



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

Relating to: Fire Department Safety and Health

### **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, DSSPS 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 DSSPS. 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 the Department proposes to adopt, provide consistency and a common understanding of operations, as well as provide 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 Updates national standards incorporated by reference and repeals outdated standards.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 federal 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. A germane modification amends the definition of “qualified instructor” to clarify that the fire chief is the person who determines if an individual possesses the qualifications required in the definition.
7. Removes “grace periods” in sections SPS 330.08 (1) to (3) in order to comply with federal OSHA requirements. OSHA requires employers to provide training and education that align with the duties and functions that fire department 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 need to receive training on how to set up and climb a ladder *before* they perform that function.)
8. In section 330.08 (1), eliminates the 24-month “grace period” in order to comply with OSHA standards, which require members to obtain the minimum training standard *before* they perform any interior structural firefighting 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. Additionally, a germane modification amends SECTION 85 of the rule and creates a 12-month



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delayed implementation date to allow fire departments ample time to adjust to this proposed rule amendment while still bringing the rule into compliance with OSHA requirements.

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 firefighting activities or enter an IDLH environment.
10. Removes the 12-month “grace period” for fire apparatus operators in order to comply with federal OSHA standards that require training and education for the duties and functions the fire fighter is expected to perform. A germane modification amends SECTION 85 of the rule and creates a 12-month delayed implementation date to allow fire departments ample time to adjust to the proposed rule amendments while still bringing the rule into compliance with OSHA requirements.
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. A germane modification amends the rule to allow “grandfathering” of current fire officers and specifies that the rule applies to *new* fire officers appointed after the effective date of the rule. This subsection was further modified to create a 12-month delayed implementation date to allow fire departments ample time to adjust to the rule amendment.
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 DPS 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 standards 1001, 1002, or 1021. A germane modification includes the full titles of these standards to clarify that these standards were not repealed and remain as options to meet the minimum training and educational requirements under section SPS 330.08.
5. 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 under section SPS 330.08, which includes the entry level fire fighter course, entry level apparatus operator course, and the fire officer course.



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### **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 was 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 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.

After hearing concerns, DSPS held a stakeholder teleconference on May 24, 2018 to answer questions and listen to feedback. Two separate notifications were sent to every fire department. Nearly 100 individuals registered for the event. During the teleconference, participants were provided with a DSPS email address and encouraged to submit any additional recommendations, comments, or concerns.

### **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 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. Based on additional feedback from a stakeholder teleconference held on May 24, 2018, additional germane



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

*Relating to: Fire Department Safety and Health*

modifications were submitted to the legislative standing committees on May 29, 2018. The rule was again posted on both the DSPS and legislative websites.

### Legislative Action Timeline:

On April 5, 2018, the proposed rule was referred to the Assembly committee on Criminal Justice and Public Safety and the Senate committee on Labor and Regulatory Reform.

The Senate committee scheduled a public hearing that was held on May 15, 2018.

On May 29, 2018, DSPS submitted germane modifications to the Assembly and Senate standing committees.

The germane modifications amended language in sections SPS 330.01 (21c), 330.08 (1) (d), 330.08 (2) (d), 330.08 (3) (intro.) and (d), and SECTION 85 of the proposed rules. These amendments relate to the following:

- Section 330.01 (21c) was amended the definition of “qualified instructor” to clarify that the fire chief is the person who determines if an individual possesses the qualifications required in the definition.
- Sections 330.08 (1) (d), (2) (d), and (3) (d) was amended to include the full title of the NFPA standards incorporated by reference. These subsections were thought to be confusing since the identification of the standard did not initially appear in the proposed rule. Rule drafting style procedures only require provisions that are being amended to appear in the rule draft. Because the standards were not being amended in these sections, they were not included in the draft. Amending these provisions provide clarity that these standards were not repealed.
- Section 330.08 (3) was modified to allow “grandfathering” of current fire officers. The rule applies only to new fire officers appointed after the effective date of the rule (October 1, 2018). This subsection was further modified to provide a 12-month delayed implementation date to allow fire departments ample time to adjust to the rule amendment.
- SECTION 85 of the rule created a 12-month delayed implementation date for sections SPS 330.08 (1) and (2) in order to allow fire departments ample time to adjust to the proposed rule amendments while still bringing the rule into compliance with OSHA requirements.

