OSHA INFORMATION SUPPLEMENT

**Provided as a service from the Capital Area Fire District’s Association - CAFDA**

***Newest information always at the top WITH RED ARROW***

***CORRECTION: In The United States There Are Approximately 675k Volunteer Firefighters, Yet There Have Been Only Approximately 3000+ Comments To The OSHA Portal!!!!***

***\*\*THIS WEEK’S NEWEST ITEMS PRECEDED BY THE RED ARROW***

* 4,000 comments have been entered in the OSHA Comment Portal to date.
* The last 40 pages is the meat and potatoes of the proposed federal standard.

On July 22, OSHA concluded the public comment period on their proposed Emergency Response Standard. This proposed standard would impose numerous requirements that would be infeasible for many volunteer fire departments to comply with and could cause these departments to shutdown.

Don't worry if you did not submit a public comment on how damaging this standard would be before the July deadline! **There are still two very important things you can do to make your voice heard right now. The first, is to use this Action Alert to tell your Member of Congress and Senators about OSHA's proposed Emergency Response standard and how it will harm volunteer fire departments.**

**The second and most important thing you can do is submit a notice of intention to appear (NOITA) before OSHA's virtual public hearing regarding the proposed Emergency Response Standard, taking place in November. Anyone can submit an NOITA and submitting one does not require you to testify at the public hearing.** The deadline to submit an NOITA is September 27. Additional information on submitting an NOITA can be found in the NVFC's OSHA Public Hearing Guide at this link: https://www.nvfc.org/wp-content/uploads/2024/08/OSHA-Hearing-One-Pager.pdf.

Additional information on OSHA's proposed standard and how it would be harmful to volunteer fire departments can be found at the NVFC's OSHA landing page here: https://www.nvfc.org/osha-standard/.

**CONTACT YOUR MEMBER OF CONGRESS AND SENATORS AT THIS LINK:**

<https://www.votervoice.net/NVFC/Campaigns/118064/Respond>

***OSHA Issued The Following Statement Regarding Its Emergency Response Rulemaking And Volunteer Emergency Responders:***

OSHA’s rulemaking on Emergency Response is focused on providing long overdue protections to emergency responders. The agency has tremendous respect for both the work that emergency responders do and their unique role providing essential public safety services to every community in America. This statement describes the rulemaking’s applicability to volunteer responders.

On February 5, 2024, OSHA published the Notice of Proposed Rulemaking (NPRM), Emergency Response Standard. ***While OSHA does not directly cover volunteer emergency responders, some OSHA State Plans treat volunteers as employees under state law, which is how a federal proposed standard could affect volunteer responders in those State Plan states.***

In the NPRM, OSHA preliminarily determined, based on the limited evidence available to it at the time, that the proposed rule would be economically feasible for volunteer organizations. *OSHA had sought information about the potential impact of the rule on volunteer organizations, but it did not have sufficient evidence to show that the rule would be infeasible for these organizations.*

Therefore, in accordance with the requirements of the Occupational Safety and Health Act of 1970, the proposal did not provide special allowances for the volunteer organizations that could be affected in some states. At the same time, the agency requested commenters’ input on whether the proposed rule would be feasible for these entities. OSHA received that input during the extended comment period from February 5, 2024 through July 22, 2024.

**OSHA has received comments in response to the NPRM from many stakeholders, including volunteer emergency responders, fire chiefs, trade organizations, and members of Congress, which raise serious concerns about the economic feasibility of the proposed standard for volunteer fire departments**. OSHA takes these concerns seriously. The comments submitted to the rulemaking docket provide crucial information that the agency did not have earlier in the rulemaking process. This new information will help the agency make the necessary determinations about whether the proposed standard is feasible for volunteer organizations.

OSHA is committed to taking steps in any final standard, consistent with the rulemaking record, to assess and minimize detrimental effects on volunteer fire departments. **If supported by the record, this may include excluding voluntary emergency response organizations entirely based on these feasibility concerns.**

**[EDITOR’S NOTE: IN OTHER WORDS, YOU STILL NEED TO MAKE THE CASE AS TO WHY THIS PROPOSED STANDARD WILL NEGATIVELY AFFECT YOUR FIRE DEPARTMENT OPERATION!!!!]**

While the initial comment period has closed, OSHA strongly encourages stakeholders to continue to provide information and data relevant to this question at the public rulemaking hearing scheduled to begin on November 12, 2024, and during the post-hearing comment period. Instructions for how to participate in the hearing are available on the Emergency Response rulemaking webpage, www.osha.gov/emergency-response/rulemaking. Once the rulemaking record is complete, OSHA will review all the information received and determine the appropriate approach to take with respect to volunteer organizations.

***OSHA created an advisory committee working group to help the agency craft a proposed standard so that stakeholders would have a direct hand in the process.*** That working group included representatives from labor and management; career, volunteer and industrial responders; as well as several other important stakeholder communities. OSHA included both career and volunteer responders in the working group because some OSHA State Plans treat volunteers as employees under state law, and a federal proposed standard could affect both groups in those states. The agency’s intention has always been to work collaboratively with the emergency response community to find win-win solutions that ensure both responder safety and public safety.

**[EDITOR’S NOTE: ALTHOUGH THE NVFC WAS REPRESENTED ON THE WORKING GROUP MANY OF THE PROPOSED CHANGES CAME FROM INDUSTRY AND LABOR, WITH MANY OF THE SUGGESTIONS BY OTHER MEMBERS OF THE GROUP BEING DISCARDED OR IGNORED! TIME FOR YOU TO GET ANGRY AND SPEAK UP.]**

***Statement from Dave Denniston on OSHA’s Latest Response as Printed Above***

As you may have seen, OSHA issued an unusual statement on Monday about the proposed 1910.156 rule. Many are asking what this all means. Having been involved in this process now for months, I offer my opinion on the statement. This is purely my opinion and may not reflect that of any organizations that I am currently working with.

OSHA is feeling a great deal of pressure from our elected officials. They have been questioned on their process, their proposal as written, and their understanding of what they have created. ***OSHA is attempting to defend what they have produced and preparing for the battle ahead.*** **They have basically thrown down the gauntlet here and challenged us to engage. They will use this to either make the needed changes in the proposal, or to defend that they have asked us for details, and we have failed to deliver.**

Please sign up to testify. We have got to deliver on this. Every department that will be impacted by this needs one person to tell your story. It is easy to tell your story and we can help you with that.

* Tell why the standard as written is economically infeasible.
* Tell them to remove the incorporated NFPA standards and replace them with plain text that we can follow and understand.
* Tell them your officers will no longer meet the qualifications to be officers.
* Tell them that weekly and 24 hours following a run truck checks are difficult for our organizations.
* Tell them NFPA 1582 physicals are concerning in price.
* Tell them you don't have qualifications for physical trainers.
* Tell them you don't have time to complete the required documentation, preplans, and community assessments.
* Tell them there is a lot we can do to provide emergency responder safety, which they have failed to even address.
* Tell them they failed to use the full negotiated rulemaking process.
* Tell them our communities cannot support or afford this proposal as written.
* Tell them we are willing to work with them to develop a standard that will be good for all of us.

There are many organizations working overtime to get this message across, but OSHA needs to hear from **YOU**.

There are also organizations lined up to tell OSHA why this is the greatest thing since sliced bread. They have already provided both written and verbal testimony. If we fail to tell our story, theirs will overshadow us.

We are all for reasonable, necessary, well negotiated, changes to emergency service. It is time we roll up our sleeves, do some serious work, and make things safer for everyone. What is currently on the table is a good foundation to start from, but it needs modifications to have the desired outcome.

We cannot stress the importance of taking this opportunity to be heard.

The deadline to sign up to testify during the OSHA informal hearing in November is quickly approaching. You only have until September 27th to reserve your spot. Many concerns have been expressed by the nearly 4000 written comments that were submitted during the written comment period. So, if the concerns are already on the table in writing why is it important for us testify virtually? It is important because written words are just that, written. ***We now have the opportunity to add faces and emotions to the words. We need OSHA to look us in the eyes and understand we are real humans, and these are real concerns. We are asking every fire department, EMS agency and municipality to sign up at least one person to give either 5 or 10 minutes of testimony***. Surely each of us has one person in our organization that is well spoken and can speak on your behalf. Find that person and get them registered. We will be hosting a number of webinars prior to November to help them organize their thoughts, but they can’t testify if they don’t sign up by September 27th.

Here are some major concerns:

1. OSHA believes this will have limited impacts on the volunteer fire service. That is not true.
2. OSHA feels this will have only minor financial impacts on local organizations. That is not true.
3. OSHA feels incorporating the NFPA standards by reference is necessary, Again, not true.
4. OSHA believes all the stakeholders had adequate representation during the process. Were you represented?
5. OSHA feels the one size fits all approach is reasonable. Do you operate like all other emergency response organizations?
6. OSHA believes their data sources were statistically significant. They were not.
7. OSHA feels each item in the proposal is attached to significant risk. They are not.
8. OSHA feels the recommendations are technologically feasible. This is not true for all of them.
9. OSHA feels they have covered all significant risks faced by emergency responders. Many risks have been left out of this proposal.
10. OSHA feels this process is fair and lets us voice our concerns. Yet major concerns that have been voiced all the way back to 2016 have not even been acknowledged, let alone addressed.

