

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS



STATEMENT OF

EVAN DAVIS
DIRECTOR, GOVERNMENT AFFAIRS
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

BEFORE THE EMERGENCY MANAGEMENT AND
TECHNOLOGY SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY

OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

ON

OSHA PROPOSED EMERGENCY RESPONSE STANDARD

JUNE 4, 2024
WASHINGTON, DC

Chairman D’Esposito, Ranking Member Carter, and members of the Subcommittee, thank you for the opportunity to testify before you today about the need to establish legally enforceable protections that ensure fire fighter safety and our ability to serve our communities. My name is Evan Davis, and I serve as Director of Government Affairs for the International Association of Fire Fighters (IAFF). I am honored to hold a leading role in developing our legislative and regulatory strategies to ensure IAFF members stay safe on the job and have the tools and resources they need to perform their duties effectively. While the IAFF is active in many policy areas, none is more important than our efforts to advance fire fighter safety. Since the founding of the IAFF in 1918, we have stood at the leading edge of nearly every advancement in fire fighter safety. OSHA’s development of a basic, legally enforceable workplace safety standard for our members is one of these watershed moments in the history of firefighting.

The IAFF represents nearly 350,000 professional fire fighters and emergency medical services (EMS) personnel serving at the local, state, and federal levels. Our members serve communities in all 50 states and protect 70% of the United States’ population.¹ Professional fire departments protect nearly all communities with populations of more than 50,000.² The IAFF’s members are our nation’s all-hazards emergency responders and protect their communities from a wide range of emergencies, including structural fires, wildland fires, building collapses, natural disasters, terrorist incidents, and more.

While the IAFF is active in many policy areas related to our members, our top priority is to protect our members’ safety on the job and ensure their ability to serve their communities. The lack of legally enforceable safety standards for fire fighters is a glaring omission that must be corrected. Our union applauds the Occupational Safety and Health Administration (OSHA) for proposing a landmark standard to usher in a new level of safety for fire fighters and their communities. OSHA’s commitment to public input and openness in developing the standard should be commended.

Firefighting is a dangerous occupation. The data described below and cited throughout the OSHA proposal is confirmation that poorly enforced safety standards are killing and injuring emergency responders in the line of duty. OSHA’s proposed Emergency Response Standard (ERS) recognizes that we cannot rely on local and state governments’ goodwill alone to protect fire fighters. In a race to slash budgets, fire fighters and public safety have emerged as the losers. We need the ERS to reinforce our safety and affirm safe and efficient operations as the backbone of every fire department.

Overview of the American Fire Service

Today’s fire service provides an all-hazards response role and serves communities of all sizes. The IAFF’s nearly 350,000 members represent approximately 34% of the nation’s 1.1 million fire fighters.³ These men and women protect their communities from various emergencies,

¹ National Fire Protection Association. *US Fire Department Profile 2020 -Table 12*. <https://www.nfpa.org//media/Files/News-and-Research/Fire-statistics-and-reports/Emergency-responders/osFDProfileTables.pdf>

² Ibid. Table 14.

³ U.S. Fire Administration. *National Fire Department Registry Overview*. <https://apps.usfa.fema.gov/registry/summary>

including fires, medical emergencies, motor vehicle accidents, hazardous materials incidents, technical rescue situations, natural disasters, and terrorism. In 2020, American fire departments responded to more than 36.4 million calls for service.⁴ More than 23.8 million of these calls, or roughly 65%, were for medical emergencies.⁵ Fire fighters cross-trained as EMS personnel are the backbone of America’s prehospital EMS system. Fire departments are the most common type of EMS agency and are the providers of EMS care in more than 90% of communities with populations over 50,000. On a national level, 65% of communities receive EMS from their fire department.⁶

Fires are still a prevalent danger to communities of all sizes. In 2022, fire departments responded to approximately 1.5 million fires. According to data from the National Fire Protection Association (NFPA), a residential structure fire occurs somewhere in our nation every 88 seconds, and a fatal home fire occurs every three hours.⁷ Fire suppression is the most dangerous aspect of our jobs. In 2022, 33% of all fire fighter injuries occurred on the fire ground.⁸

Limited Existing Safety Standards

The reason OSHA proposed the ERS, and why Congress is holding today’s hearing, is because the current approach to fire fighter safety has failed. Our brothers and sisters are being killed due to complacency, negligence, and balancing municipal budgets on the backs of fire fighters.

Below is a detailed discussion of the unacceptable injuries and deaths that plague our industry. Nearly all national fire service organizations – labor and management, professional and volunteer – are actively involved in developing the NFPA standards, training curricula, and best practices that guide our industry. Generally speaking, these documents are accepted as the goals for which all fire departments strive. However, there are virtually no legal requirements for fire departments to adhere to these standards. Requirements for governments to ensure proper staffing levels, safe vehicles, and effective protective equipment largely exist only in fire departments’ liability insurance policies and an agency’s Insurance Services Office (ISO) rating.

It is unacceptable for nearly every other industry to have OSHA protections, yet fire fighters must rely on ISO recommendations to ensure their survival. Communities should never be lulled into a false sense of security, thinking that they are protected by a fire department, when in reality, that agency is ill-prepared due to poor staffing levels, outdated equipment, and emergency response vehicles that should have been retired decades ago.

Line of Duty Deaths Among Fire Fighters

⁴ National Fire Protection Association. *US Fire Department Profile 2020*. P. 5. <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Emergency-responders/osfdprofile.pdf>

⁵ National Fire Protection Association. *US Fire Department Profile 2020 -Table 12*.

⁶ Ibid. Table 21.

⁷ National Fire Protection Association. *Fire Loss in the United States*. <https://www.nfpa.org/education-and-research/research/nfpa-research/fire-statistical-reports/fire-loss-in-the-united-states>

⁸ National Fire Protection Association. *US Firefighter Injuries*. December 2023. <https://www.nfpa.org/en/Education-and-Research/Research/NFPA-Research/Fire-Statistical-reports/Firefighter-injuries-in-the-United-States>

As all-hazards response professionals, fire fighters and EMS professionals work dangerous jobs fighting fires, providing EMS, or mitigating hazardous materials releases. Despite our best efforts to reduce occupational hazards, line of duty deaths and injuries continue to plague the fire service. According to the US Fire Administration, our nation lost 94 fire fighters in the line of duty in 2022.⁹ This number has generally held steady when looking at the overall number of fire fighters lost each year. These deaths are nearly evenly split between professional fire fighters (48%) and volunteer fire fighters (52%).¹⁰ These death rates are a testament to the dangers fire fighters face – regardless of whether they receive a paycheck – and the need for us to do better to protect the men and women who serve their communities each day.

