

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 17-067
DEPARTMENT OF SAFETY :
AND PROFESSIONAL SERVICES :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The objective of this rule revision was to review and update the rules and standards establishing minimum safety and health requirements for public fire department employees covered under SPS 330. Under the statutory mandate of s. 101.055, the rules and standards are to provide protection at least equal to that provided for private sector employees under standards promulgated by federal OSHA.

The last comprehensive review of SPS 330 occurred in 2001. Consequently, many of the national standards listed in the current code are from the late 1990's. The rule revision incorporates current OSHA standards pursuant to s. 101.055 (3) (a), Stats., and updates outdated standards incorporated by reference, clarifies that this chapter applies only to public fire departments, codifies the Department's administrative and regulatory practices, and updates provisions to reflect current industry terminology. The proposed rule modifies certain definitions to improve phrasing as well as creates definitions to define new terms or terms currently used in rule but not previously defined. The proposed rule amends or repeals certain provisions deemed to be burdensome for smaller, rural, or volunteer fire departments. Additional rule modifications were made to correct outdated references, and improve clarity, consistency, and format.

V. SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department of Safety and Professional Services held three public hearings on November 7, 2017 at Appleton, WI; November 8, 2017 at Madison, WI; and November 16, 2017 at Eau Claire, WI. A notification about the public hearings was sent to stakeholders through the Department's list serve.

Forty-six individuals attended the public hearings, with 11 individuals providing oral testimony. Eight additional individuals submitted written comments to the Department. Of the comments received, 14 individuals provided testimony or registered in support or majority support for the proposed rules. (See Attachment 2 for list of participants.)

Representatives from the Wisconsin State Fire Chiefs Association (WSFCA) testified that their organization surveyed their 1,100 members, which represent nearly 500 Wisconsin fire departments. Out of the 101 responses received, WSFCA relayed the following results:

- Volunteer Fire Departments – 24 approve (70%) and 10 disapprove
- Combination Fire Departments – 27 approve (93%) and 2 disapprove
- Career Fire Departments – 31 approve (91%) and 3 disapprove
- Overall – 86 approve (85%) and 15 disapprove

Based on the results of the survey, the WSFCA's board of directors voted unanimously to support the proposed rules.

Six individuals provided testimony in opposition or partial opposition of the proposed rules and 7 individuals submitted comments relating to information or recommendations for modifications. The concerns and recommendations were summarized into 12 topic areas. After considerable review of the comments, the Department modified certain provisions of the proposed rules to incorporate the commenters' recommendations, and in some cases added a clarifying note. A summary of these concerns and recommendations, along with the Department's response, is attached. (See Attachment 1)

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 2. m.

Response: These sections were amended to combine the sections.

Comment: 4. c.

Response: This provision was amended, making this comment inapplicable.

Comment: 5. c.

Response: This comment was determined to be inapplicable as s. SPS 330.01 (25) does not contain a hyphen as stated.

Comment: 5. g.

Response: The comment asks a question whether the requirements for minimum fire fighter training and education are outlined in s. SPS 330.08. The answer is yes. Section SPS 330.08 is titled "Minimum training and education standards". Each of the three subsections provide the accepted options for compliance with the requirements.

The remaining recommendations in the Clearinghouse Report have been accepted and incorporated into the proposed rules.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A

**SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT’S RESPONSES,
EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS
SPS 330, Fire Department Safety and Health Standards**

This attachment represents the unique issues raised during the public comment period. The comment section reflects a summary of the issues and represents testimony that was presented in opposition or to provide information and recommendations to the Department. After considerable review of all comments, the Department submits its response to each of the issues as indicated below.

#	Topic	Provision	Comments / Recommendations	Agency Response
1.	Incorporation of standards by reference	330.02	Two commenters recommend inserting language to state “current editions of the referenced NFPA standards” instead of specifying a year because the code and standard are always chasing each other and will be outdated as soon as the proposed rules are adopted.	Changes to standards cannot be adopted prospectively or automatically. Agencies may adopt changed versions to standards only with the written consent of the Attorney General. The Department performs a comprehensive review of each standard prior to incorporation. The proposed rule was updated to reflect the most recent versions of the NFPA standards that were released after the posting of the public hearing draft.
2.	Qualified Instructors	330.01 (21c) 330.07 (3)	Five comments related to the qualified instructors: 1. One commenter feels that unless the fire Chief is fully self-aware of the course content, they would be incapable of making an informed decision to assure that their designee is capable of fulfilling the required abilities. With the revision, only remaining option is Emergency Service Instructor I certification through the technical college. 2. Recommends “qualified instructor” be replaced with “Certified Emergency Services Instructor”. 3. One comment recommends adding a note to clarify certification by WTCS is not required. 4. Four comments oppose the requirement for a qualified instructor to conduct the training. 5. Four comments relate to concerns with training costs to train instructors. 6. Two commenters feel training should be allowed by experienced mentors or the fire chief.	The proposed rule was amended to add a note to clarify that it is not the intent of the rule to require certification for instructors. In addition, language was added to the global deletion section (SPS 330.003 (4)) to exclude any NFPA requirement relating to instructor certification. A germane modification further amended s. 330.01 (21c) to clarify that the fire chief is the person who determines if an individual possesses the qualifications required in the definition.
3.	Training Requirements	330.07(5) 330.07 (6)	One commenter opposed the requirement to obtain training “before a fire fighter can do anything”. - SPS 330.07 (5) Assure that a member obtains the minimum fire fighter training and education requirements before that member performs any emergency interior structural fire fighting activity during an emergency operation or at an emergency scene <u>or within an IDLH environment as determined by the incident safety officer in accordance with s. SPS 330.14 (1) (g).</u>	The Department believes the proposed rules comply with OSHA standards, which require fire department members to obtain training before that member performs emergency activities and that training commensurate with duties the member is expected to perform. Section SPS 330.07 (5) of the proposed rule was modified (as shown) to specify structural fire fighting and IDLH activities and permits the

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			<p>SPS 330.07 (6) For a member who has not obtained the minimum fire fighter training requirements, restrict that member’s activities to non-hazardous support functions during an emergency operation.</p>	<p>incident safety officer to determine hazards at an emergency scene. Section SPS 330.07 (6) of the proposed rule was deleted. A clarifying note was added to provide guidance to fire depts. utilizing new members. In addition, language was added to the global deletion section [SPS 330.003 (4)] to exclude any NFPA requirement for certification.</p>
4.	Minimum Training Standards	<p>330.08</p> <p>(1) Entry level fire fighter</p> <p>(2) Entry level pumper/aerial operator</p> <p>(3) Fire Officer training program</p>	<p>Six commenters provided testimony relating to the minimum training standard section. The concerns include the following:</p> <ol style="list-style-type: none"> 1. Oppose elimination of 12- and 24-month timeframe provisions to acquire the training. 2. Feels the only training options available to them are through WTCS. 3. Creates financial hardship due to paying personnel for training and reimbursement of travel and other related costs. (FLSA) 4. Increased cost to municipalities for fire service (training) could delay other projects. 5. Subject content in entry-level training course does not contain relevant minimum training standards and has little to do with what fire departments actually do. 6. Limited availability of training from some local technical colleges (i.e. agencies must travel far distances for courses) 7. No or limited availability of certain courses. (i.e. lack of instructors for the aerial operator course results in course not offered at that local training center) 8. Minimum student enrollment requirements (i.e. 12 students required in order to hold course, courses being canceled with short notice) 9. WTCS requirements exceed SPS 330 minimum standard requirements (i.e. pre-requisites for Fire Officer course requires certification. WTCS does not offer an entry level fire officer course.) 10. WTCS not actively approving In-house training programs. 11. Recommend allowing the use of qualified instructors and experienced personnel from own fire department to do in-house training and teach to the technical school curriculum or NFPA national standards. 	<p>The Department believes the proposed rule reflects minimum standards complies with OSHA standards. The proposed rules do not include requirements for certification. Section 330.08 (1) of the proposed rule was modified for clarity.</p> <p>The Wisconsin Technical College System is designated as the agency authorized to establish, coordinate, and supervise fire service education and training in Wisconsin. As such, WTCS administers training programs for fire fighters, fire apparatus operators, and fire officers. WTCS establishes standards for course pre-requisites, student enrollment minimums, and course scheduling. WTCS also approves program curricula, which includes in-house training programs. Concerns relating to the items that fall under the authority of WTCS should be directed to that agency.</p> <p>Germane modifications further amend ss. 330.08 (1) (d), (2) (d), and (3) (d) to include the full title of the NFPA standards to clarify that the NFPA standards incorporated by reference were not repealed. Additionally, a clause was added in 330.08 (3) to “grandfather” existing fire officers and add a 12-month delayed implementation date. A delayed</p>

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				implementation date was also added for ss. 330.08 (1) and (2).
5.	Fire Officer requirements	330.08(3)	One commenter testified that NIMS says that anyone can be in charge of a scene. One commenter testified that ICS, as taught, allows the first person on scene to be an Incident commander.	No resulting changes were made to the proposed rule related to fire officer requirements. NIMS requires all personnel with a direct role in emergency preparedness, incident management, or response to complete the applicable training for that role. NIMS and ICS training is attainable through free online courses.
6.	Verification of training	330.08 (4)	One commenter recommends not repealing the date in a provision relating to the requirement for fire departments members to have their training specified in writing as of March 31, 1991. Feels the date is significant to "grandfather" members that joined the department prior to that date.	No resulting changes were made to the proposed rule. The Department feels the proposed rule complies with OSHA standards.
7.	Inspection and testing of apparatus and equipment	330.09 (1) (d) 4.	One commenter recommends referencing NFPA 1911 in order to follow national standards for out of service criteria and daily/weekly inspections and maintenance.	The provision was amended to reference NFPA 1911 relating to out of service criteria.
		330.10 (1) (a) 330.10 (1) (c)	Two commenters oppose extending the inspections from weekly to monthly and recommend retaining weekly inspections and also require inspection immediately after use. Recommend adding requirement for weekly testing – not just visual examination. Reference NFPA 1911. One commenter raised concerns that rule does not contain requirements for: - Annual pump testing or hose testing per NFPA 1911 - <i>Standard for Inspection, Maintenance, Testing and Retirement of In-Service Emergency Vehicles</i> - Annual testing of ladders per NFPA 1932- <i>Standard for the Care, Use, Inspection, Service Testing of In-Service Fire Department Ground ladders,</i> - Annual hose testing per NFPA 1962- <i>Standards for the Care, Use, Inspection, Service Testing, and Replacement of Fire Hose, Couplings, Nozzles, and Fire Hose appliances.</i>	No resulting changes were made to the proposed rule relating to inspections. The Department feels as a minimum standard, the rule does not prohibit a fire department from performing more frequent inspections and testing if desired.
8.	Drivers of apparatus	330.09 (2)	One commenter recommends retaining the phrases "directly responsible for" in the following provision:	No resulting changes were made to the proposed rule. The Department feels the intent of the provision is to ensure drivers operate in a safe