**Please sign up to testify and let OSHA know that we are we are 100% in favor of emergency responder safety, but we feel that as written, this proposal is not the answer and we are willing to help produce a better alternative,**

**SIGN UP AT THIS LINK:** <https://forms.office.com/pages/responsepage.aspx?id=GpBvzoA6h0mmhZ1NlvHxgMQsVuNB08VPk33J3ZMRGTZUMEpOMDlIWjFSMVRGNElKRzZTTlIxOVFBTi4u>

***Notice in the Federal Register Regarding the Public Hearing-Your Opportunity to Testify!!***

DEPARTMENT OF LABOR Occupational Safety and Health Administration 29 CFR Part 1910 [Docket No. OSHA–2007–0073] RIN 1218–AC91 Emergency Response Standard

**AGENCY**: Occupational Safety and Health Administration (OSHA), Labor.

**ACTION**: Proposed rule; notice of informal hearing.

**SUMMARY: OSHA** is scheduling an informal public hearing on its proposed rule ‘‘Emergency Response Standard.’’ The public hearing ***will begin November 12, 2024, at 9:30 a.m. Eastern Time*** (ET). The proposed rule was published in the Federal Register on February 5, 2024.

**INFORMAL PUBLIC HEARING**:

***The hearing will be held virtually and will begin November 12, 2024, at 9:30 a.m. ET. If necessary, the hearing will continue from 9:30 a.m. until 4:30 p.m*., ET, on subsequent weekdays**.

**Additional information on how to access the informal hearing will be posted at https://www.osha.gov/ emergencyresponse/rulemaking.**

To testify or question other witnesses at the hearing, interested persons must electronically submit a Notice of Intention to Appear (NOITA) on or before September 27, 2024.

In addition, those who request more than 10 minutes for their presentation at the informal hearing and those who intend to submit documentary evidence at the hearing must submit the full text of their testimony, as well as a copy of any documentary evidence, no later than October 18, 2024.

**ADDRESSES:**

Notice of Intention to Appear (NOITA). A NOITA must be submitted electronically at: https:// www.osha.gov/emergency-response/ rulemaking. Follow the instructions online for making electronic

submissions.

Those who file NOITAs must also submit electronic copies of all documents that they intend to use or reference during their testimony.

Information about how and when to submit these materials will be provided at the time of registration.

**Instructions:** All submissions must include the agency’s name and the docket number for this rulemaking (Docket No. OSHA–2007–0073). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at https:// www.regulations.gov. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security Numbers and birthdates.

**[NOTE: YOU CAN TESTIFY VERTUALLY AS AN INDIVIDUAL, AS A DEPARTMENT, OR AS AN INTERESTED ORGANIZATION]**

***Tell Congress About Your Concerns Regarding OSHA’s Proposed Emergency Response Standard***

**August 27, 2024**

The effort to spread awareness about how the Occupational Safety and Health Administration’s (OSHA) proposed Emergency Response Standard could harm volunteer fire departments continues. In addition to encouraging volunteer responders to submit public comments and testimony to OSHA regarding this standard, the National Volunteer Fire Council (NVFC) has been active in alerting Congress to the issues.

With the NVFC’s support, Congress has taken a number of actions to weigh-in on the proposed standard, including the following:

* The House Homeland Security Committee’s Subcommittee on Emergency Management and Technology held a hearing on OSHA’s proposed Emergency Response Standard on June 4. The NVFC had a witness testify at this hearing.
* The House Education and Workforce Committee’s Subcommittee on Workforce Protections held a hearing on OSHA’s proposed Emergency Response Standard July 24. The NVFC had a witness testify at this hearing.
* In May, Rep. Golden and Rep. Desposito co-led a letter with 40 other members of Congress (29 Republicans, 13 Democrats total) asking OSHA to make the proposed standard more scalable for volunteer firefighters.
* In June, Education and the Workforce Committee Chairwoman Foxx led a letter with 23 other Republican Members of Congress asking Acting Secretary of Labor Julie Su to exempt volunteers from the emergency response standard.
* In July, the Senate and House Members from the Arkansas Congressional delegation sent a letter to Acting Secretary Su requesting that OSHA rescind the proposed rule.
* In August, Sen. Moran and Sen. Coons led a letter with 7 other Senators (7 Republicans, 1 Democrat, 1 Independent total) asking Acting Secretary Su to exempt volunteers from the Emergency Response Standard.
* Senator Boozman sponsored an amendment that was included in the mark-up of the Senate’s FY 25 Labor, Health, and Human Services Appropriations Bill that encourages OSHA to conduct listening sessions and outreach with stakeholders to fully understand the impact of new requirements on volunteer fire departments.

Though OSHA’s proposed Emergency Response Standard is an Executive Branch action and Congress does not vote on the adoption of the final standard, it is important to continue to make Congress aware of the potential negative impacts of this standard due to their function of overseeing and funding OSHA. Share the NVFC’s [advocacy one-pager](https://www.nvfc.org/wp-content/uploads/2024/08/OSHA-Standard-Advocacy-One-Pager.pdf) with your Senators, Representative, or their staff so that they understand the issues and impact.

Visit the NVFC’s [OSHA Standard landing page](https://www.nvfc.org/osha-standard/) for additional resources to assist you with understanding the proposed Emergency Response Standard and information about testifying during OSHA’s November public hearing.

***NEW WEEK OF AUGUST 24TH!!***

OSHA has been slowly adding the comments to the portal. It has become clear that they are filtering these comments and adding them in groups. Some have been labeled as “mass mailings” and other that also contain similar language have not. *Organized labor has contributed several comments as well as groups that would benefit financially from the rule*. ***The biggest smoking gun to me has been the comment from NFPA asking that the incorporated by reference standards be removed***. Also, of particular interest to this group would be the comment posted by DHES and OFPC. We will schedule a Zoom meeting for next week.

I am attaching a number of comments that I feel you should be aware of and may not have the time to plow through 3K comments to see them.

The common themes that I am gathering from these comments so far are:

1. The process was flawed in how it was conducted and communicated.
2. The rule is arbitrary and capricious, convoluted, and exhaustive. Therefore, it is not understood.
3. THE NFPA standards should not be incorporated by reference.
4. Large, **Unfunded mandates**.
5. Not economically or technically feasible.
6. **Overreach by OSHA**.
7. Did not follow the full negotiated rule making process.
8. **Will have several legal challenges**.
9. Will treat workers differently because of geographic location instead of common hazards faces.
10. **Process was unfairly supported and driven by organized labor groups**
11. Will force some organizations to close their doors leaving the community at risk.
12. **Is primarily supported by those that will benefit financially from it.**
13. The consensus is that we applaud the efforts of improving safety but the current document, as written, is not the answer.
14. We would be stronger as one voice moving forward.



**COMMENTS FROM NFPA..HIGHLIGHTED SECTIONS OUT OF AN 11 PAGE LETTER!!**

NFPA applauds OSHA for opening this national dialogue on how to protect first responders from a variety of occupational hazards. NFPA shares that goal and has played a significant role in advancing first responder safety over the last century. Nevertheless, it is important to note that as a general policy, NFPA does not request incorporation by reference of any of our codes and standards. While NFPA has been involved with OSHA over the course of many years and through several Administrations considering rulemakings, NFPA had no specific recent role in putting this Notice of Proposed Rulemaking together, and NFPA did not suggest to OSHA that it should undertake this activity.

NFPA understands that OSHA has proposed to reference NFPA’s codes and standards because they are widely recognized as the best in the world and thus are widely used in the United States and elsewhere. Our technical committees, comprised of 9,000 volunteer members, consider every submitted input to prepare standards that address the latest in technology, research, and other relevant information. We are proud that our codes and standards serve the safety goal of protecting emergency responders. The NFPA Fire & Life Safety Ecosystem (https://www.nfpa.org/about-nfpa/nfpa-fire-and-life-safetyecosystem) identifies the components that must work together to minimize risk and help prevent loss, injuries, and death from fire, electrical, and other hazards. We are confident that, throughout the years, our world-class codes and standards have saved firefighters’ lives, prevented injuries, and enhanced first responders’ effectiveness in aiding their communities. The development, use, and adherence to current codes and standards is a key part of the Ecosystem. The Ecosystem also relies on prepared first responders. The process of preparing first responders depends on continuous recruitment, training, and supplies of the best equipment. This is one of the reasons that NFPA strongly supported the reauthorization of the Assistance to Firefighters (AFG) and the Staffing for Adequate Fire and Emergency Response (SAFER) grants managed by the Federal Emergency Management Administration, which was recently enacted as Public Law 118-67. We continue to advocate for expanded funding for both critical grant programs. A decision made by a government, or by a for-profit or non-profit entity, to use a particular code or standard furthers the goal of enhancing safety. In the case of this Emergency Response Standard, as in the case of so many others, the entity making the incorporation decision must consider the appropriate implementation schedule and compliance plan. We are sensitive to the concerns that many in the fire service, especially smaller volunteer fire companies, have expressed about the expense of meeting the OSHA proposal and how quickly the requirements would be mandated. At the macro level, we know that investments in safety are almost always worthwhile. We trust that OSHA will determine the appropriate implementation schedule should this proposed rule be finalized. Parallel to whatever OSHA decides, our nation must continue to invest in AFG, SAFER, and other efforts to fund our volunteer and career first responders.

