptive standards.
5. Revision of the spray finishing rules by eliminating the prescriptive standards.
6. Elimination of the special Wisconsin confined spaces rules. The proposed rules adopt the OSHA confined spaces standard with several additions to the standard.
7. Elimination of several Wisconsin rule additions to the OSHA standards. These additions are covered in the 1998 edition of the OSHA standards and include subjects such as conveyors, cranes and machine guards.
8. Compared to the currently adopted OSHA standards, the 1998 standards contain several new requirements, including new standards relating to scaffolds used in construction, exposure to 13 carcinogens, access to employe records, asbestos, ionizing radiation, occupational exposure to methylene chloride, and respiratory protection.

SECTION 1. Chapter Comm 32 is created to read:

Chapter Comm 32
PUBLIC EMPLOYE SAFETY AND HEALTH

Subchapter I --Scope, Application and Definitions

Comm 32.001 Purpose. This chapter establishes minimum occupational safety and health standards for public employes.

Comm 32.002 Scope. The provisions of this chapter apply to all places of employment and public buildings of a public employer.

Comm 32.003 Application. (1) RETROACTIVITY. The provisions of this chapter shall apply to all places of employment and public buildings of a public employer whether existing prior to the effective date of this chapter or subsequently established or built, unless otherwise specified in this chapter.

(2) CONFLICTS. If requirements of the Statutes, this chapter or other Wisconsin Administrative Code chapters specify varying requirements, the most restrictive requirement shall govern.

Comm 32.01 Definitions. In this chapter:

(1) "Agency", as defined in s. 101.055 (2) (a), Stats., means an office, department, independent agency, authority, institution, association, society or other body in state government created or authorized to be created by the constitution or any law, and includes the legislature and the courts.

(2) "Approved" means acceptable to the department.

(3) "Department" means the department of commerce, unless otherwise specified.

(4) "Place of employment" means any place as defined in s. 101.01 (2) (f), Stats., and includes farms of a public employer where research or education takes place.

(5) "Public employe" or "employe", as defined in s. 101.055 (2) (b), Stats., means any employe of the state, of any state agency or of any political subdivision of the state.

(6) "Public employe representative" or "employe representative", as defined in s. 101.055 (2) (c), Stats., means an authorized collective bargaining agent, an employe who is a member of a workplace safety committee or any person chosen by one or more public employes to represent those employes.

(7) "Public employer" or "employer", as defined in s. 101.055 (2) (d), Stats., means the state, any state agency or any political subdivision of the state.

(8) "Secretary" means the secretary of the department of commerce or appointed representative, unless otherwise specified. For the purpose of this chapter, the term secretary shall be substituted for the following titles referenced in the adopted standards of s. Comm 32.50:

- (a) Secretary of labor;
- (b) Assistant secretary of labor for occupational safety and health, U.S. department of labor;
- (c) Director of the office of standards development, occupational safety and health administration, U.S. department of labor;
- (d) Area director, occupational safety and health administration; and
- (e) Director of the national institute for occupational safety and health, U.S. department of health and human services.

Subchapter II —Administration and Enforcement

Comm 32.05 Inspections. (1) **RIGHT OF ENTRY TO INVESTIGATE OR INSPECT.** The authorized representatives of the department, upon presentation of the appropriate credentials to an employer, may:

(a) Enter without delay and at reasonable times any building, place of employment or workplace of a public employer, or an environment where work is performed by an employe of an employer; and

(b) Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any employer or employe.

(2) **PARTICIPATION IN INSPECTIONS.** Pursuant to s. 101.055 (5), Stats., a representative of the employer, an employe, or an employe representative shall be provided an opportunity to accompany a department inspector on any inspection made under this chapter.

(3) **REQUESTS FOR INSPECTIONS.** (a) Any person who believes a safety or health standard or variance is being violated, or that a situation exists which poses a recognized hazard likely to cause death or serious physical harm, may request the department to conduct an inspection.

(b) If an employe or employe representative requesting an inspection so designates, that person's name may not be disclosed to the employer or any other person, including any state agency except the department.

(c) When determined necessary by the department, a request for inspection shall be made on a form provided by the department.