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			A driver of a fire vehicle apparatus shall have a valid driver’s license for and training relating to the operation of the vehicle fire apparatus. The driver is directly responsible for the shall in all conditions operate the fire apparatus in a safe and prudent operation of the vehicle in all conditions manner. Any officer directly supervising the driver is responsible for the actions of the driver.	manner and does not prohibit fire departments from developing internal policies that assign “direct responsibility” to personnel.
9.	Teams: Continuous Communication when using SCBA	330.12 (6) (a)	One commenter requests the Department retain the recommendation of the advisory committee and insert language that would require at least one member of the team be in possession of a “handheld radio”.	The provision was amended to add the phrase “portable radio”, which provides an additional option for compliance with this provision.
10.	PASS alarm testing	330.13	One commenter feels testing should be changed to monthly instead of weekly stating fire fighters from volunteer departments do not get to the station every week and may not have any calls.	No resulting changes were made to the proposed rule. The Department feels the testing of PASS devices is a health, safety, and welfare issue. Further, NFPA standards require weekly testing.
11.	Qualifications for Incident Commanders	330.14 (1)	One commenter recommends minimum IMS qualifications of Incident Commander, (i.e. ICS 100, 200, 700 and 800, which are all available on line). Commenter acknowledges to be eligible for any FEMA Grants, fire departments must certify that member have obtained this training as a minimum. Reference NFPA 1026-Standard for Incident Management Personnel Professional Qualification.	No resulting changes were made to the proposed rule. The rule contains a provision that requires NIMS training for all members involved in emergency operations, which includes and applies to the Incident Commander. The specific levels of ICS training for various command positions are already required by federal law for funding eligibility.
12.	HIPPA	N/A	Commenter questioned why HIPPA is not covered in SPS 330.	No resulting changes were made to the proposed rule. HIPAA regulations are not within the purpose or scope of SPS 330.

Attachment 2 - SPS 330: Fire Department Safety and Health Standards Public Hearing Stakeholder Participation

The following lists represent individuals who provided testimony on the proposed rule and or appeared at a public hearing. Three public hearings were held at the following dates and locations:

- November 7, 2017 at Fox Valley Technical College Public Safety Center, Appleton, WI
- November 8, 2017 at Department of Safety and Professional Services, Madison, WI
- November 16, 2017 at Sacred Heart Hospital, Eau Claire, WI

The following individuals provided oral testimony at a public hearing (11):

Barry Kneukel, Fire Chief - Cumberland Fire District, Cumberland, WI
Glen Bunnell, Schiocton- Bovina Fire Department, Schiocton, WI
James Flanagan, Plymouth, WI
John Andersen, Chippewa Falls, WI
Jon Cohn, Fire Chief - Greenfield Fire Dept., President - WI State Fire Chiefs Association, Greenfield, WI
Kathleen Shear, Tilden Volunteer Fire Department, Chippewa Falls, WI
Mark Blaskowski, Chairman – Town of Wheaton, Chippewa Falls, WI
Randal Klaybor, President - Wisconsin Association of Emergency Vehicle Technicians, Milwaukee, WI
Robert Ugaste, Wisconsin State Fire Chiefs Association, Wauwatosa, WI
Scott Bernette, Fire Chief – Chippewa Fire District, Chippewa Falls, WI
Timothy Bantes, Fire Chief - Town of Grand Chute, Grand Chute, Second V.P. WI State Fire Chiefs Assoc.

The following individuals submitted written testimony on the proposed rule (16):

Written testimony in support (7):

Jay Heckel, Fire Chief - City of Marinette
Jon Cohn, Fire Chief - Greenfield Fire Department, President - Wisconsin State Fire Chiefs Association
Mason Pooler, CFO, Fire Chief - City of West Allis
Robert Ugaste, Wisconsin State Fire Chiefs Association
Robert Whitaker, Fire/Rescue/EMS Chief-Administrator - North Shore Fire/Rescue, Brown Deer, WI
Tim Saidler, Fire Chief - Greendale Fire Department
Timothy Bantes, Fire Chief - Town of Grand Chute, Wisconsin State Fire Chiefs Association

Written testimony in support and partial opposition (2):

Gary Weiss, Fire Chief - Village of Germantown Fire Department, Germantown, WI
Randal Klaybor, President - Wisconsin Association of Emergency Vehicle Technicians, Milwaukee, WI

Written testimony in opposition (4):

Barry Kneukel, Fire Chief - Cumberland Fire District, Cumberland, WI
Chuck Smith, Chippewa Fire District, Lake Hallie, WI
James Flanagan, Plymouth, WI
Scott Bernette, Fire Chief - Chippewa Fire District, Chippewa Falls, WI

Written testimony to provide information or no position stated (3):

Jon Coutts, Captain (Ret.), Wisconsin Association of Emergency Vehicle Technicians, President
Kathleen Shear, Tilden Volunteer Fire Department, Chippewa Falls, WI
Lori Urbanek, Yuba Fire Dept., Secretary/EMR Coordinator

Attachment 2 - SPS 330: Fire Department Safety and Health Standards Public Hearing Stakeholder Participation

The following individuals registered at a public hearing and did not provide testimony (34):

Registered in support (3):

Dave Bloom, Wisconsin State Fire Chiefs, Madison, WI
David Bialk, City of Mequon Fire Department, Mequon, WI
Tracey Kujawa, Wausau Fire Department, Wausau, WI

Registered in support and for information (1):

Skip Burg, Waukesha County Technical College, Sussex, WI

Registered in opposition and for information (6):

Grace Dale, Owen-Withee-Curtiss Fire Department, Owen, WI
Jason Thornton, Owen-Withee-Curtiss Fire Department, Owen, WI
Luke Heier, Chippewa Fire District, Chippewa Falls, WI
Rick Engen, Eleva Fire Department, Eleva, WI
Stacy Lehmann, Chippewa Fire District, Chippewa Falls, WI
Steve Trubshaw, Eagle Point Fire Department, Chippewa Falls, WI

Registered for information only (24):

Al Bertrang, Eau Claire Fire Department, Eau Claire, WI
Amos Mikkelson, Harrison Fire Rescue, Village of Harrison, WI
Angie White, Wisconsin Technical College System, Madison, WI
Dan Conrad, Northcentral Technical College, Wausau, WI
Dan Meissmer, City of Appleton, WI
Duane Wallsch, Chippewa Fire District, Colfax, WI
Dustin Ridings, Green Bay Metro Fire Department, Green Bay, WI
Gary Blank, Center Fire Department, Appleton, WI
Jack Running, Township Fire Department, Eau Claire, WI
Joe Bertler, Suamico Fire Department, Suamico, WI
Jordan Baack, Green Bay Metro Fire Department, Green Bay, WI
Keith Kiesow, Fox Crossing Fire Department, Neenah, WI
Kerry Parker, Township Fire Department, Eau Claire, WI
Kyle Lech, Northcentral Technical College, Wausau, WI
Marcy Trubshaw, Eagle Point Fire Department, Eau Claire, WI
Mark Renderman, Altoona Fire and Rescue, Altoona, WI
Matthew Kasriel, Grand Chute Fire Department, Grand Chute, WI
Mike Hepfler, Chippewa Falls Fire & EMS, Chippewa Falls, WI
Red Van Ert, Altoona Fire Department, Altoona, WI
Rob Glasel, Fox Crossing Fire Department, Neenah, WI
Rob Rosenau, Manawa Rural Fire Department, Manawa, WI
Ryan Weyers, Appleton Fire Department, Appleton, WI
Scott Legois, Suamico Fire Department, Suamico, WI
Shane Krueger, Clintonville Fire Department, Clintonville, WI

STATE OF WISCONSIN
Department of Safety and Professional Services

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY	:	PROFESSIONAL SERVICES
AND PROFESSIONAL	:	ADOPTING RULES
SERVICES	:	(CLEARINGHOUSE 17-067)

PROPOSED ORDER

An order of the department *to repeal* SPS 330.003 (1) and (2), 330.01 (4) (Note) and (13) and (17) (a) to (c) and (18) and (21), 330.011 (3) (c), 330.02 (1) (g) and (2) (intro.), 330.08 (1) (b) and (c) and (2) (b) and (4), 330.09 (1) (e) to (g) and (4) (b), 330.10 (7) (Note), 330.12 (3) (d) (Note), 330.13 (2) (d) and (f), 330.14 (1) (b) (Note), and 330.15 (2) (Note); *to renumber* 330.13 (2) (e); *to renumber and amend* SPS 330.003 (2) (Notes), 330.011 (3) (c) (Note), 330.02 (1) (intro.) and (a) to (f) and (h) to (k), 330.02 (2) (a) and (Note), 330.03 (1) (c) (Note), 330.08 (1) (a) and 1. to 4. and (2) (a) and 1. to 4., 330.10 (except title), 330.13 (2) (intro.) and (a) to (c) and (3); *to amend* SPS 330.001, 330.003 (3), 330.01 (4) and (6) and (7) and (10) and (12) and (16) and (17) (intro.) and (19) and (20) and (25) and (26), 330.011 (1) (intro.) and (a) and (b) and (3) (a) and (b), 330.03 (title) and (1) (a) to (c) and (Note) and (2) and (3) and (4) (intro.) and (a) to (c), 330.05 (1) and (2), 330.06, 330.08 (title) and (3) (intro.) and (a) to (d), Subch. VII (title), 330.09 (title) and (1) (intro.) and (a) to (c) and (2) and (3) and (4) (a) and (c) 5. to 7. and (d) 1. and 5., Subch. VIII (title), 330.12 (1) and (3) (a) and (b) and (d) and (4) and (6) (intro.) and (a) and (b), 330.14 (1) (intro.) and (b) and (c) and (d) to (g) and (2) (a) (intro.) and (3) (a) and (b), 330.16 (1), and 330.23 and (Note); *to repeal and recreate* SPS 330.07, 330.09 (1) (d), 330.11, 330.12 (2), 330.13, and 330.14 (2) (b); and *to create* SPS 330.003 (4), 330.01 (1m) and (5m) and (13g) and (Note) and (13r) and (14g) and (14r) and (15m) and (16m) and (17m) and (21c) and (21g) and (21n) and (21r) and (21w), 330.02 (Note) [2] and [3], 330.03 (1) (d) (Note), 330.10 (2) (e) and (3), 330.12 (3) (title) and (4) (title) and (6) (title), and 330.14 (1) (c) (Note) and (g) 1. to 5., relating to fire department safety and health.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 101.055 and 101.11, Stats.