However, we believe the true number of fire fighters killed in the line of duty is significantly higher when considering the toll that occupational cancer takes. In September, the IAFF held our annual Fallen Fire Fighters ceremony, and we honored 173 IAFF members who succumbed in 2022 to occupational cancer.¹¹ These deaths must be recognized as line of duty deaths and included in the statistics that guide decision-making and policymaking for our industry.

Regardless of which number is recognized, these deaths are too common and could have been prevented in many cases. It is especially staggering to note that OSHA statistics show that 14% of these deaths occurred during training activities¹² – a time when risks should be most controlled. The failure to prevent such a substantial number of fire fighter deaths should stop us in our tracks and force us to find a safer way. Industry best practices can only do so much. We need a comprehensive safety standard to ensure our brothers and sisters go home every day.

Staggering Rates of Occupational Injuries

As troubling as these death rates are, the frequency and severity of fire fighter injuries are even more startling. In 2022, an estimated 65,650 fire fighters were injured on the job. Most were fireground injuries such as overexertion, falls, and sprains/strains. However, more than 16,000 injuries occurred in circumstances other than active fire suppression, such as when traveling to/from an emergency incident or during training activities.¹³ Vehicle accidents are also a common threat to fire fighters’ safety. In 2022, more than 20,000 collisions involving fire department apparatus occurred, directly resulting in more than 800 injuries.¹⁴ When looking at the complete picture presented by these data, it is clear that current safety precautions are not meeting fire fighters’ needs. Our industry cannot continue to view these injuries as the cost of doing business. America’s fire fighters and EMS personnel demand for OSHA to help us create a safer atmosphere.

⁹ US Fire Administration. Annual Report on Firefighter Fatalities in the United States.

<https://www.usfa.fema.gov/statistics/reports/firefighters-departments/firefighter-fatalities.html>

¹⁰ OSHA Proposed Emergency Response Standard. Table VII-A-2. Pg. 7779.

<https://www.federalregister.gov/documents/2024/02/05/2023-28203/emergency-response-standard>

¹¹ International Association of Fire Fighters. <https://www.iaff.org/news/iaff-fallen-fire-fighter-memorial-honors-more-than-500-members/>

¹² OSHA. Table VII-A-2.

¹³ National Fire Protection Association. US Firefighter Injuries. December 2023.

<https://www.nfpa.org/en/Education-and-Research/Research/NFPA-Research/Fire-Statistical-reports/Firefighter-injuries-in-the-United-States>

¹⁴ Ibid.

These injuries are more than just statistics; they can take profound and lifelong tolls on individual fire fighters. These injuries often force fire fighters to endure lifelong effects, such as chronic pain, reduced mobility, and even substance abuse. The IAFF operates our Center of Excellence, which assists fire fighters who are struggling with substance abuse and dependency issues, among other behavioral health concerns. Often, these challenges arise for fire fighters following a serious line of duty injury.¹⁵

OSHA's ERS takes meaningful steps towards reducing these rates of injuries by requiring fire departments to complete written plans detailing how they will handle risk management (Paragraph F), pre-planning incident response (Paragraphs M-N), incident operations and management (Paragraphs O-P), and the development of standard operating procedures (Paragraph Q). Most importantly, we applaud OSHA for ensuring that the frontline emergency responders themselves have a voice in developing these plans (Paragraph E) and using post-incident analyses to inform these plans (Paragraph R).

One of the common factors that contribute to so many injuries is the lack of planning, effective incident management, and safe staffing levels. In 2007, the Charleston (SC) Fire Department suffered an unimaginable loss when 9 fire fighters were killed when responding to a fire in the Super Sofa furniture store. Post-incident analyses identified a lack of pre-planning and failure to adhere to incident management protocols as two leading factors for this tragic incident.¹⁶ All of these points would be addressed in the various components of the OSHA ERS.

These components of the ERS would also help prevent the far more common and non-fatal injuries that hurt fire fighters every day. The OSHA ERS will require fire departments to confront the factors that prevent their adherence to voluntary consensus standards and industry best practices. These pre-planning, staffing, and incident management considerations will help ensure fire fighters have the tools, staffing, and SOPs to prevent them from being over-stretched, under-resourced, and ultimately placed in inherently unsafe positions. Fire fighters in major cities and rural communities alike are often forced to operate with staffing levels far below what is safe. Studies have clearly shown that crew sizes matter. The more fire fighters we can have per crew, the safer and more efficient are their operations.¹⁷ It should be unacceptable for local governments to allow companies of just three, or even two, fire fighters. Our union applauds OSHA for recognizing the importance of crew sizes in the ERS.

We also strongly support Paragraph L of the ERS, which would force fire departments to adopt commonsense vehicle inspection and safety protocols. Far too often, municipalities skimp on vehicle safety due to budgetary reasons. Fire fighters in professional and volunteer departments alike routinely struggle with being forced to use unsafe apparatus that should be pulled from service pending repairs. One of the most notable incidents in this regard occurred in Boston in

¹⁵ International Association of Fire Fighters. Substance Abuse. <https://www.iaffrecoverycenter.com/substance-abuse/>

¹⁶ NIOSH. Firefighter Fatality Report F2007-18. February 2009. <https://www.cdc.gov/niosh/fire/reports/face200718.html>

¹⁷ NIST. Firefighter Staffing Studies. 2010 and 2013. <https://www.nist.gov/el/fire-research-division-73300/firegov-fire-service/staffing-studies>

2009 when a ladder truck lost its brakes when driving down a steep street and crashed into a building, killing one fire fighter, and injuring three others. Investigations into this incident found that the City's failure to adhere to proper vehicle maintenance protocols was a major contributing factor.¹⁸ Sadly, Boston is not unique. Similarly unsafe fire trucks are on the road throughout the nation, and accidents like this could easily happen again. The OSHA ERS brings commonsense safeguards for fire fighters and their communities by requiring jurisdictions to follow basic vehicle inspection, maintenance, and repair policies.

Mental and Behavioral Health Concerns

It is important to note that fire fighters and EMS personnel also experience significantly increased rates of PTSD and other behavioral health conditions because of their service. Studies show that PTSD rates among first responders are three times higher than the general population and are roughly equivalent to military veterans.¹⁹ Just as fire fighters need policies to protect their physical health, they also need help carrying the mental burdens of their jobs. Peer support programs are one such way to assist fire fighters in monitoring their mental health and help them access higher levels of care when the need arises. When left unchecked and untreated, PTSD, depression, and other common behavioral health conditions can deteriorate into behavioral health emergencies such as suicide and dangerous levels of substance abuse.²⁰ Just as we would never allow fire fighters to be sent to a fire without an SCBA, we should also demand local governments ensure fire fighters have access to robust programs to monitor and treat any behavioral health concerns they may experience.