Note: Copies of the request for inspection form (SBD-5907) may be obtained from the Safety and Buildings Division, P.O. Box 7302, Madison, Wisconsin 53707, telephone 608/266-2780.

(4) **ORDERS.** The department shall issue orders for violation of this chapter in accordance with s. 101.055 (6), Stats.

Comm 32.06 Posting department order. Upon issuance of an order of noncompliance, the employer shall post a copy of the order in accordance with s. 101.055 (6) (a) 1., Stats.

Comm 32.07 Variances. Pursuant to s. 101.055 (4), Stats., the department shall consider and may grant a temporary variance, an experimental variance or a permanent variance in accordance with s. Comm 3.04 for a safety and health issue affecting public employes.

Comm 32.08 Notices. Every employer shall post a notice that summarizes the employe's protections and rights as granted under s. 101.055, Stats.

Comm 32.09 Penalties. Penalties for violations of this chapter may be assessed in accordance with s. 101.02, Stats.

Note 1: Section 101.02 (12), Stats., reads: "Every day during which any person or corporation, or any officer, agent or employe of a person or corporation, fails to observe and comply with any order of the department or to perform any duty specified under this subchapter shall constitute a separate and distinct violation of the order or of the requirements of this subchapter, whichever is applicable."

Note 2: Section 101.02 (13) (a), Stats., reads: "If any employer, employe, owner, or other person violates this subchapter, or fails or refuses to perform any duty specified under this subchapter, 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 this subchapter, for each such violation, failure or refusal, such employer, employe, owner or other person shall forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each such offense."

Subchapter III —General Requirements

Comm 32.15 OSHA Safety and health standards. Except as provided in s. Comm 32.16 and subch. IV, all places of employment and public buildings of a public employer shall comply with the federal Occupational Safety and Health Administration (OSHA) requirements adopted under s. Comm 32.50 (4).

Note: There may be some substances that do not have an exposure limit specified in the OSHA standards. For those substances, the department will accept exposure limits that comply with the recommendations of the American Conference of Governmental Industrial Hygienists for threshold limit values and biological exposure indices.

Comm 32.16 Wisconsin administrative codes. The following Wisconsin Administrative Codes shall supercede the standards specified in s. Comm 32.15 for those safety and health issues which fall within the scope of the respective codes.

- (1) Chapter Comm 7, Explosive Materials.
- (2) Chapter Comm 8, Mines, Pits and Quarries.
- (3) Chapter Comm 9, Manufacture of Fireworks.
- (4) Chapter ILHR 10, Flammable and Combustible Liquids.
- (5) Chapter Comm 11, Liquefied Petroleum Gases.
- (6) Chapter Comm 12, Liquefied Natural Gas.
- (7) Chapter Comm 13, Compressed Natural Gas.
- (8) Chapter Comm 14, Fire Prevention.

- (9) Chapter Comm 15, Cleaning and Dyeing.
- (10) Chapter Comm 16, Electrical, Volume 2.
- (11) Chapter Comm 18, Elevator.
- (12) Chapter ILHR 30, Fire Department Health and Safety.
- (13) Chapter Comm 33, Tramways, Lifts and Tows.
- (14) Chapter Comm 34, Amusement Rides and Attractions.
- (15) Chapter ILHR 35, Infectious Agents.
- (16) Chapters ILHR 41 and 42, Boiler and Pressure Vessel.
- (17) Chapter Comm 43, Anhydrous Ammonia.
- (18) Chapter Comm 45, Mechanical Refrigeration.
- (19) Chapters Comm 50 to 64, Building and Heating, Ventilating and Air Conditioning.
- (20) Chapters Comm 82 to 87, Plumbing.
- (21) Chapter Comm 73, Illumination.

Subchapter IV — Amendments to OSHA Standards

Comm 32.20 Amendments to OSHA standards. The substitutions, additions or omissions to the adopted OSHA standards as specified in this subchapter are rules of the department and not federal standards of OSHA.

Note: The referenced or corresponding OSHA section or subsection is located in the brackets following the Comm designation and preceding the text of the rule. Example: Comm 32.23 [29 CFR 1910.27].

