OSHA Training Institute Region 1 Education Center (New England) presents
OSHA’s New Proposed Rule
January 31, 2024

Moderators

• Sean Ryan
  – OTIEC Region 1 Program Director
• Jen English
  – OTIEC Region 1 Asst. Program Director

Distinguished Panel Members

Chip Darius, OHST, CSHO, EMT
• OTIEC Region 1 Instructor
• Safety Priority Consultants, LLC
• 44 years in EMS
• Certified Health & Safety Officer
• Elected Commissioner, Cromwell Fire District (CT)

Chief Ken Willette
• Executive Director, North American Fire Training Directors
• Past Chief, Wilbraham FD and Concord FD (MA)
• Led NFPA team supporting First Responder Standards

George Simmons IV, CSHO
• Industrial Safety and Rescue
• Technical rescue specialist
Notice

• We don’t work for OSHA
• We don’t make or enforce the laws
• “Your mileage may vary”
• Consult an attorney for legal opinions
• This session is primarily for New England
• Submit questions through the chat at any time
• Questions will be answered at the end

Polls

Session Overview

• Set the Stage: OSHA, Standards, & IBR
• What is Happening and Why? Existing & Proposed Rule 1910.156
• When – Timelines, Implementation
• Who is Affected and How?
• Where: Resources & Links
• Q&A

OSHA, Standards, & IBR

OSH Act of 1970: Purpose

"to ensure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."

OSH Act: Coverage

All private employers and their employees in 50 states, DC, Puerto Rico, and territories under Federal Government jurisdiction

State Plans

General Duty

Each employer shall

• furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.

• comply with promulgated OSHA standards

A Safe Place to Work
A Safe Job to Do
What About Volunteer Fire/EMS/Rescue?

What are the OSHA Standards?

- 29 CFR 1910
- 1915, 1917, 1918, 1926, 1928
- Incorporated by Reference – 1910.6
  - NFPA
  - ANSI
  - CGA
  - ASTM...

1910.6(a)(1) Incorporation by Reference

- The standards … which are incorporated by reference in this part, have the same force and effect as other standards in this part. Only the mandatory provisions (i.e., provisions containing the word “shall” or other mandatory language) of standards IBR are adopted as standards under the OSH Act.

OSHA Standards

- Minimum threshold
- Least the employer can do under law to avoid penalty

2024 OSHA Penalties (Fines)

FEDERAL OSHA

- Serious, OTS, FTA: $16,131
- Willful, Repeat: $161,323

osha.gov/penalties/

Shifting Gears…
29 CFR 1910.155(c)(18)

- Fire brigade (private fire department, industrial fire department) means an organized group of employees who are knowledgeable, trained, and skilled in at least basic fire fighting operations.
Existing 29 CFR 1910.156

- Part Number: 1910
- Part Number Title: Occupational Safety and Health Standards
- Subject: 1910 Subpart I
- Subject Title: Fire Protection
- Standard Number: 1910.156
- Title: Fire Brigades
- GPS Source: 1.4.4.8

29 CFR 1910
Scope and application:

(1) Scope. This section contains requirements for the organization, training, and personal protective equipment of fire brigades whenever they are established by an employer.

(2) Application. The requirements of this section apply to fire brigades, industrial fire departments and private or contractual type fire departments. Personal protective equipment requirements apply only to members of fire brigades performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue or forest fire fighting operations.

Existing 1910.156 Application

1910.156 Application. The requirements of this section apply to fire brigades, industrial fire departments and private or contractual type fire departments. Personal protective equipment requirements apply only to members of fire brigades performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue or forest fire fighting operations.

1910.156: Fire Brigades Standard History

- Sept. 12, 1980: Rule promulgated
- Sept. 11, 2001: Attacks on WTC, Pentagon, …
- 9/11 Commission recommendations
- 2007 OSHA began exploring updating emergency response standards (see p. 56)
- 2014 OSHA held stakeholder meetings
- 2015-2016 NACOSH committee meetings and draft language for new rule
- 2021 SBREFA Review

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December 31, 2023

Department of Labor seeks to expand, establish protections for today’s emergency response workers

OSHA proposal seeks to update 29CFR ‘Fire Brigades’ standard

WASHINGTON – The U.S. Department of Labor today announced that its Occupational Safety and Health Administration will publish a proposal in January 2024 to update an existing standard and expand safety and health protections for emergency responders, including firefighters, emergency medical services providers and technical search and rescue workers. President Biden is committed to protecting our emergency responders, the same way they protect us every day—and this proposed rule is a critical step to ensure their safety.