Statutory authority:

Sections 101.02 (1) and 101.055 (3) (a), Stats.

Explanation of agency authority:

Section 101.02 (1), Stats., authorizes the department to adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings.

Section 101.055 (3) (a), Stats., provides that the Department “shall adopt, by administrative rule, standards to protect the safety and health of public employees. The standards shall provide protection at least equal to that provided to private sector employees under standards promulgated by the federal occupational safety and health administration,” Chapter SPS 330, Wis. Adm. Code provides “minimum requirements for an occupational safety and health program for public sector fire department employees involved in fire department operations.” By contrast, private sector employer fire companies and fire departments are regulated under the federal Occupational Safety and Health Administration (OSHA) regulations.

Section 101.11, Stats., requires employers to furnish a safe place of employment and to adopt and use methods and processes reasonably adequate to ensure places of employment are safe and reasonably necessary to protect the life, health, safety, and welfare of employees and people who frequent public places of employment.

In addition to requiring the Department to adopt standards to protect the safety and health of public employees, section 101.055 (3) (a), Stats., requires the Department to “revise the safety and health standards adopted for public employees as necessary to provide protection at least equal to that provided to private sector employees under federal occupational safety and health administration standards.” The proposed rules amend and update the standards incorporated by reference in ch. SPS 330, as well as update the language in this chapter to provide clarity and improve consistency.

Related statute or rule:

Chapter SPS 332, Wis. Adm. Code, provides additional safety and health requirements for all public employees.

Plain language analysis:

The proposed rule revisions primarily update national standards incorporated by reference, clarify agencies covered under this chapter, codify the Department’s administrative and regulatory practices relating to the minimum training standards, update provisions to reflect current industry terminology, and incorporate OSHA language into certain provisions where needed for clarity.

The proposed rule also modifies certain definitions to improve phrasing as well as creates definitions to define new terms or terms currently used in rule but not previously defined. The proposed rule also amends or repeals certain provisions deemed to be burdensome for small, rural, or volunteer fire departments.

Additional rule modifications were made to correct outdated references, and improve clarity, consistency, and format. The proposed rule makes the following significant revisions:

Subchapter I – Purpose and Scope

- SPS 330.001 - Purpose
 - “Covered” agencies are incorporated in the “Purpose” and “Scope” sections to reaffirm that this rule applies only to public sector fire department employers and their employees.
 - Adds “employers” to fire department, fire companies, and employees as covered entities under this rule.
 - Moves notes under s. 330.003 (2) to this section relating to private sector fire departments being regulated under federal OSHA.
- SPS 330.003 (1) and (2) - Application
 - Repeals the “Covered” and “Not Covered” sections to avoid confusion and to align with the language and format used in other administrative rules.
- SPS 330.003 (4) - Global Deletion
 - Creates a provision relating to a global deletion for the NFPA standards to clarify that only the adopted standards incorporated under subch. IV apply to this chapter and does not include the several other secondary standards referenced within each of the NFPA standards.

Subchapter II – Definitions

- SPS 330.01 - Definitions
 - Revises the following terms:
 - “Basic life support” amends the definition to more appropriately reflect ch. 256, Stats., rather than s. 941.3, Stats.
 - “Emergency operation”, “Fire apparatus”, “Fire fighter”, and “Fire fighting” are amended to reflect NFPA standards.
 - “Incident command system” is amended to “incident management system” to reflect NIMS and NFPA terminology.
 - “Member” is amended for clarity.
 - “Occupational illness” and “Occupational injury” are amended to reflect OSHA terminology.
 - “Officer in command” and “Officer in charge” are amended to “incident commander” and the term, “Suggested operating guideline”, is amended to “standard operating guideline” to reflect industry terminology.
 - Creates definitions for the following terms:
 - “Ambulance service provider” is defined to reflect a term used in rule.
 - “Fit test”, “Quantitative fit test”, “Qualitative fit test”, “Self-contained breathing apparatus” and “SCBA” are defined to reflect OSHA standards.
 - “Hazard”, “Health and safety officer”, “Immediately dangerous to life or health”, “IDLH”, “Incident commander”, “Incident safety officer”, “Personal alert safety system”, and “PASS” are defined to reflect NFPA standards.

- “National Incident Management System” and “NIMS” are defined to reflect the Homeland Security Presidential Directive 5 (HSPD-5) mandate.
- “Qualified instructor” is defined to reflect a term used in rule.
- Repeals definitions for the following terms:
 - “Fire Vehicle” is repealed and incorporated within the definition of “fire apparatus”.
 - “New” is currently defined in s. SPS 330.08 to reference a specific date of April 1, 1991. The proposed rule amends this provision and eliminates the term “new”, making the definition obsolete.
 - “Officer in command” is repealed and replaced with “incident commander” to reflect industry terminology.

Subchapter III – Administration and Enforcement

- SPS 330.011 – Inspections
 - Updates the rule and a note to incorporate the current practices relating to the online form used by the Department for complaints and requests for inspections.

Subchapter IV – Adopted Standards

- SPS 330.02 – Incorporation of Standards by Reference – This section makes the following significant revisions:
 - Current rule adopts several standards from the National Fire Protection Association (NFPA), who periodically update standards to reflect current, best practices. The current rule contains outdated versions of these standards, including some that haven’t been updated since the late 1990s. The proposed rule amends and updates the standards incorporated by reference.
 - This section also repeals the NFPA standard for testing fire department aerial devices, which was discontinued by NFPA and incorporated within another standard.
 - Updates the notes relating to where the standards can be accessed and purchased.

Subchapter V – Organization

- SPS 330.03 – Fire Department Health and Safety Officer – This section makes the following significant revisions:
 - “Safety position” is amended to “health and safety officer” throughout the rule to reflect industry terminology.
 - Clarifies that the health and safety officer is distinct from the incident safety officer, which can be held by the same person.

Subchapter VI – Training and Education

- SPS 330.07 – Training and Education – This section makes the following significant revisions:
 - Repeals and recreates the current “Training and Education” section to improve readability and reflect OSHA standards and committee recommendations.
 - This section includes a requirement that training and education shall be provided by a “qualified instructor”.

- Reflects an OSHA standard that training and education commensurate with the duties and functions the fire fighter is expected to perform.
 - Reflects OSHA standards that require members to obtain the minimum training standard *before* they perform any interior structural fire fighting activity or an IDLH environment. An IDLH activity is defined in this rule and determined by the fire department’s incident safety officer in accordance with the responsibilities and authority established in s. SPS 330.14 (1) (g).
 - Adds an explanatory note to fire departments utilizing new members in non-IDLH environments.
- SPS 330.08 – Minimum Training Standards
 - This section outlines the minimum training and education requirements for fire fighters, operators of pumper and aerial apparatus, and fire officers, makes the following significant revisions:
 - Revises the current “Employment Standards” title and changes it to “Minimum training and education standards”.
 - Codifies Department administration and regulatory practices relating to minimum training standards for entry-level fire fighters, operators of apparatus, and fire officers.
 - Removes a requirement for fire department members engaged in structural fire fighting to obtain fire fighter training within 24 months of their appointment and requires fire department members to obtain entry-level fire fighter training *before* they perform activities during an emergency operation. These changes take effect 12 months after the effective date of these rules.
 - Removes the requirement for pumper or aerial operators to obtain training within 12 months of their date of appointment and requires drivers of pumper or aerial apparatus to obtain entry-level operator training *prior* to operating apparatus during an emergency operation. These changes take effect 12 months after the effective date of these rules.
 - Removes the requirement for a newly appointed fire officer to take the basic officer training program within 12 months of appointment and requires fire departments to provide training to fire officers *prior* to acting as an officer during an emergency operation. These changes take effect 12 months after the effective date of these rules and do not apply to fire officers appointed prior to the effective date of this rule.
 - Codifies a federal requirement for fire officers to obtain NIMS training when acting as an officer during an emergency operation.
 - Removes a provision relating to written documentation for training by fire department members and transferability of certifications to other fire departments.

Subchapter VII – Apparatus and Equipment

- SPS 330.09 – Apparatus
 - Several provisions are amended for increased readability and clarity. This section makes the following significant revisions:
 - Revises the term “fire vehicle” to “fire apparatus” to reflect industry terminology.
 - Amends provisions to reflect NFPA and OSHA standards.

