



SOUTH CAROLINA STATE FIREFIGHTERS' ASSOCIATION

January 15, 2024

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

Post Public Hearing Comments on Docket ID: "Emergency Response Standard" (Emergency Response) Rules [Docket No. OSHA-2007-0073] (RIN 1218-AC91)

Assistant Secretary Parker,

On behalf of the South Carolina State Firefighters' Association and its 17,400 members, we appreciate OSHA's progress toward formulating a new and certainly improved regulation pertaining to firefighter safety and health. Nothing could be more important in the mission of our Association, and we thank you for the outlets given for input. With these post hearing comments, we will repeat several previously offered thoughts and reiterate the position with information gleaned through the hearings and as a result of same.

First, we, nor any of our members are against safety or safety regulations. After 40 years, it is certainly time to modernize processes to match more closely the true activities of the emergency scene. But matching the true activities of our member departments (the entire state of South Carolina) is where the proposed regulation runs immediately off track. We encourage OSHA to continue to revisit our, and others; comments to rethink and adapt the proposed using concepts such as:

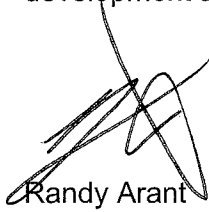
- 1) Remove the process of using the National Fire Protection Associations (NFPA) standards through incorporation by reference. Incorporation by Reference (IBR) is haphazard, and it is obvious to all that IBR will result in litigation. General duty has always led to our recognized standards, so please continue in that methodology. South Carolina follows, in training certainly- and in scene operations no less, many of the standards the proposed regulation references; but by intent it is a best practice for which we strive- not the rule of law. South Carolina has always had a great working and participatory relationship with NFPA, and we wish to retain our success by using those goals applied with feasibility and applicability and with an opportunity to adapt to the response delivery system in which it is being applied.
- 2) Do not exempt volunteers from application of a fire response regulation. Volunteers though, do have obvious differences to anyone who ventures out of the realm of metropolitan areas into the reality of the majority of our state. Our OSHA state plan has never recognized Volunteers as an exempt class of employees. We want it to stay that

way. But, continuing with this broad new inclusive regulation will cause South Carolina to re-think its application or face closing stations.

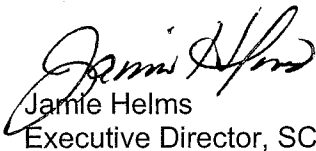
- 3) The Association would propose that 1910.156 be re-structured. Not one standard painted with a too large paint brush, as one regulation does not fit all- but four separate regulations (or sub parts of the same). Specifically, divide the regulation into: a paid or mostly paid reg; a volunteer or mostly volunteer reg; a reg pertaining to WERE's, and a reg for EMS.
 - a. The need for these subparts is based on the obvious differences which exist between ESOs and WEREs /WERTs; yet even differences in risk and community based assessment of those risk exist dependent on department organization and population served.
 - b. EMS organizations can further be specific in their risks if separated from a blanket regulation.
 - c. The creation of subparts that differentiate between primary employment structure; can provide local determination of resource allocation not driven by federal mandate. Locals know (should know – see below) best of the needs and the ability to afford them.
 - i. As a balance, making governing bodies offer statements publicly to through risk assessment (a local government stating “this is what we can provide and expect”) will define the risk and delineate when responders have gone outside of that risk or capability.
 - ii. This is alluded to, and the seed planted in the proposed new regulation.
- 4) Reconvene stakeholders from EVERY state, and craft these separate forms with a similar core structure but with components applicable and much less controversial. It can be done, and it can be done with still the effect of positive impact to injury and death rates. Many testimonies from all sides of this issue, have asked for flexibility – this is OSHA's chance to provide support and reasonableness. Every state, not just the very select and not equally representative NACOSH, must be engaged to aid this process. The SCSFA recognizes that this is outside of the 7 step adoption process but given the controversy and obvious problems with the draft; the step is necessary. We pledge our support and participation in this process.
- 5) Economic and technical feasibility statements offered by OSHA do not come close to the real picture of the fire service within South Carolina. At best it may described the top ten percent (10%) of our departments. Ninety percent (90%) of South Carolina fire departments serve less than 10,000 persons and operate with fewer than 20 employees. Further, that 90% operate on limited local government funding and rely on grants from the federal and state governments for functional operation or keeping up with changing industry best practices. Additionally, sixty five percent (65%) of those departments have no paid personnel to conduct any of the proposed regulations risk assessment, records keeping, health screening, nor have any reason to train to some of the costly prescribed levels.
 - a. A department with 26 persons and a \$4,400 a year operational budget, in one South Carolina County, must – under the proposal- implement a physical program that will wipe out any funds allocated by local government for the current annual stress test / blood panel exam; create the necessity to hire a planner/inspector to review abandoned buildings and target hazards{ when currently there is no tax payer funding for this position}; and result in fund raising activities (due to the IBR of NFPA vehicle standards) to replace the lead out fire engine which is 18 years of age { the newest apparatus in its fleet} or face OSHA penalty.

- i. Prior to the proposed rule, the above department was the busiest department in this county and arguably typical of the resource availability to not only this county but many of the other 46 counties in the state.
- 6) Please understand that the most impacted are the least educated on this standard. If OSHA wrongly decides to proceed at its current pace of promulgation, implementation by our state plan, and I would assume other states as well – will be disastrous, forcing many in our state, at the smaller end of the spectrum, to make existential decisions and leave our public exposed. Please slow down this process to give our Association time to train and inform membership. Give us time. The offering of 17 years in the making with no exposure to the stakeholders (and we are willing to offer sworn testimony as to the disclosure, knowledge of, and involvement in the development of this proposed regulation by the South Carolina fire service in regional and national industry events); with less than a year in front of us to digest and plan, creates the timeframe of a paradigm shift which is infeasible. The disproportional economic impact for our state has not been foreseen in the estimates rolled out in the proposed regulations comments and is leaving us in South Carolina attempting to surmise from where the funds to do this will come. The current time frame of adoption will leave us without an opportunity for our state plan to find – the “at least as effective” alternative.

Again, we offer our appreciation for allowing input into the process and we look forward to future development and opportunity.



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