

OSHA New Proposed Regulation: Emergency Response Standard

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Background

- Federal OSHA Fire Brigade regulation is the current standard
 - 1910.156 (CFR)
- OSHA now asserts a need to update rules and procedures to prevent firefighter casualties and injuries.
- Intending to align with FEMA and NFPA post 9/11.
- Process has been ongoing for several years.
 - Initial draft by NACOSH (National Advisory Committee on Occupational Safety & Health)

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What does Federal OSHA say it looked at in developing the new rule?

- Fatalities
- Nonfatal Injuries
- Health Effects of Emergency Response Activities
 - Exposures
 - Combustion Products
 - Other Contaminants and Substances
 - Infectious Diseases
- Cancer
- Cardiovascular Disease
- Respiratory Diseases and Effects
- Mental Health
- Suicide
- Exposure to Violence

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Impact on Fire Service?

- New regulations will apply to the Career, and Non-Career Fire Service, and to other Emergency Response Organizations.
- Career Departments will have to comply.
- Departments with “employees” will have to comply.
- Federal OSHA, however, asserts that the new rule will not apply to “non-employee” (volunteer) fire departments and organizations.
- “Volunteer” under OSHA: (29 FR 7799)
 - “...the Act does not cover true volunteers. However, some workers labeled as volunteers may actually be considered employees under Federal Law because they receive a certain level of compensation...”
 - “OSHA believes that volunteer emergency responders rarely receive compensation substantial enough to render them employees under this “significant remuneration” legal test and thus OSHA does not expect many emergency responders will fall into this category.

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Federal OSHA – Cost Estimates

- OSHA estimates between \$14,397.00 - \$15,389.00 as the average cost of compliance for small public State Plan entities.
- This cost does not take into account the non-pecuniary compliance burden placed on unpaid fire department personnel.
- If adopted, Illinois OSHA will be required to implement the new regulations within 6 months of the date the final version is promulgated.

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What About Illinois?

- Illinois is a “State Plan” jurisdiction (22 states)
- Federal OSHA Regulations automatically apply in Illinois to all Illinois Fire Departments (and public sector employees.)
- When the new Federal OSHA Regulations take effect, Illinois OSHA (Illinois Department of Labor) will be required to enforce them.

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Federal OSHA states:

“Organizations that provide emergency services vary significantly in size and type(s) of service(s) they provide. They are often not well suited for ‘one-size-fits-all’ prescriptive standards.”

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Federal OSHA states that the new rule is a :

“‘Performance-based’ standard which provides flexibility for affected employers to establish the specific criteria that best suits their organization.”

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What Changes under the Proposed Regulation?

- Complete replacement of the Fire Brigade Standard (1910.156)
 - Removes the Fire Brigade and is implementing extensive new standards to follow.
- Revision of Hazardous Waste Operations and Emergency Response Standard (1910.120)
- Revision of Respiratory Protection Standard (1910.134)
- Multiple NFPA standards (and other industry standards) will be the source for new rules.
 - **22 NFPA STANDARDS WILL BE THE RULE.**
 - **14 NFPA STANDARDS WILL GUIDE THE RULE.**

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“Incorporation by Reference” (IBR)

- NFPA Standards will be “In Haec Verba”
- Translation: even though it is not written in the OSHA Rule, the IBR NFPA standards will be the standard.
- Practical Effect: you must have access to the NFPA standards to know what the rule is.
 - Access
 - Online – free version. However, limited to a “read-only” site. The Documents cannot be downloaded or printed.
 - Otherwise, print and other formats are available for purchase.
 - Cost
 - Print version of each individual code is about \$150.
 - For the purchase of all required codes = \$3,300 - \$5,400

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WARNING:

- The proposed regulations are full of acronyms!
- See the cheat sheet with the handout for the program.
- What follows is a high level view – no guarantee that absolutely everything presented is 100% correct or complete – we are hitting the high points here.

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Breakdown of the Changes

Current Standard:

Fire Brigade (1910.156)

- Requires employers to organize and train fire brigades and provide personal protection equipment to the brigade.

Proposed Standard:

Emergency Response (1910.156)

- Unlike the current standard, the new standard will differentiate between regular employers and firefighting or EMS employers.
- Non-emergency employers = Workplace Emergency Response Employer (WEREs)
- EMS and Fire employer = Emergency Service Organization (ESOs)
- Does not apply to employers performing disaster relief.