- Clarifies the requirement for helmets when personnel are seated in an open cab.
 - Eliminates the manufactured date of “April 1, 1991” relating to fire apparatus.
 - Specifies requirements relating to preventative maintenance programs.
 - Revises inspection requirements from weekly to monthly for fire apparatus and equipment while retaining the requirement for inspection within 24 hours after use.
 - Creates an exception from NFPA standards that require the automatic replacement of apparatus tires every 7 years. The proposed rule allows replacement when inspection of the tire shows signs of damage or wear or tread exceeds manufacturer standards.
 - Amends a provision to alleviate confusion by removing the term “directly responsible” relating to a driver of a fire apparatus and rephrases the provision to require drivers to operate in a safe and prudent manner in all conditions. The same term is removed in a provision that states a supervising fire officer is “directly responsible” for the actions of the driver of a fire apparatus. Nothing in the proposed rule prohibits a fire department from developing internal policies and assigning “direct responsibility”.
 - Repeals a provision relating to “emergency medical specialists”. This term is outdated. Further, DSPS does not regulate emergency medical personnel. The Department of Health Services regulates emergency medical personnel and ambulance apparatus pursuant to ch. 256, Stats.
- SPS 330.10 – Portable Equipment
 - This section relates to portable equipment, including the inspection of equipment and requirements for life safety rope and makes the following significant revisions:
 - Revises inspection requirements from weekly to monthly for equipment carried on fire apparatus while maintaining the requirement for inspection within 24 hours after use.
 - Amends a reference under ch. SPS 332 relating to a NFPA standard and revises it to ch. SPS 330.
 - Repeals a note referencing ch. SPS 314 relating to the inspection and testing of fire extinguishers and incorporates the reference within the rule.
 - Moves the requirements for life safety rope from section 330.13 to section 330.10 and makes the following revisions:
 - Eliminates a requirement to use unused life safety rope for certain operations.
 - Eliminates a requirement to destroy training rope after use or showing signs of wear.
 - Creates a provision that allows for the reuse of life safety rope under certain conditions.
 - Creates an exception from the annual recertification requirements for unused life safety rope, harnesses, and hardware.

Subchapter VIII – Protective Clothing and Equipment

- SPS 330.11 – Protective Clothing and Equipment
 - This section relates to the minimum standards for personal protective clothing and equipment and does the following:

- Repeals and recreates the current “Protective clothing and equipment” section to improve readability and reflect OSHA standards.
 - Incorporates OSHA language and amends for format and readability.
 - Renumbers s. 330.13 (3) to 330.11 (2), “Eye, Face, and Hearing Protection”, in order to incorporate all protective equipment provisions under the same subchapter.
- SPS 330.12 – Self-contained breathing apparatus (SCBA)
 - This section relates to the OSHA-required Respiratory Protection program and makes the following significant revisions:
 - Incorporates an OSHA requirement that fire departments must ensure that all fire fighters use SCBA when engaged in interior structural fire fighting or entering a hazardous atmosphere.
 - Adds “quantitative” fit testing as an alternative method to “qualitative” fit testing for checking effectiveness of the seal of the SCBA facepiece.
 - Clarifies that fit testing needs to be repeated in the event a fire fighter has a change in facial structure that could affect the seal of the facepiece, in accordance with OSHA standards.
 - Section SPS 330.12 (2) is repealed and recreated to improve readability.
 - Section SPS 330.12 (6) (a) is amended to include the option to use a portable radio for a means of continuous communication.
- SPS 330.13 – Personal alert safety system (PASS)
 - This section relates to the standards for PASS devices and makes the following significant revisions:
 - Moves the Life Safety Ropes, Harness, and Hardware section and under the portable equipment section.
 - Moves the Eye, Face, and Hearing section and under the protective equipment section.
 - Amends certain provisions for clarity and readability.

Subchapter IX – Emergency Operations

- SPS 330.14 – Emergency operations
 - This section relates to the incident management, safety, and requirements for rescuing firefighters at emergency operations and makes the following significant revisions:
 - Revises the term “incident command system” to “incident management system” to reflect industry terminology.
 - Deletes and recreates a note relating to the source for NIMS training information.
 - Revises the term “office in charge” to “incident commander” to reflect industry terminology and specifies the responsibility and authority to ensure overall safety at the scene of an emergency operation.
 - Revises the term “qualified personnel” to an “incident safety officer” and requires the incident commander to assign an incident safety officer with specific responsibilities and authority.
 - Revises a note relating to the source for high-visibility safety apparel information.

Subchapter XI – Medical

- 330.15 – Physical and medical capabilities
 - Removes a note determined to be redundant, which states that the intent of this chapter is not to require annual physicals for fire fighters. The current rule does not include that requirement.

Subchapter XII – Member Assistance Referral Program

- 330.16 – Member assistance referral program
 - Revises a provision to include mental health in the current list of health conditions that are to be included in a written member assistance referral program.
 - Amends a provision to clarify that the employee assistance referral program includes “members” of a fire department in addition to fire fighters.

Summary of, and comparison with, existing or proposed federal regulation:

A comparison of ch. SPS 330 to counterpart OSHA provisions (e.g., 29 CFR 1903.3, 1903.8, 1903.11, 1904.4, 1910.95, 1910.132, 1910.133, 1910.134, 1910.40, 1910.151, 1910.155, 1910.156, and 1912.5) indicated that in most instances, SPS 330 meets OSHA requirements. In some cases, the language was modified in certain provisions to incorporate current OSHA language and conform to requirements.

Comparison with rules in adjacent states:

None of the four adjacent states have administrative rules that are specifically applicable to public fire department employees.

Illinois: All public employees are covered by the Illinois Occupational Safety and Health Act, which incorporates the federal OSHA standards as state administrative rules. Illinois reserves the right to deviate from OSHA standards if it promulgates alternate standards that are “at least as effective in providing safe and healthful employment and places of employment as a federal standard.”

Iowa: Iowa’s occupational safety and health standards are promulgated to conform to federal OSHA standards. Both public and private sector employees, including fire fighters, are subject to these OSHA-based standards.

Michigan: Michigan’s occupational safety and health standards adopt most federal OSHA standards by reference and differ only in the area of child labor. The Michigan standards apply to public and private employers, as well as all places of employment except domestic employment and in mines.

Minnesota: Minnesota’s occupational safety and health standards incorporate 29 CFR 1910 by reference and apply to public and private employers, as well as all places of employment except those where working conditions fall under the exclusive jurisdiction of the federal government.

Summary of factual data and analytical methodologies:

The department established a six-member advisory committee to review SPS 330 provisions, OSHA requirements related to fire department safety and health, and the national standards incorporated by reference in SPS 330. The department also reviewed similar rules in neighboring states and consulted with members of associations and local volunteer fire departments to ensure the proposed revisions would not impose an undue hardship on these agencies.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted on the Department of Safety and Professional Services’ website for 14 days to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rules.

These rule revisions would not have an effect on small business as the rule applies only to public sector employers. Section 101.055(2) (d), Stats., defines “public employer” to mean “...the state, any agency or any political subdivision of the state”; likewise, s. 101.055(2) (b), Stats., defines “public employee” as “any employee of the state, of any agency or of any political subdivision of the state.”

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These proposed rules are not expected to have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Mindy Allen, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-2112; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments was November 16, 2017.

TEXT OF RULE

SECTION 1. SPS 330.001 is amended to read:

SPS 330.001 Purpose. Pursuant to s. 101.055 (3) (a), Stats., the purpose of this chapter is to establish minimum safety and health standards for public sector fire department employers and their employees.

SECTION 2. SPS 330.003 (1) and (2) are repealed.

SECTION 3. SPS 330.003 (2) (Notes) are renumbered 330.002 (Note) [1] and [2] and, as renumbered, are amended to read:

SPS 330.002 (Note) Note [1]: Private sector ~~employer fire companies and fire departments~~ department employers and their employees are regulated under ~~29 CFR 1910, especially section CFR 1910.156,~~ of the federal Occupational Safety and Health Administration (OSHA) regulations.

Note [2]: ~~Most~~ Many of the requirements of this chapter are based upon the National Fire Protection Association ~~Standard NFPA No. (NFPA) 1500—~~Standard on Fire Department Occupational Safety and Health Program. ~~The requirements of subch. XI are based upon and 29 CFR section 1910.156-(b)-(2) of the OSHA regulations.~~

SECTION 4. SPS 330.003 (3) is amended to read:

SPS 330.003 (3) CONFLICTS. If requirements of the statutes, this chapter, or other Wisconsin administrative code chapters specify varying requirements, the requirement more protective of employee safety and health shall apply.

SECTION 5. SPS 330.003 (4) is created to read:

SPS 330.003 (4) GLOBAL DELETIONS FOR THE NFPA STANDARDS. Unless specified in subch. IV or specifically applied by another section in this chapter, the following requirements of the NFPA standards do not apply as rules of the department:

(a) All requirements of a secondary standard or publication that is referenced in a standard adopted in subch. IV.

(b) All requirements pertaining to emergency medical services.

(c) All requirements that mandate fire fighter certification.

(d) All requirements that mandate fire apparatus operator certification.

(e) All requirements that mandate instructor certification.

SECTION 6. SPS 330.01 (1m) is created to read:

SPS 330.01 (1m) “Ambulance service provider” has the meaning given under s. 256.01 (3), Stats.

SECTION 7. SPS 330.01 (4) is amended to read:

SPS 330.01 (4) “Basic life support” ~~means emergency medical treatment at a level authorized to be performed by emergency medical personnel, as defined in s. 941.37 (1) (c), Stats~~ has the meaning given under s. 256.15 (1) (d), Stats.

SECTION 8. SPS 330.01 (4) (Note) is repealed.

SECTION 9. SPS 330.01 (6), (7), (10), and (12) are amended to read:

SPS 330.01 (6) “Emergency operation” means ~~the provision of fire fighting, law enforcement, medical or other emergency service~~ activities of the fire department relating to rescue, fire suppression, emergency medical care, and special operations, including response to the scene of the incident and functions performed at the scene.

(7) “Fire apparatus” means a vehicle operated by a fire department and used for emergency operations to transport personnel and equipment and to support the suppression of fires and mitigation of other hazardous situations.

(10) “Fire fighter” means any person performing the powers and duties of a public fire department, whether or not that person is engaged in emergency operations. “Fire fighter” includes full=time and part=time employees and paid and unpaid volunteers.

(12) “Fire fighting” means any activity related to controlling and extinguishing an unwanted fire or a fire set for training fire fighters, including any activity that exposes a fire fighter to the danger of heat, flame, smoke, or any other product of combustion, explosion, or structural collapse, but does not include any activities pertaining to fighting wildland fires. Fire fighting includes emergency operations and responses related to rescues, terrorism, and special hazards.

