



Wisconsin State Firefighters Association

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The Honorable Douglas L. Parker
Assistant Secretary of Labor for Occupational Safety and Health
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Comments: Docket ID: "Emergency Response Standard" (Emergency Response) Rule [Docket No. OSHA-2007-0073] (RIN 1218-AC91)

Dear Assistant Secretary Parker,

The Wisconsin State Firefighters Association represents the more than 21,000 volunteer firefighters who staff over 95% of all fire departments in Wisconsin in either all-volunteer or combination career-volunteer organizations. We take the safety of our members most seriously, but have deep concerns with OSHA's new 1910.156 Emergency Response Standard (ERS). Although Wisconsin is a federal OSHA state and federal OSHA regulations do not apply to public employees, Wisconsin Statutes 101.055(3)(a) requires the state to provide public employees with protection at least equal to that provided by federal OSHA. Therefore, ERS will directly affect volunteer fire departments and firefighters throughout Wisconsin.

While it would be impossible to list all of the onerous requirements ERS contains, a few are highlighted below.

OSHA estimates that the annual cost for a small volunteer fire department to comply with ERS would be approximately \$14,000. We believe that the cost of compliance would be much greater. However, even at the projected cost, many, many volunteer fire departments will be unable to afford to meet these requirements. Furthermore, the opportunity for most of these departments to increase their budgets is nil.

Quarterly and annual truck checks will be required, but only personnel with Department of Transportation training and chassis inspection training will be able to perform them. Almost no department has this expertise in house and this training is not readily available. ERS would also require that all fire apparatus be inspected weekly or within 24-hours of responding to an emergency by staff who are trained in DOT and chassis inspection. This would require periodic

comprehensive, diagnostic inspections of up to 70 components (not all trucks have all 70 components).

Even more impossibly, all fire apparatus will be required to have an annual axle weight test. This not simply weighing the truck, but weighing each individual axle. Almost no volunteer fire department has access to the required certified scales that can weigh individual axles. This will mean taking each vehicle out of service and finding a driver who can drive it to the nearest set of scales, most likely a considerable distance away.

ERS will require the annual testing of fire apparatus brakes, which will require each department to lay out a test course with a start and stop line (40' away for most trucks), drive each truck at 20 mph at the start line, and hit the brakes when the front bumper crosses the stop line, and then measure the stopping distance to see if it conforms to the chart in the standards. We are highly doubtful that this practice is being used in any Wisconsin volunteer fire department. Furthermore, few, if any, volunteer fire departments have access to a testing facility or could take their apparatus offline for such annual testing.

Volunteer firefighters will be required to pass a National Fire Protection Association (NFPA) 1582 medical exam every two years, or annually if they've been exposed to products of combustion 15 or more times. FEMA projects the cost of these physicals to be \$1,200 to \$1,400 each, although we know that actual costs can be much greater. For a volunteer fire department of 25 members, this would amount to an expenditure of at least \$17,500 per year. Given that many of these departments operate on an annual budget of \$75,000 or less, such an expenditure would either simply be unachievable or result in scarce funds being diverted from paying for other needs. Interestingly enough, OSHA doesn't adequately define what an "exposure to products of combustion" is and has no basis as to how it arrived at the arbitrary number of 15.

All officers will be required to have training that meets or exceeds NFPA 1021 Fire Officer Training. This training is a one size fits all approach, outside the scope of many small departments, costly and not readily available. While Wisconsin requires officers to be trained to the Fire Officer 1 level, training beyond that level is unachievable for many volunteer fire departments because of time commitments.

ERS incorporates by reference twenty-one NFPA standards which contain over 1,500 "shalls" and "musts," effectively making them law. These standards are available to view for free online, but printed copies of these standards are not free. This limited access to consensus standards is particularly problematic since many volunteer fire departments in rural areas lack reliable internet access. OSHA should not be mandating departments to comply with standards they cannot readily access.

ERS would require volunteer departments to:

- Create, annually review, and annually update a written community emergency response plan.
- Create, annually review, and annually update a written pre-incident plan for all high or special risk properties.
- Create, annually review, and annually update a written risk management plan for the department.
- Conduct a community vulnerability and risk assessment for the department's service area.

OSHA estimates that one-time setup of these various administrative requirements would take about 92 hours and an additional 43 hours to review annually. First of all, we believe that these estimates grossly underestimate the amount of time involved to complete these tasks. However, it will be simply impossible for many volunteer fire departments to find members with sufficient time available to comply with even OSHA's estimate.

While ERS contains many great initiatives, we feel that as written, the document is neither technically nor economically feasible for our volunteer fire departments. The proposed document is arbitrary and capricious in that it fails to demonstrate a significant need and prove that each of the new requirements would have a significant positive effect on reducing responder injuries and deaths. OSHA did not use the full negotiated rule making process in developing this proposed standard and we would like the opportunity to participate in the process moving forward.

We are asking OSHA to remove the incorporated by reference NFPA standards and place the language of the mandate directly into the proposed rule. We are asking OSHA to include representatives of volunteer and combination department responders and representatives from the Authority Having Jurisdiction to be included in the process moving forward. We are asking for clear communication on further in-person and written comment periods. We are asking for a new proposed rule that is technically and economically feasible, uses solid data and scientific theories that will reduce responder injuries and deaths, and is clear on exactly what is required.

Thank you,

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