

Clearinghouse Rule 13-105

STATE OF WISCONSIN
Department of Safety and Professional Services

IN THE MATTER OF RULE-MAKING : HEARING NOTICE AND
PROCEEDINGS BEFORE THE : PROPOSED ORDER OF THE
DEPARTMENT OF SAFETY AND : DEPARTMENT OF SAFETY
PROFESSIONAL SERVICES : AND PROFESSIONAL SERVICES,
ADOPTING RULES

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services by sections 101.02 (15) (j), 101.14 (1) (a), and 227.11 (2) (a) of the Wisconsin Statutes, and interpreting sections 101.02 (15) (j), 101.14 (1) (a), and 101.575 of the Wisconsin Statutes, the Department will hold a public hearing at the time and place indicated below to consider the proposed order herein relating to fire prevention.

Hearing Date, Time and Location

Date: January 27, 2014
Time: Commencing at 9:30 a.m.
Location: 1400 East Washington Avenue
Room 121C
Madison, Wisconsin

APPEARANCE AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions, and arguments in writing as well. Facts, opinions, and arguments may also be submitted in writing without a personal appearance, by e-mail to sam.rockweiler@wi.gov or by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

PROPOSED ORDER

An order of the Department of Safety and Professional Services to repeal SPS 314.01 (1) (c) 5., (2) (b) 4., and (13) (b) 7. c. and 314.34;

to renumber SPS 314.01 (1) (c) 6. to 9. and (2) (a) 3. a., 314.11 and (title), 314.13 (3) and (4), and A-314.01 (2) (b) 4.;

to renumber and amend SPS 314.01 (2) (a) 3. b. and (b) 4. (Note), and A-314.10 (2);

to amend SPS 314.001 (1) (a) and (2); 314.01 (1) (a), (c) 1., 2. and 4., (f), and (g) 1. (intro.) and (Note) [4], (2) (b) 2., (9) (a), (14) (a) 1. a., (b) 1. and 3. a. and b., (c) 1. to 3., and (f) 1. (Note) and

2. (Note); 314.03 (1) (a) 2., (f), and (i) (Note) and (2); 314.10 (2); 314.27 (Note); and 314.65 (2) (intro.) and (3);

and to create SPS 314.001 (2) (Note); 314.01 (2) (a) 3. a. and b., (6) (a) (Note), (7m), (11m), and (14) (d) 1. (Note); 314.03 (1) (bm) and (dm) and (Note); 314.10 (2m) and (2r); 314.11 (title), (1), and (3); 314.13 (3) and (4); 314.15; A-314.10 (4) (intro.); and 362.1509 relating to fire prevention.

ANALYSIS

Statutes interpreted:

Sections 101.02 (15) (j), 101.14 (1) (a), and 101.575.

Statutory authority:

Sections 101.02 (15) (j), 101.14 (1) (a), and 227.11 (2) (a).

Explanation of agency authority:

Section 101.02 (15) (j) of the Statutes requires the Department to promulgate rules for the construction, repair and maintenance of safe public buildings and places of employment.

Section 101.14 (1) (a) of the Statutes authorizes the Department to make reasonable orders for the repair or removal of any buildings or other structures or combustible or explosive materials or inflammable conditions which are dangerous to any other building or premises or to occupants or which hinder firefighters in case of fire.

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Related statute or rule:

The Department has various statutory obligations and rules relating to fire prevention and building safety – which include the design and construction requirements in chapters SPS 361 to 366 for public buildings and places of employment, as promulgated under sections 101.02 (15) (j) and 101.14 (4) of the Statutes.

Plain language analysis:

The proposed rule revisions primarily would update the incorporated National Fire Protection Association® NFPA® 1 fire prevention code from the 2009 edition to the 2012 edition, after approval for incorporating the 2012 edition is received from the Attorney General.

In addition to including several minor clarifications and updates, the proposed rule revisions would also (1) repeal exempting federally leased buildings, in SECTION 4, because 41 CFR 102–80.85 makes them subject to local code requirements and inspections in fire protection;