The IAFF applauds OSHA for recognizing the importance of mental and behavioral health. We firmly support the requirements in Paragraph G for agencies to provide their emergency responders with mental and behavioral health resources, especially following each traumatic emergency incident to which they respond. We are especially grateful for Paragraph (G)(4)(iii) of the proposed ERS, which highlights the importance of connecting emergency responders with clinically competent and informed mental health practitioners who are experienced in treating emergency responders. Fire and EMS professionals have unique needs compared to the general population, and local and state governments must assist them in accessing the most appropriate levels and providers of care.

Occupational Cancer Among Fire Fighters

Fire and EMS professionals are exposed to a vast number of toxins and biological threats while performing their duties. Carcinogens are a pervasive threat that our members are exposed to each day. Fire fighters encounter a range of carcinogens in smoke and vehicle exhaust, and even our protective gear is manufactured with added PFAS chemicals. NIST studies have proven that the amount of PFAS released onto fire fighters increases as our turnout gear ages and experiences

¹⁸ NIOSH. Firefighter Fatality Report F2009-5. February 2010.

<https://www.cdc.gov/niosh/fire/reports/face200905.html>

¹⁹ NIST. Technical Note 2078. P. 39. <https://nvlpubs.nist.gov/nistpubs/TechnicalNotes/NIST.TN.2078.pdf>

²⁰ Ibid.

more wear and tear.²¹ Every time fire fighters don and doff our gear, we experience yet another exposure to known carcinogens. Cancer is so prevalent among fire fighters that the International Agency for Research on Cancer has recognized the occupation of firefighting itself to be a Category 1 carcinogenic exposure.²² Sadly, these exposures to carcinogens claim a tremendous number of fire fighters' lives each year. According to our data, nearly two-thirds of fire fighters' line of duty deaths each year are due to occupational cancer.

Given the prevalence of cancer, fire fighters must receive annual cancer screenings so that they have the best chances of catching occurrences of cancer in the earliest stage. The failure of governments to provide annual cancer screenings to fire fighters is deplorable. The IAFF applauds states like New Jersey and New Hampshire, which are aggressively working to provide these much-needed screenings. The meager costs of preventative screenings pale in comparison to the costs associated with treating cancer at a more advanced stage.

Paragraphs G and K of the proposed OSHA ERS are essential in combatting the cancer epidemic in the fire service by establishing requirements for regular medical screenings of fire fighters (Paragraph G) and issuing modern, effective personal protective equipment for fire fighters. These provisions within the ERS will be critical tools in our efforts to stem the growth of occupational cancer rates.

We also applaud OSHA for recognizing the dangers of continued usage of PFAS-laden turnout gear and for asking stakeholders about how this should be addressed in the final ERS. While the IAFF is still developing our full comments, we anticipate urging OSHA to continue investigating the connection between PFAS-laden gear and occurrences of occupational cancer for fire fighters. Once PFAS-free gear is available, we will urge OSHA to mandate its adoption and use.

One of the few places where we disagree with the ERS is in Paragraph (G) and Question G-2, where OSHA proposed using a benchmark of 15 exposures per year as the criteria for needing an annual medical examination. The IAFF urges OSHA to require all fire fighters and EMS personnel to receive an annual medical examination and cancer screening. Our union has fought for presumptive cancer coverage for fire and EMS personnel because it is impossible to pinpoint which fire caused cancer. Similarly, we feel 15 exposures per year is an arbitrary number. A fire fighter may respond to a single fire per year, but carcinogens will be present in the smoke, and that fire fighter will be at risk for developing cancer. While we plan to yield to local collective bargaining agreements to inform the type of medical examination and handling of subsequent medical records, we do feel that every fire fighter and EMS provider should have some level of annual medical examination – even if it is just for the individual's personal knowledge.

Costs of Occupational Injuries for Fire Fighters

²¹ NIST. Wear and Tear May Cause Firefighter Gear to Release More Forever Chemicals. January 2024. <https://www.nist.gov/news-events/news/2024/01/wear-and-tear-may-cause-firefighter-gear-release-more-forever-chemicals>

²² IARC. Occupational Exposure as a Firefighter. <https://publications.iarc.fr/Book-And-Report-Series/Iarc-Monographs-On-The-Identification-Of-Carcinogenic-Hazards-To-Humans/Occupational-Exposure-As-A-Firefighter-2023>

When looking at these injuries, it is essential to realize that their impacts extend beyond just the time and place in which they occur. Fire departments across the nation also incur significant monetary costs as a result. In 2019, the National Institute for Standards and Technology (NIST) published Technical Note 2078 (TN 2078), *Economics of Firefighter Injuries in the United States*. This document provides us with a comprehensive analysis of the costs of injuries among fire fighters. NIST found that each year, the cost of fire fighter injuries ranges from \$1.6 billion to \$5.9 billion. NIST concluded that these costs are the equivalent of approximately \$50,000 to \$200,000 per fire department or \$1,500 to \$5,500 per individual fire fighter.²³

Every time safety advancements have come to the fire service—such as closed cab apparatus or mandating the use of self-contained breathing apparatus—naysayers have always said that we would break fire department budgets and force agencies to close. Yet today, these are all commonly accepted practices and standards for virtually all fire departments. We recognize that adhering to the ERS has costs. However, as NIST has shown, failure to adhere to safe operating procedures also has costs. If the choice is ultimately whether to spend funds preventing injuries and deaths or responding to them, the choice should be clear.

Considerations to Claimed Challenges in Complying with the ERS

When reviewing the comments shared through the Federal Register, it is noteworthy that few commenters argue that the ERS itself will fail to make the fire service safer. It is well-established in the fire service that long-standing life-safety dangers continue to exist and that lives are lost in often preventable situations. The primary opposition to the ERS comes from agencies claiming an inability to meet these safety standards and private companies and town/city/county managers who refuse to invest in the safety of their workforce. Sadly, we recognize that economics always plays a role in funding a host of public services; we are not ignorant of the realities within which both workers and employers live.

We also understand that there are some rural and volunteer agencies serving communities with finite funding from their tax base, and that the fire fighters in these communities perform admirable work under challenging circumstances. For the first time in the history of our organization, the IAFF has collaborated on many of the issues that impact all stakeholders in the fire services industry. The stark reality we face is that fire fighter safety, whether professional or volunteer, and the safety of the communities we serve, must be guided by principles and guidelines that place a supreme value on saving lives and protecting communities.

This Subcommittee should provide no safe harbor to municipalities that risk fire fighter safety, and the safety of their citizenry, because they are costly. Countless IAFF locals are forced by municipal leadership to make unsafe responses with too few fire fighters, outdated apparatus, and ineffective tools and safety equipment. These ill-guided policy positions have cost lives. We look forward to OSHA using the full force of federal law to protect fire fighter safety when local and state governments fail to do so. Firefighters and communities should never again be forced to tolerate intentionally browned-out firehouses and fire apparatus without working brakes.