SECTION 10. SPS 330.01 (13) is repealed.

SECTION 11. SPS 330.01 (13g) and (Note), (13r), (14g), (14r), and (15m) are created to read:

SPS 330.01 (13g) “Fit test” means the use of a testing protocol to qualitatively or quantitatively evaluate and verify the proper fit and seal of a respirator on an individual.

Note: See also qualitative fit test (QLFT) and quantitative fit test (QNFT).

(13r) “Hazard” means a condition, an object, or an activity with the potential of causing personal injury, equipment damage, loss of material, or reduction of the ability to accomplish the mission.

(14g) "Health and safety officer" means the person assigned and authorized by the fire chief as the manager of the fire department's health and safety programs.

(14r) "Immediately dangerous to life or health" or "IDLH" means any condition that would pose an immediate or delayed threat to life, cause irreversible adverse health effects, or interfere with an individual's ability to escape from a hazardous environment.

(15m) "Incident commander" means the individual who has the overall authority and responsibility for the management of emergency operations and personnel activities, including the development of strategies and tactics and the ordering and release of resources.

SECTION 12. SPS 330.01(16) is amended to read:

SPS 330.01 (16) "~~Incident command~~ management system" means an organized system of that defines the roles, and responsibilities assumed by emergency responders and suggested the standard operating guidelines used to manage and direct emergency operations and other related functions.

SECTION 13. SPS 330.01(16m) is created to read:

SPS 330.01 (16m) "Incident safety officer" means the individual designated by the fire chief or incident commander who has obtained training from a qualified instructor on the roles and responsibilities of an incident safety officer.

SECTION 14. SPS 330.01 (17) (intro.) is amended to read:

SPS 330.01 (17) (intro.) "Member" means a person occupying any position or rank within a fire department and involved in performing the any type of duties and or responsibilities under the authority of a fire department, under the auspices of the organization. For the purposes of this chapter, a fire department member: "Member" includes a full- or part-time employee or paid or unpaid volunteer.

SECTION 15. SPS 330.01 (17) (a) to (c) is repealed.

SECTION 16. SPS 330.01 (17m) is created to read:

SPS 330.01 (17m) "National Incident Management System" or "NIMS" means a system that provides a consistent, nationwide approach for organizations to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.

SECTION 17. SPS 330.01(18) is repealed.

SECTION 18. SPS 330.01 (19) and (20) are amended to read:

SPS 330.01 (19) "Occupational illness" means an illness or disease ~~caused~~ contracted

through or aggravated by serving as a fire fighter the performance of the duties, responsibilities, and functions of a fire department member.

(20) “Occupational injury” means an injury sustained during the performance of the duties, responsibilities, and functions of a fire ~~fighter~~ department member.

SECTION 19. SPS 330.01 (21) is repealed.

SECTION 20. SPS 330.01 (21c), (21g), (21n), (21r), and (21w) are created to read:

SPS 330.01 (21c) "Qualified instructor" means a fire service instructor who is determined by the fire chief to be knowledgeable in the topic and has demonstrated the knowledge and ability to deliver instruction effectively from a prepared lesson plan, including instructional aids and evaluation instruments; adapt lesson plans to the unique requirements of the students and authority having jurisdiction; organize the learning environment so that learning and safety are maximized; and meet the record-keeping requirements of the authority having jurisdiction.

(21g) “Qualitative fit test” or “QLFT” means a pass or fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

(21n) “Quantitative fit test” or “QNFT” means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

(21r) “Personal alert safety system” or “PASS” means a device that continually senses for lack of movement of the wearer and automatically activates the alarm signal, indicating the wearer is in need of assistance.

(21w) “Self-contained breathing apparatus” or “SCBA” means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

SECTION 21. SPS 330.01 (25) and (26) are amended to read:

SPS 330.01 (25) “~~Suggested Standard~~ operating guideline” means ~~an a written~~ organizational directive that establishes a standard course of action or prescribes specific operational or administrative methods to be followed routinely, which can be varied due to operational need in the performance of designated operations or actions.

(26) “Structural fire fighting” means fire fighting that involves buildings, enclosed structures, enclosed vehicles, or enclosed vessels.

SECTION 22. SPS 330.011 (1) (intro.) and (a) and (b), and (3) (a) and (b) are amended to read:

SPS 330.011(1) (intro.) RIGHT OF ENTRY TO INVESTIGATE OR INSPECT. The authorized representatives of the department, upon presentation of the appropriate credentials to an employer, may do all of the following:

(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 employee of the 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 place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials ~~therein~~, and question privately any employer or employee.

(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 by completing a complaint registration form designated by the department.

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

SECTION 23. SPS 330.011 (3) (c) is repealed.

SECTION 24. SPS 330.011 (3) (c) (Note) is renumbered SPS 330.011(3) (a) (Note) and, as renumbered, is amended to read:

SPS 330.011 (3) (a) (Note) Note: The online complaint registration form (SBD-192) is available at on the Department's Web site website at <http://dsps.wi.gov> through links to Division of Industry Services forms dsps.wi.gov/Pages/SelfService. See s. 101.055, Stats., for information regarding the complaint process.

SECTION 25. SPS 330.02 (1) (intro.) and (a) to (f) are renumbered SPS 330.02 (intro.) and (1) to (6) and, as renumbered, are amended to read:

SPS 330.02 (intro.) Incorporation of standards by reference. NFPA STANDARDS. The following standards ~~of the National Fire Protection Association, One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02269-9101~~ are hereby incorporated by reference into this chapter:

(1) NFPA 1001-~~1997~~ 2013, Standard for Fire Fighter Professional Qualifications.

(2) NFPA 1002-~~1998~~ 2017, Standard for Fire Apparatus Driver/Operator Professional Qualifications.

(3) NFPA 1021-~~1997~~ 2014, Standard for Fire Officer Professional Qualifications, subject to the modifications specified in this chapter.

(4) NFPA 1403-~~1997~~ 2018, Standard on Live Fire Training Evolutions ~~in Structures~~.

(5) NFPA 1901-~~1999~~ 2016, Standard for Automotive Fire Apparatus.

(6) NFPA 1911-~~1997~~ 2017, Standard for ~~Service Tests of Pump Systems on Fire Department Apparatus~~ the Inspection, Maintenance, Testing, and Retirement of In-Service Emergency Vehicles, subject to the modifications specified in this chapter.

SECTION 26. SPS 330.02 (1) (g) is repealed.

SECTION 27. SPS 330.02 (1) (h) to (k) are renumbered SPS 330.02 (7) to (10) and, as renumbered, are amended to read:

SPS 330.02 (7) NFPA 1971-~~2000~~ 2018, Standard on Protective ~~Ensemble~~ Ensembles for Structural Fire Fighting and Proximity Fire Fighting.

(8) NFPA 1981-~~1997~~ 2013, Standard on Open-Circuit Self-Contained Breathing Apparatus for ~~the Fire Service~~ Emergency Services.

(9) NFPA 1982-~~1998~~ 2013, Standard on Personal Alert Safety Systems (PASS).

(10) NFPA 1983-~~2001~~ 2017, Standard on ~~Fire Service~~ Life Safety Rope and ~~System Components~~ Equipment for Emergency Services, subject to the modifications specified in this chapter.

SECTION 28. SPS 330.02 (2) (intro.) is repealed.

SECTION 29. SPS 330.02 (2) (a) is renumbered SPS 330.02 (11) and, as renumbered, is amended to read:

SPS 330.02 (11) CGA Standard G-7.1, ~~1997~~ 2011, Commodity Specification for Air.

SECTION 30. SPS 330.02 (2) (a) (Note) is renumbered 330.02 (Note) [1] and, as renumbered, is amended to read:

SPS 330.02 (Note) Note [1]: Copies of the standards are on file in the offices of the department and the legislative reference bureau. ~~Copies may be purchased through the organizations listed.~~

SECTION 31. SPS 330.02 (Note) [2] and [3] are created to read:

SPS 330.02 (Note) Note [2]: NFPA standards may be viewed online at NFPA.org or purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169.

Note [3]: CGA standards may be purchased from the Compressed Gas Association, 14501 George Carter Way, Suite 103, Chantilly VA 20151 or at www.cganet.com.

SECTION 32. SPS 330.03 (title) and (1) (a) to (c) are amended to read:

SPS 330.03 (title) Fire department health and safety position officer.

(1) ASSIGNMENT. (a) Each fire department shall have a health and safety position officer.

(b) The health and safety position officer shall assist the fire chief in his or her responsibility for the safety and health of the fire fighter.

(c) The health and safety position officer shall report directly to the fire chief.

SECTION 33. SPS 330.03 (1) (c) (Note) is renumbered SPS 330.03 (1) (d) and, as renumbered, is amended to read:

SPS 330.03 (1) (d) The health and safety officer position may be filled by a single individual or by several individuals as determined by need and at the discretion of the fire chief. When several individuals are assigned to the position, at least one should be a member of the occupational safety and health committee. ~~The intent of the rule is to staff the safety position with existing personnel, which~~ The health and safety position may be filled ~~staffed~~ by a an existing fire department member who performs other duties in addition to those set forth in this section.

SECTION 34. SPS 330.03 (1) (d) (Note) is created to read:

SPS 330.03 (1) (d) (Note) Note: The health and safety officer is distinct from the incident safety officer and may be the incident safety officer or can be a separate function.

SECTION 35. SPS 330.03 (2), (3), and (4) (intro.) and (a) to (c) are amended to read:

SPS 330.03 (2) QUALIFICATIONS. The health and safety position officer's qualifications shall include all of the following:

- (a) ~~Be a fire~~ Fire department member; membership.
- (b) ~~Have a knowledge~~ Knowledge of state and local laws regulating fire fighter safety and health; ~~and~~
- (c) ~~Have a knowledge~~ Knowledge of the potential safety and health hazards involved in fire fighting; ~~and~~
- (d) ~~Have a knowledge~~ Knowledge of the principles and techniques of managing a safety and health program.