On June 12, 2018, the Senate committee on Labor and Regulatory Reform referred the rule to the Joint Committee for Review of Administrative Rules (JCRAR). The Assembly committee on Criminal Justice and Public Safety referred the rule to JCRAR on June 13, 2018. There was no further action taken by either committee.

The rule became effective on October 1, 2018 (part). The provisions of section SPS 330.08 become effective on October 1, 2019.



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## Frequently Asked Questions

### SPS 330 - Fire Department Safety and Health Standards

**1. What occupational safety standards apply to Fire Departments in Wisconsin?**

- a) [SPS 330](#)
- b) [SPS 332](#)
- c) [OSHA 1910](#)
- d) [OSHA 1926](#)

**2. Does SPS 330 and the occupational safety standards apply to all Wisconsin fire departments?**

No. SPS 330 and the occupational safety standards apply only to *public* fire department employers and their *public* employees. [\[SPS 330.002\]](#) Public employees can be volunteer, paid on call, part time, or full time. SPS 330 does not apply to private sector fire departments organized as a non-stock corporation under chapter 181 or 213 of the Wisconsin statutes. Private sector fire departments are governed under federal OSHA standards.

**3. SPS 330 was recently revised. When did these changes take effect?**

The majority of the rule became effective on October 1, 2018. There are additional provisions under section [SPS 330.08](#) that contained a clause that delays the effective date an additional 12 months. Those provisions become effective on October 1, 2019.

**4. What are the significant changes to SPS 330?**

- a) The revisions primarily update the national technical standards that are incorporated by reference. [\[SPS 330.02\]](#).
- b) The new rules clarify that SPS 330 only applies to *public* fire departments. [\[SPS 330.002\]](#)
- c) The new rules specifically exclude any requirements relating to certification. [\[SPS 330.003\(4\)\]](#)
- d) The new rules codify DSPS' administrative and regulatory practices relating to the minimum training standards and removed "grace periods". [\[SPS 330.08\]](#)
- e) The new rule requires that training and education be provided by a qualified instructor. [\[SPS 330.07 \(3\)\]](#) SPS 330 does not require instructors to be certified or affiliated with an agency. [\(SPS 330.01 \(21c\)\)](#) defines "qualified instructor".)
- f) The new rule also amended or repealed certain provisions deemed to be burdensome for small, rural, or volunteer fire departments.
- g) The rules were updated to reflect current industry terminology and incorporate language to bring Wisconsin's public fire departments into compliance with NFPA and OSHA standards.

All of the specific changes are included in the plain language section of the Clearinghouse Rule: [CR 17-067](#).

**5. Why does SPS 330 have to comply with OSHA regulations if SPS 330 applies only to public fire departments and OSHA regulates private sector fire departments?**

Per [s. 101.055 \(3\) \(a\)](#) of the Wisconsin Statutes, DSPS is required to adopt, and revise as necessary, the safety and health standards for public employees to provide protection at least equal to that provided to private sector employees regulated under OSHA standards.

**6. Did the new rules increase the training requirements for fire fighters or pumper/aerial operators?**

No. The training requirements in this section existed in the previous code. However, the new rules codify the requirements by including the titles of the training courses offered through the [Wisconsin Technical College System](#) (WTCS). These courses are one of the four training options that fire personnel may choose for compliance with the minimum training and education standards. [\[SPS 330.08\]](#)

**7. What are the options for compliance with the minimum training requirements for fire fighters?**

Effective October 1, 2019, per [SPS 330.08 \(1\)](#), no member may be permitted to participate in fire fighting activities until that individual has completed the minimum training and education training requirements specified by any of the following:

- a) An entry-level fire fighter course approved by the technical college system board. (The [entry-level fire fighter course](#) is 60 hours and is offered in two 30-hour modules. SPS 330 does not require certification.)
- b) An approved state apprenticeship program. (The apprenticeship program is administered through the [Department of Workforce Development](#).)
- c) An in-house training program approved by the technical college system board.
- d) NFPA 1001: Standard for Fire Fighter Professional Qualifications. (Training must meet all the components consistent with the job performance requirements (JPRs) within the [NFPA 1001 standard](#).)