However, recent legal developments create a risk that OSHA’s continued use of incorporation by reference could frustrate NFPA’s ability to continue developing world-class safety standards. NFPA therefore requests (1) that OSHA refrain from incorporating NFPA’s standards by reference in the proposed rule and that OSHA instead provide in the text of the rule that NFPA’s standards are a benchmark for gauging compliance with the regulations and do not impose any binding legal obligations; (2) that OSHA explicitly acknowledges, in the rule, NFPA’s copyright interests, knowing those interests also serve the agency and the public by ensuring the independence and sustainability of standards development; and (3) ensure through the rule that the public knows that NFPA posts its standards online for free read-only access.

The recent court decision, and the importance of NFPA’s copyrights to OSHA’s work, necessitate a different approach to OSHA’s use of NFPA’s standards. NFPA requests that OSHA not incorporate by reference its standards in the proposed rule. Instead, NFPA requests that OSHA refer to its standards in the text of the proposed rule as one benchmark of compliance with the regulations and ***expressly provide in the rule that NFPA’s standards are guidance and not binding.***

NFPA requests that OSHA use a similar approach for the NFPA standards it currently proposes to incorporate by reference in its rule. For example, the proposed rule incorporates by reference NFPA 1910, Standard for the Inspection, Maintenance, Refurbishment, Testing, and Retirement of In-Service Emergency Vehicles and Marine Firefighting Vessels. The proposed rule requires organizations and employers to “[i]nspect, maintain, and service test aerial devices on vehicles, to ensure they are safe for use, as specified by the manufacturer, or to a standard at least as equivalent to NFPA 1910 (incorporated by reference see § 1910.6).” 89 Fed. Reg. at 8,019. ***OSHA could instead draft this rule to require that there be inspection, maintenance, and servicing of the devices “to ensure they are safe for use.” OSHA should then further expressly provide in the text of the rule that NFPA 1910 is one way of ensuring safe use of test aerial devices on vehicles but does not create any binding obligations.*** This approach would ensure safety, while preserving NFPA’s copyright in NFPA 1910. For each standard that OSHA’s proposed rule incorporates by reference, NFPA would welcome the opportunity to work with OSHA on ways to ensure that the rule achieves the agency’s safety objectives without using incorporation by reference.

***PUBLIC HEARING SCHEDULED TO BEGIN ON NOVEMBER 12TH***

The Occupational Safety and Health Administration (OSHA) has published a Notice in today’s Federal Register (see, <https://www.govinfo.gov/content/pkg/FR-2024-07-23/pdf/2024-16126.pdf>) announcing that it is **scheduling an informal public hearing on its proposed ‘‘Emergency Response Standard**.’’ The public hearing will be held virtually and is scheduled to begin Tuesday, November 12, 2024, at 9:30 a.m. (ET) and will continue on subsequent weekdays (as necessary). (Note: Monday, November 11, 2024, is a federal holiday.)

OSHA’s proposed Emergency Response rule was published in the Federal Register on February 5, 2024 (see, [2023-28203.pdf (govinfo.gov)](https://www.govinfo.gov/content/pkg/FR-2024-02-05/pdf/2023-28203.pdf)), and the public comment period closed yesterday, July 22, 2024.

Additional information on how to access OSHA’s informal hearing will be posted on OSHA’s Emergency Response webpage at https://[www.osha.gov/emergencyresponse/rulemaking](http://www.osha.gov/emergencyresponse/rulemaking).

**To testify or question other witnesses at the hearing, interested persons must electronically submit a Notice of Intention to Appear (NOITA) to OSHA on or before September 27, 2024. In addition, those who request more than 10 minutes for their presentation and those who intend to submit documentary evidence must submit the full text of their testimony, as well as a copy of any documentary evidence, to OSHA no later than October 18, 2024.**

Please see OSHA’s Federal Register Notice and Emergency Response webpage for full information. We will plan to discuss this issue at our next regular Small Business Labor Safety (OSHA/MSHA) roundtable, that is tentatively scheduled for Friday, September 20, 2024.

***From Dave Denniston – What’s Next?***

Thank you for participating in the efforts to voice our opinion over the proposed OSHA 1910.156. Now that the comment period has ended, the need to meet weekly has passed. I am 100% convinced that the efforts we put forth as a group made an impact. When you look at the comments posted in the portal, they had our fingerprints all over them. If we had not done what we did here in NY, I firmly believe the comment period would have ended back in May with very little input and OSHA would be full speed ahead with the final rule. At least now we opened the door for further comment, in person, and then again written, and have alerted our elected officials to the concerns.

I would like to propose that we push our meeting schedule back to the first Thursday of every month at noon to discuss any updates. If there is a need in-between the regular meeting date, we could call a special meeting.

**SOME STATS FROM OUR EFFORTS:**

We had 2006 live webinar views with another 464 watching the recordings.

We received 4116 signatures on the petition submitted to OSHA.

We held 6 in person sessions with over 700 participants.

**NEXT STEPS:**

1. We need to pull the blue-ribbon panel together to discuss the proposed rule and offer alternatives. I have only received two candidates and believe we should have around 10-12 people in that group.
2. We need to prepare material to help guide people on how to deliver an effective in-person testimony and start looking for people to participate.
3. I believe we should ask every department to elect or appoint someone to participate as a representative of their department. These folks would attend a few web meetings to learn more, understand the process and share information with their department.
4. We need to stay engaged with our elected officials and keep them involved in this process.
5. Is there anything else that we are missing here?

Again, Thank you for your help and interest on this important topic. I look forward to our next conversation on Thursday, August 1ST AT 12pm. By then we should have a good feel for what the public comment response looked like.

***\*\*The New OSHA Rule You Must Pay to Learn***

The Center for Individual Rights

The Occupational Safety and Health Administration (OSHA) has proposed a new rule that would impose steep compliance costs on local volunteer fire departments around the country and make them pay substantial fees just to learn what the regulations require. The Occupational Safety and Health Act (OSH Act) created a federal agency with an extremely vague mandate to establish nationwide workplace safety standards with almost no congressional guidance. Yet OSHA’s most recent proposal, the Emergency Response Standard (ERS) manages to extend this already broad power even further with sweeping workplace standards that even reach volunteer organizations.

If adopted, the ERS would impose federal safety standards for emergency response services, including local, volunteer fire departments, that purport to preempt and displace existing state-enforced safety regulations. ***Many of the affected volunteer fire departments lack adequate funding (relying as they do upon voluntary support) and cannot afford to overhaul their standards to comply with new federal rules, which larger departments in metropolitan areas can more easily manage.***

**UNCONSTITUTIONAL REGULATION**

CIR filed a comment with OSHA explaining that the ERS likely violates both federal law and several different provisions of the Constitution. To start, the OSH Act provides such broad discretion to OSHA as to amount to an unconstitutional delegation of legislative authority. Moreover, the sweeping reach of the ERS, a nationwide overhaul of safety regulations for such a wide swath of emergency responders, vastly exceeds the limited guidance Congress did provide.

***Worse yet, even fire departments that do not object to complying with the rule will have to pay substantial fees just to learn what it actually requires. Rather than clearly articulating the new safety standards on a freely accessible website, OSHA has incorporated by reference more than 20 consensus standards published by different private organizations.*** Just to download, print, or copy these standards, organizations must pay steep fees. But to synthesize them will require hiring expert consultants.

***This approach violates federal law–the Freedom of Information Act component of the Administrative Procedure Act, which requires that an agency make all substantive rules of general applicability available to the public. It also violates the Due Process Clause of the Constitution, which guarantees citizens the right to fair notice about governing law.***

The text of the OSH Act poses another problem; it does not apply to volunteer organizations at all. The terms of the law are expressly restricted to employees, i.e. people who are paid to work. ***Yet due to complex state regulations that treat some volunteers as employees for the purpose of certain state benefit programs, the ERS is unlawfully sweeping in volunteer organizations.***

This case is a vital reminder of the importance of establishing firm limits on federal power to the defense of individual rights.