OSHA will issue a Notice of Proposed Rulemaking to modernize the agency’s “Fire Brigades” standard — first published in 1980 — as its protections for a narrow set of industrial and private firefighters have become outdated.

Emergency Response Rulemaking

Small Business Regulatory Enforcement Fairness Act (SBREFA)

The new Emergency Response proposed rule is here!

OSHA is happy to announce that an unofficial version of the new Emergency Response proposed rule is available for viewing.

An official version will be published in the Federal Register in January 2024. And upon publication, this website will be updated to include the official version. OSHA welcomes and encourages the submission of public comments once the official version is published in the Federal Register.

Background

Emergency response workers in America face considerable occupational health and safety hazards in dynamic and unpredictable work environments. Current OSHA emergency response and preparedness standards are outdated and incomplete. They do not address the full range of hazards facing emergency responders, lag behind changes in protective equipment performance and industry practices, conflict with industry consensus standards, and are not

osha.gov/emergency-response/rulemaking

Unofficial Version of Proposed Rule

• Same version becomes official when published [Jan., 2024] in Federal Register


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1 NFPA Standard presently Incorporated by Reference to 1910.156

- Development of Criteria for Fire Fighters Gloves; Vol. II, part II; Test Methods, 1976
- Publication "Model Performance Criteria for Structural Fire Fighters' Helmets"

22 NFPA Standards to be Incorporated by Reference in the Proposed Rule:

- 1001 (2019)
- 1002 (2017)
- 1005 (2019)
- 1006 (2021)
- 1021 (2020)
- 1081 (2018)
- 1140 (2022)
- 1407 (2020)
- 1582 (2020)
- 1910 (2024)
- 1951 (2020)
- 1952 (2021)
- 1953 (2021)
- 1977 (2022)
- 1984 (2022)
- 1986 (2023)
- 1987 (2023)
- 1990 (2022)
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- 1984 (2022)
- 1986 (2023)
- 1987 (2023)
- 1990 (2022)

“Ensure existing PPE complies with the requirements of the respective standard ... that was current when it was manufactured” -(k)(2)(iv)

- 1951 (2020)

14 More NFPA Standards NOT IBR but Consistent with New Rule Provisions:

- 10
- 600
- 1201
- 1451
- 1500
- 1521
- 1561
- 1581
- 1660
- 1700
- 1710 – career
- 1720 – vol. & combin.
- 1851
- 2500

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NFPA Standards Consolidation

- OSHA recognizes NFPA’s standards consolidation efforts
- Will take standards numbers into account before publishing final rule
  - 1010, 1020, 1400, 1580.

ANSI/ISEA Standard to be IBR

- ANSI/ISEA 207-2011, American National Standard for High-Visibility Public Safety Vests

Proposed Rule Detail begins at page 96 of 608 Pages…

V. Summary and Explanation of the Proposed Rule
   A. Section 1910.120 Hazardous Waste Operations and Emergency Response
   B. Section 1910.134 Respiratory Protection.
   C. Section 1910.155 Scope, application and definitions applicable to this subpart.
   D. Section 1910.156 Emergency response.
   E. Section 1910.157 Portable fire extinguishers.
   F. Section 1910.158 Standpipe hose systems.
   G. Section 1910.159 Automatic sprinkler systems.

Rule without detail starts at p. 563
1910.156 “Emergency Response”

- The scope of the proposed rule is larger, expanding beyond employers who provide only firefighting services to include employers that provide other emergency services, such as pre-hospital EMS and technical search and rescue services. In addition, the proposed rule would impact public and municipal fire departments and other emergency response employers in States with OSHA-approved State Plans...

