



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
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Terry C. Anderson
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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-044

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

Submitted by **DEPARTMENT OF COMMERCE**

04-19-01 RECEIVED BY LEGISLATIVE COUNCIL.

05-17-01 REPORT SENT TO AGENCY.

RNS:AS;jal;ksm

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



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CLEARINGHOUSE RULE 01-044

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In the note to s. Comm 30.011 (3) (c), the comma following "Bureau" should be stricken.

b. Section Comm 30.23 (title) should be deleted because there is no substantive material. Instead, the note should be placed at the end of the subchapter.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Comm 30.003 (3), "Statutes" and "Administrative Code" should not be capitalized.

b. In s. Comm 30.02 (1) (intro.), the parenthetical material should be deleted, or the acronym should be defined. This comment also applies to sub. (2) (intro.).

c. In s. Comm 30.11 (2), should "clothing" be inserted after "protective"?



State of Wisconsin \ Department of Commerce

HEARING DRAFT of PROPOSED RULES

Rule No.:

Chapter Comm 30

Relating to:

Fire Department Safety and Health

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. The members of that citizen advisory council are 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 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.

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 ~~53701~~ 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 (NFPA), 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 1983-1995, Standard on Fire Service Life Safety Rope and System Components.

(2) CGA STANDARDS. The following standard of the Compressed Gas Association (CGA), 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 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 the opening where the members entered 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 Emergency medical services. 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.

Comm 30.24 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.

(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.



P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018
TDD#: (608) 264-8777
www.commerce.state.wi.us

Scott McCallum, Governor
Philip Edw. Albert, Acting Secretary

September 11, 2001

Donald J. Schneider
Senate Chief Clerk
Room 501
119 Martin Luther King Blvd
Madison, Wisconsin 53703

John A. Scocos
Assembly Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 01-044

RULE NO.: Chapter Comm 30

RELATING TO: Fire Department Safety and Health

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,


Philip Edw. Albert
Acting Secretary



P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018
TDD#: (608) 264-8777
www.commerce.state.wi.us

Scott McCallum, Governor
Philip Edw. Albert, Acting Secretary

September 11, 2001

Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53702

Representative Scott Jensen
Speaker of the Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Risser and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 01-044

RULE NO.: Chapter Comm 30

RELATING TO: Fire Department Safety and Health


Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
 - a) Rule Report.
 - b) Public Hearing Attendance Record.
 - c) Public Hearing Comment and Agency Response Form.
 - d) Legislative Council Rules Clearinghouse Report.
 - e) Response to Legislative Council Rules Clearinghouse Report.
 - f) Fiscal Estimate.
 - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,


Philip Edw. Albert
Acting Secretary

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 01-044

RULE NO.: Chapter Comm 30

RELATING TO: Fire Department Safety and Health

Final regulatory flexibility analysis not required. (Statement of determination required.)

The proposed rules will not affect any small businesses as defined in section 227.114 (1)(a), Stats. The proposed rules apply to public sector employers and employees.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

(Continued on reverse side)

3. Nature and estimated cost of preparation of any reports by small businesses.
4. Nature and estimated cost of other measures and investments required of small businesses.
5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.
6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 01-044

RULE NO.: Chapter Comm 30

RELATING TO: Fire Department Safety and Health

Agency contact person for substantive questions.

Name: Eric Hands

Title: Program Manager

Telephone No. 608/267-4434

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority [s. 227.15(2)(a)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

(Continued on reverse side)

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

7. Review rules for permit action deadline [s. 227.15(2)(h)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

RULE REPORT

Department of Commerce

Rule No.: Chapter Comm 30

Relating to: Fire Department Safety and Health

Agency contact person for substantive questions:

Name Eric Hands

Title Program Manager

Telephone Number (608) 267-4434

Agency contact person for internal processing:

Name Ronald Acker

Title Code Consultant

Telephone Number (608) 267-7907

1. Agency statutory authority under which the agency intends to promulgate the rule(s).
Section 101.055 (3), Stats.
2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).
The federal regulations under 29 CFR 1910 and 1926 are relevant to the proposed rules.
3. Citation of court decisions which are applicable to the proposed rule(s).
None known.

4. Description of the proposed rule(s).

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.

5. Reason for the proposed rule(s).

The proposed rules have been developed in order to update chapter Comm 30 so that all public employees are provided safety and health protection at least equivalent to that afforded to private sector employees under the standards administered and enforced by the federal OSHA.

FISCAL ESTIMATE WORKSHEET
Detailed Estimate of Annual Fiscal Effect
DOA-2047(R06/99)

ORIGINAL
 CORRECTED
 UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. **Chapter Comm 30**
Amendment No.

Subject
Fire Department Safety and Health

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None known.