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Emergency Response Program (ERP)

Current Standard: Fire Prevention Plans (1910.39)	Proposed Standard Emergency Response (1910.156)
<ul style="list-style-type: none"> • An employer must develop a fire prevention plan in writing and make it available to be viewed in the workplace. • Must contain all major fire hazards, procedures to control flammable materials, and procedures for maintaining safeguards. 	<ul style="list-style-type: none"> • Emergency Service Organization (ESO) shall develop an Emergency Response Program (ERP) which shall provide protection for each responder who is designated to operate an emergency incident. • The ERP shall include a facility vulnerability assessment which touches on vacant and unsafe structures, the availability of resources, and definitions of the level and types of services offered by the ESO.

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Team Member and Responder Participation

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(e))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • The employer shall establish a processes to ensure: <ul style="list-style-type: none"> • Responders are participating in Emergency Response Program (ERP) development and modification. • Responders are implementing the ERP. • "Walk around" inspections are being performed. • Safety and health concerns are being reported. • Reports are being responded to. • Procedures for reporting are being posted and made available to responders.

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Risk Management Plan (RMP)

Current Standard:

Fire Brigade (1910.156)(c)(4)

- The employer shall inform members about hazards such as storage of flammable and toxic materials in which they may be exposed to during fire and other emergencies.
- The employer should develop and make available written procedures detailing instructions to take in situations involving special hazards.

Proposed Standard

EMS Standard (1910.156)

- Employers shall develop a risk management plan (RMP) based on the type and level of services provided.
- The plan should include
 - Risks imposed during operations
 - Components with respects to hazards (identification, evaluating likelihood of occurrence, priorities of actions, mitigation efforts)
 - Acquiring complying equipment
 - Policy for situations regarding rescue attempts.
- RMP to be reviewed at least annually.

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Medical and Physical Requirements

Current Standard:

Fire Brigade (1910.156)(b)(2)

- Employer shall assure employees are physically capable of performing duties.
- Employees with medical conditions such as heart disease, epilepsy, or emphysema shall not participate unless a physician's certification of the employee's fitness to participate has been issued.

Proposed Standard

Emergency Response (1910.156)(g)

- A program shall be established covering medical evaluations. The program shall include:
 - Cardiac and respiratory evaluation
 - Assessment of heart disease, blood pressure, and cholesterol levels.
 - Physical exam with emphasis on cardiac, respiratory, and musculoskeletal systems.
- Medical evaluations, tests, and labs shall be provided at no cost.
- Procedures following exposure to toxic materials based on frequency and intensity.
- Recordkeeping requirements re attendance, exposure, etc.
- Medical evaluations based on exposure.

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Medical and Physical Req. (continued)

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(g))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • Procedures shall be implemented to determine how long a responder can be absent from work due to injury without requiring return-to-work medical testing. • Behavior and mental wellness <ul style="list-style-type: none"> • Resources or identification of resources shall be provided and made available at no cost. • May include = diagnostic assessment, counseling services, crisis intervention, referral services, etc. • All medical records and requests shall be kept confidential.

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Health and Fitness Program

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(g))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • ESO shall implement a health and fitness program available to responders. • There should be a periodic assessment within 3 years. • Exercise training shall be made available during working hours.

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Training Requirements

Current Standard: Fire Brigade (1910.156(c))	Proposed Standard Emergency Response (1910.156(h))
<ul style="list-style-type: none"> • Employer shall provide training and education for all members. • Employer shall ensure training is conducted frequently enough to assure members are capable of performing their duties. • The quality of training shall be similar to those recognized by OSHA. 	<ul style="list-style-type: none"> • Minimum training requirements: <ul style="list-style-type: none"> ○ Minimum knowledge of skills required ○ Initial, ongoing, refresher, and professional development training programs. ○ Restriction of activities for new members until they have been evaluated upon training completion. ○ Ensure trainers are qualified. ○ Provide training in easily understood format (simple language and literacy levels). ○ Train over the safety; the RMP; PPE; fire extinguishers; evacuations; CPR; AED; and responder awareness level under 1910.120(q)(6)(i).