- p. 100

1910.156 New Terms

- **WERE**: Workplace Emergency Response Employer
- **WERT**: Workplace Emergency Response Team (collateral duty) – “team member”
- **ESO**: Emergency Service Organization (primary duty) – “responder”
- **ERP**: Emergency Response Program
- **PIP**: Pre-incident Plan

Layout of Proposed Rule – 1

a. Scope.
b. Definitions.
c. Organization of the WERT, Establishment of the ERP and Emergency Service Capability
d. ESO Establishment of ERP and Emergency Service(s) Capability
e. Team Member and Responder Participation
f. WERT and ESO Risk Management Plan

Layout of Proposed Rule – 2

g. Medical and Physical Requirements
h. Training
i. WERE Facility Preparedness
j. ESO Facility Preparedness
k. Equipment and PPE
l. Vehicle Preparedness and Operation
m. WERE Pre-Incident Planning
n. ESO Pre-Incident Planning

Layout of Proposed Rule – 3

o. Incident Management System
p. Emergency Incident Operations
q. Standard Operating Procedures
r. Post-Incident Analysis
s. Program Evaluation
t. Severability

1910.120 HAZWOPER

• Update PPE requirements
• Revise Apx B, remove 3 outdated refs, update consensus standard reference to NFPA 1990, 2022 ed.
1910.134 Respiratory Protection

- Move respiratory protection for structural firefighting from 1910.134 to 1910.156, with a cross-reference

1910.155 Scope, Application,Defs

- Add definitions for Class K fire, clean agent, halogenated agent, wet chemical, wetting agent.
- Delete definitions for enclosed structure, fire brigade, flame resistance, helmet, lining, outer shell, positive pressure breathing apparatus, quick disconnect valve, vapor barrier.

1910.156 New Definitions

- Drawn from NFPA 600, 1500, 1561, 1660, 2500, 1700, 1710
- Community vulnerability assessment
- Control zone
- EMS (distinct from first aid)
- Incident Safety Officer
- Non-emergency service
- Rapid Intervention Crew (RIC)
1910.156 – Skilled Support Worker

- "an employee of an employer whose primary function is not as an emergency service provider and who is skilled in certain tasks or disciplines that can support a WERT or ESO."
- Operates under IC
- E.g., backhoe operator in trench rescue
- Once IC terminates, SSW role ends

1910.156 – Volunteers – 1 of 3

- "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 rule as employees."
  – p. 101-102

1910.156 – Volunteers – 2 of 3

- "all volunteer emergency responders who are currently excluded from coverage under the OSH Act should expect that they will continue to be excluded from the scope of this rulemaking."
  – p. 101-102
1910.156 – Volunteers – 3 of 3

- “some States with OSHA-approved State Plans regard volunteer firefighters and other volunteers as employees under state law. ... Regardless of whether these volunteers are considered employees under federal law, such States must treat them as it does other emergency response workers under its analogue to any final standard resulting from this rulemaking.” - p. 102

1910.156 – Law Enforcement

- The proposed rule would apply to employers whose employees, in addition to performing law enforcement duties, also provide services such as firefighting, EMS, or technical search and rescue. ... the proposed rule would apply only with respect to when those employees provide services that do not qualify as law enforcement.” - p. 104

1910.156 – Technical Rescue

- Technical search and rescue: a type of service that utilizes special knowledge and skills and specialized equipment to resolve unique or complex search and rescue situations, such as rope rescue, vehicle/machinery rescue, structural collapse, trenches, and technical water rescue.
- N/A to lower than technical rescue - p. 106
1910.156 Exclusions

- N/A to disaster site cleanup workers after emergency nature of incident has ended.
- HAZWOPER separate rule remains
- N/A to rescue provisions in current PRCS 1910.146; would apply to ESO/WERT that does more than just PRCS rescue
- N/A if activity solely governed by other standard: 1910.38 EAPs, .157 FEs, .151 First Aid, .119 PSM, .272 grain

1910.156 – Fitness

- Physical and mental fitness requirements, and addressing effects resulting from emergency response activities
- Medical eval and surveillance, ref NFPA 1582
- To be established based on type and level of services provided
  – p. 150

1910.156 – Training – 1 of 4

- Initial, ongoing, refresher, professional and leadership development
- Commensurate with safe performance of expected duties and functions
- Language, literacy
- Online/Media – trainer available to answer questions
  – p. 177

1910.156 – Training – 2 of 4

- Safety & health policy
- PPE selection, use, maintenance, limitations, retirement
- Portable fire extinguishers
- Incident management system
- Safe scene exit and accountability
- HAZWOPER Awareness
- Awareness & avoidance of confined space, trench, swift water, etc.

