

To: NVFC Directors
From: Joe Maruca
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Quick Analysis of Proposed OSHA Rule – 29 CFR Part 1910 (Docket No. OSHA-2007-0073), RIN 1218-AC91, Emergency Response Standard.

This proposed OSHA is a sweeping change. It will substantially change the fire service and it may be the most impactful regulation that small fire departments have ever had to adapt to. This proposal is a mile wide and mile deep.

This is a quick look at the proposal. It is 604 pages long and I got it on Thursday and squeezed in a lot of late-night reading over the holiday weekend. There are a lot of details that I haven't spelled out. I wanted to give a fast 30,000-foot view of the proposal.

Many pages of the proposal consist of data outlining the need for the regulations. The data appears accurate and from reliable sources.

Impacted Departments:

This new regulation will apply to fire departments and firefighters in the 24 states that have OSHA Plans as follows:

- Alaska
- Arizona
- California
- Connecticut
- Hawaii
- Illinois
- Indiana
- Iowa
- Kentucky
- Maine
- Maryland
- Massachusetts
- Michigan
- Minnesota
- Nevada,
- New Jersey
- New Mexico
- New York
- North Carolina
- Oregon
- Puerto Rico
- South Carolina

- Tennessee
- Utah
- US Virgin Islands
- Vermont
- Virginia
- Washington
- Wyoming

There is going to be some variation on the extent that volunteers are covered in each state. Some state plans only cover volunteers in municipal fire departments. Others cover all volunteers. (Massachusetts only covers municipal fire departments, but that is 99% of the fire service in our state.). Some states may cover volunteer EMS providers and special rescue teams, but others may not. I lack the information to analyze this down to that level of detail. However, the volunteer fire & EMS service in the 24 states and territories listed above should anticipate some impact from this proposed regulation.

The primary reason for the state-by-state variation is that each state defines “employee” differently. Is a volunteer and employee for employee safety purposes – in Massachusetts, yes, they are. Other states answer this differently.

I would suggest, however, that any paid-on-call staff will be classified as an employee in all the states, and therefore they will be impacted by this proposed regulation.

OSHA suggests that volunteers in the following states are not employees: Kentucky, Maryland, New Mexico, North Carolina, Tennessee, Utah, Vermont, Virginia, and Wyoming.

Scope of the Proposed Regulation:

The proposed regulation would incorporate by reference (IBR) all or part of the following NFPA consensus standards (I include this in list form to make the point of how inclusive or exhaustive this regulation is):

- NFPA 1001, Standard for Structure Fire Fighter Professional Qualifications, 2019 Edition
- NFPA 1002, Standard for Fire Apparatus Driver/Operator Professional Qualifications, 2017 Edition
- NFPA 1005 Standard for Professional Qualifications for Marine Fire Fighting for Land-Based Fire Fighters, 2019 Edition
- NFPA 1006, Standard for Technical Rescue Personnel Professional Qualifications, 2021 Edition
- NFPA 1021, Standard for Fire Officer Professional Qualifications, 2020 Edition
- (NFPA 1081, Standard for Facility Fire Brigade Member Professional Qualifications, 2018 Edition)
- NFPA 1140, Standard for Wildland Fire Protection, 2022 Edition
- NFPA 1407, Standard for Training Fire Service Rapid Intervention Crews, 2020 Edition

- NFPA 1582, Standard on Comprehensive Occupational Medical Program for Fire Departments, 2022 Edition
- NFPA 1910, Standard for the Inspection, Maintenance, Refurbishment, Testing, and Retirement of In-Service Emergency Vehicles and Marine Firefighting Vessels, 2024 Edition
- NFPA 1951, Standard on Protective Ensembles for Technical Rescue Incidents, 2020 Edition
- NFPA 1952, Standard on Surface Water Operations Protective Clothing and Equipment, 2021 Edition
- NFPA 1953, Standard on Protective Ensembles for Contaminated Water Diving, 2021 Edition
- NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2018 Edition
- NFPA 1977, Standard on Protective Clothing and Equipment for Wildland Fire Fighting and Urban Interface Fire Fighting, 2022 Edition
- NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services, 2019 Edition
- NFPA 1982, Standard on Personal Alert Safety System (PASS), 2018 Edition
- 1984, Standards on Respirators for Wildland Fire-Fighting Operations and Wildland Urban Interface Operations, 2022 Edition
- NFPA 1986, Standard on Respiratory Protection Equipment for Tactical and Technical Operations, 2023 Edition
- NFPA 1987, Standard on Combination Unit Respirator for Tactical and Technical Operations, 2023 Edition
- NFPA 1990, Standard for Protective Ensembles for Hazardous Materials and CBRN Operations, 2022 Edition
- NFPA 1999, Standard on Protective Clothing and Ensembles for Emergency Medical Operations, 2018 Edition

