



STATE OF WISCONSIN
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Governor Scott Walker Secretary Dave Ross

**SPS 330 CODE ADVISORY COMMITTEE
FIRE DEPARTMENT SAFETY AND HEALTH
Room 121C, 1400 East Washington Avenue, Madison
Contact: Dan Smith (608) 261-4463
December 8, 2015**

The following agenda describes the issues that the Council plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the resulting meeting minutes for a description of the recommendations of the Council.

AGENDA

9:00 A.M.

CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1)**
- B. Welcome and Introduction**
- C. Approval of Minutes of July 9, 2015 (2)**
- D. Department Update**
- E. Review of SPS 330 Preliminary Rules Draft (3-14)**
- F. Public Comments**
- G. Future Business**
- H. Adjournment**

**SPS 330 ADVISORY COUNCIL
MEETING MINUTES
July 9, 2015**

PRESENT: Todd Blaser, Donald Dominick, James Flanagan, Gerald Derr, Nate Melby (*via teleconference/joined at 9:31 a.m., excused at 11:19 a.m.*), Robert Ugaste (*via teleconference*)

STAFF: Jeff Grothman, Policy Director; Chris Wolle, Rules Coordinator; April Hammond, Occupational Safety Inspector; and Kimberly Wood, Program Assistant Supervisor-Adv.

CALL TO ORDER

Todd Blaser, Chair, called the meeting to order at 9:11 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

MOTION: James Flanagan moved, seconded by Gerald Derr, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JUNE 4, 2015

MOTION: Donald Dominick moved, seconded by James Flanagan, to approve the minutes of June as published. Motion carried unanimously.

DISCUSSION OF SPS 330 HANDOUT PERTAINING TO CODE REVIEW

(Nate Melby joined the meeting at 9:31 a.m. and was excused at 11:19 a.m.)

ADJOURNMENT

MOTION: Gerald Derr moved, seconded by Robert Ugaste, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:53 p.m.

STATE OF WISCONSIN
Department of Safety and Professional Services

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

PROPOSED ORDER

An order of the department to repeal SPS 330.02 (1) (g), 330.07 (1) (b) 4. (Note), 330.08 (4), 330.10 (7) (Note), 330.12 (3) (d) (Note), and 330.14 (1) (b) (Note);

to amend SPS 330.003 (2), 330.01 (12), (16), (25), 330.02 (1) and (a) to (f) and (h) to (k), 330.03 (title) and (1) (a) to (c) and (1) (c) (Note) and (2) and (a) to (c) and (3) and (a) and (b) and (4) and (a) to (c), 330.05 (title) and (1) and (2) and (a), 330.07 (1) (b) 4. and (2) (b), 330.08 (1) (a) and 1. to 3. and (b) and (2) (a) and 1. to 3. and (b) and (3) and (a) to (c), 330.09 (1) (c) 1. and 2. and (g) and (2) and (4) (d) 1., 330.10 (7), 330.11 (1) (a) and (c), 330.12 (2) (a) and (3) (a) and (4), 330.14 (1) (g), and 330.15 (2) (Note);

and to create SPS 330.01 (16m), (21m) and (22m), and 330.14 (2) (b) 2. (Note), relating to fire department safety and health.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 101.055, Stats.

Statutory authority:

Sections 101.02(1), 101.055(3)(a), and 101.11, Stats.

Explanation of agency authority:

Section 101.055(3)(a), Stats., provides that “(t)he 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, “(p)ivate sector employer fire companies and fire departments are regulated under 29 CFR 1910,

especially section CFR 1910.156, of the federal Occupational Safety and Health Administration (OSHA) regulations.” Section SPS 330.003(2)(Note).

Related statute or rule:

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

Plain language analysis:

In addition to requiring the Department of Safety and Professional Services (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.” These rules update the language of Ch. SPS 330 to provide clarity and improve internal consistency.