Comm 32.21 General requirements [29 CFR 1910.22]. This department rule is in addition to 29 CFR 1910.22:

(1) No person may work on the surface of any structural member, floor, or other working platform which has become slippery from ice, snow, frost, paint or other cause, unless the surface is cleaned, sprinkled with sand or made nonslippery insofar as the nature of the work will permit.

Comm 32.22 Portable ladders [29 CFR 1910.25 and 1910.26]. (1) APPLICATION. (a) The requirements of 29 CFR 1910.25 and 1910.26 also apply to portable fiberglass ladders.

(b) The requirements of this section apply to portable ladders constructed of wood, metal or fiberglass.

(2) USE OF LADDERS. These department rules are in addition to 29 CFR 1910.25 and 1910.26:

(a) The ladder base section shall be placed with a secure footing. Safety shoes shall be installed on all ladders.

Note: Non-slip bases are not intended as a substitute for care in safely placing, lashing or holding a ladder that is being used upon oily, metal, concrete or other slippery surfaces.

(b) No portable ladder may be used to gain access to a roof, floor or platform, unless the top of the ladder extends at least 3 feet above the point of support.

Comm 32.23 Fixed ladders [29 CFR 1910.27]. This department rule is in addition to 29 CFR 1910.27 (e) (2):

(1) Fixed ladders of a substandard pitch shall be equipped with handrails on both sides. The handrails shall be installed 30 to 34 inches vertically above the rung or the nose of the tread.

Comm 32.24 Ventilation [29 CFR 1910.94]. These department rules are in addition to 29 CFR 1910.94:

(1) APPROVAL OF PLANS. (a) Plans in quadruplicate and one set of specifications for exhaust ventilation equipment installed, remodeled or moved under this chapter shall be submitted to the department for approval before the affected work is commenced, and all work shall be executed according to the approved plans and specifications.

(b) A complete set of plans bearing the stamp of approval and a copy of the specifications shall be kept at the building site or shall be available at an alternate location for inspection by an authorized representative of the department.

Note: See chs. ILHR 50 to 64 for complete plan submittal and ventilation requirements.

(2) EXHAUST VENTILATION AT SOURCE OF CONTAMINATION AND MAKE-UP AIR. (a) Local exhaust ventilation ductwork specifically designed for the removal of harmful dusts, fumes, vapors and gases shall be maintained at a negative pressure through occupied areas.

(b) Laboratory fume hoods during use shall be operated with a minimum average 100 feet per minute face velocity at full open or marked sash position or operated in accordance with documented principles of good practice.

Note: A tolerance of plus or minus 20% is allowed on individual face velocity measurements used to calculate the average. Operating a hood at 18 inches sash position and 100 feet per minute face velocity or passing the ASHRAE standard 110 test would be considered good practice.

(c) A volume of tempered outside air shall be supplied to replace the air exhausted if the total volume of air exhausted exceeds one air change per hour. The quantity of make-up air shall equal at least 90% of the air exhausted.

(d) Tempered make-up air shall be installed to insure the flow of air effectively picks up harmful dusts, fumes, vapors and gases prior to being exhausted.

(3) SEPARATION OF EXHAUST SYSTEMS. There shall be no connection between exhaust systems or ducts that convey different materials from separate operations, the combination of

which may produce explosive, heat generating, corrosive, poisonous or otherwise dangerous mixtures.

(4) DISPOSAL OF EXHAUST MATERIAL. (a) All dusts, fumes, vapors and gases from local exhaust ventilation systems installed under this section shall be disposed of in a manner to eliminate the health hazards from occupied areas. Dust collecting systems shall separate the dust from the air before the air is discharged from the exhaust system.

(b) Except as provided in par. (c), all local exhaust ventilation systems shall discharge to the outside atmosphere.

Note: The state Department of Natural Resources and the federal Environmental Protection Agency have regulations relating to ambient air quality and emissions of air contaminants.

