



## SPS 330 (“[CR 17-067](#)”) Rulemaking Summary

*Relating to: Fire Department Safety and Health Standards*

### **WHY RULE IS NEEDED:**

SPS 330 establishes minimum safety and health standards for public sector fire department employers and their employees. The objective of the rule revisions was to primarily update the national standards incorporated by reference and review the rule to ensure compliance with federal OSHA. Under the statutory mandate of s. 101.055, DSPS is required to promulgate rules and standards that provide protection at least equal to that provided for private sector employees under federal OSHA standards.

Public safety is a top priority for DSPS. Maintaining current NFPA standards better protects fire fighter safety and health and community members. Prior to this rulemaking, the last comprehensive review of SPS 330 was done in 2001. Many of the national standards listed in the current code are from the late 1990s.

Pursuant to s. 227.21 (2), Stats., the rule adopts by reference 12 technical standards produced by the National Fire Protection Association (NFPA). Incorporating the NFPA standards in SPS 330 allows the Department to capitalize on industry expertise and remain consistent with the latest industry and national “best practices”. Additionally, every state and several federal agencies, including OSHA, refer to NFPA standards. The NFPA standards that DSPS proposes to adopt provide consistency and a common understanding of operations, as well as assist fire departments with options for compliance with the minimum training and education requirements contained in SPS 330.

### **WHAT RULE DOES:**

1. Updates national standards incorporated by reference and repeals outdated standards.
2. Creates provisions in order to comply with OSHA requirements.
3. Clarifies which fire departments are covered under SPS 330. This rule applies to public fire department employers and its employees. SPS 330 does not apply to private sector fire departments that are organized as non-stock or non-profit corporations. Private sector fire departments are covered under OSHA.
4. Creates language that excludes any NFPA requirement for certification.
5. Creates or amends definitions to define terms used in the rule and to reflect industry terminology.
6. Creates a requirement that training and education is provided by a “qualified instructor”. Instructors are not required to be certified or affiliated with the Wisconsin Technical College System. Rather, the instructor has expertise in that particular subject matter and is familiar with the fire department, its organization, and its operations.
7. Removes “grace periods” in sections SPS 330.08 (1) to (3) in order to comply with OSHA requirements. OSHA requires employers to provide training and education for all fire department members that align with the duties and functions that members are expected to perform. OSHA requires such training and education to be provided to fire departments members before they perform fire department emergency activities. (For example, if a member is expected to climb a ladder, they will need to receive training on how to set up and climb a ladder.)
8. Removes the 24-month “grace period” in order to comply with OSHA standards that require members to obtain the minimum training standard *before* they perform any interior structural fire fighting activity or enter an immediately dangerous to life or health (IDLH) environment. “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. This term derives from NIOSH and relates to an exposure to airborne contaminants that would create a hazardous environment likely to cause death or permanent adverse health effects.

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9. The rule adds a note to clarify that 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. This means that new members can assist with support functions on a fire ground such as, but not limited to; laying hose, setting up hydrants, changing air bottles, and other support activities as long as they are not participating in structural fire fighting activities or in an IDLH environment.
10. Removes the 12-month “grace period” for fire apparatus operators in order to comply with OSHA standards that require training and education for the duties and functions the fire fighter is expected to perform.
11. Removes the 12-month “grace period” for fire officers in order to comply with OSHA standards that require leaders to receive more comprehensive training.
12. Revises inspection requirements from weekly to monthly for fire apparatus and equipment while retaining the requirement for inspection within 24 hours after use.
13. Creates an exception from NFPA standards that require automatic replacement of apparatus tires every 7 years.
14. Creates an exception from NFPA standards that relate to life safety rope and eliminates the requirement to destroy training rope after use and allows for the reuse of life safety rope under certain conditions. The rule also eliminates an exception from the annual recertification requirements for unused life safety rope.
15. Allows “quantitative” fit testing as an alternative method to “qualitative” fit testing for checking effectiveness of the seal of the self-contained breather apparatus (SCBA) facepiece.