Current Ch. SPS 330 has adopted by reference several standards put forth by the National Fire Protection Association (NFPA). The NFPA standards currently incorporated into Ch. SPS 330 by reference are:

- NFPA 1001, *Standard for Fire Fighter Professional Qualifications*. (1997 edition)
- NFPA 1002, *Standard for Fire Apparatus Driver/Operator Professional Qualifications*. (1998 edition)
- NFPA 1021, *Standard for Fire Officer Professional Qualifications*. (1997 edition)
- NFPA 1403, *Standard on Live Fire Training Evolutions in Structures*. (1997 edition)
- NFPA 1901, *Standard for Automotive Fire Apparatus*. (1999 edition)
- NFPA 1911, *Standard for Service Tests of Pump Systems on Fire Department Apparatus*. (1997 edition)
- NFPA 1914, *Standard for Testing Fire Department Aerial Devices*. (1997 edition)
- NFPA 1971, *Standard on Protective Ensemble for Structural Fire Fighting*. (2000 edition)
- NFPA 1981, *Standard on Open–Circuit Self– Contained Breathing Apparatus for the Fire Service*. (1997 edition)
- NFPA 1982, *Standard on Personal Alert Safety Systems (PASS)*. (1998 edition)
- NFPA 1983, *Standard on Fire Service Life Safety Rope and System Components*. (2001 edition)

The NFPA periodically updates those standards to reflect current, best practices. The revision of SPS 330 will incorporate by reference the most recent editions of the NFPA standards cited by SPS 330. Ch. SPS 330 also incorporates by reference Compressed Gas Association (CGA) Standard G–7.1, 1997, *Commodity Specification for Air*. The revision of SPS 330 will also incorporate by reference the current version of CGA Standard G-7.1.

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, 1912.5, 1910.133, 1910.134, 1910.151, 1910.155, 1910.156, and 1910.401) indicated that in the vast majority of instances, SPS 330 meets OSHA requirements. In some cases, the language of Ch. SPS 330 could be improved to fully meet OSHA 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:

Each provision of Ch. SPS 330 was set forth in numerical order in a spreadsheet. For each Ch. SPS 330 provision, the current OSHA regulations were reviewed for a similar corresponding provision. When corresponding OSHA provisions were identified, the relevant language was added to the spreadsheet next to the comparable SPS 330 provision. In this way, the language was compared and a determination made as to

whether Ch. SPS 330 provisions for public sector fire fighters met OSHA requirements for private sector fire fighters.

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

These rule revisions would not have an effect on small business as they would apply 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, “public employee... means any employee of the state, of any agency or of any political subdivision of the state.” Section 101.055(2)(b), Stats.

Fiscal Estimate and Economic Impact Analysis:

N/A

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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dan Smith, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4463; email at Daniel2.Smith@wisconsin.gov.

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

Comments may be submitted to Dan Smith, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Daniel2.Smith@wisconsin.gov.

TEXT OF RULE

SECTION 1. SPS 330.003 (2) is amended to read:

SPS 330.003 (2) NOT COVERED. This chapter does not apply to private sector employer fire companies and fire departments either of which are organized as non-stock, non-profit corporations under ch. 181, Stats., or under ch. 213, Stats., ~~without the input of a municipality.~~

SECTION 2. SPS 330.01 (12) and (16) are amended to read:

SPS 330.01 (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 hazardous situations such as, but not limited to, structural collapse rescue, elevator rescue, trench rescue and terrorism responses, and special hazards.

(16) "Incident command system" means an organized system of roles, responsibilities and ~~suggested~~ standard operating guidelines used to manage and direct emergency operations.

SECTION 3. SPS 330.01 (16m), (21m), and (22m) are created to read:

SPS 330.01 (16m) "Incident safety officer" means a member of the department designated by the chief or officer in command who has training from a qualified instructor on the roles and responsibilities of the incident safety officer. The incident safety officer is responsible for monitoring and assessing safety hazards or unsafe situations, and for developing measures for ensuring personnel safety.

(21m) "Qualified instructor" means a fire service instructor who is knowledgeable in the topic, has received training in adult education methodology, 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.

(22m) "Health and safety officer" means personnel assigned and authorized by the fire chief as the manager of the department's health and safety programs."

SECTION 4. SPS 330.01 (25) is amended to read:

SPS 330.01 (25) "~~Suggested~~ Standard operating guideline" means an organizational directive that establishes a standard course of action.