(2) define what is meant by “design requirements” because those requirements in NFPA 1 are typically excluded in order to have building-design requirements contained in chapters SPS 361 to 366 rather than both in those chapters and in chapter SPS 314; (3) delete having the requirements for flammable, combustible, and hazardous liquids in chapter ATCP 93 (formerly chapter SPS 310) from prevailing if they differ from chapter SPS 314, because those requirements are now administered by the Department of Agriculture, Trade and Consumer Protection; (4) clarify that a fire inspector can issue an order to stop construction if the order relates to a fire hazard or explosion hazard or to prevention of fire; (5) newly require providing firefighter-access pathways on roofs when installing rooftop photovoltaic systems; (6) newly require an Underwriters Laboratories® listing for fire-department access boxes that are provided after the effective date of these rules; (7) correlate use and handling of hazardous materials with NFPA 400, *Hazardous Materials Code*; (8) newly prohibit storing fuel with open-flame-type cooking equipment on a balcony; (9) clarify how portable fire extinguishers are maintained and recharged by industry-credentialed technicians; (10) update the fire-dues entitlement process to be consistent with a new statutory tie-in to reporting fire incidents, and with the Department’s changeover to a Web-based system; (11) clarify how substantial compliance with the fire-dues-entitlement requirements is determined; and (12) newly require an owner, operator, or occupant of a building to notify the authority having jurisdiction before changing the occupancy of the building.

Summary of, and comparison with, existing or proposed federal regulation:

Fire protection, prevention, and inspection regulations for federally owned and leased buildings are addressed in Title 41 of the Code of Federal Regulations, in Part 102, Subpart C, Sections 80.80 to 80.135. Under Section 80.85, “Federally owned buildings are generally exempt from State and local code requirements in fire protection; however, in accordance with 40 U.S.C. 619, each building constructed or altered by a Federal agency must be constructed or altered, to the maximum extent feasible, in compliance with one of the nationally recognized model building codes and with other nationally recognized codes. Leased buildings are subject to local code requirements and inspection.” No other existing or proposed federal regulations were found relating to these proposed rule revisions.

Comparison with rules in adjacent states:

An Internet-based search of Web sites from the four adjacent states produced the following results relating to statewide fire-prevention rules.

Illinois: The Office of the State Fire Marshall has adopted the 2000 edition of NFPA 101®, *Life Safety Code*® to serve as the State’s rules for fire prevention and safety. That Code applies statewide to all occupancy classifications except for public elementary and secondary schools, which are under the jurisdiction of the Illinois State Board of Education. Illinois Statutes require local fire chiefs to enforce that Code except in localities which have adopted fire prevention and safety standards equal to or higher than that Code.

Iowa: The State Fire Marshal’s Office inspects facilities that are regulated by the State, such as schools, jails, prisons, daycares, residential care facilities, assisted-living facilities, and group homes. Other inspections are conducted in response to complaints. Most state inspections are conducted using the 2009 *International Fire Code*®.

Michigan: The Bureau of Fire Services in the Department of Licensing and Regulatory Affairs applies the fire safety requirements in numerous chapters of the 2006 edition of NFPA 1 to the operation and maintenance of commercial buildings, industrial buildings, and residential buildings, excluding 1- and 2-family dwellings.

Minnesota: Minnesota has adopted the 2006 edition of the *International Fire Code*[®], with various modifications, as its State Fire Code.

Summary of factual data and analytical methodologies:

The data and methodology for developing these rule revisions were derived from and consisted primarily of comparing the 2009 and 2012 editions of NFPA 1. The Department's review and assessment process included evaluating the 2012 NFPA 1 changes in detail with a fire prevention advisory council. The members of the council include representatives of the major stakeholders including fire chiefs, fire inspectors, firefighters, and building owners and managers. The Department utilized the council to obtain information on any potential impacts of both the technical and administrative elements of the rule revisions. A responsibility of council members is to bring forth concerns their respective organizations may have with the requirements, including concerns regarding economic impacts.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The primary documents that were used to determine the effect of the proposed rule revisions on small businesses, and to prepare an economic impact analysis were the 2009 and 2012 editions of NFPA 1, and *NFPA 1 Fire Code™ Technical/Substantive Changes From the 2009 Edition to the 2012 Edition* as prepared by the NFPA Fire Code Field Office.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

The proposed rule revisions are not expected to have an effect on small businesses because the 2012 edition of NFPA 1, as it would be modified by chapter SPS 314, is not expected to impose costs that would substantially exceed the costs imposed by the currently adopted 2009 edition.

The Department's Regulatory Review Coordinator may be contacted by e-mail at Tom.Engels@wi.gov, or by calling (608) 266-8608.