²³NIST. P. i

The IAFF also represents several bargaining units of first responders who work for private companies and are considered workplace emergency response employees (WEREs) under the ERS. These companies must also prioritize safety as a core mission of their corporate identity. Enactment and implementation of the ERS will make a dangerous job safer and will compel all stakeholders to achieve a never-before-seen level of interest in the lives of our nation's fire fighters.

The nomenclature is immaterial, whatever a fire department calls itself, if it is well enough resourced to have personnel who receive significant remuneration as defined by the Department of Labor, answer thousands of emergency calls per year, or provide round-the-clock operations in an urban community, it too should be required to meet minimum levels of safety for their personnel.

Proposed Congressional Assistance

The IAFF recognizes that some jurisdictions may have challenges in meeting the ERS. We urge Congress to increase its investment in the AFG and SAFER programs, the federal government's primary forms of support for all fire departments nationwide. Since these programs' inception more than 20 years ago, Congress has directed more than \$15 billion in assistance to fire departments. Sadly, for FY 2024, Congress slashed funding for AFG and SAFER by 10% - reducing the programs' full-year funding level from \$370 million each to just \$336 million per program. The IAFF and all other national fire service organizations have repeatedly urged Congress to reverse these cuts and make meaningful investments in fire departments by funding these programs at no less than \$405 million each in FY 2025. Considering the pending ERS, funding for these programs is more important than ever.

We also urge Congress to immediately pass the Fire Grants and Safety Act (H.R. 4090/S. 870) and provide a long-term reauthorization for these grants. Fire departments need to have long-term assurance that these programs will continue beyond the end of this Fiscal Year. This bill has passed both the House and Senate by overwhelming margins. However, partisan politics is holding up the bill in the Senate. Every member of this Committee ought to be committed to ensuring swift passage of the bill.

The IAFF also recommends Congress increase its funding levels for the Urban Areas Security Initiative (UASI) and the State Homeland Security Grant Program (SHSGP) grant programs. These grants play a critical role in ensuring the preparedness of fire departments in 41 major metropolitan areas across the nation. Funding for UASI and SHSGP helps these agencies have the personnel, apparatus, resources, and training to maintain readiness to respond to acts of terrorism and major disasters. In FY 2024, Congress provided \$553.5 million for UASI and \$373.5 million for the SHSGP program. As Congress develops its FY 2025 appropriations bills, we urge Congress to provide no less than \$615 million for UASI and \$520 million for SHSGP.

Conclusion

Safety standards come with financial costs, but so do line-of-duty funerals, PSOB payments, and wrongful death lawsuits. As mentioned earlier, even survivable injuries come at a significant

economic cost. A basic industry minimum safety standard, such as the proposed ERS, could significantly reduce these costs. For the IAFF, the choice of where we spend money is clear.

The question for this hearing is not whether the fire service is fraught with avoidable injuries and deaths, and whether the ERS identifies safer practices to protect fire fighters and communities alike. The sole question we are wrestling with is whether this ERS should be imposed on local and state governments nationwide. The answer is a resounding yes. Jurisdictions have failed to keep our public servants safe, and it is time for them to be forced to take our safety seriously. When municipalities choose to deprioritize our safety and dismiss the needs of their communities, OSHA should be fully empowered to step in and place safety first. Our fire fighters and the communities they serve deserve nothing less than the full support of Congress and the Federal Government.

Distinguished members of Congress and honored guests, my name is David Denniston, and I am Vice President of the Association of Fire Districts of the State of New York. I also serve as a Fire Commissioner of the Virgil Fire District. Virgil is a small, rural community in Upstate NY, just south of Syracuse. We have approximately 2,500 residents with an annual household income of \$78,000 and average home value of \$162,000. The Virgil Fire Department is a 100% volunteer department with 35 active members and an annual budget of \$280,000. We are not the largest department in New York State, but we certainly are not the smallest either. We represent an average sized department in the Upstate NY region. Many of you on this committee either live or represent small, rural towns just like ours. I would ask you to consider the impact this proposed rule would have on communities you have been elected to represent. What would happen in your communities if a citizen called 911 and there was no emergency services agency to respond because they were unable to meet a federal standard?

As a Fire Commissioner, I have been reviewing the proposed Emergency Response Rule and exploring the impact it would have on Fire Districts. I am also working with Authorities having Jurisdiction across New York State with the Association of Fire Districts of the State of New York. I would be remiss if I did not share that I am not alone in my feelings that the proposed rule, would have devastating effects on our ability to operate and provide fire protection to our communities. The hardest hit will be the small rural all volunteer departments. While we wholeheartedly agree that changes and enhancements are needed to the 40 plus year old current standard, this proposed rule is neither economically nor technically feasible for our districts. These are two fundamental requirements of any OSHA rule, and the agency has fallen far short in these areas. The proposed rule is both arbitrary and capricious as both the process and logic used to support these new requirements are severely flawed. OSHA neither followed the required full negotiated rule making process nor did it include adequate representation of the volunteer fire service, which covers 65% of this country.

Just this week I met with over 40 fire chiefs from the state of Indiana. Only 8 of the 40 chiefs even knew this proposed change existed. OSHA has also failed to follow the Federal Information Quality Act, and several of the data sources cited in the proposed rule change are not representative of all departments. For example, OSHA references the Firehouse Magazine Annual Run Survey. This document is not statistically significant in any fashion, and yet has been used as a main source of data that will make it nearly impossible for small and rural fire departments to function. Based on this report, OSHA believes the average fire department budget in the United States is 1.7 million dollars. We do not have a single all-volunteer department in my county that has an annual budget of 1 million dollars, let alone an average of 1.7 million.

We compliment OSHA on trying to make first responders safer. I have dedicated my life to this effort, and currently present fire leadership and safety training courses across the U.S. in firehouses, conferences, and virtually. I have personally taught over 35,000 students on these subjects. While we have a lot more work to do, this proposed rule is not the answer. I believe that OSHA had the best of intentions in this process, it has fallen short of producing an accurate picture of the fire service in the United States. OSHA has also failed to show data or a significant risk that supports many of the changes proposed. Both fire service injuries and deaths are on a decline over the past several years, while at the same time the thresholds to be considered a line of duty injury or death have been lowered.

The largest hurdle of all is the incorporation of 22 different NFPA standards into the rule. This takes a somewhat manageable rule from 40 pages to over 3000. The 1500 plus "Shalls" and "Musts" make it overwhelming at best. Based on their incorporation, OSHA appears to be under the impression that the current NFPA standards are for being followed by agencies across the country. This is not the case. I work with thousands of departments across the U.S. and have yet to find one that comes close to meeting these standards entirely.