(3) AUTHORITY AND RESPONSIBILITY. The health and safety position officer's authority and responsibility shall include all of the following:

(a) ~~Have the~~ The authority and responsibility to identify and recommend corrections of violations of safety and health standards;

(b) ~~Have the~~ The authority and responsibility to recommend immediate correction of situations that create an imminent hazard to personnel; and,

(c) ~~Have the~~ The authority and responsibility to alter, suspend, or terminate activities at the emergency scene when he or she judges those activities are determined by the health and safety officer to be unsafe or an imminent hazard.

(4) (intro.) FUNCTIONS. The health and safety position officer shall do all of the following:

(a) Be a member of the safety and health committee, and maintain a liaison with staff officers, fire fighters, equipment manufacturers, regulatory agencies, safety specialists, and the fire department physician;

(b) Develop and revise rules, and regulations, and ~~suggested~~ standard operating guidelines pertaining to safety and health, and report to the fire chief on the adequacy and effectiveness of the rules and regulations. The fire chief shall define the role of the health and safety position officer in the enforcement of the rules and regulations;

(c) Identify and mitigate safety and health hazards ~~at incidents,~~ and be involved in ~~post-incident~~ critiques; and,

SECTION 36. SPS 330.05 (1) and (2) are amended to read:

SPS 330.05 Occupational safety and health committee. (1) Every fire department shall establish an occupational safety and health committee, which shall advise the fire chief ~~of the fire department~~ on issues related to the program. The committee shall include representatives of fire department management and fire fighters or representatives of fire fighter organizations or other persons. Any representatives of a fire service organization shall be selected by the fire fighter organization. The fire chief ~~of the fire department~~ shall appoint the other members of the committee.

(2) The committee appointed under sub. (1) shall do all of the following:

(a) Conduct research, develop recommendations, ~~and study~~ and review matters pertaining to the program; ~~and,~~

(b) Hold regularly scheduled meetings, which shall occur at least biannually, and may hold special meetings as ~~it determines~~ deemed necessary. The committee shall make a written

record of its meetings available to all ~~fire fighters in the~~ fire department members.

SECTION 37. SPS 330.06 is amended to read:

SPS 330.06 Records. Every fire department shall do all of the following:

(1) Establish a data collection system and maintain permanent records of all reported accidents, injuries, illnesses, and deaths that are or may be job related. The system shall include individual records of any occupational exposure to known or suspected toxic products or contagious diseases.

(2) Maintain a training record for each fire fighter indicating dates, subjects covered, and certifications achieved.

SECTION 38. SPS 330.07 is repealed and recreated to read:

SPS 330.07 Training and education program. Every fire department shall do all of the following:

(1) Establish and maintain a member training and education program that identifies specific goals and objectives for the prevention and elimination of occupational accidents, injuries, illnesses, exposures to communicable disease, and fatalities.

(2) Assure that the training and education provided under this section are based upon the fire department's written standard operation guidelines.

(3) Assure that the training and education required under this section and s. SPS 330.08 are provided by a qualified instructor.

Note: The intent of this rule is not to require an instructor to be certified. Fire departments should ensure that instructors are qualified in that particular area of expertise familiar with the fire department, its organization, and its operations.

(4) Provide training and education commensurate with the duties and functions the member is expected to perform.

(5) Assure that a member obtains the minimum fire fighter training and education requirements before that member performs any interior structural fire fighting activity or within an IDLH environment as determined by the incident safety officer in accordance with s. SPS 330.14 (1) (g).

Note: The use of a structured on-the-job training program with close supervision can assist fire departments to utilize new members in non-IDLH environments during emergency operations.

(6) Provide training and education to fire fighters about special hazards to which they may be exposed during a fire and other emergencies and advise of any changes that occur in relation to the special hazards. The procedures to address special hazards shall be maintained in written form. Training and education under this subsection shall be provided at least biannually.

(7) Assure that the training and education are conducted frequently enough to ensure that each fire fighter is able to perform the assigned duties and functions satisfactorily and in a safe manner so as not to endanger other fire department members or employees.

(8) Assure that fire fighters whose duties include interior structural fire fighting receive training and education consistent with established fire ground operating procedures. Training and education under this subsection shall be provided at least monthly.

(9) Assure that training and education involving live fire fighting exercises meet the standards specified in NFPA 1403.

(10) Assure that a training and education program for any fire fighter engaged in fire ground operations includes procedures to perform a safe exit from a dangerous area in the event of equipment failure or sudden change in fire conditions.

(11) Assure that fire fighters receive training and education on the incident management system in accordance with s. SPS 330.14 (1) (c).

SECTION 39. SPS 330.08 (title) is amended to read:

SPS 330.08 ~~Employment~~ Minimum training and education standards.

SECTION 40. SPS 330.08 (1) (a) and 1. to 4. are renumbered SPS 330.08 (1) (intro.), (a), (bm), (cm), and (d) and, as renumbered, are amended to read:

SPS 330.08 (1) (intro.) ~~Any new fire fighter engaged~~ No member may be permitted to participate in structural fire fighting shall meet activities until that individual has completed the minimum training and education requirements as specified by any of the following:

(a) ~~The Wisconsin~~ An entry-level fire fighter course approved by the technical college system board;

(bm) An approved state apprenticeship program;

(cm) An in-house training program approved by the ~~Wisconsin~~ technical college system board;

(d) NFPA 1001: Standard for Fire Fighter Professional Qualifications

SECTION 41. SPS 330.08 (1) (b) and (c) are repealed.

SECTION 42. SPS 330.08 (2) (a) and 1. to 4. are renumbered to SPS 330.08 (2) (intro.), (a), (bm), (c), and (d) and, as renumbered, are amended to read:

SPS 330.08 (2) (intro.) ~~Every new pumper operator or new aerial operator shall meet~~ No member may act as a pumper or aerial operator during an emergency operation until that individual meets the minimum training and education requirements as specified by any of the following:

(a) ~~The Wisconsin~~ An entry-level driver/operator-pumper or driver/operator-aerial course approved by the technical college system board;

(bm) An approved state apprenticeship program;

(c) An in-house training program approved by the ~~Wisconsin~~ technical college system board;

(d) NFPA 1002: Standard for Fire Apparatus Driver/Operator Professional Qualifications

SECTION 43. SPS 330.08 (2) (b) is repealed.

SECTION 44. SPS 330.08 (3) (intro.) and (a) to (d) are amended to read:

SPS 330.08 (3) (intro.) ~~A new fire officer, after appointment, shall be provided with the opportunity to take the basic officer training program within 12 months of appointment. The training program shall meet~~ Effective the 1st day of the 13th month following publication [LRB to insert date], a fire officer appointed after the first day of the month following publication [LRB to insert date] No member may not act as a fire officer during an emergency operation until that individual completes NIMS training in accordance with s. SPS 330.14 and meets obtains the minimum training and education requirements as specified by any of the following:

(a) ~~The Wisconsin~~ A fire officer course approved by the technical college system board;

(b) An approved state apprenticeship program;

(c) An in-house training program approved by the ~~Wisconsin~~ technical college system board;

(d) NFPA 1021: Standard for Fire Officer Qualifications

SECTION 45. SPS 330.08 (4) is repealed.

SECTION 46. SPS 330 Subchapter VII (title) is amended to read:

SPS 330 (title) Subchapter VII – ~~Vehicles~~ Apparatus and Equipment

SECTION 47. 330.09 (title), (1) (intro.) and (a) to (c) are amended to read:

SPS 330.09 ~~Vehicles~~ Apparatus. (1) (intro.) Every fire department shall do all of the following:

(a) Give substantial consideration to the health and safety of fire fighters in relation to the specification, design, construction, acquisition, operation, maintenance, inspection, and repair of all ~~vehicles~~ fire apparatus and equipment.

(b) ~~Provide, and enforce the use of, a helmet and eye protection to any person riding in any part of a fire vehicle that is not enclosed and require that the person wear the protection while riding in that part~~ an open cab or open tiller seat that does not provide protection of an enclosed cab.

(c) 1. Except as provided in subd. 2., when specifying and ordering any fire apparatus ~~after April 1, 1991~~, require a sufficient number of seats in an enclosed area for the maximum number of persons who may ride on the apparatus at any time, as specified by NFPA 1901.

2. Fire apparatus ~~manufactured prior to April 1, 1991~~, may be sold, traded, or given to another fire department ~~for use after April 1, 1991~~, provided the fire apparatus is maintained in accordance ~~to~~ with the standards in effect at the time of its manufacture.

SECTION 48. SPS 330.09 (1) (d) is repealed and recreated to read:

SPS 330.09 (1) (d) Establish a preventative maintenance program that includes all of the following:

1. Inspection of all fire apparatus and equipment at least monthly and within 24 hours after any use to repair or identify and correct unsafe conditions.

2. Maintenance, inspections, and repairs of fire apparatus and equipment that follows the instructions of the manufacturer.

3. Inspection of tires for signs of damage or wear and replacement of tires when the tread wear exceeds manufacturer standards. NFPA 1911 section 8.3.6 is not included as part of this chapter.

4. Removal from service of any fire apparatus or equipment found to be unsafe, as specified by NFPA 1911. No apparatus or equipment found to be unsafe may be placed back in service until it is inspected and repaired or replaced and determined to be safe.

5. Inspection and servicing of test fire pumps and aerial devices on apparatus as specified in NFPA 1911.

SECTION 49. SPS 330.09 (1) (e) to (g) are repealed.

SECTION 50. SPS 330.09 (2), (3), and (4) (a) are amended to read:

SPS 330.09 (2) A driver of a fire ~~vehicle~~ apparatus shall have a valid driver's license ~~for and training relating to the operation of the vehicle fire apparatus.~~ The driver ~~is directly responsible for the~~ shall in all conditions operate the fire apparatus in a safe and prudent operation of the vehicle in all conditions manner. ~~Any officer directly supervising the driver is responsible for the actions of the driver.~~

(3) The driver of a fire ~~vehicle~~ apparatus may not move the ~~vehicle~~ apparatus until every person on the ~~vehicle~~ apparatus is seated and secured with a seat belt or safety harness in an approved riding position, except as allowed under sub. (4) (a).