Agency contact person:

Sam Rockweiler, Rules Coordinator, at the Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI, 53708-8935; or at telephone (608) 266-0797; or by e-mail at sam.rockweiler@wi.gov; or by telecommunications relay services at 711.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sam Rockweiler, Rules Coordinator, at the Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI, 53708-8366; or by e-mail to sam.rockweiler@wi.gov. Comments must be received on or before January 27, 2014, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 314.001 (1) (a) and (2) are amended to read:

SPS 314.001 (1) (a) *Adoption of model fire code.* NFPA 1, *Fire Code*TM — ~~2009~~ 2012, subject to the modifications specified in this chapter, is hereby incorporated by reference into this chapter.

(2) ALTERNATE MODEL FIRE CODE. Where a municipality has by ordinance adopted requirements of ~~the *International Fire Code*[®] — 2009~~ an alternate model fire code and any additional requirements, that, in total, are equivalent to NFPA 1 as referenced in sub. (1), the department will not consider that ordinance to be in conflict with sub. (1); and property owners or managers, or employers, need only comply with that ordinance.

SECTION 2. SPS 314.001 (2) (Note) is created to read:

SPS 314.001 (2) Note: In assisting a municipality that has adopted or plans to adopt an alternate model fire code, Departmental staff typically will provide expertise relating only to NFPA 1 and this chapter, and should not be expected to be familiar with the alternate fire code and any local requirements needed to establish equivalency with NFPA 1 and this chapter. Creating that equivalency is the responsibility of that municipality, not the Department.

SECTION 3. SPS 314.01 (1) (a) and (c) 1., 2. and 4. are amended to read:

SPS 314.01 (1) (a) 1. This chapter applies to all public buildings and places of employment that exist on or after ~~January 1, 2014~~ [the effective date of this subdivision . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE], except as provided in pars. (b) to (d).

2. This chapter applies to the inspection, testing, and maintenance of all fire safety features as specified in this chapter, for all public buildings and places of employment that exist on or after ~~January 1, 2014~~ [the effective date of this subdivision . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE], except as provided in pars. (b) to (d).

(c) 1. This chapter does not apply to any of the buildings, structures, or situations specified in subds. 3. ~~to 5.~~ and 4.

2. All of the buildings, structures, or situations in subds. 3. to ~~9.~~ 8. are neither public buildings nor places of employment under this chapter.

4. Buildings and portions of buildings that are either federally owned or exempted by federal statutes, regulations or treaties.

SECTION 4. SPS 314.01 (1) (c) 5. is repealed.

SECTION 5. SPS 314.01 (1) (c) 6. to 9. are renumbered SPS 314.01 (1) (c) 5. to 8.

SECTION 6. SPS 314.01 (f) and (g) 1. (intro.) and (Note) [4] are amended to read:

SPS 314.01 (1) (f) Except for facilities that are exempted from this chapter under par. (c) 3. ~~to 5. and 4.~~ — and regardless of pars. (b), (c) ~~6. 5. to 9. 8.~~ and (d) — this chapter applies to all facilities and structures which exist on or after January 1, 2011 [the effective date of this paragraph . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE], and which involve flammable-, combustibile- or hazardous-liquid storage, transfer, or dispensing.

(g) 1. (intro.) Except for facilities that are exempted from this chapter under par. (c) 3. ~~to 5. and 4.~~ — and regardless of pars. (b), (c) ~~6. 5. to 9. 8.~~ and (d) — the department or its deputies may apply this chapter to any building or other structure or premises or public thoroughfare, which exists on or after January 1, 2011 [the effective date of this subdivision (intro.) . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE], and which has either of the following characteristics:

Note: See chapter ~~SPS 310~~ ATCP 93 for orders of the Department of Agriculture, Trade and Consumer Protection relating to flammable, ~~or combustibile and hazardous~~ liquids; and see chapter SPS 340 for orders of the Department relating to fuel gas systems.

SECTION 7. SPS 314.01 (2) (a) 3. a. and b. are renumbered SPS 314.01 (2) (a) 3. c. and d., and SPS 314.01 (2) (a) 3. d., as renumbered, is amended to read:

SPS 314.01 (2) (a) 3. d. The requirements in NFPA 1 sections 18.2.3 and 18.3 do not apply to buildings constructed prior to January 1, 2011 [the effective date of this subdivision 3. d. . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE]. Buildings constructed prior to that date but on or after March 1, 2008, shall comply with the requirements in NFPA 1 sections 18.2.3 and 18.3 which were in effect under this subdivision during that period. The requirement in NFPA 1 section 18.2.2.1 that an access box be listed in accordance with UL 1037 does not apply to access boxes installed prior to [the effective date of this subdivision 3. d. . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE].