And the following ANSI Standard:

- ANSI/SEA 207, American National Standard for High-Visibility Public Safety Vests, 2011 Edition

Additionally, the following NFPA Standards, while not incorporated by reference in whole or in part, were used for the creation of certain regulations, and the regulations were written to be consistent with these standards:

- NFPA 10, Standard for Portable Fire Extinguishers, 2022 Edition
- NFPA 600, Standard on Faculty Fire Brigades, 2020 Edition
- NFPA 1201, Standard for Providing Fire and Emergency Services to the Public, 2020 Edition

- NFPA 1451, Standard for a Fire and Emergency Service Vehicle Operations Training Program, 2018 Edition
- NFPA 1500, Standard on Fire Department Occupational Safety, Health, and Wellness Program, 2021 Edition
- NFPA 1521, Standard for Fire Department Safety Officer Professional Qualifications, 2020 Edition
- NFPA 1561, Standard on Emergency Services Incident Management System and Command Safety, 2020 Edition
- NFPA 1581, Standard on Fire Department Infection Control Program, 2022 Edition
- NFPA 1660, Standard for Emergency, Continuity, and Crisis Management: Preparedness, Response, and Recovery, 2024 Edition
- NFPA 1700, Guide for Structural Fire Fighting, 2021 Edition
- NFPA 1710, Standard for the Organization and Deployment of Fire Suppression Operations, EMS, and Special Operations to the Public by Career Fire Departments, 2020 Edition
- NFPA 1720, Standard for the Organization and Deployment of Fire Suppression Operations, EMS, and Special Operations to the Public by Volunteer Fire Department, 2020 Edition
- NFPA 1851, Standard on Selection, Care, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Firefighting, 2020 Edition
- NFPA 2500, Standard for Operations and Training for Technical Search and Rescue Incidents and Life Safety Rope and Equipment for Emergency Services, 2022 Edition

Why?

Besides and in addition to the obvious hazards to firefighters – fire and burns, falling through a floor, falling off a ladder, or smoke inhalation, OSHA has paid attention to all of our (the fire service in total) calls to do something about firefighter cancer, and firefighter mental health and suicide.

And OSHA's observation is that we haven't significantly reduced deaths and injuries, particularly cardiac deaths using voluntary measures.

The big picture rational for this is that we, the fire service as an industry, have failed to voluntarily use our consensus standards or other means to reduce injury or death, and to take the steps necessary to address cancer and mental health/suicide issues. It's called "market failure and need for regulation".

What?

1. Updates current rules for Hazmat PPE to meet the current NFPA 1990 standard.

2. Shifts Structural PPE requirements out of existing rules and into this new rule.
3. Updates definitions of portable extinguisher agents (mostly newer technologies).
4. Skilled support workers fall under IC and within requirements for protection from hazards at the incident. (The IC is responsible for the safety of the electrical worker or backhoe operator.)
5. Updates dozens of definitions to match those in the NFPA standards (switching to the terms more familiar to the emergency response community). Pages 110 to 135.
6. Requires written emergency response plans:
 - a. Pre-Plans
 - b. Community Risk Assessments
 - c. Responder Protection Plans
 - d. Resource Plans – effective response force determinations
7. Requires Health & Safety Programs
 - a. Facility Modifications
 - b. Hazard Reporting & Response Systems
8. Risk Management Plans – refer to NFPA 1500
9. Medical & Physical Requirements
 - a. Half of FF deaths are cardio & they feel we’ve done nothing about this.
 - b. Good news – the proposed regulations give a lot of flexibility to the local agency to establish their own standards, however, they are going to have to adopt some kind of medical and physical exams. But at least every three years.
 - c. Reinforces Fit Testing of mask requirements.
 - d. Strong emphasis on heart disease and toxic gases (cancer).
10. Mandatory annual skills checks – NFPA 600, NFPA 1500 & NFPA 1670
11. Increased skill level for instructors – they need to have more skill/knowledge than those they are teaching.
12. Emphasis on interactive teaching – not watching videos.
13. Required training would include:
 - a. Risk Management
 - b. Bloodborne Pathogens/Infection Control
 - c. PPE Hazard Assessment/PPE Selection & Use
 - d. Respiratory Protection
 - e. Portable Extinguishers
 - f. Incident Management Systems (IMS)
 - g. Accountability Systems
 - h. Hazmat Awareness
 - i. AED/CPR
 - j. The NFPA Job Performance Requirements (JPR) for each activity the responder performs.
 - k. NFPA 1001 is required for all firefighters.
 - l. Rapid Intervention Training (NFPA 1407) for all structural firefighters
 - m. NFPA 1002 is required for everyone who drives fire apparatus.
 - n. Anyone who is in a “officer position” must be trained to NFPA 1021
 - o. Wildland Firefighters must be NFPA 1410, or Red Card trained.