**TO READ CIR’S 15 PAGE COMMENT TO OSHA OPEN AT THIS LINK:**

<https://cafda.net/wp-content/uploads/2024/07/CIR-comment-OSHA-ERS.pdf>

***This is a Link to the 18-page letter to Douglas Parker, Assistant Secretary for Labor for OSHA***

<https://cafda.net/wp-content/uploads/2024/07/NYS-United-Concerns-OSHA-Response-FINAL-07.16.24-DD.docx>

**This is a must-read item for all concerned about the proposed update to the OSHA Standard for Emergency Response. This was filed on behalf of the NYS United Concerns Group who participate in the zoom meetings on a weekly basis. Please take the time to read this important document.**

***Excellent Docket Response from South Carolina Firefighters Association***

***Open the Document at This Link:***

[***https://cafda.net/wp-content/uploads/2024/07/Docket-Comment-7-8-SCSFA-Response.docx***](https://cafda.net/wp-content/uploads/2024/07/Docket-Comment-7-8-SCSFA-Response.docx)

***Joint Letter to OSHA from NYS Association of Counties, NYS Conference of Mayors, and the NYS Association of Towns***

***Open the Document at This Link:***

<https://cafda.net/wp-content/uploads/2024/07/NYCOMNYSACAOTjointletter.pdf>

***What Are Your Pain Points***

**PAIN POINT FINANCIAL….**

**OSHA’s Proposed Rule:**

OSHA’s proposed rule would require NFPA 1582 Medical Exams be administered to all firefighters either annually or bi-annually. OSHA estimates the cost of a required medical exam to be $620 each.

The Pain Point: A small-town fire department with two dozen members would have to find funding for a dozen medical exams each year for a total cost of $7440.

Tell OSHA: Tell OSHA what your annual budget is and how you would have to raise $7440. For example, if your department relies upon fundraising, tell OSHA how many extra spaghetti dinners you’d need to sell each year to raise $7440.

Assuming a profit of $8 per dinner, you need to sell 930 spaghetti dinners each year to pay for medical exams. How many people live in your town – does everyone need to buy two dinners? Explain this to OSHA.

**OSHA PAIN POINTS – ADDITIONAL, OSHA’S PROPOSED RULE:**

The proposed OSHA rules incorporate by reference twenty-one NFPA standards. This adds about 3000 pages of text to the rules.

The Pain Point: Small fire departments don’t have the legal or administrative capabilities to read, interpret, and comply with this much new regulation.

Tell OSHA: Tell OSHA that there is no administrative or legal staff available at your fire department to read, interpret, and comply with 3000 pages of NFPA standards. Tell OSHA how small or non-existent your administrative staff and budget is.

**OSHA’s Proposed Rule:**

The proposed OSHA rules will require all fire chiefs to have NFPA Fire Officer 3 training.

The Pain Point: Half of the state fire training academies don’t offer Fire Officer 3 training and there is no practical way to get the training. Even in states that offer the training, it will typically require unpaid volunteer chiefs or part-time chiefs to take classes on weekdays when they have to take time off from their full-time jobs or travel long distances to night and weekend classes.

Tell OSHA: Tell OSHA that Fire Officer 3 training isn’t available or readily available to your department and why.

**OSHA’s Proposed Rule:**

The proposed OSHA rules incorporate by reference twenty-one NFPA standards.

The Pain Point: NFPA standards are not readily available, and this makes commenting on them difficult. You have to purchase them for $149 each or purchase a subscription to access them for $12/month.

Tell OSHA: Tell OSHA that before they close the comment period and make these standards law, OSHA needs to provide free copies of the these standards to the public.

**OSHA’s Proposed Rule:**

The proposed OSHA rules will require all fire chiefs to have NFPA Fire Officer 3 training.

The Pain Point: Half of the state fire training academies don’t offer Fire Officer 3 training and there is no practical way to get the training. Even in states that offer the training, it will typically require unpaid volunteer chiefs or part-time chiefs to take classes on weekdays when they have to take time off from their full-time jobs or travel long distances to night and weekend classes.

Tell OSHA: Tell OSHA that Fire Officer 3 training isn’t available or readily available to your department and why.

**OSHA’s Proposed Rule:**

The proposed OSHA rules use the 2022 Firehouse Magazine Run Survey as the basis for defining the scale and financial resources of the volunteer fire service.

The Pain Point: The Firehouse Magazine Run Survey is created for entertainment purposes and should not be used the way OSHA has used it to create regulations. The Firehouse Magazine Run Survey is a small set of data without knowing who or why the data was created, except for fun and to see your department named in the magazine.

The Firehouse Magazine Data says that the average volunteer fire department:

· Has a budget of $

· Responds to \_\_\_\_ emergency calls per year

· Has \_\_\_ volunteer members

Tell OSHA: Tell OSHA that it's data about the size and financial resources of volunteer fire departments is wrong. Tell them about your department budget, the size of your town, how many calls you go to, and why this is so different than the Firehouse data. Tell them about the other departments in your area.

**OSHA’s Proposed Rule:**

The proposed OSHA rules will incorporate by reference twenty-one NFPA standards.

The Pain Point: NFPA standards are not required to be based upon data or scientific evidence. NFPA standards are the collective opinions of the committees that write them. Unlike OSHA, NFPA standards are not required to address only significant risks to the health and safety of firefighters. Making these standards into law reaches way beyond the mission of OSHA.

Tell OSHA: Tell OSHA that their use of NFPA standards is arbitrary, because many of the standards themselves, or parts of the standards are arbitrary.

1. “Have you had time to completely read and analyze the new proposed OSHA standard 1910.156 rule and the effects it would have on your organization? If not, click here and tell OSHA that 165 days has not been adequate to review a document that took them years to write.”
2. "Do your captains and lieutenants hold Fire Officer I training? Do your assistant chiefs hold Fire Officer II training? The new proposed OSHA 1910.156 rule would require this. Click here and tell OSHA why this would be problematic for your organization."
3. "Does your fire department have an annual budget of less than 1.7 million dollars? OSHA is under the assumption that the average fire department budget for volunteer or combination depts is 1.7 million dollars. If your budget is less, click here, and tell OSHA what your budget is and that you believe their data is inaccurate."
4. OSHA believes the impact of the proposed 1910.156 rule would be less than 1%. Is this true for you? Several fire departments have analyzed the proposal and this would increase their budgets by over 40%. Click here and tell OSHA why a substantial tax increase is not feasible"
5. "Does your organization do weekly vehicle inspections or within 24 hours of each run? That’s what the proposed OSHA 1910.156 rule would require. Click here and tell OSHA why that is problematic for your organization." T
6. "Do you clearly mark control zones for every emergency incident to establish a cold zone, warm zone, hot zone and no entry zone? The proposed OSHA 1910.156 rule would require this. If this would be problematic for your organization, click here and tell OSHA why this is not feasible."
7. "Do you provide annual physicals for your firefighters that include comprehensive behavioral health evaluations, skin cancer screenings, and bi-annual mammograms for firefighters over 40? The Incorporation of NFPA 1582 in the proposed OSHA standard 1910.156 rule would require this. If you are not currently performing physicals at this level, click here and tell OSHA why that would be problematic for your organization."
8. “Does your organization have $620 per member for annual or bi-annual medical exams? If not, click here and explain to OSHA what your budget is for medical exams.”
9. “Did you know the proposed OSHA rule incorporates by reference twenty-one NFPA standards, which are NOT free to comment on. Click here to tell OSHA to give free copies of these standards to the public.

***Pain Points to Address***

**PAIN POINT #1**

**OSHA’s Proposed Rule:** All Emergency Service Organizations shall conduct a community or facility vulnerability and risk assessment for its service area, for the purpose of establishing its standards of response and determining the ability to match the community or facility’s risks with available resources.

**The Pain Point:** Does your fire department conduct hazard assessments (or pre-plans) to all commercial businesses? Does your department conduct hazard assessments to all vacant structures? Does your department pre-plan facilities that are subject to reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA)? Does your department have an incident plan for each of the hazard assessments for an emergency incident? If not, then you will not be compliant with the OSHA Proposed Ruling.

**Tell OSHA:** This is economically infeasible and there is no local funding for the hazard assessments of all buildings in your area. Let OSHA know what the cost would be to add one or more employees to be able to comply with conducting the yearly assessments. Be blunt – tell them you have no administrative staff to do this.

**PAIN POINT #2**

**OSHA’s Proposed Rule:** OSHA’s inclusion of NFPA 1582: Standard on Comprehensive Occupational Medical Program for Fire Departments, which requires annual medical evaluations proving fit for duty.

**The Pain Point:** The pain point comes in finding a doctor who can perform and meet the requirements of the standard, the cost to the fire and emergency services department, extra time requirements for a volunteer, and the administrative burden of scheduling and tracking exams.

**Tell OSHA:** This is economically infeasible. Tell OSHA what your budget is and if you don’t have administrative staff to schedule and track medical exams. Tell OSHA if you are in a rural area with poor access to occupational medical care or are unable to find a doctor who can perform all the requirements found in NFPA 1582 or that are willing to sign off. Tell OSHA about volunteer firefighters traveling hours out of their way to get the physicals or the added costs of having an organization come to the department to perform the physicals. The cost of a NFPA 1582 physical for each member can range from several hundred to several thousand dollars. Tell OSHA what this would cost your department. Tell OSHA about the time constraints with NFPA-compliant physicals – are they only available during the workday when volunteers are working their primary jobs?

**PAIN POINT #3**

**OSHA’s Proposed Rule:** OSHA Is seeking guidance on whether an action level of 15 exposures to combustion products within a year trigger medical surveillance consistent with NFPA 1582 is too high, too low, or an appropriate threshold.

