



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM

Rule No.: Chapter Comm 30

Relating to: Fire Department Safety and Health

Clearinghouse Rule No.: 01-044

The Department of Commerce proposes an order to repeal ss. Comm 30.01 (22), Comm 30.12 (5) and (7) and Comm 30 Subch. X Note; to amend ss. Comm 30.011 (3)(c) Note, Comm 30.03 (1)(b), Comm 30.11 (3)(a), Comm 30.12 (1)(c), Comm 30.13 (3)(a) and (c), Comm 30.14 (2)(b) 1., Comm 30.14 (3)(a) and Comm 30.15; to repeal and recreate ss. Comm 30.001, Comm 30.002, Comm 30.012, Comm 30.02 and Comm 30.11 (2); and to create ss. Comm 30.003, Comm 30.01 (6h) and (6m), Comm 30.145 and Comm 30 Subch. XIII, relating to fire department safety and health.

Analysis of Proposed Rules

Statutory Authority: s. 101.055 (3), Stats.
 Statutes Interpreted: s. 101.055 (3), Stats.

The Department of Commerce is responsible for adopting standards to protect the safety and health of public employees in the state of Wisconsin. The adopted standards must provide protection at least equivalent to that afforded to private sector employees under standards administered and enforced by the federal Occupational Safety and Health Administration (OSHA).

Chapter Comm 32 currently contains general safety and health standards for all public sector employees, and chapter Comm 30 contains additional safety and health standards for public sector fire department employees. The proposed rules consist of revisions in chapter Comm 30.

The purpose, scope and application of chapter Comm 30 are revised in order to clarify the coverage of the chapter and the relationship of chapter Comm 32. All of the NFPA standards incorporated by reference in chapter Comm 30 are updated to the current editions, and the rules for protective clothing and equipment are revised to reflect the new NFPA standard on protective ensemble for structural fire fighting.

The rule for the rescue of members is revised by clarifying the activities that the back-up team members may perform at the fire scene. The rule relating to the physical and medical capabilities of fire fighters is revised by requiring the employer, rather than the fire chief, to assure that fire fighters are physically capable of performing assigned duties. The proposed rules also include a new subchapter in order to clarify the chapter Comm 32 requirements that apply to several miscellaneous emergency operations performed by fire departments.

The proposed rules have been developed with the assistance of the Fire Department Safety and Health Advisory Council. At the time the proposed rules were initially developed, the members of that citizen advisory council were as follows:

<u>Name</u>	<u>Representing</u>
Todd Blaser	Fire & EMS Legislative Leadership Coalition
Michael Drury	Professional Fire Fighters of Wisconsin
John W. Fulcher	Wisconsin Society of Fire Service Instructors
Steven Krause	Wisconsin State Fire Fighters Association
Tim McGrath	Wisconsin State Fire Chiefs Association (Career Dept)
Randy Pickering	Wisconsin State Fire Chiefs Association (Combination Dept)
Carl Weber	Wisconsin State Fire Chiefs Association (Volunteer Dept)

SECTION 1. Comm 30.001 and 30.002 are repealed and recreated to read:

Comm 30.001 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 employees.

Comm 30.002 Scope. In addition to the requirements in ch. Comm 32, this chapter contains minimum requirements for an occupational safety and health program for public sector fire department employees involved in fire department operations.

Note: Chapter Comm 32 contains additional safety and health requirements for all public employees.

SECTION 2. Comm 30.003 is created to read:

Comm 30.003 Application. (1) COVERED. This chapter applies to all fire departments having public employees, whether existing prior to the effective date of this chapter or subsequently established.

(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.

Note: Private sectoremployer 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.

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

(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.

(NOTE TO REVISOR: Please remove all the numbers in brackets appearing prior to the text of the rule in this chapter.)

SECTION 3. Comm 30.01 (6h) and (6m) are created to read:

Comm 30.01 (6h) “Employee” or “public employee”, as defined in s. 101.055 (2) (b), Stats., means any employee of the state, of any state agency or of any political subdivision of the state.

(6m) “Employer” or “public employer”, as defined in s. 101.055 (2) (d), Stats., means the state, any state agency or any political subdivision of the state.

SECTION 4. Comm 30.01 (22) is repealed.

SECTION 5. Comm 30.011 (3) (c) Note is amended to read:

Comm 30.011 (3)(c) Note: Copies of the job safety/health complaint form (SBD-5907) may be obtained from the Safety and Buildings Division, ~~Integrated Services Bureau~~, P.O. Box ~~2658~~ 7302, Madison, Wisconsin ~~53704~~ 53707-7302, telephone 608/266-2780 or TTY 608/264-8777. See s. 101.055, Stats., for information regarding the complaint process.

SECTION 6. Comm 30.012 is repealed and recreated to read:

Comm 30.012 Posting department order. Upon issuance of an order of noncompliance, the employer shall post a copy of the order in accordance with s. 101.055 (6) (a) 1., Stats.