SECTION 5. SPS 330.02 (1) and (a) to (f) are amended to read:

SPS 330.02 (1) NFPA STANDARDS. The following standards of the National Fire Protection Association, ~~One 1~~ 1 Batterymarch Park, ~~P.O. Box 9101~~, Quincy,

Massachusetts, ~~02269-9101~~ 02169-7471 are hereby incorporated by reference into this chapter:

- (a) NFPA 1001-~~1997~~ 2013, Standard for Fire Fighter Professional Qualifications.
- (b) NFPA 1002-~~1998~~ 2014, Standard for Fire Apparatus Driver/Operator Professional Qualifications.
- (c) NFPA 1021-~~1997~~ 2014, Standard for Fire Officer Professional Qualifications.
- (d) NFPA 1403-~~1997~~ 2012, Standard on Live Fire Training Evolutions ~~in~~ Structures.
- (e) NFPA 1901-~~1999~~ 2009, Standard for Automotive Fire Apparatus.
- (f) NFPA 1911-~~1997~~ 2012, Standard for ~~Service Tests of Pump Systems on the~~ Inspection, Maintenance, Testing, and Retirement of In-Service Automotive Fire Department Apparatus.

SECTION 6. SPS 330.02 (1) (g) is repealed.

SECTION 7. SPS 330.02 (1) (h) to (k) are amended to read:

SPS 330.02 (1) (h) NFPA 1971-~~2000~~ 2013, Standard on Protective Ensemble for Structural Fire Fighting and Proximity Fire Fighting.

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

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

(k) NFPA 1983-~~2001~~ 2012, Standard on ~~Fire Service~~ Life Safety Rope and ~~System Components~~ Equipment for Emergency Services.

SECTION 8. SPS 330.02 (2) and (a) are consolidated and amended to read:

SPS 330.02 (2) CGA STANDARDS. The following standard of the Compressed Gas Association, ~~1235 Jefferson Davis Highway, Arlington, Virginia 22202~~ 14501 George Carter Way, Suite 103, Chantilly, VA 20151 is hereby incorporated by reference into this chapter: CGA Standard G-7.1, ~~1997~~ 2011, Commodity Specification for Air.

SECTION 9. SPS 330.03 (title), and (1) (a) to (c) and (1) (c) (Note), and (2) and (a) to (c), and (3) and (a) and (b), and (4) and (a) to (c) are amended to read:

SPS 330.03 Fire department health and safety position officer.

(1) (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.

Note: 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 health and safety and health committee. The intent of the rule is to staff the health and safety officer position with existing personnel, which may be filled by a fire department member who performs other duties in addition to those set forth in this section. The health and safety officer is distinct from the incident safety officer.

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

(a) Be a fire department member;_

(b) Have a knowledge of state and local laws regulating fire fighter safety and health;_

(c) Have a knowledge of the potential safety and health hazards involved in fire fighting;_and_

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

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

(b) Have the authority to recommend immediate correction of situations that create an imminent hazard to personnel;_and_

(4) **FUNCTIONS.** The health and safety position officer's functions shall include all of the following:

(a) Be a member of the health and 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~~ 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; ~~and~~.

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

SECTION 10. SPS 330.05 (title) and (1) and (2) and (a) are amended to read:

SPS 330.05 Occupational health and safety ~~and health~~ committee.

(1) Every fire department shall establish an occupational health and safety ~~and health~~ committee which shall advise the 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 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~~.

SECTION 11. SPS 330.07 (1) (b) 4. is amended to read:

SPS 330.07 (1) (b) 4. Gives a fire fighter whose duties include structural fire fighting training consistent with established fire ground operating procedures. The training under this subdivision shall be at least monthly, shall be based on each fire department's ~~suggested standard~~ standard operating guidelines which are maintained in written form and which address ~~all~~ applicable emergency scene operations, and shall be supervised by qualified instructors.

SECTION 12. SPS 330.07 (1) (b) 4. (Note) is repealed.

SECTION 13. SPS 330.07 (2) (b) is amended to read:

SPS 330.07 (2) (b) The fire chief shall ensure that training shall be ~~is~~ overseen by ~~the fire chief or a designee who has completed at least the 12-hour National Fire Academy Field Course for Instructional Techniques for Company Officers or equivalent~~ a qualified instructor.