(c) Recirculation of contaminated air from local exhaust ventilation systems may be permitted where the exhaust system washes, scrubs or filters the air. Systems of this type shall be designed in accordance with the criteria established in part 2 of the national institute for occupational safety and health (NIOSH) standard "Recirculation of Exhaust Air", HEW Publication (NIOSH) #76-186. Cleaning systems designed in accordance with other standards may be permitted if approved by the department.

(5) VENTILATION FOR KILNS. (a) *General.* 1. Local exhaust ventilation shall be provided for all fuel-fired and electric kilns. Ventilation systems shall be designed in accordance with the best practices of the industry and are subject to acceptability by the department.

2. Local exhaust ventilation need not be provided where the kilns can be isolated in a separate room and the room is ventilated by means of a dedicated system at the rate of 10 air changes per hour.

Note: Ventilation capacity for 10 air changes per hour can be calculated as follows:

$$\frac{\text{Room volume (cu. ft.)} \times 10}{60} = \text{cfm needed}$$

Note: Reduced atmosphere firing produces high concentrations of carbon monoxide and caution should be exercised when entering the kiln room.

3. Canopy hood exhaust systems shall be designed in accordance with the requirements specified in par. (b) and Figure 32.24.

4. Movable kilns shall be positioned under an exhaust hood during the firing cycle.

(b) *Canopy hood ventilation.* 1. The height of a canopy hood above the top surface of a top-loading kiln shall be limited to that which is necessary for loading of the kiln. Canopy hoods over side- or front-loading kilns shall be located as close to the top edge of the kiln as possible, and side curtains shall not be required.

2. Canopy hoods over top-loading kilns shall be provided with noncombustible side curtains on 3 sides. If the kiln is located against a wall, only 2 side curtains shall be required. Side curtains shall extend down from the bottom edge of the canopy hood to the top edge of the kiln. Side curtains shall not be required for retractable hoods which can be positioned directly over the top of the kiln after loading.

(c) *Location of kilns.* 1. All fuel-fired kilns located inside of a building shall be enclosed in a fire-resistive enclosure as specified in s. Comm 51.08.

2. Kilns shall not be located in boiler or furnace rooms.

3. Fuel-fired kilns located outside of buildings shall be exempt from the ventilation requirements of this subsection. They shall be located to minimize the products of combustion from entering the building, but in no case shall the distance be less than 10 feet measured in any direction from a wall opening or air intake.

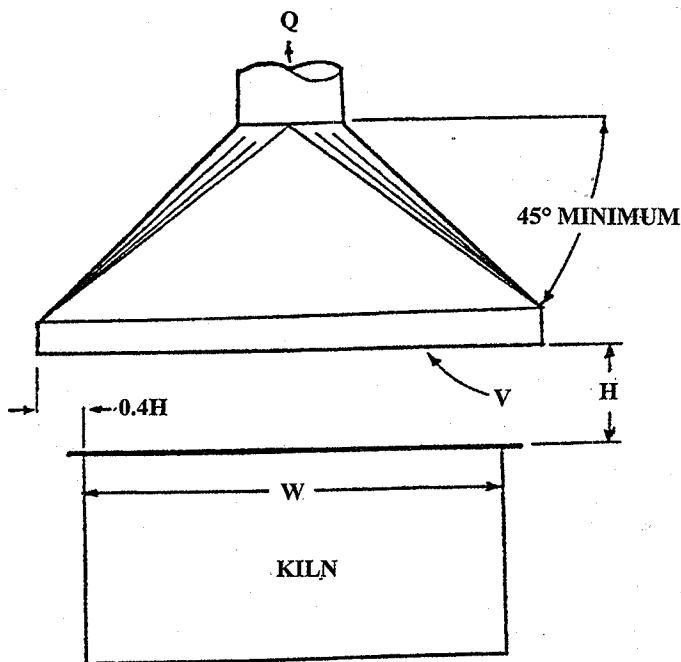
4. Kilns shall be installed in accordance with the manufacturer's specifications for distance to walls.

Note: Wall-to-kiln distance may vary from 12 to 18 inches, depending on the type of kilns.

5. Kilns shall be located to minimize the possibility of burns.

Note: The outside temperature of kilns may vary from approximately 250 to 450° F, depending on the type of kiln.