1910.156 – Training – 3 of 4

- CPR & AED
- Vocational training JPRs per NFPA standard
- Firefighting: NFPA 1081 (2018)
- Structural firefighting: NFPA 1001 (2019)
- Search & Rescue: NFPA 1407 (2020)
- Crew Leader: NFPA 1021 (2020)
- Wildland FF: NFPA 1140 (2022)

1910.156 – Training – 4 of 4

- Technical Search & Rescue: NFPA 1006 (2021)
- EMS: per local jurisdiction
- Annual skills checks: NFPA 600, 1500, 1670 and other OSHA standards

1910.156 – Facility

- Safe for team members
- Emergency evacuation
- PPE decon, disinfection, cleaning, storage
- Fire detection, sprinklers
- Compatible standpipe and hose connections with mutual aid (x-ref to 1910.158, .159)
- 4 limbs to use a fire pole; landing cushion; access protected
  – p. 190 and following

1910.158 & .159

- WERE{s must ensure standpipe and hose fitting compatibility with responding FDs

Timeline – What’s Next?

Timeline

- Official Proposed Rule Publication: [by 1/31/2024]
- Comment Period: 90 days
- Comments considered: TBD
- 2nd version of Proposed Rule for comment or Final Rule
- Phased Implementation after Effective Date of Final Rule

How Fast is This Going to Move?

- Regulatory Agenda
  - Current Actions
    - COVID-19 Health
    - Infectious Diseases
    - Tree Care Occasional
    - Heat Injury and Stress Prevention Proposed Rule
    - Emergency Response Proposed Rule
    - Hazard Communication Proposed Rule
    - Process Safety Management Proposed Rule
    - Workplace Violence SHOCA
    - Stevedore Fall Protection Rulemaking
    - Worker Walkaround MIPM FAQs

OSHA’s Proposed Phase-In (p. 95) after Effective Date

- 2 months:
  - e: Employee Participation
OSHA's Proposed Phase-In (p. 95) after Effective Date

• 6 months:
  – c: Org of the WERT and ERP
  – d: ESO ERP
  – f: Risk Management Plan
  – g1: Establish Minimum Medical Req's & Records
  – g4: Behavioral Health & Wellness Resources
  – k2i: PPE Hazard Assessment
  – Continued on next slide

OSHA's Proposed Phase-In (p. 95) after Effective Date

• 6 months cont'd:
  – k2vii-x: Properly use/wear protective ensemble; cleaning & decontamination; remove damaged/defective from service; employee-owned items
  – k3: PPE gross decon before leaving scene, keep passenger compartment clean
  – r: Post-Incident Analysis

OSHA's Proposed Phase-In (p. 95) after Effective Date

• 12 months:
  – g2: Medical evaluation
  – g3: Medical surveillance post exposure,
  – g5: Annual fitness for duty evaluation
  – g6: ESO health and fitness program
  – h1: Training and skills-based activities
  – Continued on next slide

#### OSHA's Proposed Phase-In (p. 95) after Effective Date

**12 months cont'd:**
- k1: Access to equipment
- l: Safe vehicles of all types
- m: WERE Pre-Incident Planning
- n: ESO Pre-Incident Planning
- o: Incident Management System
- p: Emergency Incident Operations
- q: SOPs
- s: Program Evaluation

#### OSHA's Proposed Phase-In (p. 95) after Effective Date

**24 months:**
- h2: Vocational training
- h3: Annual skills checks
- i: WERE facility safety
- j: ESO facility safety
- k2ii-vi: Properly fitting PPE, effective PPE, compliance to consensus PPE standards, air purifying respirators not used in IDLH

#### OSHA is Asking for Input!

- See p. 87-92

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Comments? Questions?

- Please submit all questions through the Chat

Who is Affected?

How Will the Proposed Rule Affect Organizations?

Resources
Download the Proposed Rule


Submit Comments Within 90 days of Federal Register Rule Publication

- See page 2 of proposed rule for instructions

OTIEC Region 1: oshaedne.com
OSHA's New Proposed Rule 29 CFR 1910.156:
Emergency Response

https://www.cdc.gov/niosh/topics/ems/default.html

Into the Future…
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Thank you for participating!