**8. What activities are considered “fire fighting” activities?**

[SPS 330.01 \(12\)](#) defines “fire fighting” to mean 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.

**9. What are the options for compliance with the minimum training requirements for pumper/aerial operators?**

Effective October 1, 2019, per [SPS 330.08 \(2\)](#), no member may act as a pumper or aerial operator during an emergency operation until that individual meets the minimum training and education training requirements specified by any of the following:

- a) An entry-level driver/operator-pumper or driver/operator-aerial course approved by the technical college system board. (The [entry-level fire driver/operator-pumper course](#) is 30 hours. The [entry-level driver/operator-aerial course](#) is an additional 6 hours. SPS 330 does not require certification.)
- b) An approved state apprenticeship program. (The apprenticeship program is administered through the [Department of Workforce Development](#).)
- c) An in-house training program approved by the technical college system board.
- d) NFPA 1002: Standard for Fire Apparatus Driver/Operator Professional Qualifications. (Training must meet all of the components consistent with the job performance requirements (JPRs) within the [NFPA 1002 standard](#).)

**10. The previous rule contained a “grace period” for fire fighters and pumper/aerial operators to complete the training. Were the grace periods removed in the new rule?**

Yes. Effective October 1, 2019, all fire fighters and pumper/aerial operators who are assigned to perform certain duties will need to meet the minimum training requirements in accordance with SPS 330.08 (2). OSHA regulations require training and education commensurate with the duties and functions the firefighter is expected to perform and requires training to be complete *prior* to performing the duties during an emergency operation. The revised rule brings the rule into compliance with OSHA regulations.

**11. Since the “grace periods” were removed in the new rule, does that mean new members who have not yet completed the training cannot perform any duties or go on any calls?**

No. Fire departments may utilize new members by providing structured “on-the-job” training for duties that can be performed in non-hazardous operations. [\[SPS 330.07 \(5\)\]](#) OSHA regulations, as well as SPS 330, require training commensurate with the duties and functions the firefighter is expected to perform. [\[SPS 330.07 \(4\)\]](#) A new fire fighter may be trained in-house on duties that will be performed in a non-[hazardous](#)/non-[IDLH](#) environment even if they haven’t yet completed the entry-level course or completed the JPRs in the applicable NFPA standard. For example, if a member is expected to climb a ladder, the fire department must provide the member with training on how to set up and climb a ladder *before* the member performs that function.

**12. What are the options for compliance with the minimum training requirements for fire officers?**

Any of the following four options meet the requirements of section [SPS 330.08 \(3\)](#):

- a) A fire officer course approved by the technical college system board. (The [Fire Officer 1 course](#) is 40 hours. SPS 330 does not require certification.)
- b) An approved state apprenticeship program. (The apprenticeship program is administered through the [Department of Workforce Development](#).)
- c) An in-house training program approved by the technical college system board.
- d) NFPA 1021: Standard for Fire Officer Professional Qualifications. (Training must meet all of the components consistent with the job performance requirements (JPRs) within the [NFPA 1021 standard](#).)

**13. How long does a newly appointed fire officer have to obtain the required training?**

Per [SPS 330.08 \(3\)](#), a fire officer appointed after October 1, 2018 may not act as a fire officer during an emergency operation until that individual completes NIMS and obtains the minimum training and education requirements. The fire officer must complete the training by October 1, 2019. Fire officers appointed after October 1, 2019 may not act as a fire officer during an emergency operation until they have received the required training.

