



## **NVFC Q&A Guide for OSHA’s Virtual Public Hearing Regarding the Proposed Emergency Response Standard**

The Occupational Safety and Health Administration (OSHA) is proposing a new Emergency Response Standard to replace the existing Fire Brigades Standard. This proposed standard imposes numerous requirements that would be infeasible for many volunteer fire departments to comply with. The initial public comment period on this proposed standard ran from February 5 to July 22. Click [here](#) to view the comments the National Volunteer Fire Council (NVFC) submitted. OSHA will be holding a virtual public hearing on the proposed standard beginning November 12. Below are questions and answers to help you understand and navigate the public hearing.

### **1) When and where is the hearing?**

- The hearing will be virtual and will begin on November 12. Approximately 475 witnesses are expected to testify. The anticipated dates of the hearing are November 12-15, 18-22, and December 2 and 4, between the hours of 9:30-4:30 ET. View the full hearing schedule [here](#).

### **2) How can I view the hearing?**

- Each day of the hearing a viewing link will be posted [here](#).

### **3) Who can testify?**

- Only individuals who submitted a notice of intention to appear (NOITA) before the September 27 deadline will be able to testify. If you submitted an NOITA, you should have received an email from [OSHA.Emergency.Response@dol.gov](mailto:OSHA.Emergency.Response@dol.gov) the week of October 14 and a WebEx link to a scheduled time slot on November 1. If you submitted an NOITA and have not received a confirmation from OSHA or information on the schedule, please email [OSHA.Emergency.Response@dol.gov](mailto:OSHA.Emergency.Response@dol.gov) for assistance.

### **4) If I am testifying, when should I log in to the hearing and how long should I plan to stay?**

- The WebEx link that hearing witnesses receive allows them to observe the hearing in its entirety and to speak, both during their scheduled testimony and to answer and ask questions throughout the entire length of the hearing. The hearing schedule does not provide individuals with their own unique start and end times. In an effort to accommodate the varying, actual time lengths of testimony, OSHA has scheduled hearing participants in morning and afternoon time blocks. The morning block will begin every day at 9:30am Eastern Time . The afternoon block will begin each day at 1:00pm Eastern Time. OSHA requests that hearing witnesses be present for the entire length of their scheduled time block. OSHA anticipates that some questions related to the specifics of some registrants’ testimony will be asked of the entire group, following the testimony of the entire group. Arriving late to your scheduled time block or leaving early will create the risk of a) witnesses missing the opportunity to provide testimony, or b) registrants missing the opportunity to provide additional information or clarification regarding their testimony to OSHA.

**5) How long will witness testimonies be?**

- On the NOITA, an option was given to select a 5-, 10-, 15-, or 20-minute time slot to offer your testimony. If you selected a timeframe of 10 minutes or longer, you were required to submit the text of your testimony to OSHA before October 18. OSHA used these submissions to decide how long a witness should be given to testify. Those who had difficulty submitting written testimony can email it to [OSHA.Emergency.Response@dol.gov](mailto:OSHA.Emergency.Response@dol.gov) to see if OSHA will accept it late. Those who did not submit written testimony before the October 18 deadline will receive a 3-5 minute speaking slot.

**6) What should I include in my testimony at the public hearing?**

- Tell OSHA the story of your department (budget, staff, population served, funding sources, etc.) and how this proposed rule would impact your department. Here are some tips for your testimony:
  - i. Utilize the NVFC's [pain points one-pager](#), the NVFC's [written hearing testimony](#), and [landing page](#) to help formulate your thoughts and evaluate potential impacts.
  - ii. If you already submitted written comments on the proposed rule ahead of the July 22 deadline, it is okay to re-emphasize the points you made but don't make it the primary topic of your testimony. Look at other public comments submitted by other stakeholders or organizations (International Association of Fire Chiefs, National Association of Counties, etc.) and tell OSHA what you agree with and disagree with in these comments and why. All public comments on the proposed rule are available to view and can be searched for in the public docket [here](#).

**7) Is time for questioning included in the time I am allotted for my testimony?**

- No, the time for questioning is in addition to the time you are allotted for your testimony and at the discretion of the Administrative Law Judge presiding over the hearing.

**8) What should I wear during my testimony?**

- The NVFC recommends that you wear your Class A uniform or business attire when you deliver your testimony.