In our opinion, OSHA has failed to follow many of the procedures and rules it is governed by. One could argue that the door has been left wide open for legal challenges should this proposed rule be adopted as presented. This is neither our desire nor intent. We are simply asking that the process be reopened, more transparent, better communicated, and the rule be rewritten using reliable data with the assistance of equal representation by those that it will affect. By working together, we can craft a new rule that will not only be attainable but will also do a better job protecting those that risk their own lives to benefit their communities.

I would offer the following proposals:

- 1) If OSHA is truly interested in having input and working with the fire service, we need to extend the comment period deadline until at least 9/21/24. As I already stated, as have several others in their public comments, the fire service in general is just becoming aware of this process and proposed rule. It has not been communicated well to the department level. The 608-page document takes time to read and digest. I personally have hundreds of hours invested at this point and I still am trying to absorb all the details. It took OSHA several years to write this proposal, and yet they want to give only 90 days for others to communicate and understand it. The two short extensions now by OSHA are appreciated, but we simply need more time.
- 2) Remove the incorporated by reference NFPA standards and replace them with the desired and relevant wording in the rule itself. Doing so will produce an understandable, clear document that does not require hours of research, digesting, and trying to sort out where the actual rule conflicts with the incorporated standard as it has currently done.
- 3) Consider tailoring specific requirements within the standard to four segments of the fire service. This proposed rule places industry fire brigades, career departments, volunteer departments,

and EMS agencies all in the same box. We are four very different disciplines that are funded differently, respond differently, exposed to hazards at different levels, and have different resources to respond. This “one-size-fits-all” approach is extremely problematic, and in many cases tries to place a square peg in a round hole.

- 4) Give the Volunteer Fire Service a seat at the table equivalent to the 65% of the country that it represents.
- 5) Use relevant data. Much of the data cited by OSHA in the document is outdated, not statistically relevant, or not used in the manner for which it was intended leading to false assumptions.



**Stakeholder Perspectives on OSHA’s Proposed Rule
to Update the Fire Brigades Standard**

Statement of

**Chief Joseph Maruca (Ret.)
Director, National Volunteer Fire Council**

presented to the

**SUBCOMMITTEE EMERGENCY MANAGEMENT AND
TECHNOLOGY**

OF THE

**COMMITTEE ON
HOMELAND SECURITY**

U.S. HOUSE OF REPRESENTATIVES

June 4, 2024

NATIONAL VOLUNTEER FIRE COUNCIL
712 H STREET, NE, SUITE 1478 • WASHINGTON, DC 20002

Good morning, Chair D’Esposito, Ranking Member Carter, and distinguished members of the subcommittee. My name is Joseph Maruca and I am a firefighter with 45 years of experience. In April, I retired as chief of the West Barnstable Fire Department on Cape Cod, Massachusetts and I served as a volunteer firefighter from 1977 until becoming chief in 2005. West Barnstable is a combination fire department with five career firefighters/paramedics and 45 volunteer firefighters.

Additionally, I represent Massachusetts as a Director of the National Volunteer Fire Council (NVFC) and I have represented the NVFC as Chair of the National Fire Protection Association’s (NFPA) 1917 Technical Committee, which is the Standard for Automotive Ambulances. During my time as a volunteer firefighter, my other career was practicing as an attorney concentrating on estate planning. On behalf of the NVFC, I’d like to thank the Subcommittee for holding this important hearing and allowing me to have the opportunity to speak about the Occupational Health and Safety Administration’s (OSHA) proposed Emergency Response Standard.

The NVFC serves as the national voice for over 670,000 volunteer firefighters comprising 65% of the nation’s fire service. The NVFC formulates this national voice via our Board of Directors, which are appointed by state firefighter associations from 47 states. Since 1976, the NVFC has been the leading nonprofit membership association representing the interests of the volunteer fire, EMS, and rescue services. The NVFC provides critical resources, programs, education, and advocacy to support the interests of volunteer first responders across the nation.

Position on OSHA’s Proposed Emergency Response Standard

On February 5, 2024 the OSHA published a Notice of Proposed Rulemaking (NPRM) in the Federal Register for a proposed new “Emergency Response Standard” [Docket No. OSHA–2007–0073]. This proposed would replace the agency’s “Fire Brigades Standard” (29 CFR 1910.156). The public comment period for OSHA’s proposed Emergency Response standard is currently scheduled to conclude on July 22, 2024. The publication of this proposed standard is the latest step in a rulemaking process dating back to 2007, which has involved a request for information in 2007, a National Advisory Committee on Occupational Safety and Health (NACOSH) Emergency Responder Preparedness Subcommittee in 2015, and a Small Business Advocacy Review (SBAR) panel in 2021. The NVFC was represented on the NACOSH and SBAR panels.

The NVFC appreciates OSHA’s efforts to promote our mutual goal of ensuring firefighter safety by putting forth this proposed Emergency Response Standard. We believe the proposed standard contains many provisions that would serve the fire service well and protect the wellbeing of firefighters. However, if adopted as written, this proposed standard would be economically infeasible for volunteer fire departments to comply with and could cause many of these departments to shut down. This proposed standard could also compromise the safety and emergency response capabilities of many small communities, particularly small communities in rural areas.

In addition to its economic infeasibility, this proposed standard would be problematic due to a number of other factors including: the incorporation by reference of industry consensus standards, numerous ambiguities on how volunteers would be covered, the lack of personnel

expertise and availability to facilitate implementation, and an unrealistic proposed timeline for implementation. For these reasons, the NVFC would like OSHA to exempt volunteer firefighters from this proposed standard.

Scope of the Proposed Standard

The new Emergency Response Standard would be broader than OSHA's current Fire Brigade Standard. The NPRM for the proposed Emergency Response Standard is very unclear on which volunteer fire departments and personnel would be covered by the standard.

The NPRM contains a section that lists the SBAR panel's recommendations and OSHA's responses. Some of these recommendations include OSHA's need to clearly explain who falls within the scope of the standard and determine which states consider volunteer firefighters as employees who would be covered by the standard. OSHA responds to these recommendations, explaining that both the text of the proposed standard and the NPRM address which volunteers would be covered by the proposed standard. However, there are many variables like compensations level, department structure/funding sources and location that may impact how volunteers fall within the scope of this proposed standard that OSHA still doesn't adequately explain.

Paragraph A of the proposed Emergency Response Standard is supposed to address scope. Paragraph A does explain how emergency response organizations and the personnel of these organizations would fall within the scope of the standard but doesn't delve further into specifics and leaves many unanswered questions regarding these variables mentioned above.

The NPRM attempts to shed light on some of these specifics. Regarding compensation, it explains that while the Occupational Safety and Health (OSH) Act does not apply to volunteers, some workers labeled as volunteers may actually be considered employees under Federal law because they receive a certain level of compensation, which may include the direct payment of money or other types of remuneration. Therefore, any emergency responders who are referred to as volunteers but receive "significant remuneration" within the meaning of Federal law would be included within the scope of this proposed standard as employees. However, the NPRM does not define significant remuneration.