- p. Our stations will have to provide decontamination, cleaning, and storage areas for PPE.
- q. Testing and maintenance of alarm systems in our stations will be required according to the manufacturer's recommendations.
- r. Sleeping areas need interconnected hard wired smoke detectors & CO detectors.
- s. New stations with sleeping areas must have sprinklers.
- t. Provision of tools and equipment for training by members is required.
- u. PPE must be provided at no cost to the employee.
- v. Training provided at no cost to the employee (seems mostly in the area of providing for the same tools and equipment used in the field – if you use “quick clot” in the field, you have to provide it for training.
- w. Employees need to be trained prior to new equipment being put in use.
- x. PPE must fit.
- y. Gross decon before leaving the incident would be required.
- z. A “robust” vehicle inspection and maintenance program will be required.
- aa. Seats and seat belts are required. (Harnesses in ambulances.) Some flexibility for operations when being seated and belted is not feasible (parades, funerals, reloading hose lays, etc.)
- bb. Pump & aerial ladder testing will be required.
- cc. Vehicle operator training would be increased.
- dd. Private vehicle or home response policies are required.
- ee. Reiterates 2 In 2 Out rule.
- ff. Use of incident management/NIMS required.
- gg. Rehab needs to be provided at incidents.
- hh. Traffic safety procedures need to be implemented – including the use of reflective vests.
- ii. You'll need SOPs. And including non-emergency incidents.
- jj. Use of back-up spotters required.
- kk. Post Incident Analysis will be used for any significant event – injuries, death, large-scale events, near misses.
- ll. Annual review of operations for effectiveness.

What Not? A few items are specifically excluded.

- A. Lower-than-technical level search & rescue is not included. (It appears that the same is true of hazmat, but I didn't see it as obviously stated. If you don't do it, you don't need the training.)
- B. Fire Poles are not banned! But training on 4-point contact by the responder is required. And there are some other rules on their use.
- C. No required vehicle replacement schedule.

A few thoughts:

1. Significant financial impact on the small fire departments (those 50% of departments serving communities of fewer than 3000 people).
2. The small fire departments are currently lacking administrative/management staff with the skill sets needed to implement much of what is proposed. The OSHA proposal does address the economic and financial impacts of this, but I don't think there is a real understanding of the lack of skills to do some of this.
3. I think that half of the fire departments out there will take 20+ years to fully implement this, assuming access to funding and a leadership capable and willing to implement.
4. **Providing written comments and testimony on this proposal will be a huge task for the NVFC, and we need an action plan. We have less than 90 days (if I'm reading this correctly) to provide written comments.**
 - a. Maybe have a large group of individuals each draft comments on one small piece of the proposal over the next 30 days, and then pull it all together and correlate them into a single document?
 - b. Focus on the details in their report.
 - c. Focus on the impact on small organizations and the need for flexibility in how we implement this, as well as a long timetable.
 - d. What we can be block entirely? How are the other fire service groups responding? Will we be swimming alone or with them? What topics are we the only ones addressing – increases our need to focus.
 - e. Address how we deal with the possibility that we will oppose certain regulations that are consistent with our own statements in things like the Lavender Ribbon Report.