**The Pain Point:** After each incident, in addition to an incident report, do you record what level of smoke or exposure to combustion products is experienced by every firefighter or officer who responded? If the number per year exceeds 15, or whatever number OSHA determines, are you prepared or capable of placing them under medical monitoring against a baseline physical also required meeting NFPA 1582?

**Tell OSHA:**There is no defined number of exposures that are determined to be the right number, so just as requiring annual exams is arbitrary and not based on science, so is the number of exposures. Tell OSHA that “exposure to combustion products” is not defined. Ask OSHA does it mean any smoke, such as from a brush fire or burnt bacon on the stove, or does it have to be an IDLH atmosphere?

**PAIN POINT #4**

**OSHA’s Proposed Rule:** OSHA’s Proposed Rule is seeking input on whether the proposed rule should specify retirement ages for personal protective equipment (PPE). Current NFPA standards call for 10 years.

**The Pain Point:** Are all your firefighters using gear under 10 years of age? Can you afford to replace gear older than 10 years of age?

**Tell OSHA:**While 10 years seems reasonable for firefighters actively engaged in structural firefighting, do we rule out or discard gear 11 years of age even though it shows minimal signs of wear? How about others who perform support functions, or extrication, etc.? Some firefighters wear the same structural fire helmet for their entire career spanning 20 – 30 years. Is there statistical evidence by OSHA that helmets over 10 years of age are causing head injuries or burns? Gear that is used to run 600 calls per year doesn’t have the same wear and tear as gear that is used to run 85 calls per year.

**PAIN POINT #5**

**OSHA’s Proposed Rule:** If approved, the new OSHA rules would require your fire department to conduct annual fitness for duty testing, essentially an annual physical ability test that includes dragging dummies, hitting targets with axes, and forcing a door or breaching a wall.

**The Pain Point:**Most small fire departments have no training props. They have no facility for conducting a fitness for duty test, especially one that meets many legal requirements of consistency and fairness for all participants. This means hiring vendors to do the test or having firefighters drive hours to a test.

**Tell OSHA:**If your fire department can conduct a physical ability test each year. Tell them how far away the nearest facility for a test is. Tell them what props or facilities you have and don’t have. Tell them your budget and what this will cost.

**PAIN POINT #6**

**OSHA’s Proposed Rule:**The proposed OSHA rules will require all personnel treating a patient in the back of an ambulance to wear a harness so they are belted and can move around.

**The Pain Point:**Harness systems for EMS in the back of the ambulance are rare. These systems have not been perfected and there is no standard for them. Ambulances would have to be retrofitted.

**﻿Tell OSHA:** If you have an ambulance, tell OSHA if you have a harness system, or if your seatbelts don’t allow for treating patients. Tell OSHA that there is no industry standard or agreed-upon technology for a harness that allows freedom of moment for treating patients. Tell OSHA how long it will be before you can purchase a new ambulance with a harness (when they become available), or what it would take to retrofit your current ambulances.

**PAIN POINT #7**

**OSHA’s Proposed Rule:** At least 21 NFPA standards are incorporated in OSHA’s proposed rules.

**The Pain Point:** While NFPA standards are available to view for free online, printed copies of these standards are not free. An $11.99 a month NFPA membership would be required to print these standards, plus the cost of ink and paper. The NFPA also sells printed copies of their standards. For example, a printed copy of NFPA 1021 costs $149.00. This limited access to printed NFPA standards is particularly problematic since many volunteer fire departments in rural areas lack reliable internet access or funding to purchase printed copies.

**Tell OSHA:** Let OSHA know what your department budget is and the burden it would be to purchase NFPA standards. Also let OSHA know if your department does not have reliable internet access to view these standards. It is wrong for OSHA to mandate standards that are not reasonably available to view for free.

**PAIN POINT #8**

**OSHA’s Proposed Rule:** The proposed OSHA rules incorporate by reference 21 NFPA standards. This adds about 3000 pages of text to the rules.

**The Pain Point:** Small fire departments don’t have the legal or administrative capabilities to read, interpret, and comply with this much new regulation.

**Tell OSHA:** Tell OSHA that there is no administrative or legal staff available at your fire department to read, interpret, and comply with 3000 pages of NFPA standards. Tell OSHA how small or non-existent your administrative staff and budget is.

**PAIN POINT #9**

**OSHA’s Proposed Rule:** All fire officers/chiefs must be trained to NFPA 1021, Standard for Fire Officer Professional Qualifications.

**The Pain Point:** Much of the required information in NFPA 1021 courses is well beyond the scope of the small department. Can your fire department provide this level of training to all your current and future officers? Does your budget support this? Are there classes available on nights and weekends? How far will your officers have to travel?

**Tell OSHA:** This training is a one size fits all approach and contains material that is often not relevant to small volunteer fire departments. Due to the time constraints and pressures volunteers face, any additional training must be tailored to the risks small volunteer departments face. Additional training that is not relevant would create additional burdens on volunteers and additional barriers to joining and remaining in the fire service, exacerbating ongoing recruitment and retention issues in the fire service.

**PAIN POINT #10**

**OSHA’s Proposed Rule:**All fire chiefs must receive NFPA 1021 Fire Officer III training.

**The Pain Point:**The Fire Officer III certification is only offered in approximately 25 states. Chief officers would face significant hardship in getting the required training and certification. Unpaid volunteer chiefs or part-time chiefs would be required to take classes on weekdays when they have to take time off from their full-time jobs, or they would have to travel long distances to night and weekend classes.

**Tell OSHA:** The cost of accessing NFPA 1021 Fire Officer III training will place a financial burden on volunteers. In most cases, this class is not offered on a schedule that is friendly for volunteers. Many volunteer officers will be required to travel to a state where they can receive training, taking time away from their primary job and requiring funds that are often not available. All required training must be widely accessible and, when possible, virtually available.

**5 MORE PAIN POINTS TO ADDRESS**

Let OSHA know how the proposed Emergency Response Standard will impact your department! Here are five ‘pain points’ that you can address in your comments.

**PAIN POINT #16**

OSHA’s Proposed Rule: The proposed OSHA standard uses the 2022 Firehouse Magazine Run Survey as the basis for defining the scale and financial resources of the volunteer fire service.

The Pain Point: The Firehouse Magazine Run Survey data is not a proper reflection of the fire service because of its small sample size, and it likely presents an inflated view of the financial condition of the volunteer fire service because departments with the least resources are typically not the departments that are going to take the time to submit their budget data to a magazine. According to OSHA per the Firehouse Magazine Run Survey data, the average volunteer department’s annual revenue is $291,703.

Tell OSHA: Tell OSHA that its data about the size and financial resources of volunteer fire departments is wrong. Tell them about your department’s budget, the size of your town, how many calls you go to. Be aware that comments you submit to OSHA are publicly available.

**PAIN POINT #17**

OSHA’s Proposed Rule: OSHA estimates that the annual cost for a volunteer fire department to comply with this standard would be approximately $14,000.

The Pain Point: Due to the costs of physicals, needed administrative staff, and equipment, among other provisions within the proposed standard, the NVFC believes the cost of compliance would be much greater.

Tell OSHA: What your department’s budget is and whether you could absorb this expense. If possible, tell OSHA what you think it would cost your department to implement this proposed Emergency Response Standard. You can use this one pager to assist you in understanding some of the requirements in OSHA’s proposed standard.

**PAIN POINT #18**

OSHA’s Proposed Rule: In accordance with manufacturer recommendations for apparatus maintenance, personnel who are certified Emergency Vehicle Technicians would be required to perform daily, weekly, monthly, semi-annual, and annual inspections on apparatus. Annual inspections include weight verification, an inspection of all chassis components, and brake systems.

The Pain Point: Does your department have the personnel to adhere to manufacturer recommended daily, weekly, monthly, semi-annual, and annual inspections on apparatus. Do you have the capacity to take your apparatus offline for such inspections? Do you have access to equipment that could weigh your apparatus annually?

Tell OSHA: Explain to OSHA the apparatus and staffing that your department has and whether you have the capacity or access to equipment to comply with recommended manufacturer inspections, like annual truck weight verification.

**PAIN POINT #19**

OSHA’s Proposed Rule: This proposed standard would require fire departments to create, annually review, and annually update a written community emergency response plan, pre-incident plans for all high or special risk properties, and a written risk management plan for the department. OSHA estimates that one-time setup of these various administrative requirements would take about 92 hours and an additional 43 hours to review annually.

Pain Point: The NVFC believes much more time would be needed to comply with these requirements. Additionally, does your department have the administrative capability and expertise to fulfill these requirements? Are OSHA’s estimated hours needed for compliance correct?

Tell OSHA: Whether your department has any administrative staff. Explain to OSHA how many hours it would take your department to fulfill these administrative requirements and whether it would be possible for you to do so at all.

**PAIN POINT #20**

OSHA’s Proposed Rule: The proposed standard would require the establishment of control zones at every emergency incident to identify the level of risk to team members and responders and the appropriate protective measures needed, including PPE. These zones should be no-entry, hot, warm, and cold. These zones would need to be marked in a conspicuous manner, with colored tape, signage, or other appropriate means, unless such marking is not possible.