The NPRM goes on to explain that the OSH Act does not include the United States (not including the United States Postal Service) or any state or political subdivision of a state. However, there are 29 States with OSHA-approved State Plans and there is variability as to whether volunteer emergency responders are classified as employees under state law within these states.

In the states with OSHA-approved State Plans, each state determines what types of volunteer emergency responders it covers, and to what extent they are covered. This determination of coverage is based upon the state's definitions of what volunteers are considered employees and whether or not volunteer organizations are covered by state legislation relating to the OSHA-approved State Plan. Volunteers considered employees by states with OSHA-approved State Plans would be covered by this proposed Emergency Response Standard, because these states are obligated to promulgate a standard that is "at least as effective" as OSHA's proposed Emergency

Response Standard. Additionally, regardless of state law, any volunteers who receive “significant remuneration” in States with OSHA-approved State Plans would also fall within the scope of this standard due to the obligation mentioned above. The NPRM goes on to explain that 20 of the 29 States with OSHA-approved State Plans are assumed to classify volunteers as employees that would be covered by the proposed emergency response standard.

Though the NPRM explains a great deal about how volunteers may be covered by the proposed Emergency Response Standard, it leaves a lot of ambiguity. For example, OSHA says they believe that volunteer emergency responders rarely receive compensation substantial enough to render them employees under this “significant remuneration” legal test, however they do not provide a definition for “significant remuneration.” However, in 2006 the Department of Labor estimated 30 percent of all volunteer firefighters are paid a small fee for each fire call to which they respond. The NVFC is concerned about the accuracy of OSHA’s determination that the “significant remuneration” threshold would rarely be triggered without them defining what “significant remuneration” is.

While the NVFC strongly believes the best course of action would be to exempt volunteer firefighters from this proposed Emergency Response Standard, a better metric to define a volunteer based off compensation would be “20 percent rule” as defined in the Department of Labor’s August 7, 2006 opinion letter, which extends the application of the 20 percent rule to volunteer firefighters. The letter explains “generally, an amount not exceeding 20 percent of the total compensation that the employer would pay to a full-time firefighter for performing comparable services would be deemed nominal.” Due to the nature of firefighting and the difficulties faced with recruitment and retention we also suggest that this “20 percent rule” exclude the value of overnight lodging in the firehouse while on call, insurance policies that are comparable to those of career firefighters in the region, and length of service award programs (LOSAPs).

Additionally, the NPRM says states with an OSHA-approved State Plan do not define “employee” in a standard way. Therefore, determining which employees are covered is not straightforward. For example, some states may provide benefits in the form of insurance and tax benefits to volunteers that might affect whether they are considered employees. Some State Plans may also extend OSHA protections to volunteer firefighters but not to volunteer EMS providers or other non-firefighting volunteers, while other State Plans extend OSHA protections to all volunteers or to no volunteers. There are also four states and territories in which OSHA was unable to determine whether volunteers are considered employees under their State Plans.

The NPRM is also inconsistent with its estimated number of volunteers that would be covered by the proposed Emergency Response Standard. In one part of the NPRM OSHA says the “of the 1,054,611 emergency responders anticipated to fall within the scope of the proposed rule, 331,472 will be self-identified as volunteers.” Later, a chart in the NPRM says 187,621 firefighters in volunteer departments and 100,417 firefighters in combination or “mixed” departments would be impacted, a total of 288,038 firefighters in volunteer and combination fire departments.

The NVFC is also concerned that OSHA is unaware of the varied ways fire departments are funded and how they are organized. Funding can come in the form of local taxes, federal grants, and/or self-fundraising and the degree to which each of these funding sources make up a fire departments revenue vary greatly. The NVFC is particularly concerned about OSHA not being aware of fire departments that are organized as nonprofit organizations and are unaffiliated with any municipality or political subdivision in states without an OSHA-approved State Plan. Volunteer firefighters in these departments that are compensated in a matter that is consistent with “significant remuneration” could fall within the scope of this proposed standard regardless of the state they work in.

The NVFC is also very concerned about state level Departments of Labor being pressured into adopting this proposed standard regardless of whether the state has an OSHA-approved State Plan. The NVFC has heard from our members in states without OSHA-approved State Plans that their state Department of Labor have expressed the possibility that they could be pressured into adopting the proposed Emergency Response Standard if it is adopted by the 20-plus State Plan states. Additionally, the NVFC’s membership is very concerned that this proposed Emergency Response Standard may become the standard of compliance for the purpose of seeking municipal/department insurance or for civil litigation regardless of the state a municipality and fire department are located in.

In reviewing the NPRM for OSHA’s proposed emergency response standard, the NVFC believes OSHA does not adequately meet the SBAR panel’s recommendation of clearly explaining which volunteer departments and firefighters would be impacted by this standard. The NVFC also believes that OSHA does not have a complete understanding of how far-reaching the scope this proposed Emergency Response Standard could have on the volunteer fire service. The NVFC therefore recommends that the volunteer fire service be excluded from OSHA’s proposed Emergency Response Standard.

Economic Feasibility

All- and mostly-volunteer fire departments, protect 82 percent of the nation’s communities and 30 percent of the population. Small rural communities are almost exclusively protected by volunteers. According to the National Fire Protection Association (NFPA), most volunteer firefighters (95 percent) serve in departments that protect fewer than 25,000 people. Approximately half (48 percent) of volunteer firefighters are with small, rural departments that protect fewer than 2,500 people.

Many fire departments, especially small volunteer departments, face major obstacles such as basic staffing and equipment needs. National needs assessments of the nation’s fire service consistently show that volunteer departments have difficulty affording up-to-date equipment, training, and apparatus. This is primarily for economic reasons. Because fire protection services are funded at the local level, the resources available to each department are dependent on the local tax base, or the capability to fundraise, which can be very restrictive and limited in small, rural communities.

Additionally, some departments are entirely self-funded with fundraising efforts like pancake breakfasts, chicken dinners, and bingo nights. When a single piece of apparatus can cost \$1

million or more, these poses a tremendous challenge. These efforts are often labor intensive with low yields. The SBAR panel recommended to OSHA that they do more to take into account the economic feasibility of this proposed Emergency Response standard on departments that self-fundraise. The NVFC believes the NPRM still doesn't adequately accomplish this.

The NVFC conducted a survey of our membership and asked about department budgets. Of the 1,766 responses we received 18.5% said their department's budget was less than \$50,000, and an additional 10% said their department's budget is between \$51,000 and \$75,000.