**FIGURE 32.24
CANOPY HOOD**



$$Q = W \times H \times V$$

Where Q = Volume, in cubic feet per minute (cfm)

W = Width of kiln, in feet

H = Height of canopy hood above kiln, in feet

V = Velocity through area between source and canopy, in feet per minute (fpm)

100 fpm min - 500 fpm max

Entry loss = 0.25 duct velocity pressure

Duct velocity = 1000 - 3000 fpm

Comm 32.25 Compressed gases [29 CFR 1910.101]. This department rule is in addition to 29 CFR 1910.101:

(1) All compressed gas cylinders shall be secured around the body of the cylinder to prevent falling.

Comm 32.26 Spray finishing using flammable and combustible materials [29 CFR 1910.107]. This department rule is in addition to 29 CFR 1910.107:

(1) PLAN SUBMITTAL. Plans in quadruplicate and one set of specifications shall be submitted to the department for approval before installing any spray booth under this chapter.

Note: See chs. Comm 50 to 64 for complete plan submittal and ventilation requirements.

Comm 32.27 Process safety management of highly hazardous chemicals [29 CFR 1910.119]. Substitute the following wording for 29 CFR 1910.119 (e) (1) (i) to (iv):

(1) No less than 25% of the initial process hazards analyses shall be completed by September 1, 1997.

(2) No less than 50% of the initial process hazards analyses shall be completed by September 1, 1998.

(3) No less than 75% of the initial process hazards analyses shall be completed by September 1, 1999.

(4) All initial process hazards analyses shall be completed by September 1, 2000.

Comm 32.28 Permit-required confined spaces [29 CFR 1910.146]. These department rules are in addition to 29 CFR 1910.146 for permit-required confined spaces:

(1) SAMPLING DEVICE. (a) The sampling device shall be calibrated relative to the oxygen content of the ambient air at the time of sampling. Calibration of the sampling device relative to the oxygen content shall be performed where the 20.9% natural content of oxygen in the air is most likely to occur.

Note: Oxygen calibration should not be performed near a confined space opening.

(b) A sampling device which has a zero set shall be zeroed in a clean atmosphere before each sampling. Calibration of a sampling device shall be conducted as often as recommended by the manufacturer, but at least once every 6 months.

(c) The sampling device or a non-sparking probe attached to the sampling device shall be used to sample the atmosphere of a confined space. When entry to a confined space is by means of a manhole, a probe shall be inserted through the pick-hole of the manhole cover, or the manhole cover shall be pried open on the downwind side to allow just enough room for insertion of the probe or device.

(2) AIR MONITORING. The atmosphere in a confined space within the authorized entrant's immediate area shall be continuously monitored for oxygen, hydrogen sulfide or carbon monoxide, combustible gas and any other hazardous substance which the employer has reason to believe may be present in the confined space.

(3) TRAINING. An employer shall provide training in basic first aid and adult cardiopulmonary resuscitation for all authorized entrants and attendants.

Comm 32.29 Confined spaces. These are department rules for all confined spaces:

(1) ENTRY PROHIBITED. A confined space with an atmosphere which has a combustible gas content of 10% or more of the lower explosive limit shall not be entered even if a breathing apparatus or respirator is used.

(2) SMOKING AND OPEN FLAMES. Smoking and open flames shall not be allowed within 10 feet of a confined space.

(3) WORKING IN STREETS. Work at confined spaces which are located in streets shall be performed in accordance with the following:

(a) A vehicle's beacon and 4-way flashers shall be activated upon approach to an entrance of a confined space.

(b) A vehicle shall be parked to permit traffic to flow in an unobstructed manner and, where possible, to provide protection for the employees.

(c) A vehicle shall be parked so vehicle exhaust cannot accumulate in the confined space. If this is not possible, the vehicle's exhaust pipe shall be extended away from the confined space.

Note: See s. Comm 32.39 also.

Comm 32.30 Medical services and first aid [29 CFR 1910.151]. Substitute the following wording for 29 CFR 1910.151 (c):

(1) Whenever the eyes or body of any person may be exposed to materials that are corrosive or can cause irreversible eye or bodily injury, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.