SECTION 8. SPS 314.01 (2) (a) 3. a. and b. are created to read:

SPS 314.01 (2) (a) 3. a. The design requirements in NFPA 1 sections 11.12.2.2 to 11.12.2.2.3.3.2 for firefighter access pathways on a roof with a rooftop photovoltaic system are included as part of this chapter.

b. The requirements in NFPA 1 sections 11.12.2.2 to 11.12.2.2.3.2 do not apply to rooftop photovoltaic systems installed prior to [the effective date of this subdivision 3. b. . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE].

SECTION 9. SPS 314.01 (2) (b) 2. is amended to read:

SPS 314.01 (2) (b) 2. Where rules of the department specify conflicting requirements, types of materials, methods, processes or procedures, the most restrictive rule shall govern, except as provided in subs. 1., and 3. ~~and 4.~~

SECTION 10. SPS 314.01 (2) (b) 4. is repealed.

SECTION 11. SPS 314.01 (2) (b) 4. (Note) is renumbered SPS 314.01 (1) (g) (Note) [5] and amended to read:

SPS 314.01 (1) (g) Note [5]: See Appendix for a list of tanks, containers, tank systems, and facilities that are not regulated by chapter ~~SPS 310~~ ATCP 93.

SECTION 12. SPS 314.01 (9) (a) is amended to read:

SPS 314.01 (9) (a) *Appeal of department order.* Pursuant to s. 101.02 (6) (e), Stats., any person who owns or occupies a property that is affected by an order of the department may petition the department for a hearing on the reasonableness of the order.

SECTION 13. SPS 314.01 (6) (a) (Note) is created to read:

SPS 314.01 (6) (a) Note: The National Fire Protection Association, which issues the NFPA Fire Code that is adopted in this chapter, also issues an NFPA 1 Fire Code Handbook. The Handbook contains commentary on many of the Code's requirements along with case studies and illustrative examples that may be helpful in interpreting the Code's requirements. Go to www.nfpa.org for further information about the Handbook.

SECTION 14. SPS 314.01 (7m) is created to read:

SPS 314.01 (7m) STOP ORDERS. This is a department informational note to be used under NFPA 1 section 1.7.14:

Note: Under sections 101.12 (3) (g) and 101.14 (1) (a) and (b) and (2) (b) of the Wisconsin Statutes, a fire inspector who is not certified by the Department as a building or dwelling inspector under chapter SPS 305 is authorized to order stopping an operation, construction or use only if the order relates to a fire hazard or explosion hazard or to prevention of fire – except where a local ordinance provides further authority to that inspector.

SECTION 15. SPS 314.01 (11m) is created to read:

SPS 314.01 (11m) RECORDS WITH A REGISTER OF DEEDS. Any text in NFPA 1 section 1.12.3 that permits an AHJ to require recording anything at a register of deeds office is not included as part of this chapter.

SECTION 16. SPS 314.01 (13) (b) 7. c. is repealed.

SECTION 17. SPS 314.01 (14) (a) 1. a., (b) 1. and 3. a. and b. and (c) 1. to 3. are amended to read:

SPS 314.01 (14) (a) 1. a. In order to be eligible to receive a fire department dues payment, a municipality shall be in substantial compliance with the requirements for fire protection, fire reporting and fire prevention services specified in ss. 101.14 (2), 101.141 (1) and (2) and 101.575, Stats., and this chapter, throughout the entire municipality.

(b) 1. ‘General.’ The department shall determine substantial compliance with the fire department dues entitlement program through the self-certification process ~~processes~~ specified in ~~par. this paragraph and pars. (c) and the audit process specified in par. and (d).~~

3. a. The municipality fails to ~~return the~~ submit self-certification ~~form~~ input on time.

b. The municipality ~~returns~~ submits an incomplete self-certification ~~form~~ input.

(c) *Self-certification.* 1. A municipality shall annually complete and submit a fire department dues entitlement self-certification ~~form~~ input for the previous calendar year. The ~~certification input~~ shall be ~~made on the form provided~~ in a format prescribed by the department and ~~the form~~ shall be ~~returned~~ submitted to the department on or before April 1.

Note: ~~In January 2011, the Department replaced its paper-based self-certification process with a Web-based process that includes online registration and annual online input from both the clerk and the fire chief for a municipality.~~ Further information about ~~this~~ the Department’s Web-based registration and self-certification process is available at the Department’s Web site at www.dsps.wi.gov, through links to the Industry Services Division’s Fire Prevention program and then Wisconsin’s fire program online system.