Pain Point: The establishment and marking of control zones may not be possible at every incident due to the scope of the incident and the personnel available. According to OSHA, what would make such labeling impossible?

Tell OSHA: If it makes sense to establish and label control zones at every incident and if you have the available personnel to do so.

**PAIN POINT #21**

OSHA’s Proposed Rule: OSHA expects that the affected community would be able to allocate the very small additional share of their revenue necessary to permit their fire department to comply with the proposed Emergency Response Standard.

Pain Point: Many departments won’t have much of a budget available to comply with this standard. If the department is affiliated with a municipality, it would have to pay a large share of the compliance cost. Most volunteer fire departments serve rural communities with very small budgets that would lack the funds to assist their fire departments with compliance of this standard. Additionally, there are nonprofit departments and departments that self-fundraise that lack access to municipal funds.

Tell OSHA: What your department budget is and whether it would be feasible for your municipality to assist with the funding needed to comply with OSHA’s proposed Emergency Response Standard. Explain to OSHA how your department is structured and funded and whether you are affiliated with a municipality.

***Long Island (NY) Volunteer Firefighters Push Back on OSHA’s New Regulations***

**LINK TO TV COVERAGE**

<https://www.fireapparatusmagazine.com/fire-apparatus/long-island-ny-volunteer-firefighters-push-back-on-oshas-new-regulations/>

***House Subcommittee Testimony***

House Homeland Security Subcommittee on Emergency Management and Technology held a hearing on Tuesday morning (June 4, 2024, at 10:00 a.m. ET) on OSHA’s proposed Emergency Response rule.

**LINK TO THE TESTIMONY GIVEN BY THE WITNESSES HERE:**

<https://cafda.net/wp-content/uploads/2024/06/2024-06-04-EMT-HRG-Testimony.pdf>

***OSHA’s Move to Improve Safety to Firefighters, EMS Providers, and Technical Search and Rescue Members***

**LINK TO MOST RECENT ARTICLE IN FIREHOUSE MAGAZINE:**

[https://www.firehouse.com/safety-health/article/55056294/oshas-move-to-improve-safety-to-firefighters-ems-providers-and-technical-search-and-rescue-members?o\_eid=6778E0229656H9A&oly\_enc\_id=6778E0229656H9A&rdx.ident[pull]=omeda|6778E0229656H9A&utm\_campaign=CPS240530030&utm\_medium=email&utm\_source=FH+Newsday](https://www.firehouse.com/safety-health/article/55056294/oshas-move-to-improve-safety-to-firefighters-ems-providers-and-technical-search-and-rescue-members?o_eid=6778E0229656H9A&oly_enc_id=6778E0229656H9A&rdx.ident%5bpull%5d=omeda|6778E0229656H9A&utm_campaign=CPS240530030&utm_medium=email&utm_source=FH+Newsday)

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***NVFC CONTINUES TO SOUND ALARM ON PROPOSED OSHA STANDARD AND CLARIFIES IMPACT ON NON-OSHA STATES***

**May 21, 2024**

The National Volunteer Fire Council (NVFC) continues to raise awareness on the Occupational Safety and Health Administration’s (OSHA) proposed Emergency Response Standard and offer resources to help first responders take action. On February 5, OSHA published a Notice of Proposed Rulemaking (NPRM) to replace the agency’s “Fire Brigades” standard with a proposed new “Emergency Response Standard.” This NPRM’s publication triggered the beginning of a public comment period that is scheduled to conclude June 21, 2024.

While many of the proposed provisions would be helpful and improve the safety of emergency responders, the proposed standard contains multiple new requirements that would be very burdensome, and in many cases impossible, for volunteer fire departments to comply with. Nothing in this proposed standard is final and this public comment period is your opportunity to explain to OSHA what you believe should be changed in the proposed standard and why. The NVFC has launched a landing page to assist volunteers in understanding and commenting on this proposed standard, which can be accessed [here](https://www.nvfc.org/osha-standard/):. (<https://www>.nvfc.org/osha-standard/)

In addition, the NVFC has held several webinars, including two over the past two weeks, to break down the concerns regarding the proposed standards and help responders formulate their comments. These webinars may be viewed [here](https://virtualclassroom.nvfc.org/webinars): (<https://virtualclassroom.nvfc.org/webinars>) The NVFC hosting a Roundtable Talk on May 23 at 2pm ET with the National League of Cities and the National Association of Counties to highlight areas of mutual concern and provide recommendations on how volunteer departments can collaborate with their local government to express these concerns to OSHA. [Register here](https://us06web.zoom.us/webinar/register/WN_JXLQL0c5S3acTz9c6US0dA#/registration): (<https://us06web.zoom.us/webinar/register/WN_JXLQL0c5S3acTz9c6US0dA#/registration>)

The NVFC has also been raising attention for the proposed OSHA standard in Congress. During the last week, a letter supported by the NVFC has been circulating around the House of Representatives urging OSHA to consider exempting volunteer fire departments from some or all parts of the proposed standard, identify additional areas where financial and logistical burdens could be reduced, and extend the proposed standard’s public comment period. The letter is expected to be sent tomorrow, and so far approximately 40 Members of Congress have signed it.

One of the most frequent questions the NVFC has received is how the proposed standard would impact non-OSHA states (refer to [this map](https://www.osha.gov/stateplans): at this link <https://www.osha.gov/stateplans> to see which states are OSHA states). The answer is this proposed standard would impact non-OSHA states if adopted as written. The immediate impact on non-OSHA states would be related to volunteer fire departments that are nonprofits and unaffiliated with municipalities. Reading through the NPRM on this proposed standard, it appears OSHA is unaware that such departments exist. It is possible that firefighters in these departments would be covered by this standard if they receive any compensation, regardless of the state they live in.

*In addition to the immediate impact, the proposed standard would likely have secondary impacts on non-OSHA states. It could be used as a baseline of compliance for the purpose of seeking insurance and judgements in civil liability in every state.*

**CONTACT YOUR REPRESENTATIVE AT THIS LINK:**

<https://www.votervoice.net/NVFC/Campaigns/115571/Respond>

Additionally, the public comment period for OSHA's proposed standard is ongoing and concludes on June 21. The NVFC encourages all departments to submit comments. Please visit NVFC's OSHA landing page for guidance on submitting comments and other resources at this link: <https://www.nvfc.org/osha-standard/>.

***Landing Page with Resources***

The NVFC has created a landing to provide resources to help members of the fire and emergency services and the public better understand the issue and submit a public comment by June 21. This includes an outline of the proposed standard, comment guide, and recorded webinars. This page will be updated periodically with new resources and information.

**NVFC LANDING PAGE LINK HERE:**

<https://gma5qspab.cc.rs6.net/tn.jsp?f=001L6aLm-Ax7THBUrMdNSMphNIFj1WWWXRRzYxdUshoNVzVUkCq2FIyoxhE-AybLw8OnamjN0BiBpzyC-pPzLiiYEvhxQ9sAxH0UlN-rMeW-UojESKwKkPDdMRzXK8VXBP-Sh4YQDWc0PJekSA9BGQCOh6Io_AGJ2vqw1b4iSBqWLs=&c=LauWWHLcf9ha42GymhqekGbW4yjkuTH862UfuVJahY7fFHeGl_qUJw==&ch=IefmM7sGv75CYvgpTK9dENyqA1Rv5PwzXZ1xIkZP-JITscwLK8iGsQ==>

***POSITION PAPER AND FORMAL RESPONSE TO OSHA FROM THE SOUTH CAROLINA STATE FIREFIGHTER’S ASSOCIATION*: CLICK THE LINK HERE:**

<https://cafda.net/wp-content/uploads/2024/04/Final-Draft-SC-FF-Assoc-OSHA-Response-Letter.docx>

***Meeting with NYS-DOL/PESH***

Dave Denniston Writes: We had a great meeting with PESH at the end of last week. They are willing to work with us, but admit that their hands are tied some. The NY PESH Officials have stated we have to get in front of OSHA and get a seat at the table. They could not stress enough that the head of OSHA needs to know our names and concerns.

I have also been contacted by one of our congressional friends that said they are behind us, but we have to get in front of OSHA and a seat at the table. They fear legal options are our only other remedy. NVFC is looking at that angle now.

I have attached my comment to OSHA that will be submitted today. ***Along with this one we are going to have an online petition with a goal of 50K signatures.*** More details to follow. **SEE DAVE’s LETTER** **AT THIS LINK** :[https://cafda.net/wp-content/uploads/2024/04/OSHA-1910.156-REQUEST-FOR-ACTION-1.docx}

Lee and I will be doing a more detailed bulleted dive of the specifics of 29CFR 1910.156 on Thursday night at 7 PM. The good news, as of this morning Zoom has us up to 1000 log in capacity. Over half of that is  registered now, but let’s fill it up. Most webinars have a about 60% hit ratio. These OHSA ones  have been exceeding that hit ratio which is awesome. Please share the registration link with your email lists and organizations. There is also a link for one more geared to Ohio in a couple weeks.

