

Report From Agency

**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late 1990's. The rule revision incorporates current OSHA standards pursuant to s. 101.055 (3) (a), Stats., and updates outdated standards incorporated by reference, clarifies that this chapter applies only to public fire departments, codifies the Department's administrative and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 Additional rule modifications were made to correct outdated references, and improve clarity, consistency, and format.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 standards". Each of the three subsections provide the accepted options for compliance with the requirements.

All of 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