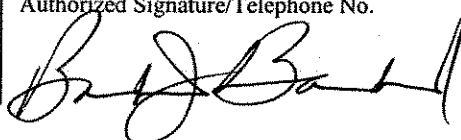
II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category		
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	0	-0
Local Assistance	0	-0
Aids to Individuals or Organizations	0	-0
TOTAL State Costs By Category	\$ 0	\$ -0
B. State Costs By Source of Funds		
GPR	\$ 0	\$ -0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$ 0	\$ -0
GPR Earned	0	-0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
TOTAL State Revenues	\$ 0	\$ -0

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)
Commerce/Ronald Acker 267-7907

Authorized Signature/Telephone No.



Date

4/13/01

LRB or Bill No./Adm. Rule No.
Chapter Comm 30
Amendment No. if Applicable

ORIGINAL CORRECTED UPDATED SUPPLEMENTAL
FISCAL ESTIMATE
DOA-2048 (R06/99)

Subject
Fire Department Safety and Health

Fiscal Effect
State: No State Fiscal Effect
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation
 Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation
 Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
 Decrease Costs

Local: No local government costs
1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory
3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory
5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S
Affected Ch. 20 Appropriations
None.

Assumptions Used in Arriving at Fiscal Estimate
The Safety and Buildings Division currently administers and enforces the provisions of chapter Comm 30 as part of the public sector safety and health program. The proposed rules update and clarify the existing administrative rules now being enforced, and there are no new requirements to affect costs or revenues. Therefore, the proposed rules will not have any fiscal effect on the Division or on local governments.

Long-Range Fiscal Implications
None known.

Agency/Prepared by: (Name & Phone No.)
Commerce/Ronald Acker 267-7907
Authorized Signature/Telephone No.
Ronald Acker
Date
4/13/01

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Clearinghouse Rule No.: 01-044		Hearing Location: Madison	
Rule Number: Chapter Comm 30		Hearing Date: June 5, 2001	
Relating to: Fire Department Safety and Health			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
1	John C. Gee Professional Fire Fighters of Wisconsin Oshkosh, WI	The original Comm 30 rules made and make fire fighter's jobs safer, fire departments better, and help save the lives of citizens. The fire service is an ever-evolving occupation. The current Comm 30 revisions reflect the changes that have occurred in the fire service. The revisions are essential due to the ever-increasing role of the fire service. The advisory council is to be commended for having the insight and courage to make the necessary revisions to protect the health and safety of the individuals providing the service and the citizens served.	No response needed.

DEPARTMENT OF COMMERCE
 SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Clearinghouse Rule No.: 01-044		Hearing Location: Eau Claire	
Rule Number: Chapter Comm 30		Hearing Date: June 8, 2001	
Relating to: Fire Department Safety and Health			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
		No comments/recommendations were presented.	

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule No.: 01-044		Hearing Location: Mailed-in Comments	
Rule Number: Chapter Comm 30		Hearing Date: N/A	
Relating to: Fire Department Safety and Health			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
2	Neil Cameron Appleton Fire Department Appleton, WI	<p>1. While backup teams need to be provided at an incident requiring use of self-contained breathing apparatus, mandating exactly where specific individuals are positioned is inappropriate. Emergency incidents are dynamic environments that necessitate flexibility for an Incident Commander. Proposed changes to Comm 30.14 (3)(a) do not recognize that placing a firefighter at the opening often places them in a smoke environment that reduces both communication effectiveness and available air capacity. Language should be crafted that requires the backup line be provided and located to assure effective response to any call for assistance from the interior team.</p> <p>2. NFPA 1851, Standard on Selection, Care, and Maintenance of Protective Ensembles for Structural Firefighting, provides guidance that will improve firefighter safety. Purchasing new equipment that meets a standard does not assure that the equipment will be properly inspected and maintained.</p>	<p>1. Comm 30.14 (3) (a) has been revised to address the presenter's concerns.</p> <p>2. Comm 30.11 (3) (b) requires existing equipment to be maintained in compliance with the applicable standard that was current when the equipment was purchased.</p>
3	Jeff Stauber Green Bay Fire Dept. Green Bay, WI	<p>The Green Bay Fire Department backup requirements are met with a 2-person <i>Initial</i> Rapid Intervention Crew and a 4-person Rapid Intervention Crew strategically located on the fireground under the direction of the Incident Commander. Ventilation is positive pressure utilizing gas-powered blowers. The noise of the power blowers makes it difficult to communicate when crews are located near the opening. Also, in large industrial or commercial complexes, crews would be located at a safe area in the complex that would provide a faster response than if they were outside the structure. Therefore, the phrase "committed to the opening where the members entered the structure" in Comm 30.14 (3)(a) is questioned.</p>	Comm 30.14 (3) (a) has been revised to address the presenter's concerns.



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 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.

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 ~~53701~~ 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.