(4) (a) Except as provided in ~~pars. (b) to (d)~~ par. (c), any person riding on a fire apparatus shall be seated and safely secured to the vehicle by a seat belt or safety harness at any time the ~~vehicle~~ apparatus is in motion. No person may stand or ride on the tail steps, sidesteps, running boards, fully enclosed personnel areas, or other exposed part of a fire apparatus. ~~No person may stand while riding a fire~~ the apparatus is in motion.

SECTION 51. SPS 330.09 (4) (b) is repealed.

SECTION 52. SPS 330.09 (4) (c) 5. to 7., and (d) 1. and 5. are amended to read:

SPS 330.09 (4) (c) 5. ~~Members shall not~~ No person may stand on the ~~tailstep~~ tail step, sidesteps, running boards, or any other location on the fire apparatus while the apparatus is in motion.

6. Members may be in the hose bed, but ~~shall~~ no person may not stand while the fire apparatus is in motion.

7. Before each hose loading operation, the situation shall be evaluated to ensure compliance with the standard operating ~~procedure~~ guidelines. If the standard operating ~~procedure~~ guideline cannot be met, or if there is any question as to the safety of the operation for the specific situation, the hose ~~shall~~ may not be loaded on a moving fire apparatus.

(d) 1. Tiller training procedures shall be specified in a written standard operating ~~procedure~~ guidelines that ~~includes~~ include the conditions set forth in this paragraph. All members involved in tiller training shall be trained in these procedures.

5. The instructor and trainee shall wear ~~and use both~~ a helmet and use eye protection if

~~not seated in an enclosed area~~ open cab or open tiller seat that does not provide protection of an enclosed cab.

SECTION 53. SPS 330.10 (except title) is renumbered SPS 330.10 (1) and, as renumbered, (1) (intro.), (a) to (d), and (g) are amended to read:

SPS 330.10 (1) (intro.) INSPECTION AND TESTING OF PORTABLE EQUIPMENT. Every fire department shall do all of the following:

(a) Visually inspect, ~~at least weekly~~ monthly and within 24 hours after ~~any~~ use, all equipment carried on fire apparatus or designated for training.

(b) Maintain inventory records for equipment carried on each fire ~~vehicle~~ apparatus and for equipment designated for training.

(c) ~~Test~~ At least annually, test all equipment carried on fire apparatus or designated for training ~~at least annually~~ according to the instructions and applicable standards of the manufacturer.

(d) Remove from service and repair or replace any fire fighting equipment ~~which that~~ is defective or unserviceable as specified in the applicable ~~National Fire Protection Association~~ NFPA standard as specified under s. SPS 330.02.

(g) Inspect, maintain, and test all fire extinguishers in compliance with ch. SPS 314.

SECTION 54. SPS 330.10 (7) (Note) is repealed.

SECTION 55. SPS 330.10 (2) (e) and (3) are created to read:

SPS 330.10 (2) (e) Maintain records to document the use of each life safety rope used for training or at fires and other emergency incidents.

(3) INSPECTION AND RECERTIFICATION OF LIFE SAFETY ROPE. The following are department exceptions to the requirements in NFPA 1983:

(a) A life safety rope shall be inspected by qualified individuals before and after each use in accordance with the manufacturers' instructions.

(b) If an inspection or test of a life safety rope indicates any weakness, wear, or damage or there is any question regarding the safety or serviceability of a life safety rope, the rope shall be taken out of service and altered in such a manner that it could not be mistakenly used as a life safety rope.

(c) Unused life safety ropes, harnesses, and hardware shall be recertified in accordance with the manufacturer's instructions. NFPA 1983 section 4.4.1 and table 4.4.1 are not included as part of this chapter.

SECTION 56. SPS 330 Subchapter VIII (title) is amended to read:

SPS 330 Subchapter VIII – Protective Clothing and Protective Equipment

SECTION 57. SPS 330.11 is repealed and recreated to read:

SPS 330.11 Minimum Standards. (1) PROTECTIVE CLOTHING AND EQUIPMENT. Every fire department shall do all of the following:

(a) Provide, and enforce the use of, a protective ensemble and equipment to all fire fighters who engage in structural fire fighting or are exposed to hazards or potential hazards in accordance with 29 CFR 1910.132, subject to all of the following:

1. Protective clothing and equipment shall provide protection related to the fire fighter's job duties.

2. New protective clothing and equipment shall meet the applicable standards as specified in NFPA 1971.

3. Existing protective clothing and equipment shall meet the NFPA standard that was current when the protective clothing or equipment was purchased or obtained by the fire department.

4. Required protective clothing and equipment shall be provided at no cost to the fire fighter.

5. Ensure protective clothing and equipment is used and maintained in accordance with manufacturer instructions and 29 CFR 1910.132.

6. Establish a maintenance and inspection program for protective clothing and equipment and assign specific responsibilities for inspection and maintenance.

7. When protective clothing and equipment is assigned or available for use to a fire fighter, provide training to each fire fighter under this paragraph in the proper care, use, inspection, cleaning, decontamination, maintenance, and limitations of the protective clothing and equipment.

SECTION 58. SPS 330.12 (1) is amended to read:

SPS 330.12 (1) RESPIRATORY PROTECTION. Every fire department shall do all of the following:

(a) Provide, and enforce the use of, self-contained breathing apparatus and require to fire fighters to use the apparatus in SCBA for all fire fighters engaged in interior structural fire fighting or who enter any area where the atmosphere is hazardous, is suspected of being

hazardous, or may become hazardous.

(b) Provide, and enforce the use of, SCBA for all fire fighters working below ground level or inside any confined space ~~with self-contained breathing apparatus and require them to use that self-contained breathing apparatus~~ unless the safety of the atmosphere can be established by testing and continuous monitoring.

(c) Adopt and maintain a respiratory protection program that satisfies the requirements of ~~s. 29 CFR 1910.134 as adopted by reference in ch. SPS 332.~~

(d) Assure that all sources of compressed gaseous breathing air, such as compressors, used for filling ~~self-contained breathing apparatus~~ SCBA are tested to assure their compliance with sub. (4).

(e) Hydrostatically test each ~~self-contained breathing apparatus~~ SCBA tank within the time limits specified by the manufacturer of the apparatus and by any federal, state, or local agency with jurisdiction over the possession and use of the apparatus.

(f) Inspect, use, and maintain all ~~self-contained breathing apparatus~~ SCBA as recommended by the manufacturer.

SECTION 59. SPS 330.12 (2) is repealed and recreated to read:

SPS 330.12 (2) RESPIRATOR FIT TESTING. Every fire department shall do all of the following:

(a) Conduct a fit test in accordance with 29 CFR 1910.134 to verify the seal and proper fit of the facepiece for each fire fighter required or qualified to use an SCBA.

(b) Conduct a fit test using a qualitative or quantitative test method.

(c) Conduct a fit test prior to initial use and at least annually thereafter.

(d) Conduct a fit test whenever a different type of SCBA is issued.

(e) Conduct a fit test whenever a fire fighter has a change in facial structure that could affect the seal of the SCBA facepiece.

(f) Ensure that SCBA is not worn by a fire fighter who has facial hair or any condition that interferes with the seal of the SCBA facepiece.

(g) Ensure that a fire fighter's corrective glasses or goggles are worn in a manner that does not interfere with the seal of the SCBA facepiece.

(h) Ensure that only a fire fighter who has been fit tested for an SCBA is permitted to function in a hazardous or IDLH atmosphere.

SECTION 60. SPS 330.12 (3) (title) is created to read:

SPS 330.12 (3) (title) POSITIVE PRESSURE.

SECTION 61. SPS 330.12 (3) (a), (b), and (d) are amended to read:

SPS 330.12 (3) (a) ~~A self-contained breathing apparatus~~ SCBA of the open-circuit design shall be of the positive pressure type. ~~Any self-contained breathing apparatus placed into service after April 1, 1991, shall~~ and shall meet the standards specified in NFPA 1981 and shall be of the positive pressure type only.

(b) Paragraph (a) does not prohibit the use of ~~a self-contained breathing apparatus~~ SCBA if the apparatus can be switched from a demand to a positive-pressure mode.

(d) A closed-circuit type ~~self-contained breathing apparatus~~ SCBA shall be approved certified by the National Institute of ~~Occupation~~ Occupational Safety and Health and shall operate in the positive pressure mode only when worn in a hazardous or IDLH environment. The supply air tank shall have a minimum service duration of 30 minutes.

SECTION 62. SPS 330.12 (3) (d) (Note) is repealed.

SECTION 63. SPS 330.12 (4) (title) is created to read:

SPS 330.12 (4) (title) CGA STANDARDS.

SECTION 64. SPS 330.12 (4) is amended to read:

SPS 330.12 (4) Compressed ~~gaseous~~ breathing air in ~~a self-contained breathing apparatus~~ an SCBA cylinder shall meet the requirements of CGA standard G-7.1, with a minimum air quality of Grade D and a water vapor level of less than 25 ppm.

SECTION 65. SPS 330.12 (6) (title) is created to read:

SPS 330.12 (6) (title) TEAMS.

SECTION 66. SPS 330.12 (6) (intro.), (a), and (b) are amended to read:

SPS 330.12 (6) (intro.) Fire fighters using ~~self-contained breathing apparatus~~ SCBA shall operate in teams of 2 or more members who ~~are~~ shall comply with all of the following:

(a) ~~In~~ The team members shall be in continuous communication with each other through visual, audible, physical, safety guide rope, electronic, portable radio, or other means to coordinate their activities; ~~and~~

(b) ~~In~~ The team members shall be in close enough proximity to each other so as to be

able to provide assistance in case of an emergency.

SECTION 67. SPS 330.13 is repealed and recreated to read:

SPS 330.13 Personal alert safety system. Every fire department shall provide, and enforce the use of, a PASS device to every fire fighter using SCBA while engaged in rescue, fire fighting, or other hazardous operations. Each PASS device shall be tested at least weekly and prior to each use as specified in NFPA 1982 and shall be maintained in accordance with the manufacturer's instructions.

SECTION 68. SPS 330.13 (2) (intro.) and (a) to (c) are renumbered SPS 330.10 (2) (intro.) and (a) to (c) and, as renumbered, (2) (intro.) and (a) are amended to read:

SPS 330.10 (2) (intro.) LIFE SAFETY ROPES, HARNESSES, AND HARDWARE. Every fire department shall do all of the following:

(a) Use life safety ropes, harnesses, and hardware ~~which~~ that meet the standards specified in NFPA 1983.