This is being run as a ESIP webinar on **Thursday 4/4 at 7pm**. Here is the registration link, **PLEASE SHARE:** [**https://archcapgroup.zoom.us/webinar/register/WN\_9GtqnblySa-WTKIl-F5Sqw**](https://archcapgroup.zoom.us/webinar/register/WN_9GtqnblySa-WTKIl-F5Sqw)

Tom Miller and I are doing a similar webinar on ***Wednesday Dec. 10th for the Ohio State Firefighters***. All are welcome to that one if the date is better. That one is a little more geared to a state where the volunteers are not “employees” but the main message is the same.

**Register for OHIO Webinar Here:** [**https://archcapgroup.zoom.us/webinar/register/WN\_ae-TdGcUR3SDQJzuEaG\_aQ**](https://archcapgroup.zoom.us/webinar/register/WN_ae-TdGcUR3SDQJzuEaG_aQ)

***We cannot stress enough, our message is not that we oppose changes, and that in fact the fire service needs to embrace this and make serious changes in how we do business for firefighter safety. This has been our message since day 1, and some continue to ignore it. We need change and we need to do better for our people. What we do want is a seat at the table and some simple tweaks in the logistics of how this should be delivered, so it is in fact usable and will save lives and reduce injuries. WE CAN DO BETTER! There are still folks out there claiming we are trying to kill this thing. That could not be further from the truth, and we need to make sure that message is heard loud and clear.***

***Some Facts About the NFPA Standards Adopted as Part of The OSHA Emergency Response Standard***

***7 Page analysis of the NFPA Standards Included in the Proposed Emergency Response Standard***

* NFPA 1910/2024 (263 page document)

**Standard for the Inspection, Maintenance, Refurbishment, Testing and Retirement of In-Service Emergency Vehicles and Marine Firefighting Vessels.**

* + This standard defines the minimum requirements for establishing inspection, maintenance, refurbishment, retirement and testing program for in-service emergency vehicles and marine firefighting vessels.
  + This standard shall provide minimum requirements for marine firefighting vessels.
  + This standard also identifies the minimum job performance requirements (JPRs) for emergency vehicle technicians.
  + The purpose of this standard is to specify the minimum requirements for the construction of new marine firefighting vessels or for the conversions of existing vessels to become marine firefighting vessels and…
  + To specify the minimum JPRs for service as an emergency vehicle technician.
  + 106 additional reference standards
  + This standard establishes a check list of items to be checked and maintained by the personnel placed in charge of said equipment.
* NFPA1001 (35 page document)

**Standard for Fire Fighter Professional Qualifications**

This standard identified the minimum job performance requirements for FF 1 & FF 2 professional qualifications. [references 9 additional standards]

List of skills needed in Chapter 4 also refer to Table C.1 *Overview of JPRs for Fire Fighters*.

* AHJ shall have written policies and procedures in compliance with the standard and distributed to all, with instructions on execution.
* *Prior to entering training to meet the requirements of Chapters 4 & 5 of this standard the candidate shall meet the following requirements:*
* *Minimum educational requirements established by the AHJ*
* *Age requirements established by the AHJ*
* *Medical requirements of NFPA 1582 (106 page document) (this standard clearly references a career FF setting, job duties and performance)*
* NFPA1407 (23 page document)

**Standard for Training Fire Service Rapid Intervention Crews**

This standard specifies the basic training procedures for fire service personnel to conduct firefighter rapid intervention operations as specified in 1710 and 1720. [references at least 7 additional NFPA standards, in part.]

* Program shall be developed for all suppression personnel
* Written policies which shall address entry level requirements for crew members, training objectives, basic skills, equipment and training evolutions contained in the standard.
* Comprehensive training program
* Requirements for instructors
* Training shall be documented
* All RIC leaders shall be minimal Fire Officer 1
* AHJ shall have written policies and procedures in compliance with the standard and distributed to all, with instructions on execution.
* NFPA 1002 (30 page document)

**Standard for Fire Apparatus Driver/Operator Professional Qualifications**

* Outlines requisite skills and knowledge
* References in part 16 other NFPA standards.
* AHJ shall have written policies and procedures in compliance with the standard and distributed to all, with instructions on execution.
  + **While not specifically stated, is it the intent that this standard applies to volunteer fire Drivers, it is not stated in the Scope nor in the Explanatory Material.**
* NFPA 1021 (41 page document)

**Standard for Fire Officer Professional Qualifications**

* References 10 other NFPA Standards in part.
* 17 Pages of requirements
* Requisite skills and knowledge for Fire Officer 1 through Fire Officer 4
* **While not specifically stated, is it the intent that this standard applies to volunteer fire Officers, it is not stated in the Scope nor in the Explanatory Material.**
* NFPA 1140 (124 page document)

**Standard for Wildland Fire Protection**

Purpose is to specify the minimum requirements for fire protection and emergency services infrastructure in wildland, rural and suburban areas; wildland fire management practices and policies; methods of assessing wildland fire ignition hazards and job performance requirements for wildland fire positions.

* 44 pages of requirements
* 30 referenced NFPA publications in part, plus 12 ASTM standards in part, plus others.
  + **While not specifically stated, is it the intent that this standard applies to volunteer fire fighters who *occasional* respond to wildland fires, it is not stated in the Scope nor in the Explanatory Material.**
* NFPA 1006 (171 page document)

**Standard for Technical Rescue Personnel Professional Qualifications**

* + This standard references in part 10 additional NFPA Standards.
  + The Scope of this Standard identifies the minimum job performance requirements for technical rescue personnel. The intent is to ensure that individuals serving as technical rescue personnel are qualified.
  + There are 92 pages of requirements including several specialty rescue scenarios.
  + **While not specifically stated, is it the intent that this standard applies to volunteer fire fighters who *occasional* respond to Technical Rescues, it is not stated in the Scope nor in the Explanatory Material. Would those occasional volunteers have to be trained to the entire standard or to a portion of the standard?**
* NFPA 1005 (28 page document)

**Standard for Professional Qualifications for Marine Fire Fighting for Land Based Fire Fighters**

* + The purpose is to specify the minimum job performance requirements for Land-Based Fire Fighters operating at marine fire-fighting incidents.
  + There are an additional 7 NFPA standards reference in part.
  + There are 11 pages of requisite skills.
  + To meet the requirements for Marine Fire Fighter, the Fire Fighter II shall meet the JPRs in Sections 4.1 through 4.5 of this standard and the requirements defined in Chapter 5 of NFPA 1001 or Chapters 5 & 6 of NFPA 1081
  + **While not specifically stated, is it the intent that this standard applies to volunteer fire fighters who *occasional* respond to Marine Fires, it is not stated in the Scope nor in the Explanatory Material. Would those occasional volunteers have to be trained to the entire standard or to a portion of the standard?**
* NFPA 1951 (68 page document)

**Standard on Protective Ensembles for Technical Rescue Incidents**

Scope: minimum design, performance, testing and certification requirements for technical rescue protective ensembles for use by emergency services personnel during technical rescue incidents.

Shall also specify the minimum requirements for various elements of the technical rescue protective ensembles, including garments, helmets, gloves, footwear and eye and face protection.

This standard shall apply to the design, manufacturing, testing and certification of new technical rescue protective ensembles and new ensemble elements. i.e. for the manufacturer of such equipment.

Deals with: certification, inspection and testing, annual verification of product compliance, manufacturers’ QA program.

* + References 44 other technical documents.

**The job of the AHJ is to perform a risk assessment to identify the hazards present and to determine the suitability of protective ensembles specified by this standard**.

**The AHJ would need to create a matrix and document the evaluation of such equipment.**

* NFPA 1952 (76 page document)

**Standard on Surface Water Operations Protective Clothing and Equipment**

Scope: Shall specify the minimum design, performance, testing and certification requirement for protective clothing and equipment items, including full body suits, helmets, gloves, footwear and personal flotation devices designed to provide limited protection from physical, environmental, thermal and certain common chemical and biological hazards for emergency services personnel during surface water operations.

Purpose: to ***establish minimum levels of protection*** for emergency services personnel assigned to or involved in surface water and rescue operations or other surface water incident operations.

* + References 38 additional technical standards

Mostly for the manufacturer of such equipment, **the job of the AHJ is to perform a risk assessment to identify the hazards present and to determine the suitability of protective ensembles specified by this standard**. **The AHJ would need to create a matrix and document the evaluation of such equipment.**

* FPA 1953 (59 page document)

**Standard on Protective Ensembles for Contaminated Water Diving**

Basically, this standard shall specify requirements for protective clothing and protective equipment used during operations in contaminated water dive operations. The purpose of this standard shall be to establish minimum levels of protection for emergency service personnel assigned to or involved in performing search and rescue activities in and below the surface of contaminated water. This standard shall apply to the design, manufacture, and certification of new contaminated water dive operations protective clothing and equipment.

This standard applies to the manufacture of such equipment and not to the persons, using the equipment or the operations related to the equipment.

* + References 33 additional technical standards
* NFPA 1971 (198 page document)

**Standard on Protective Ensembles for Structural Firefighting and Proximity Firefighting**

This standard shall specify the minimum design, performance, testing and certification requirements for structural fire fighting protective ensembles and ensemble elements that include coats, trousers, coveralls, helmets, gloves, footwear, and interface components.