SECTION 14. SPS 330.08 (1) (a) and 1. to 3. and (b) and (2) (a) and 1. to 3. and (b) and (3) and (a) to (c) are amended to read:

SPS 330.08 (1) (a) Any new fire fighter engaged in structural fire fighting shall meet the minimum requirements specified by at least one of the following:

1. The Wisconsin technical college system board;~~;~~
2. An approved state apprenticeship program;~~;~~
3. An in-house training program approved by the Wisconsin technical college system board; ~~or~~

(b) All new fire fighters shall be ~~permitted the opportunity to obtain~~ provided the training specified in this subsection within 24 months of the date of his or her appointment to the fire department. New fire fighters will not perform any fire fighting activity before receiving the specified training.

(2) (a) Every new pumper operator or new aerial operator shall meet the minimum requirements specified by at least one of the following:

1. The Wisconsin technical college system board;~~;~~
2. An approved state apprenticeship program;~~;~~
3. An in-house training program approved by the Wisconsin technical college system board; ~~or~~

(b) New pumper operators and new aerial operators shall ~~obtain~~ be provided the training specified in this subsection within 12 months of the date of appointment. New fire fighters will not act as pumper operators or aerial operators before receiving the specified training.

(3) A new fire officer, after appointment, shall be provided ~~with the opportunity to take the basic officer training program within 12 months of appointment.~~ New fire officers will not perform fire officer activities before receiving the required basic officer training. The training program shall meet the minimum requirements specified by at least one of the following:

- (a) The Wisconsin technical college system board;~~;~~
- (b) An approved state apprenticeship program;~~;~~

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

SECTION 15. SPS 330.08 (4) is repealed.

SECTION 16. SPS 330.09 (1) (c) 1. and 2. and (g) and (2) and (4) (d) 1. are amended to read:

SPS 330.09 (1) (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.

(1) (g) Inspect and service test all aerial devices as specified in NFPA ~~1914~~ 1911.

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

(4) (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.

SECTION 17. SPS 330.10 (7) is amended to read:

SPS 330.10 (7) Inspect and test all fire extinguishers in compliance with SPS 314.

SECTION 18. SPS 330.10 (7) (Note) is repealed.

SECTION 19. SPS 330.11 (1) (a) and (c) are amended to read:

SPS 330.11 (1) (a) Provide each fire fighter with the required fire fighting protective clothing and the required fire fighting protective equipment to provide protection ~~from hazards~~ related to his or her job duties, at no cost to the fire fighter.

(c) ~~Fully train~~ Train every fire fighter in the care, use, inspection, maintenance and limitations of the protective clothing and protective equipment assigned to them or available for their use.

SECTION 20. SPS 330.12 (2) (a) and (3) (a) are amended to read:

SPS 330.12 (2) (a) The facepiece seal capability of each member qualified to use self-contained breathing apparatus shall be verified by quantitative or qualitative fit testing on an annual basis and any time that new types of self-contained breathing apparatus are issued.

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

SECTION 21. SPS 330.12 (3) (d) (Note) is repealed.

SECTION 22. SPS 330.12 (4) is amended to read:

SPS 330.12 (4) Compressed ~~gaseous~~ breathing air in a self-contained breathing apparatus 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 23. SPS 330.14 (1) (b) is amended to read:

SPS 330.14 (1) (b) Establish an incident command system in accordance with National Incident Management Systems (NIMS) which has written guidelines applying to all fire fighters involved in emergency operations and which identifies fire fighter roles and responsibilities relating to the safety of operations.

SECTION 24. SPS 330.14 (1) (b) (Note) is repealed.

SECTION 25. SPS 330.14 (1) (g) is amended to read:

SPS 330.14 (1) (g) At an emergency operation where special hazards exist, require the officer in command to assign ~~qualified personnel~~ an incident safety officer with specific responsibility to identify and evaluate hazards and to provide direction with respect to fire fighter safety during the operation.

SECTION 26. SPS 330.14 (2) (b) 2. (Note) is created to read:

Note: For information regarding safety clothing see s. SPS 332.39 (1).

SECTION 27. SPS 330.15 (2) (Note) is amended to read:

SPS 330.15 (2) **Note:** The intent of this subchapter is ~~not to require an annual physical~~ foster health and wellness for ~~each fire fighter~~ fighters.

SECTION 28. 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.

(END OF TEXT OF RULE)

Dated _____

Agency _____
(Member of the Board or Secretary)
(board or department name)