Note: The department will accept facilities that comply with ANSI standard Z358.1, Emergency Eyewash and Shower Equipment.

Comm 32.31 Fire brigades [29 CFR 1910.156]. Section 29 CFR 1910.156 is not included as part of this chapter.

Note: See ch. ILHR 30 for fire department safety and health requirements.

Comm 32.32 Handling materials, general [29 CFR 1910.176]. These department rules are in addition to 29 CFR 1910.176:

(1) CONVEYORS. Conveyor systems passing through more than one room, or from one working level to another, shall be provided in each room, or working level, where exposed to contact, with means to disconnect the power.

(2) INCOMPATIBLE MATERIALS. Incompatible materials shall be segregated to prevent accidental contact with each other that may result in fire, explosion or toxic gas emission.

Note: Guidance in the storage of incompatible materials can be obtained in publications from the National Fire Protection Association, such as NFPA 49 and 491M.

Comm 32.33 General requirements for all machines [29 CFR 1910.212]. These department rules are in addition to 29 CFR 1910.212:

(1) DISCONNECTION FROM SOURCE OF POWER. (a) Every machine shall be equipped with a loose pulley, clutch, switch or other adequate means within reaching distance of the normal operating positions of the operator for the purpose of disconnecting the machine from the source of power.

(b) Machines on which 2 or more persons work shall be equipped with one or more controls so located that more than one of these persons can quickly disconnect the machine from the source of power.

(2) COUNTERWEIGHTS, TENSION WEIGHTS AND SPRINGS. (a) Every counterweight, where exposed to contact, shall be enclosed or be equipped with a safety device attached independent of the counterweight support, that shall prevent the weight from falling to a point of less than 7 feet from the floor or working level.

(b) Every tension weight exposed to contact shall be enclosed or securely fastened to the tension bar.

(c) All springs shall be guarded or otherwise equipped to eliminate any hazard due to breakage of the spring or failure of the mounting.

(3) GUARDING OF HOT PIPES. All pipes carrying steam or other hot materials within 7 feet of the floor or working platform, that are exposed to contact, shall be covered with an insulating material, or guarded so that contact will not cause personal injury.

Comm 32.34 Woodworking machinery requirements [29 CFR 1910.213]. These department rules are in addition to 29 CFR 1910.213 (h):

(1) LIMIT STOP. A stop shall be provided to prevent the forward travel of the blade beyond the front of the table.

(2) RETURN MEANS. Every radial arm saw shall be equipped with a means to return the saw automatically to the back of the table when released at any point of its travel; the means shall prevent the saw from rebounding and shall not depend on fiber rope or cord for this function.

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

Note 1: The requirements of 29 CFR 1910.1000, July 1, 1992 edition were first adopted by OSHA in 1989. Those requirements have been in effect under this chapter since April 1, 1991.

Note 2: Copies of 29 CFR 1910.1000, July 1, 1992 edition may be obtained from the Safety and Buildings Division, P.O. Box 7302, Madison, WI 53707, telephone 608/266-2780.

(2) ADDITION. In addition to the requirements of 29 CFR 1910.1000, the employer shall implement the monitoring or measuring of any substance listed in Table Z-1-A where exposure at or above the time weighted average, short term exposure limit or ceiling limit is reasonably likely to occur.

Comm 32.36 General safety and health provisions [29 CFR 1926.20]. This department rule is in addition to 29 CFR 1926.20:

(1) No person may work on the surface of any structural member, floor, or other working platform which has become slippery from ice, snow, frost, paint or other cause, unless the surface is cleaned, sprinkled with sand or made nonslippery insofar as the nature of the work will permit.

Comm 32.37 Motor vehicles [29 CFR 1926.601]. Substitute the following wording for 29 CFR 1926.601 (b) (10):

(1) Trucks with dump bodies shall be equipped with positive means of support, permanently attached, and capable of being locked in position to prevent accidental lowering of the body while maintenance or inspection work is being done or when the vehicle is left unattended.