**9) What should my background be for my WebEx testimony at the hearing?**

- The NVFC recommends that your background be plain or blurred for your testimony. It is also fine to have your department or organization's logo/banner behind you when you testify. Please make sure your background does not contain anything political or anything that may be considered offensive.

**10) Will the NVFC be testifying at the hearing?**

- The NVFC will have five witnesses at this hearing. Each witness will testify on a topic that the NVFC has identified as a key concern to volunteer firefighters in the proposed Emergency Response Standard. These five topics include: the structure of the volunteer

fire service, economic burdens, administrative burdens, the impact of incorporating consensus standards by reference, and the input of the volunteer fire service during the formation of the proposed standard. You can view the NVFC's written testimony for this hearing [here](#).

**11) Who can ask questions about testimony at the hearing?**

- Representatives from OSHA will ask witnesses questions about the content of their written and oral testimonies. Witnesses at the hearing may also be asked questions by other witnesses present at the hearing. Similar to eligibility to testify at the hearing, the only individuals who will be able to ask questions at the hearing are those who submitted a NOITA before the September 27 deadline. If you submitted an NOITA, you should have received an email from [OSHA.Emergency.Response@dol.gov](mailto:OSHA.Emergency.Response@dol.gov) the week of October 14 and a WebEx link to a scheduled time slot on November 1. If you submitted an NOITA and have not received a confirmation from OSHA or information on the schedule, please email [OSHA.Emergency.Response@dol.gov](mailto:OSHA.Emergency.Response@dol.gov) for assistance.

**12) Do I have to answer the questions I am asked during the hearing?**

- It's okay if you don't know the answer to a question you are asked at the hearing. No answer is better than offering bad information or answering a question you are not comfortable answering. It is okay to say that you can provide an answer to such a question during the post-hearing written public comment period or by providing additional information to the docket following their testimony. This additional supplementary information for an individual's testimony can be submitted electronically. OSHA will reach out to any witnesses who indicate an interest in providing additional information following the hearing.

**13) Can someone assist me in answering questions during my testimony?**

- The best course of action is to answer what you can at the hearing and provide answers to more difficult questions during the post hearing public comment period. However, if you wish to have someone assist you with answering questions during the hearing, please provide their name and contact information to OSHA via [OSHA.Emergency.Response@dol.gov](mailto:OSHA.Emergency.Response@dol.gov) as soon as possible. This ensures that the Administrative Law Judge presiding over the hearing can anticipate who to hear from during the hearing.

**14) Will the hearing be recorded?**

- OSHA hopes to make a transcript available via the public docket approximately two weeks after the conclusion of the hearing. That transcript will be made available [here](#). It is important to note that everything said at the hearing will be permanent public record via this transcript.

**15) Will there be press listening to the hearing?**

- It is likely that members of the press will be covering parts or all of the hearing.

**16) Who will preside over the hearing?**

- The hearing will be presided over by an Administrative Law Judge. Much of the hearing's procedure, questioning, etc. will be at the Administrative Law Judge's discretion.

Because of the length of the hearing, it is likely that there will be a total of 3-4 Administrative Law Judges presiding over the course of the hearing's duration.

**17) What is the procedure for hearing questions?**

- Questioning will be moderated at the discretion of the Administrative Law Judge. OSHA and other hearing witnesses may ask a hearing witness questions. Hearing participants may not ask questions that are outside the scope of the matters addressed by this rulemaking. Administrative Law Judges tend to not like combative questions or long lines of questioning. It's therefore important to keep questions concise and civil during the hearing.

The Administrative Law Judge has authority to limit the time for questioning and to disallow participants from using the question periods as a forum for debate or legal argument, or to present their own testimony and views on issues. Moreover, the Administrative Law Judge has authority to cut off duplicative, argumentative, or irrelevant questions.

Hearing participants may only direct questions to witnesses with whom they have no organizational affiliation. In this regard, a witness can most efficiently enter information into the record through testimony rather than through a question-and-answer exchange between the witness and their affiliates, which constitutes an improper extension of the time scheduled for the witness's testimony.

When an organization is represented by more than one person, only one person from the organization may question each witness or witness panel.

**18) What happens after the conclusion of the public hearing?**

- At the discretion of the Administrative Law Judge presiding over the hearing there will be a post hearing written public comment period concluding on January 17, 2025. There will also be a post hearing legal comment period. Anyone will be able to submit comments on the proposed Emergency Response Rule during these comment periods, even if they did not submit comments previously or testify at the hearing.