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Vocational Training

Current Standard: Fire Brigade (1910.156)	Proposed Standard: Emergency Response (1910.156(h)(2))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • Incorporated by reference <ul style="list-style-type: none"> ○ WERE Employers – IBR NFPA 1081 ○ ESO employers – IBR NFPA 1001 ○ Interior structural firefighting – IBR NFPA 1407 ○ Vehicle operators – IBR NFPA 1002 ○ Manager/Supervisors – IBR NFPA 1021 ○ Wildlife ESOs – IBR NFPA 1140 ○ Technical search and rescue – IBR NFPA 1006 ○ Marine environments – IBR NFPA 1005

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Facility Preparedness

Current Standard:

Fire Detection Systems (1910.164)

- Employer shall install and restore all fire detection systems.
- Detectors shall be tested and adjusted as needed to maintain proper reliability.
- A trained and knowledgeable person shall perform service, maintenance, and testing of the system.

Proposed Standard

Emergency Response (1910.156(j))

- Employer shall ensure facility is decontaminated, disinfected, clean, and has PPE available.
- Guidelines shall be set in place for fire poles, slides, and chutes.
 - Requirements:
 - All four extremities must maintain contact while in use.
 - Fire pole shall have a landing cushion at least 30 inches in diameter.
 - Each floor hole shall be secured.
- Fire detection and alarm systems shall be installed, tested, and maintained.
- Sprinklers for new construction.

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Equipment and PPE

Current Standard:

Fire Brigade (1910.156(d & e))

- Employer shall maintain and inspect the equipment at least annually.
- Portable fire extinguishers and respirators shall be inspected at least monthly.
- Protective clothing
 - Employer shall ensure the clothing protects the head, body, and extremities, and consists of the following components: foot and leg protection; hand protection; body protection; eye, face, and head protection.
 - (standards for each component under 1910.156(e)(2-5).

Proposed Standard

Emergency Response (1910.156(k))

- Equipment shall be provided to responders at no cost. Inspection shall occur annually and in accordance with the manufacturer's instructions.
- PPE
 - PPE shall be in compliance with the following as incorporated by reference:
NFPA 1951, NFPA 1952, NFPA 1953, NFPA 1971, NFPA 1977, NFPA 1981, NFPA 1982, NFPA 1984, NFPA 1986, NFPA 1987, NFPA 1990, NFPA 1999, ANSI/ISEA 207-2011.

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Respiratory Protection Devices

Current Standard: Fire Brigade (1910.156(f))	Proposed Standard Emergency Response (1910.156(k))
<ul style="list-style-type: none"> • Employers must provide respirators. • Self-containing breathing apparatus shall have a full-facepiece and be worn while inside a building or while working with toxic products. • Breathing apparatus may be equipped with buddy-breathing device. • Apparatus may be used with approved cylinders. • Apparatuses must have minimum service-life rating of 30 minutes. 	<ul style="list-style-type: none"> • Omitted entire current standard. • Respiratory devices shall be in compliance with the following NFPA standards. <ul style="list-style-type: none"> ○ NFPA 1951, NFPA 1952, NFPA 1953, NFPA 1971, NFPA 1977, NFPA 1981, NFPA 1982, NFPA 1984, NFPA 1986, NFPA 1987, NFPA 1990, NFPA 1999, ANSI/ISEA 207-2011.

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Vehicle Preparedness and Operation

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(l))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • Vehicles shall be inspected by the manufacturer and immediately removed from service for any safety-related deficiencies. • Incorporated by reference NFPA 1910 • Procedures shall be established for vehicles with tiller steering. • Safety harnesses shall be provided to responders in a designated stand-up position during pump-and-roll operations. • Operators shall be adequately trained.

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Pre-Incident Plans (PIPs)

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(n))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • Emergency Service Organization (ESO) shall determine places in which responders provide service and develop a pre-incident plan (PIP) in which emergency incidents may occur. • A PIP should also be prepared for areas required under EPCRA (Emergency Planning and Community Right-to-Know Act). • The PIP should be detailed and include actions to be taken if an incident is out of the scope of responder's capability. • PIPs should be reviewed annually and made available.

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Incident Management System (IMS)

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(o))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • An incident management system (IMS) should be developed to manage all emergency incidents based on level and type of services; the vulnerability assessment; and the PIPs. • The IMS shall be flexible to fit various scenarios and ensure that the person in command will be able to assess the scene. • The IMS shall designate duties to the commander including: front-line management, overall incident safety; tactical planning and execution, and when to request additional assistance.