The purpose of this standard shall be to establish minimum levels of protection for fire fighting personnel assigned to fire department operations including but not limited to structural firefighting, proximity firefighting, rescue, emergency medical and other emergency first responder functions.

In Chapter 8, 8.1.12 there are ***procedures to be followed*** for Washing And Drying Procedures For Garment, Gloves And Glove Pouches.

*This standard applies to the manufacture of such equipment and not to the persons, using the equipment or the operations related to the equipment, accept for* ***Chapter 8*** *which includes procedures for washing and drying protective equipment.*

* *74 additional reference technical documents.*
* NFPA 1977 (118 page document)

**Standard on Protective Clothing and Equipment for Wildland Fire Fighting and Urban Interface Fire Fighting**

This standard shall specify the minimum design, performance, testing and certification requirements for items of wildland firefighting and urban interface fir fighting protective clothing and equipment, including protective garments, helmets, gloves, footwear, goggles and protective chain saw protectors; and for load-carrying equipment.

*This standard shall establish minimum standards for the equipment used by wildland and urban interface firefighters and does not apply to the personnel themselves or the operations of said firefighters.*

* + *45 additional referenced technical standards.*
* NFPA 1981 (81 page document)

**Standard on Open-Circuit Self-Contained Breathing Apparatus for Emergency Services**

This standard shall apply to all open-circuit SCBA and combination SCBA/SARs used by emergency services organizations for respiratory protection of its personnel during firefighting, rescue, hazardous materials, terrorist incident, and similar operations where products of combustion, oxygen deficiencies, particulates, toxic products or other IDLH atmospheres exit or could exist at the incident scene.

This standard establishes minimum standards for the design, performance, testing and certification of new SCBA and SCBA/SARs and for the replacement parts, components and accessories for these respirators.

* + 22 additional referenced technical standards

NFPA 1982 (70 page document)

**Standard on Personal Alert Safety Systems**

This standard shall specify minimum requirements for the design, performance, testing and certification for all personal alert safety systems (PASS) for emergency services personnel.

Shall apply to the design, performance, testing and certification of PASS or RF PASS devices certified to an earlier edition of this standard that incorporate replacement parts, components and or software to be certified to this edition of the standard. PASS should be worn on protective clothing or protective equipment, or as an integrated part of another item of protective clothing or protective equipment and used whenever the member is involved in fire suppression or similar activities, regardless of whether SCBA is worn.

Note that NFPA 1500 requires that each person involved in rescue, firefighting or other hazardous duties be provided with and *use* a PASS.

*This standard applies to the manufacturer of PASS devices.*

* + *18 additional referenced technical standards.*
* NFPA 1984 (39 page document)

**Standard on Respirators for Wildland Firefighting Operations and Wildland Urban interface Operations**

This standard shall specify the minimum design, performance, testing and certification requirement for respirators to provide protection from inhalation hazards for personnel conditioning wildland firefighting and or wildland urban interface operations.

This standard shall apply to the design, manufacturer, testing and certification of new wildland firefighting or wildland urban interface operations respirators.

This standard does not mandate the use nor prescribe the use of approved respirators for use by firefighting personnel.

* + 12 additional referenced technical standards
* NFPA 1986 (70 page document)

**Standard on Respiratory Protection Equipment for Tactical and Technical Operations**

This standard shall specify the minimum requirements for the design, performance, testing and certification of (1) new compressed breathing air open-circuit self-contained breathing apparatus (SCBA) and compressed breathing air combination open-circuit self-contained breathing apparatus and supplied air respirator (SCBA/SAR) and (2) replacement parts, components and accessories for those respirators.

This standard does NOT deal with the used of such respirators by emergency personnel.

* + 17 additional referenced technical standards
* NFPA 1987 (98 page document)

**Standard on Combination Unit Respirator Systems for Tactical and Technical Operations**

* + 71 additional referenced technical standards

This standard shall specify the minimum requirements for the design, performance, testing and certification of new combination unit respirator (CUR) systems and for the replacement parts, components and accessories for such respirators.

This standard is for the design and manufacture standard for such respirators NOT with the use by personnel.

* NFPA 1990 (152 page document)

**Standard for Protective Ensembles for Hazardous Materials and CBRN Operations**

* + 59 additional reference technical standards

This standard shall specify the minimum design, performance, testing, documentation, and certification requirements for the following PPE which is used by emergencies and CBRN terrorism incidents:

1. Vapor protective ensembles and ensemble elements for hazardous materials emergencies and CBRN terrorism incidents.
2. Liquid splash-protective ensembles and ensemble elements for hazardous materials emergencies.
3. Hazmat/CBRD protective ensembles and ensemble elements for hazardous materials emergencies and CBRN terrorism incidents.

The purpose of this standard shall be to establish a minimum level of protectioin for emergency responders during hazardous materials emergencies and CBRN terrorism incidents.

The standard deals with the equipment not the operations by personnel.

* NFPA 1999 (94 page document)

**Standard on Protective Clothing and Ensembles for Emergency Medical Operations**

* + 60 additional referenced technical standards

The purpose of the this standard shall be to establish a minimum level of protection from contact with blood and body fluid-borne pathogens for personnel performing patient care during emergency medical operations.

Shall specify the minimum design, performance, testing, documentation and certification requirements for new single-use and new multiple-use emergency medical operations protective clothing, including garments, helmets, gloves, footwear and face protection devices used by emergency medical responders prior to arrival at medical care facilities during emergency medical operations and used by health care workers providing medical and supportive care.

The Standard deals with the equipment not the operations by personnel.

* **ANSI 107 High-Visibility Safety Apparel**
  + Performance requirements of high-visibility safety apparel, or HVSA, help with providing visibility to the user under any light conditions by day or night. This is particularly crucial for hazardous conditions, as well as any situation where threats can be presented. The performance requirements include color, retroreflection, the recommended configuration of the materials, and more. Please note that ANSI/ISEA 107-2020’s specifications may be applied to many occupational HVSA, but it is not for firefighter turnout gear.
  + The updated ANSI/ISEA 107-2020 standard includes changes vs. the 2015 edition such as:
    - Removing the criteria for high-visibility accessories in favor of continuing to emphasize the configurations and design requirements that contribute to the Type-Performance Class designation.
    - Adding accommodating scenarios since garments can become soiled easily because of the work environment. This edition includes specific criteria for a single-use disposable coverall, which complies with the requisite minimum material amounts and color requirements imposed on all compliant HVSA, and emphasizes that the associated material integrity requirements are only applicable to single-use disposable coveralls, for which unique marking is applied.
    - Updates to the tests methods in an effort to align more closely with other material integrity tests and to recognize current versions used for evaluating the materials.
    - Introducing the concept of measuring the overall nighttime luminance of a garment by including optional language that allows a manufacturer to test a garment according to ASTM E1501.

***In Total that is more than 1838 pages of additional document pages not including the thousands of pages of referenced documents within the NFPA Standards which the emergency response services would be legally liable for.***

***Formal Comment Submitted by CAFDA on Your Behalf!***

<https://cafda.net/wp-content/uploads/2024/03/Extension-Request-from-CAFDA.docx>

Posted to the CAFDA.net website.

***Tailboard Talk: The OSHA Fire Brigade Standard from Fire Engineering***

<https://www.fireengineering.com/podcasts/tailboard-talk-the-osha-fire-brigade-standard/?utm_medium=email&utm_source=fe_daily_newsletter&utm_campaign=2024-02-26>

***OSHA Proposes Major Changes to Regulations for the Fire Service***

Insight from Curt Varone

<https://www.firelawblog.com/2024/02/15/osha-unveils-major-changes-it-proposes-for-the-fire-service/>

**LINK TO THE PROPOSED OSHA STANDARD, NO FLUFF:**

[**https://cafda.net/proposed-changes-to-the-osha-standard-comment-period-opens-february-5th/**](https://cafda.net/proposed-changes-to-the-osha-standard-comment-period-opens-february-5th/)

**Here are the links for the resources as Dave promised**:

1. [Webinar: Emergency Response Rule | Oshaedne](https://oshaedne.com/webinar-emergency-response-rule/)
2. [OSHA’s NEW Proposed Rule 1910.156 Emergency Response rule on Vimeo](https://vimeo.com/908374497?share=copy)
3. [Microsoft PowerPoint - 1910.156 Webinar 1-31-2024 draft 2.pptx (oshaedne.com)](https://oshaedne.com/wp-content/uploads/OSHA-1910.156-webinar-slides-1-31-2024-OTIEC-R1.pdf)

**OSHA PROPOSED UPDATE TO THE BRIGADE STANDARD COMPLETE TEXT**: <https://cafda.net/wp-content/uploads/2024/01/ER-NPRM-Unofficial-WORD-VERSION.docx>

**LINK TO MY SYNOPSIS OF THE PROPOSED UPDATE:** <https://cafda.net/wp-content/uploads/2024/01/SYNOPSIS-OF-THE-PROPOSED-UPDATED-OSHA-FIRE-BRIGADE-STANDARD-1.docx>