

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No. : Chapter SPS 360, 302, 303, 320 to 325

Relating to: Erosion control

Rule Type: Permanent

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

The objective of this rulemaking project is to update ch. SPS 360, *Erosion control, sediment control and storm water*. This rulemaking update is intended to make this administrative rule chapter consistent with legislation enacted since the previous update of this chapter. The rule will remove ambiguities and outdated provisions in SPS 360 relating to storm water management and to erosion control at construction sites over one acre in size.

In addition, the project is expected to evaluate other administrative codes of the Department that may be affected by this update of ch. SPS 360, including chs. SPS 302 and 303, relating to fees and administrative procedures. 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 360 establishes uniform standards and criteria for the design, installation, and maintenance of erosion control, sediment control, and storm water management. The statutory authority of the Department to establish standards related to erosion control for public buildings and places of employment was limited to construction sites less than one acre by 2013 Act 20. The authority to establish standards for erosion control at construction sites over one acre as well as standards for storm water management were granted to the Department of Natural Resources (DNR) by Act 20.

This rule package proposes to amend SPS 360 to bring the code in line with change made under 2013 Act 20. The rules will eliminate regulation of erosion control at construction sites over one acre and will eliminate references to storm water management. This will eliminate conflicts between current rules of this Department and rules promulgated by the DNR.

The primary alternative to these rule revisions would be to not perform this rule update process. This would maintain the existing conflicts between the administrative rules of the Department and the DNR.

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 101.1206 (1), Stats. reads, "The department shall establish statewide standards for erosion control at building sites that have a land disturbance that is less than one acre in area and that are for the construction of public buildings and buildings that are places of employment."

Section 101.1206 (7), Stats. reads, “The department shall promulgate rules for the administration of this section.”

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 400 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 will not affect any business or other entity involved with building construction.

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:

Federal regulations require erosion and sediment controls on construction sites over one acre. No existing or proposed federal regulations address construction sites under one acre.

Code of Federal Regulations – An Internet-based search for “building site erosion control” in the *Code of Federal Regulations* (CFR) did not identify any federal regulations pertaining to this topic.

Federal Register – An Internet-based search for “building site erosion control” in the *Federal Register* did not identify any proposed federal regulations pertaining to this topic.

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.

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Approved for publication in the *Wisconsin Administrative Register* at Madison, Wisconsin, this date:

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DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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