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Emergency Incident Operations

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(p))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • The IMS should be utilized at each emergency incident. • The ESO shall assign an Incident Commander (IC) who is known to all responders on the scene. • Control zones shall be established by one of the following: no-entry; hot zone; warm zone; and cold zone. • No one can enter the no-entry zones. • Only authorized responders can enter the hot zone.

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Emergency Incident Operations (continued)

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(p))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • On-scene safety and health <ul style="list-style-type: none"> • Minimum staffing should be met. • 4 responders required prior to initiating an IDLH atmosphere. • 2 responders required to enter a structure with an IDLH atmosphere. • 2 responders required to wait outside. • While in an IDLH atmosphere, need a positive-pressure SCBA or air respirators. • Establishment of Rapid Intervention Crew. • The IC should develop an Incident Action Plan (IAP) that prioritizes life safety for each incident.

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Standard Operating Procedures

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(q))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • Standard Operating Procedures (SOPs) shall <ul style="list-style-type: none"> • Describe action to be taken in any situation • How to operate at incidents beyond the responder's capabilities • Provide a systemic approach to increase protection and safety • Provide vehicle operation requirement • Provide procedures for structurally unsound infrastructure • Should also cover procedures for responding to scenes under the control of law enforcement or non-emergent calls.

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Post-Incident Analysis

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(r))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • A post-incident analysis (PIA) shall be promptly completed to determine the effectiveness of a response to a large-scale incident. • The PIA shall include review and evaluation of the RMP, IMS, PIPs, SOPs, and IAPs for accuracy and adequacy. • Changes shall be implemented on lessons learned or a timeline shall be composed for implementation stages.

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Program Evaluation

Current Standard: Fire Brigade (1910.156)	Proposed Standard Emergency Response (1910.156(s))
<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • The ERP shall be evaluated at least annually or upon discovery of any deficiencies.

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What will be the most immediate impacts?

- Training
- Incident and Exposure Recordkeeping
- Medical Evaluations
- Standard Operating Procedures

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What are the Major Issues?

- Cost and funding: "Unfunded Mandate"
- Compliance administration burden
- Burn out and loss of officers and members
- Lack of flexibility for smaller, non-career, and underfunded districts and departments

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What Do You Do About It?

Submit a Comment by June 21, 2024 stating your objections, concerns, what you want changed in the new rule and why!

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Public Comment

- Deadline to submit is **June 21, 2024.**
- Docket No. OSHA-2007-0073
- Write comments in a separate word document.
- Electronic submission
 - Regulation.gov > Enter docket no. into search bar > Comment > attach file containing comment(s).
 - Can add multiple attachment if necessary.
- Mail-in submission
 - Paper submissions also acceptable before June 21, 2024.
 - Mail to: **Occupational Safety and Health Administration
200 Constitutional Avenue NW
Washington, D.C. 20210**

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Letter to Legislative Representatives

- District's Federal Representatives
 - **Senator Richard Durbin**
711 Hart Senate Office Building
Washington, D.C. 20510
 - **Senator Tammy Duckworth**
524 Hart Senate Office Building
Washington, D.C. 20510
- Members of Congress (dependent on district location)
 - Visit → **congress.gov/members** (enter mailing address to determine your representatives)
 - Or contact IAAPD office for assistance in locating contact information. (See Webinar materials).

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What to Include in Comments/Correspondence

- Federal OSHA cost estimates are not realistic.
 - Include the actual estimated number pertaining to your organization.
- There is no proposal for funding new compliance requirements.
- There must be compliance flexibility built into the regulation to take into account the burden and expenses to small fire departments.
- Federal OSHA's assumption that most volunteer firefighters and emergency responders will not be covered by the new rules is incorrect as to departments like those in Illinois which are operating under a "State Plan."
 - Include how this gives the impression that the safety of an uncompensated volunteer is less important than the safety of a compensated career firefighter?

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Effective Comments

- See supplement from OSHA.
- Clearly identify the issues with the regulatory action.
 - It may be helpful to list the page number and paragraph citation when speaking on a specific passage.
- OSHA most receptive to constructive feedback.
 - Comments are not a vote but rather meant to be used in formulating the best policy.
 - OSHA more willing to amend or modify when there is an adequate explanation for why a regulation will not be beneficial.
- Additional examples
 - Quantitative data on the economic impact.
 - List of pros and cons
 - Possible trade offs

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Suggested Templates

- Suggested Templates for Comments to Federal OSHA are in the handout materials.
- Suggested Templates for Letters to Political Personnel are also in the handout materials.

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