### **WHAT RULE DOES *NOT* DO:**

1. Does NOT include a certification requirement for fire fighters, apparatus operators, fire officers, or instructors.
2. Does NOT alter the responsibilities of DSPS in regard to curriculum standards, curriculum design, delivery of fire service training (including the establishment of student minimums for courses and the scheduling of course), testing, or approval of in-house training. All of these items remain under the authority of WTCS.  
 Note: Fire departments may use the WTCS preparation guides as templates (located on the WTCS website) when designing their own training in an effort to comply with NFPA 1001, 1002, and 1021.
3. Does NOT add training and educational requirements for fire fighters.
4. Does NOT eliminate NFPA 1001 as an option to meet the minimum training and educational requirement for fire fighters. In order to meet the meet the minimum requirements, fire fighters have four options. The 4 options remain as: 1) Entry-level fire fighter course as approved by WTCS. 2) An approved state apprenticeship program. 3) In-house training approved by WTCS 4) NFPA 1001.
5. Does NOT eliminate NFPA 1002 as an option to meet the minimum training and educational requirement for fire apparatus operators. In order to meet the meet the minimum requirements, apparatus operators have four options. The 4 options remain as: 1) Entry-level driver/operator-pumper or driver/operator-aerial course as approved by WTCS. 2) An approved state apprenticeship program. 3) In-house training approved by WTCS 4) NFPA 1002.
6. Does NOT eliminate NFPA 1021 as an option to meet the minimum training and educational requirement for a fire officer. In order to meet the meet the minimum requirements, fire officers have four options. 1) Fire officer course as approved by WTCS. 2) An approved state apprenticeship program. 3) In-house training approved by WTCS 4) NFPA 1021.
7. Does NOT create additional fees for training. 2% dues are provided to the Wisconsin Technical College System (WTCS) that cover training costs for the training required in SPS 330, which includes the entry level fire fighter course, entry level apparatus operator course, and the fire officer course.

*Relating to: Fire Department Safety and Health***PUBLIC INVOLVEMENT:**

DSPS established a six-member advisory committee to review and advise the department regarding this comprehensive review of SPS 330. The advisory committee composed of representation from career, volunteer, and combination fire departments. The advisory committee voluntarily adopted an agreement that all recommendations would be a consensus of the entire group.

During this review period, the committee and DSPS staff reviewed the OSHA requirements as they related to fire department safety and health and performed a comprehensive side-by-side review of the newer versions of the NFPA standards that are incorporated by reference in SPS 330. The department also reviewed similar rules in neighboring states and consulted with members of associations and volunteer fire departments from various areas of the state to ensure the proposed revisions would not impose an undue hardship.

The rule was posted for economic impact comments and three public hearings were held around the state in to receive feedback from stakeholders. Nearly 60 individuals participated in the public hearings or provided public comments. A complete list of the individuals attending the hearings and submitting testimony may be found in the legislative report.

**RULEMAKING TIMELINE:**

The Statement of Scope for this rule was first approved in 2011. The six-member advisory committee met numerous times between 2013 and 2015. On July 2017, the proposed rule was posted on the DSPS website for 14 days to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rules. Notification for this posting was sent out through GovDelivery. The comment period for economic impact statements was open until August 10, 2017. The proposed rule was posted on the DSPS and legislative websites.

The clearinghouse rule was published in the Wisconsin Register on October 2, 2017 and the notice to hold public hearings was sent out through GovDelivery at that time. DSPS held public hearings in three locations throughout the state; in Appleton on November 7, 2017; in Madison on November 8, 2017; and in Eau Claire on November 16, 2017. The period to submit comments was open from October 2017 through November 16, 2017. The proposed rule was posted on the DSPS and legislative websites.

The rule was submitted for Legislative Review on January 2, 2018 at which time another notification was sent to stakeholders through GovDelivery. The rule was again posted on both the DSPS and legislative websites.

After receiving notification of concerns, DSPS recalled the rule on March 21, 2018 and resubmitted the rule with germane modifications on March 22, 2018. The revised rules were again posted on both the DSPS and legislative websites.