2. A municipality shall ~~identify on~~ include in the self-certification ~~form~~ input the name of every fire department and the chief of the fire department that provided fire protection services and fire prevention services, to the municipality in the last calendar year. This identification shall be used to determine which fire departments are entitled to receive fire department dues from the municipality.

3. The chief of the fire department that provided the fire protection and fire prevention services and the clerk of the municipality shall ~~sign the self-certification form and indicate~~ each provide the input required by this paragraph, as to whether or not the municipality is in substantial compliance with state regulations regarding the fire department dues entitlement program. In first class cities, the commissioner of the building inspection department shall also ~~sign~~ submit the self-certification ~~form~~ input.

SECTION 18. SPS 314.01 (14) (d) 1. (Note) is created to read:

SPS 314.01 (14) (d) 1. Note: The definition of “substantial compliance” in section SPS 314.03 (1) (i) is not intended to infer that the Department must make a separate determination about substantial compliance in each of the fire-dues eligibility categories prescribed in sections 101.14 (2) and 101.575 (3) and (6) of the Statutes. Nor is that definition intended to infer that a fire department could do virtually no inspections and still be in compliance. Instead, Department staff use their expert judgment, in looking at the overall performance of a fire department and the municipality, to make an overall determination of whether substantial compliance occurred.

SECTION 19. SPS 314.01 (14) (f) 1. (Note) and 2. (Note) are amended to read:

SPS 314.01 (14) (f) 1. Note: The Department ~~annually~~ sends form SBD-10638 upon request to the fire department. This form is also available from the Division of Industry Services through one or more of the following means: in the Appendix; at P.O. Box 7839, Madison, WI 53707-7839; or at the Department’s Web site at <http://dsps.wi.gov> through links to Division of Industry Services forms.

2. Note: ~~The Department annually sends form Form SBD-10114 to the fire department. This form is also~~ available from the Division of Industry Services through one or more of the following means: in the Appendix; at P.O. Box 7162, Madison, WI 53707-7162; or at the Department’s Web site at <http://dsps.wi.gov> through links to Division of Industry Services forms.

SECTION 20. SPS 314.03 (1) (a) 2. is amended to read:

SPS 314.03 (1) (a) 2. In this ~~subsection~~ paragraph:

SECTION 21. SPS 314.03 (1) (bm) and (dm) and (Note) are created to read:

SPS 314.03 (1) (bm) “Design requirements” means any requirements that a designer would otherwise need to follow when specifying the permanent physical characteristics of a building. These include the materials of construction, structural members, fire-resistance and fire protection systems, means of egress and accessibility, energy efficiency, electrical systems, plumbing and other mechanical systems.

(dm) “Governing authority” means the department of safety and professional services.

Note: Under NFPA 1 section 1.6, any local unit of government adopting local fire prevention requirements that apply in addition to this chapter is the “governing authority” for those requirements.

SECTION 22. SPS 314.03 (1) (f), (i) (Note) and (2) are amended to read:

SPS 314.03 (1) (f) “NFPA 1” means the ~~2009~~ 2012 edition of NFPA 1, *Fire Code*, as adopted and modified in this chapter.

(i) **Note:** Under section 101.575 (4) (a) 1. of the Statutes, the Department may not pay fire department dues to a city, village, town or fire department, unless the Department determines that the city, village, town or fire department is in substantial compliance with sections 101.575 (6), ~~and~~ 101.14 (2) and 101.141 (1) and (2) of the Statutes.

(2) Substitute the following definition for the definition in NFPA 1 section ~~3.3.170.20~~ 3.3.182.22: “One- and 2-family dwelling” has the meaning as defined for dwelling in s. 101.61 (1), Stats.

SECTION 23. SPS 314.10 (2) is amended to read:

SPS 314.10 (2) EMERGENCY PLANS. ~~Substitute the following wording for the requirements in~~ This is a department informational note to be used under NFPA 1 section 10.9.2.3 ~~10.9.2.2: Where required by the AHJ, emergency plans shall be submitted to the AHJ for review.~~

SECTION 24. SPS 314.10 (2m) is created to read:

SPS 314.10 (2m) OPEN FLAMES. Substitute the following wording for the requirements in NFPA 1 section 10.11.2: The AHJ shall have the authority to prohibit any or all open flames, and open, recreational, and cooking fires or other sources of ignition, or establish special regulations on the use of any form of fire or smoking material where circumstances make such conditions hazardous.