SECTION 69. SPS 330.13 (2) (d) is repealed.

SECTION 70. SPS 330.13 (2) (e) is renumbered SPS 330.10 (2) (d).

SECTION 71. SPS 330.13 (2) (f) is repealed.

SECTION 72. SPS 330.13 (3) is renumbered SPS 330.11 (2) and, as renumbered, is amended to read:

SPS 330.11 (2) EYE, FACE, AND HEARING PROTECTION. Every fire department shall do all of the following:

(a) Provide, and enforce the use of, face and eye and face protection in accordance with 29 CFR 1910.133 for any fire fighter engaged in fire suppression and other operations involving hazards to the eyes and face whenever the fire fighter's face is not protected by ~~the full an SCBA facepiece of a self-contained breathing apparatus. Eye and face protection shall comply with s. 29 CFR 1910.133 as adopted by reference in ch. SPS 332.~~

(b) Provide, and enforce the use of, hearing protection for any fire fighter operating or riding in fire apparatus when ~~subject~~ exposed to noise in excess of 90 dBA.

(c) Provide, and enforce the use of, hearing protection in accordance with 29 CFR 1910.95 for any fire fighter exposed to noise in excess of 90 dBA from power tools or equipment unless the use of the protective equipment would create an additional hazard to the fire fighter. ~~Hearing protection shall comply with s. 29 CFR 1910.95 as adopted by reference in ch. SPS 332.~~

SECTION 73. SPS 330.14 (1) (intro.) and (b) are amended to read:

SPS 330.14 (1) (intro.) INCIDENT MANAGEMENT. Every fire department shall do all of the following:

(b) Establish, and ensure use of, an incident ~~command~~ management system in accordance with NIMS which has that includes written standard operating guidelines applying applicable to all ~~fire fighters~~ members involved in an emergency operations and ~~which identifies fire fighter roles and responsibilities relating to the safety of operations~~ operation.

SECTION 74. SPS 330.14 (1) (b) (Note) is repealed.

SECTION 75. SPS 330.14 (1) (c) is amended to read:

SPS 330.14 (1) (c) ~~Train fire fighters~~ Provide NIMS training to all members involved in emergency operations ~~in the incident command system established under par. (b) and assign safety responsibilities to supervisory personnel at each level of operations.~~

SECTION 76. SPS 330.14 (1) (c) (Note) is created to read:

SPS 330.14 (1) (c) (Note) Note: Information on NIMS training is available on FEMA's website at training.fema.gov/nims.

SECTION 77. SPS 330.14 (1) (d) to (g) are amended to read:

SPS 330.14 (1) (d) Require the ~~officer in command~~ incident commander of an emergency operation to be responsible for the overall safety of all fire fighters and activities occurring at the scene of the operation. The incident commander has overall authority and responsibility for conducting incident operations and is responsible for the management of emergency operations and the activities of emergency personnel at the incident site.

(e) Require the ~~officer in command~~ incident commander of an emergency operation to assign safety responsibilities to supervisory personnel at each level of operations and establish an organization with sufficient supervisory personnel to control the position and function of all fire fighters operating at the scene of that emergency operation to ensure that safety requirements are satisfied.

(f) Use a ~~standard~~ standardized system to identify and account for the assignment of each fire fighter at the scene of an emergency operation.

(g) At an emergency operation where ~~special~~ hazards may exist, require the ~~officer in command~~ incident commander to assign ~~qualified personnel~~ an incident safety officer with specific responsibility and authority to do all of the following: to identify and evaluate hazards and to provide direction with respect to fire fighter safety during the operation.

SECTION 78. SPS 330.14 (1) (g) 1. to 5. are created to read:

- SPS 330.14 (1) (g)** 1. Identify, monitor, and assess safety hazards or unsafe situations.
2. Develop measures for ensuring personnel safety.
3. Recommend corrections of violations of safety and health standards.
4. Recommend immediate correction of situations that create an imminent hazard to personnel.
5. Alter, suspend, or terminate activities at the emergency scene when those activities are deemed by the incident safety officer to be unsafe or an imminent hazard.

SECTION 79. SPS 330.14 (2) (a) (intro.) is amended to read:

SPS 330.14 (2) (a) (intro.) Every fire department shall comply with all of the following:

SECTION 80. SPS 330.14 (2) (b) is repealed and recreated to read:

SPS 330.14 (2) (b) All fire fighters operating at an emergency operation and assigned to a position that may place them in potential contact with motor vehicle traffic shall wear a helmet as specified in NFPA 1971 and high-visibility safety apparel as specified in the ANSI 107 standard.

Note: The ANSI/ISEA standard 107, American National Standard for High-Visibility Safety Apparel and Accessories, may be accessed at www.ansi.org.

SECTION 81. SPS 330.14 (3) (a) and (b) are amended to read:

SPS 330.14 (3) (a) A fire fighter using ~~self-contained breathing apparatus~~ SCBA and operating in an interior structural fire shall operate in a team of 2 or more fire fighters. Except in the case of a structural fire ~~which that is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, a back-up team of at least 2 members~~ fire fighters wearing self-contained breathing apparatus SCBA shall be assigned to remain available at the scene for to perform assistance or rescue if the need arises activities. One back-up team member with a charged line shall be ~~committed~~ assigned to a safe non-affected area in or near the structure. The other back-up team member shall remain within voice contact and may be assigned to additional roles so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety or health of any fire fighter working at the scene. ~~In all structural fires in which fire fighters use self-contained breathing apparatus, at~~ At least one additional member shall be assigned to remain outside the structural fire and monitor the operations.

(b) ~~At~~ During an emergency operations operation, the officer in command incident commander shall evaluate the risk to fire fighters and, if necessary, request that at least a basic

~~life support personnel and patient transportation~~ life support ambulance service provider be available at the scene.

SECTION 82. SPS 330.15 (2) (Note) is repealed.

SECTION 83. SPS 330.16 (1) is amended to read:

SPS 330.16 (1) Every fire department shall establish and adopt a written policy statement for ~~a fire fighters~~ an employee assistance ~~referral~~ program that identifies and assists ~~fire fighters~~ members with personal problems, alcohol or substance abuse, stress, ~~or emotional, physical, and mental health issues~~ and personal problems that are adversely affecting their job performance. The assistance program shall ~~refer fire fighters to~~ include a resource list of available services and methods for referring a member to the appropriate mental or health care services as appropriate for the recovery of ~~their~~ the member's health and job performance abilities.

SECTION 84. SPS 330.23 and (Note) are amended to read:

SPS 330.23 Miscellaneous hazardous situations. Fire departments engaged in miscellaneous emergency operations and hazardous situations such as, ~~but not limited to,~~ structural collapse rescue, elevator rescue, trench rescue, and terrorism responses shall comply with s. SPS 330.14, ~~and with~~ s. 29 CFR 1910.132, and any other applicable standard in 29 CFR 1910 and 29 CFR 1926, as adopted by reference in ch. SPS 332.

Note: Requirements for fire departments providing emergency medical services are administered and enforced by the Department of Health Services under ch. DHS 110 and ch. 256, Stats.

SECTION 85. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats., except for the treatment of ss. SPS 330.08 (1) (intro.) and (2) (intro.), which shall take effect on the 13th month after publication.

(END OF TEXT OF RULE)

This Proposed Order of the Department of Safety and Professional Services is approved for submission to the Governor and Legislature.

Dated _____ Agency _____
Secretary
Department of Safety and Professional Services

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

SPS 330-Fire Department Safety and Health Standards

3. Subject

Comprehensive update of the Fire Department Safety and Health Standards code.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(2)(j)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The Fire Department Safety and Health Standards code has not been reviewed in its entirety since April 2000.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. Stakeholders were notified of the open comment period via an electronic announcement disseminated by the Department.

Comments were received from 3 individuals. While several of the comments did not directly pertain to the economic impact of the proposed rules, these comments were taken into consideration in the department's analysis of the economic impact of the proposed rules. Some of the comments suggested certain provisions in the proposed rules would have a negative impact on volunteerism among the state's fire departments.

11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in the development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

No significant negative economic or additional fiscal impact is expected.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

This update is necessary to keep the Fire Department Safety and Health Standards code consistent with regional and national standards. Changes to the rule will ensure Wisconsin meets current Federal OSHA and national standards relating to employee safety and health.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

14. Long Range Implications of Implementing the Rule

Adopting this rule will keep Wisconsin's current with industry practices designed to increase public employee health and safety.

15. Compare With Approaches Being Used by Federal Government

A comparison with Federal counterpart OSHA provisions (e.g., 29 CFR 1903.3, 1903.8, 1903.11, 1904.4, 1910.95, 1910.132, 1910.133, 1910.134, 1910.40, 1910.151, 1910.155, 1910.156, and 1912.5) indicated that SPS 330 meets OSHA requirements. In some cases, the language of ch. SPS 330 was modified to incorporate current OSHA terminology in order to simplify conformity with federal requirements.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: All public employees are covered by the Illinois Occupational Safety and Health Act, which incorporates the federal OSHA standards as state administrative rules. Illinois reserves the right to deviate from OSHA standards if it promulgates alternate standards that are "at least as effective in providing safe and healthful employment and places of employment as a federal standard."

Iowa: Iowa's occupational safety and health standards are promulgated to conform to federal OSHA standards. Both public and private sector employees, including fire fighters, are subject to these OSHA-based standards.

Michigan: Michigan's occupational safety and health standards adopt most federal OSHA standards by reference and differ only in the area of child labor. The Michigan standards apply to public and private employers, as well as all places of employment except domestic employment and in mines.

Minnesota: Minnesota's occupational safety and health standards incorporate 29 CFR 1910 by reference and apply to public and private employers, as well as all places of employment except those where working conditions fall under the exclusive jurisdiction of the federal government.

17. Contact Name

Mindy Allen

18. Contact Phone Number

608-261-4463

This document can be made available in alternate formats to individuals with disabilities upon request.