The profile of a typical call/volunteer fire department in a Massachusetts Town of 2,500 people or less is as follows:

- 17 Call or Volunteer Firefighters on Staff
- 0 Part-Time Firefighters on Staff
- 0 Career Firefighters on Staff
- 2 Auxiliary or Support Firefighters
- 1 Junior Firefighter/Explorer
- 2 Dedicated EMS Providers (who are not firefighters)
- Has an annual budget of \$74,932
- Spends \$2926 per year on training
- Serves a community with a population of 1342 people
- Provides EMS First Response/First Aid
- Provides no Ambulance

Operating with an average annual budget of about \$75,000, these fire departments barely subsist and have no financial capacity to do anything more. These departments struggle to pay for fuel, maintain their trucks and building, and purchase basic replacement gear and supplies.

The 2021 SBAR panel recommend that OSHA make the proposed standard less prescriptive and more scalable with performance-based provisions, where practical, and where possible tailor the standard for small and volunteer fire departments. Though OSHA did make some effort to make this proposed emergency response scalable, much more needs to be done. It is infeasible to have a department similar to the one described above adhere to an Emergency Response Standard that is nearly identical to the Emergency Response Standard that a large, well-funded department such as Boston has to comply with.

Massachusetts fire departments cannot grow much beyond 2.5% per year because state law caps municipal tax levy increases to 2.5% per year, unless the town votes at an election to increase the levy beyond 2.5%. Many other states have similar caps. This means that the typical Massachusetts department sees its budget increase no more than about \$1,875 per year. Department budgets are not keeping up with inflation.

To make up the difference between income and expenses, these departments often have to fundraise or apply for grant funding. This becomes increasingly difficult when a department of this size has to purchase additional equipment or an apparatus like a fire truck which can add thousands to millions of dollars in expense to a department budget.

The Colorado Fire Service recently estimated that the average cost to equip a single firefighter with bunker coat, bunker pants and boots is \$4,600 and this rises to \$16,500 when you include self-contained breathing apparatus (SCBA). This financial squeeze on small departments has only been made worse by increasing prices. Between 2018 and 2023 the average cost of turnout gear increased by approximately 35-40%, while the cost of SCBA increased by 32%.

Some of the specific challenges revealed in the most recent NFPA Needs Assessment of the U.S. Fire Service include major issues providing firefighters with personal protective clothing (PPC) and personal protective equipment (PPE). In fact, more than half of all fire departments cannot equip all personnel with SCBAs. Departments protecting less than 10,000 people have the highest rates of unmet need for necessary and life-saving SCBA equipment. When it comes to PPC availability in the smallest departments, 75% have at least some PPC that is older than the 10-year lifespan recommended by the NFPA and 57% of all fire departments cannot afford to equip all their responders with wildland fire PPC.

Volunteer fire departments also face major challenges with staffing, recruitment, and retention. Between 2010 and 2020 the number of volunteer firefighters nationwide dropped 12%. Since 2000, the percentage of firefighters over the age of 50 serving in communities with populations of 2,500 or fewer residents has surged from 18.9 percent to 34 percent. In some areas around the country, there are communities where the entire volunteer fire department is over 50 years old. Understaffed departments do not have the human resources needed to implement broad-sweeping requirements such as those outlined in the proposed standard. Doing so would further increase the time burden placed on volunteers andacerbate the recruitment and retention problem.

Some of the largest factors impacting retention and recruitment of firefighters are the transformation taking place across rural America, along with increased mental and physical fatigue. As jobs leave small towns and young people move to the cities and suburbs in search of work, there are fewer people available to volunteer as emergency responders. As call volumes have risen and the amount of training required to serve as a firefighter has increased, it is increasingly difficult to convince people to volunteer. Additionally, the COVID-19 pandemic, increased hazmat incidents caused by lithium-ion batteries, increasing wildland fires, and other factors have all made being a firefighter more taxing and the need for additional firefighters more pressing.

Federal grants and national organizations like the NVFC have done a great deal to assist volunteer departments in receiving the resources they need, but as seen in the data provided above there is still a large, unfulfilled need for these resources. The most important federal grant programs that assist fire departments in achieving a baseline level of readiness are the Assistance to Firefighters Grant (AFG) and Staffing for Adequate Fire and Emergency Response (SAFER) grants which are managed by the Federal Emergency Management Agency's (FEMA). AFG and SAFER are competitive grant programs that provide funds to fire departments to help them reach a baseline level of preparedness. Through AFG, local departments receive funding to purchase training, equipment and apparatus as well as pay for health and safety programs. Through SAFER funds, local departments can pay for hiring career firefighters or for recruiting and retaining volunteer firefighters.

While AFG and SAFER grants have been very successful, there is not nearly enough funding available for these programs to adequately address the fire service's need for equipment, training, and staffing. Since FY 2011, funding for both AFG and SAFER has fallen by \$81 million for each program going from \$405 million to \$324 million. In FY 2024 alone, each program was cut by \$36 million. In FY 2022, FEMA received approximately \$2.4 billion in AFG grant applications for only \$324 million in available funding, 10% of AFG funding is used for Fire Prevention and Safety grants, and approximately \$2.8 billion in SAFER funding applications for only \$360 million in available funding.

Additionally, Congress has allowed the authorizations of AFG and SAFER lapse as of the end of FY 2023 and still hasn't passed reauthorization legislation with the September 30th statutory sunset date for these programs less than 4 months away. Regardless of whether this standard is adopted as written, the NVFC urges Congress to pass the reauthorization of AFG and SAFER grants without delay and to increase funding for each of these critically important grant programs.

The NPRM estimates the average cost of OSHA's proposed Emergency Response Standard to be an average approximately \$14,000 for each volunteer department. Absent a dramatic increase in AFG and SAFER funding, volunteer departments would not be able to comply with its proposed standard.

Volunteers still step up to the plate every day to stretch every dollar, by paying for gear and training out of their own pocket and providing maintenance on trucks just to get them out the door. The NVFC has also done its best to assist volunteer departments in receiving the resources they need with protective PPE and helmet giveaways, small grant programs made possible by our corporate partners, a Mental Health Helpline, free training, and numerous guides and resources. Through a SAFER grant, the NVFC also established the Make Me a Firefighter program (MMAF), the first and only national recruitment and retention campaign to help departments maintain or increase staffing levels. However, like the federal funding available, the need for these resources is greater than what can be provided.

With our understanding of the nation's volunteer fire service and the data provided above, the NVFC strongly believes that many volunteer fire departments throughout the country will not be able to comply with OSHA's proposed emergency response standard. This lack of compliance will not be due to inconvenience or a lack of desire. The staffing and funding needed to do this just doesn't exist. This standard would not meet its goal of improving firefighter safety if it sets impossible standards for departments to meet.

Additionally, the small departments referenced above are often the only emergency responders within miles and sometimes hours of response time away. More firefighters and communities will be placed at risk if they are required to comply with this prohibitively difficult standard in order to operate as department resources would be stretched even thinner, and some departments would be forced to close.