Comm 32.38 Specific excavation requirements [29 CFR 1926.651]. These department rules are in addition to 29 CFR 1926.651:

(1) **GUARDING.** A standard railing as specified in 29 CFR 1926.500 (f) 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.

(2) **NIGHT GUARDING.** All excavations to which persons may be exposed at night shall be provided with yellow warning lights placed at unbarricaded points and along the exposed side where the excavation adjoins a public thoroughfare or sidewalk.

(3) **SOLITARY EMPLOYMENT.** No person may work in any trench, shaft, tunnel, caisson or appurtenance over 4 feet in depth without another person being present at the surface.

Comm 32.39 Exposure to traffic. (1) SAFETY VESTS. Employes who work on highways, roads, streets or their easements shall wear traffic safety vests or use clothing or equipment that provides equivalent protection.

(2) **TRAFFIC CONTROL DEVICES.** Pursuant to s. 349.065, Stats., traffic control devices to warn traffic and protect employes shall be placed and maintained in accordance with the uniform traffic control devices manual.

Note: The uniform traffic control devices manual may be obtained from the Department of Transportation, Division of Highways, 4802 Sheboygan Avenue, Madison, Wisconsin 53702, telephone 608/266-8417.

Comm 32.40 Riding on motor vehicles. Employes may ride on motor vehicles in other than factory installed passenger seats equipped with seatbelts only when the speed of the motor vehicle is less than 10 miles per hour.

Subchapter V —Incorporation of Standards by Reference

Comm 32.50 Incorporation of standards by reference. (1) AUTHORITY. Section 101.055 (3) (a), Stats., permits the department to incorporate by reference the standards adopted in sub. (2).

(2) STANDARDS. The standards listed in the following tables are hereby incorporated by reference into this chapter.

Note: Copies of the adopted standards are on file in the offices of the department, the secretary of state and the revisor of statutes. Copies also may be purchased through the respective organizations.

Note: Some OSHA standards are available from the Commerce Clearing House, Inc., 4025 West Peterson Avenue, Chicago, IL 60646 and the Construction Bookstore, P.O. Box 2959, Gainesville, FL 32602.

Table 32.50-1

OSHA	Occupational Safety and Health Administration Superintendent of Documents 310 West Wisconsin Avenue, Suite 150 Milwaukee, WI 53203 Telephone: 414/297-1304
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1.	Recording and Reporting Occupational Injuries and Illnesses, Title 29 CFR Part 1904, July 1, 1998.
2.	Occupational Safety and Health Standards, Title 29 CFR Part 1910, July 1, 1998.
3.	Occupational Safety and Health Standards for Shipyard Employment, Title 29 CFR Part 1915, July 1, 1998.
4.	Occupational Safety and Health Standards for Marine Terminals, Title 29 CFR Part 1917, July 1, 1998.
5.	Occupational Safety and Health Regulations for Construction, Title 29 CFR Part 1926, July 1, 1998.
6.	Occupational Safety and Health Standards for Agriculture, Title 29 CFR Part 1928, July 1, 1998.

Table 32.50-2

NIOSH	U.S. Department of Commerce National Technical Information Service 5285 Port Royal Road Springfield, VA 22161 Telephone: 703/487-4650 or 800/553-6847
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1.	Recirculation of Exhaust Air, HEW (NIOSH) Publication #76-186.
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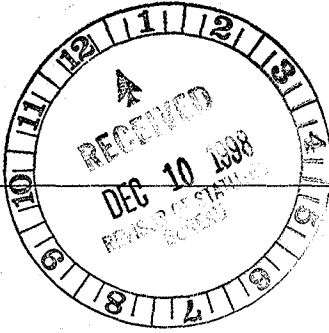
SECTION 2. Chapter ILHR 32 is repealed.

(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.

RA:h:\ruledraf\Comm32LegRev.doc



December 7, 1998

Gary Poulson
Assistant Revisor of Statutes
Suite 800
131 West Wilson Street
Madison, Wisconsin 53703-3233

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO.: 98-100

RULE NO.: Chapter ILHR 32

RELATING TO: Public Employee Safety and Health

Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,

Philip Edw. Albert
Acting Secretary