SECTION 7. Comm 30.02 is repealed and recreated to read:

Comm 30.02 Incorporation of standards by reference. (1) 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:

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

(2) CGA STANDARDS. The following standard of the Compressed Gas Association, 1235 Jefferson Davis Highway, Arlington, Virginia 22202 is hereby incorporated by reference into this chapter:

- (a) CGA Standard G-7.1, 1997, Commodity Specification for Air.

Note: Copies of the adopted standards are on file in the offices of the department, the secretary of state and the revisor of statutes. Copies of the standards may be purchased through the respective organizations.

SECTION 8. Comm 30.03 (1) (b) is amended to read:

Comm 30.03 (1) (b) The safety position shall assist the fire chief in his or her ~~ultimate~~ responsibility for the safety and health of the fire fighter.

SECTION 9. Comm 30.11 (2) is repealed and recreated to read:

Comm 30.11 (2) Every fire department shall provide any fire fighter engaged in or exposed to the hazards of structural fire fighting with a protective ensemble that meets the applicable standards specified in NFPA 1971.

SECTION 10. Comm 30.11 (3) (a) is amended to read:

Comm 30.11 (3) (a) All new protective clothing and protective equipment provided under this subchapter shall meet the standards specified in s. Comm 30.02 ~~(4) (a)~~ as referenced in ss. Comm 30.11 to 30.13.

SECTION 11. Comm 30.12 (1) (c) is amended to read:

Comm 30.12 (1) (c) Adopt and maintain a respiratory protection program that satisfies the requirements of s. 29 CFR 1910.134 as adopted by reference in ch. Comm 32.

~~**Note:** Section 29 CFR 1910.134 is adopted by reference in ch. Comm 32.~~

~~**Note:** See sub. (5) note 2 for additional information.~~

SECTION 12. Comm 30.12 (5) and (7) are repealed.

SECTION 13. Comm 30.13 (3) (a) and (c) are amended to read:

Comm 30.13 (3) (a) Provide face and eye protection 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 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. Comm 32.

(c) Provide hearing protection 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. Comm 32.

~~Note: Section 29 CFR 1910.95 is adopted by reference in ch. Comm 32.~~

SECTION 14. Comm 30.14 (2) (b) 1. is amended to read:

Comm 30.14 (2) (b) 1. The helmet specified under s. Comm 30.11 (2) ~~(b)~~ or alternate protective headgear providing equivalent protection; and

SECTION 15. Comm 30.14 (3) (a) is amended to read:

Comm 30.14 (3) (a) A fire fighter using self-contained breathing apparatus 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 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 wearing self-contained breathing apparatus shall be available at the scene for rescue if the need arises. One back-up team member with a charged line shall be committed 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 least one additional member shall be assigned to remain outside the structural fire and monitor the operations.

SECTION 16. Comm 30 Subch. X Note is repealed.

SECTION 17. Comm 30 Subch. X s. Comm 30.145 is created to read:

Comm 30.145 Facility safety. Fire department buildings and facilities shall comply with chs. Comm 32 and 50 to 64.

SECTION 18. Comm 30.15 is amended to read:

Comm 30.15 Physical and medical capabilities. (1) ~~A fire chief to the best of his or her ability~~ The employer shall assure that fire fighters who are expected to do structural fire fighting are physically capable of performing duties which may be assigned to them during ~~emergencies~~ emergency operations.

(2) The fire chief may not permit a fire fighter with known heart disease, epilepsy, or emphysema to participate in fire department emergency ~~activities~~ operations unless a physician's certificate of the fire fighter's fitness to participate in such ~~activities~~ operations is provided.

Note: The intent of this subchapter is not to require an annual physical for each fire fighter.

~~**Note:** This subchapter is taken from 29 CFR 1910.156 (b) (2) of the federal OSHA regulations and is to be considered a minimum rule. Compliance with NFPA standards 1001 and 1500, Chapter 8, is strongly recommended for all fire departments.~~

SECTION 19. Comm 30 Subch. XIII is created to read:

**Subchapter XIII
Miscellaneous Activities**

Comm 30.20 Hazardous materials. Fire departments engaged in emergency operations relating to hazardous materials shall comply with s. 29 CFR 1910.120 as adopted by reference in ch. Comm 32.

Comm 30.21 Confined spaces. Fire departments engaged in emergency operations relating to confined spaces shall comply with s. 29 CFR 1910.146 as adopted by reference in ch. Comm 32.

Comm 30.22 Diving operations. Fire departments engaged in emergency operations relating to diving operations shall comply with 29 CFR 1910 subpart T as adopted by reference in ch. Comm 32.

Comm 30.23 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. Comm 30.14, 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. Comm 32.

Note: Requirements for fire departments providing emergency medical services are administered and enforced by the Department of Health and Family Services under chs. HFS 110 to 113.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2)(intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.