The NPRM also argues that this proposed rule is not an unfunded mandate on state or local government because the agency's standards do not apply directly to state and local governments.

To make this argument OSHA says that it is only states with voluntarily adopted an OSHA-approved State Plan that must adopt a standard at least as effective as the Federal standard that applies to state and local government agencies. However, it is unrealistic to assume that states would be easily able opt out of their OSHA-approved State Plans because of this proposed rule. Therefore, the NVFC believes this proposed rule would effectively be an unfunded mandate.

The NPRM does concede that OSHA is concerned with the potential “downstream” economic impact the proposed rule may have on emergency response organizations with volunteer responders. Through the NPRM, OSHA encourages stakeholders to engage with local and state officials about reducing potential impacts of the proposed Emergency Response Standard.

In the NPRM, OSHA says it understands that negative financial impacts on volunteer emergency response entities could have undesirable public safety implications. OSHA also says that they considered the possibility of excluding certain categories of emergency response organizations from certain provisions of the proposed rule based on organization size, funding source, and/or the number of emergencies responded to each year. However, OSHA said they decided not to because it was unable to determine any appropriate exclusions in light of their obligation to ameliorate significant risks to employees where economically feasible. The NVFC believes the data expressed above about the economic infeasibility of this proposed standard should make a sufficient argument for volunteer firefighters to be excluded from the proposed standard.

Particularly Burdensome Requirements Contained in the Proposed Standard:

As mentioned previously in this testimony, the proposed Emergency Response Standard contains numerous requirements that would be prohibitive and economically infeasible for volunteer departments to comply with. Particularly problematic would be the incorporation by reference of over 20 NFPA and American National Standards Institute (ANSI) industry consensus standards. The incorporation of these standards by reference would pose a number of issues.

First, most of these standards are updated every three to five years and if a current standard is incorporated by reference into the proposed standard, it will remain fixed and require a Federal Register notice to be updated within the Emergency Response Standard. Second, NFPA is in the process of consolidating many of its standards and it is not clear how these standards would be impacted if they’re incorporated by reference and are consolidated into other standards afterwards. Third, is the lack of access to these standards. NFPA standards are available to view for free online, but printed copies of these standards are not free. This limited access of NFPA standards is particularly problematic since many volunteer fire departments in rural areas lack reliable internet access.

Finally, the NVFC believes these industry consensus standards are excellent as best practice that departments should strive to comply with as much as resources permit them to do so. The NVFC also has great respect for the process through which these standards are produced and has representatives on over 20 NFPA technical committees that inform the content of these standards. However, many volunteer fire departments do not have the economic, staffing and administrative resources to comply with these standards and the NVFC strongly believes they should not become law by being completely or partially incorporated by reference into OSHA’s proposed emergency response standard.

Some standards incorporated by reference that would be particularly burdensome include NFPA 1582. NFPA 1582 contains provisions for an occupational medical program that is designed to reduce risks and provide for the health, safety, and effectiveness of firefighters while performing emergency operations. For AFG grant award purposes, the estimated cost an NFPA 1582 medical exam between \$1200 and \$1400, however many NVFC members have been quoted much higher costs for these physical exams for firefighters and per the economic data above, would be overwhelming for many departments. Incorporation of this standard is an example of where OSHA tried to make the proposed Emergency Response Standard scalable, only requiring a full NFPA 1582 medical exam after a firefighter is exposed to 15 combustion products exposure events per year. However, the NVFC would like more clarity on what the definition of a combustion products exposure event.

Another burdensome standard partially incorporated by reference into this proposed standard would be NFPA 1910. NFPA 1910 contains requirements for establishing an inspection, maintenance, refurbishment, and testing program for emergency service vehicles and marine firefighting vessels and provides the minimum job performance requirements including the requisite knowledge and skills for emergency vehicle technicians. Incorporating this standard by reference would require all fire apparatus to be inspected weekly or within 24 hours of responding to an emergency. Inspections would have to be conducted by staff who are trained in chassis inspection. This would also require periodic comprehensive, diagnostic inspections of up to 70 components within an apparatus. This could be prohibitive for small departments that have a single apparatus and lack the staffing and expertise to conduct such an inspection.

NFPA 1021 would also be incorporated by reference into the proposed Emergency Response Standard. This is the standard for fire officer professional qualifications and contains the minimum job performance requirements including the requisite knowledge and skills to perform fire officer duties through four progressive levels of qualification. Level 1 is a tier for an entry level/first-line supervisor, company officer, or team leader. Level 4 is the top level or top tier for the chief. Incorporation of this standard by reference would again fall into the burdensome one-size-fits-all approach of this Emergency Response Standard.

These courses require hours of training in addition to the hundreds of hours of training volunteers have to go through while balancing career and family obligations. Additional training requirements can severely impact recruitment and retention efforts, therefore much care needs to be taken in evaluating what training is essential for officers in small volunteer departments. In many cases, the NFPA 1021 courses provide training that are not essential to officers in these departments. Additionally, availability of training is a particularly large obstacle many volunteers face, specifically those in rural areas. In speaking with NVFC members and other fire service stakeholders, the NVFC has learned that NFPA 1021 Fire Officer 3 training is only offered in 26 states. Unfortunately, this lack of availability is not unique to Fire Officer 3.

The NFPA standards mentioned above only address a small portion of the burdens small volunteer departments would be faced with if over 20 industry consensus standards are completely or partially incorporated by reference into OSHA's notice of proposed Emergency Response Standard. There are also other requirements outside these standards included in

OSHA's proposed rule that would be extremely burdensome to volunteer departments. These include a number of written planning requirements and procedures that require administrative staff and expertise that small volunteer departments lack. Additionally, such expertise may not be available in rural areas and may require expensive outside consultants. There would also be a number of on-scene requirements like identifying and clearly labeling control zones that again would require time and personnel that many small volunteer departments would not have when arriving on scene.

Finally, the implementation timeline for the proposed standard ranges from 2 months to 2 years depending on the paragraph. Volunteer departments, particularly small departments in rural areas would not be able to comply with this timeline. As previously mentioned, many of these departments would not be able to comply with certain provisions in this standard at all, while other provisions would require at least a decade for volunteer departments to comply with.

Conclusion

The NVFC again thanks the Subcommittee on Emergency Management and Technology for holding this important hearing and for the opportunity to testify. We also thank Chair or Commissioner D'Esposito for his years of service as a volunteer firefighter and his leadership in ensuring volunteer firefighters can safely perform the duties, while not compromising their ability to serve their communities.

While we appreciate OSHA's commitment to firefighter safety, for the reasons explained in this testimony, the NVFC urges OSHA to exempt the volunteer fire service from their proposed Emergency Response Standard. The NVFC looks forward to working with OSHA on ways we can promote firefighter safety without compromising emergency response in communities served by volunteer fire departments.