SECTION 25. SPS 314.10 (2r) is created to read:

SPS 314.10 (2r) Substitute the following wording for the requirements in NFPA 1 section 10.11.6.2: For other than one- and two-family dwellings, no fuel for a hibachi, grill, or other similar device used for cooking may be stored with that equipment on a balcony.

SECTION 26. SPS 314.11 and (title) are renumbered SPS 314.11 (2) and (title).

SECTION 27. SPS 314.11 (title) and (1) are created to read:

SPS 314.11 Building services. (1) FIRE SERVICE ELEVATOR KEYS. Substitute the following informational note for the requirements in NFPA 1 sections 11.3.6.1 to 11.3.6.5.1.7:

Note: See chapter SPS 318 for requirements for fire service elevator keys.

SECTION 28. SPS 314.11 (3) is created to read:

SPS 314.11 (3) TWO-WAY RADIO COMMUNICATION ENHANCEMENT SYSTEMS. The requirements in NFPA 1 section 11.10 are not included as part of this chapter.

SECTION 29. SPS 314.13 (3) and (4) are renumbered SPS 314.13 (5) and (6)

SECTION 30. SPS 314.13 (3) and (4) are created to read:

SPS 314.13 (3) This is a department informational note to be used under NFPA 1 section 13.6.9.1.2:

Note: The fire-extinguisher certification addressed in this section is not issued by the Department.

(4) Substitute the following informational note for the requirements in NFPA 1 sections 13.7.1.5 and 13.7.2.9.4 to 13.7.2.9.4.4:

Note: See chapters SPS 361 to 366 for requirements relating to installation and maintenance of carbon monoxide alarms.

SECTION 31. SPS 314.15 is created to read:

SPS 314.15 FIRE DEPARTMENT SERVICE DELIVERY CONCURRENCY EVALUATION. The requirements in NFPA 1 chapter 15 are not included as part of this chapter.

SECTION 32. SPS 314.27 (Note) is amended to read:

SPS 314.27 Note: See chapter SPS 321 subchapter VI and chapter SPS 326 for requirements for manufactured home sites and communities.

SECTION 33. SPS 314.34 is repealed.

SECTION 34. SPS 314.65 (2) (intro.) and (3) are amended to read:

SPS 314.65 (2) (intro.) MIXING PLANT OPERATION. These are department rules in addition to the requirements in NFPA 495 ~~section 5.2.8~~ chapter 5 as referenced in NFPA 1 section 65.9.1:

(3) MAGAZINE INSPECTION. Substitute the following wording for the requirements in NFPA 495 section ~~8.7.2~~ 9.7.2 as referenced in NFPA 1 section 65.9.1: All magazines containing explosive materials shall be opened and inspected at maximum intervals of 7 days to determine whether there has been unauthorized or attempted entry into the magazines or whether there has been unauthorized removal of the magazines or their contents.

[Note to Legislative Reference Bureau: Please correct any quoted statutes in the SPS 314 Appendix that are outdated, such as section 101.01 (11) and (12).]

SECTION 35. SPS A-314.01 (2) (b) 4. is renumbered SPS A-314.01 (1) (g).

SECTION 36. SPS A-314.10 (2) is renumbered SPS A-314.10 (4), and SPS A-314.10 (4) figure's text box with dimensions, as renumbered, is amended to read:

SPS A-314.10 (4) text box with dimensions:

$\leq 3'$ – No Storage

~~15' or less~~ $\leq 10'$ – Storage Height ~~Max~~ Max. = 6'

~~Greater than 15' Setback~~ $\geq 10'$ – Storage Height Max. = 20'

~~Maximum Pile Height = 20'~~

SECTION 37. SPS A-314.10 (4) (intro.) is created to read:

SPS A-314.10 (4) (intro.) The dimensions in the following figure are compiled from NFPA 1 sections 10.16.1, 10.16.2, 10.16.5, 18.2.3.4.1.1 and 31.3.3.3.5. NFPA 1 contains additional requirements for outside storage, such as in chapter 33 for tires, and in section 34.10 for idle pallets.

SECTION 38. SPS 362.1509 is created to read:

SPS 362.1509 Rooftop photovoltaic systems. This is a department informational note to be used under IBC section 1509:

Note: See ch. SPS 314 for requirements relating to firefighter access pathways on roofs with rooftop photovoltaic systems.

SECTION 39. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

COPIES OF RULE

Copies of this proposed rule are available upon request to Sam Rockweiler, Rules Coordinator Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708-8366, by email at sam.rockweiler@wi.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.