**14. What training is required for fire officers that were appointed prior to October 1, 2018?**

A fire officer who was appointed prior to October 1, 2018, and currently holds the title of a fire officer, is considered to be “grandfathered” as a ranked fire officer. Similarly, if the rank changes for a fire officer who was appointed prior to October 1, 2018, and continuously maintains the title of a fire officer, they are considered a current fire officer. Any member appointed as a fire officer after October 1, 2018, including previous fire officers who had a break in rank and are reappointed, is considered a new fire officer and must meet the requirements of [SPS 330.08 \(3\)](#) by October 1, 2019. In all cases, fire departments must provide training and education commensurate with the duties and functions the member is expected to perform in accordance with [SPS 330.07 \(4\)](#).

**15. Section [SPS 330.08 \(3\)](#) requires fire officers to complete NIMS training in accordance with [SPS 330.14](#). What level of NIMS training course does this include?**

Fire officers must be trained in a level consistent with their duties. The level of training depends on the level of incident and resources being managed per NIMS. For example, a Type 3 incident would require NIMS 100, 200, 300, 400, 700, and 800. A Type 4 incident would require NIMS 100, 200, and 700. The NIMS online training is available at no cost and may be obtained at [training.fema.gov/nims](http://training.fema.gov/nims).

**16. What was the approval process for the rule changes?**

The update to SPS 330 was seven years in the making with input from a [six-member advisory committee](#) that consisted of a cross section of representatives from volunteer, combination, and career fire departments. In addition to all the standard rule making procedures, the rule was posted on the legislative and DSPS websites for public comments during the periods of July to November 2017, with notifications sent to every fire department. In October and November 2017, three public hearings were held in Eau Claire, Appleton, and Madison. In May 2018, the Senate Committee on Labor and Regulatory Reform held an additional public hearing. Additionally, DSPS hosted an informational webinar that was held during the evening hours to accommodate volunteer agencies. Following no additional action by the legislative committees, the rule was adopted and became effective October 1, 2018.

**17. What steps does our fire department need to take in order to comply with the new rules?**

- a) Determine areas where your department may not be compliant with the new SPS 330 rules.
- b) Educate your leadership and personnel on the requirements and utilize the available resources to gain compliance.
- c) Reach out, ask questions, and talk to your local DSPS inspector or coordinator.
- d) Ensure the use of Standard Operating Guidelines and maintain documentation of compliance. Several resources are available on the [DSPS website](#).

**18. Who are the Fire Department Safety and Health Inspectors/Consultants and how do I contact them for a question or concern?**

[Inspector Map](#)

**19. Who do I contact if I have a fire department safety and health complaint?**

[Complaint Form](#)

**20. What happens when a complaint is received by DSPS?**

An Inspector will contact the fire department to investigate the concern or complaint. If a violation of a safety standard is discovered, your fire department will be issued a notice of violations and orders. The order contains a deadline for your fire department to comply with the requirements as outlined in the order of compliance. During this process, the DSPS inspector will offer their assistance and work closely with your fire department to provide resources and guidance to ensure and help you gain compliance with the requirements.

**21. What are the reporting requirements for an injury or fatality?**

[SPS 332.50](#) adopts [CFR 1904.39\(a\)](#) which requires employers to report fatalities and in-patient hospitalization of three or more employees as a result of a work-related incident within 8 hours. The Division of Industry Services can be contacted by calling (608) 266-3151 or (877) 617-1565 or 411 (Telecommunications Relay) during normal business hours. During non-business hours, report fatalities and hospitalizations to Wisconsin Emergency Management at (800) 943-0003.

Additionally, pursuant to [s. 101.055 \(7\) \(a\), Stats.](#), and [s. SPS 332.205](#), public sector employers must submit a summary of their previous year's work-related injuries and illnesses to DSPS by March 1 of each year. The summary report may be submitted via the [DSPS Online Injury and Illness Reporting System](#). Summary reports (Form OSHA 300A, SBD-10710, or an equivalent) must be posted in your workplace from February 1st to April 30th.

**22. What happens when an injury or fatality is reported to DSPS?**

An Inspector will contact the fire department to investigate the cause of the injury. If the injury was caused by a violation of a safety standard, the Fire Department will be issued a notice of violations and orders.

**23. Where can I find more information on fire department safety and health standards?**

Additional resources are available on the [DSPS website](#).