

July 22, 2024

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Director, Office of Safety Systems, Directorate of Standards and Guidance  
Occupational Safety & Health Administration  
U.S. Department of Labor  
200 Constitution Avenue, NW Room Number N3626 Washington, D.C. 20210

Re: Occupational Safety and Health Administration (OSHA) Docket No. OSHA–2007–0073

The New Jersey State League of Municipalities, the NJ State Fire & EMS Institute, NJ State Fire Chiefs Association, NJ Volunteer Fire Chiefs Association, NJ Career Fire Chiefs Association, NJ State Association of Fire Districts, NJ Deputy & Battalion Fire Chiefs Association, and the International Association of Fire Chiefs, NJ Section would like to comment on the OSHA proposal to issue a new safety and health standard, titled *Emergency Response*, to replace the existing Fire Brigades Standard, listed as Federal Register Docket ID OSHA–2007–0073. The new standard would address a broader scope of emergency responders and would include programmatic elements to protect emergency responders from a variety of occupational hazards.

In New Jersey, most of the proposed rules exist under the PEOSHA agreement with the New Jersey's Department of Labor and Department of Health. However, we have significant concerns with OSHA's proposal including:

- **Increased Administrative Overhead:** According to the National Fire Protection Association (NFPA), administrative tasks in fire departments can consume between 10% to 20% of the total budget, depending on the size and complexity of the department. Implementing new standards would increase these tasks, potentially adding to the cost that will be challenging to absorb in the current economic climate.
- **Financial Vulnerability of Volunteer Departments:** Research from the Volunteer Firefighters Alliance suggests that more than 70% of volunteer fire departments are operating with budgets that have not increased proportionally to operational costs over the past decade. This indicates that even minor increases in costs could have significant impacts, far exceeding OSHA's estimation.
- **Wider Scope of Litigation:** These heightened standards could widen the scope of litigation to local governments both as employers as well as responsible parties for compliance. Any surge in litigation places a considerable financial burden on local governments and their communities.

An increased litigation risk means that local governments will need to divert financial resources toward defending legal actions and this could damage public confidence in emergency services and local governance.

- **Costly Training Expenses:** Data from the U.S. Fire Administration indicate that specialized training costs can range from \$2,500 to \$5,000 per firefighter, depending on the type of training required. With OSHA's new rules possibly requiring new types of specialized training, the average costs provided might underestimate the complexity and depth of training required to comply with the new standards. Advanced training modules, especially those involving sophisticated equipment or specialized medical procedures, could necessitate bringing in external experts, thereby increasing the costs. Additionally, compliance verification and ongoing monitoring to ensure adherence to the new rules will likely require more administrative work than anticipated, further escalating expenses.
- **Equipment and PPE Inflation:** The Bureau of Labor Statistics (BLS) reports that the price index for specialized equipment and PPE has seen an annual increase of approximately 3.5% over the past five years. This rate of inflation could render OSHA's current cost projections, based on today's dollars, underestimated in the long term.
- **Medical Examinations and Specialized Procedures:** Under the new OSHA rules, the scope of medical examinations will broaden significantly. Beyond the traditional physical assessments, these could now include advanced screenings for cardiovascular health, respiratory function tests, cancer screenings, and mental health evaluations to address the comprehensive health risks faced by firefighters and emergency response personnel. While this holistic approach to health monitoring is critical given the exposure to hazardous materials, extreme physical demands, and psychological stress inherent in emergency response work, the costs associated with expanding the scope of medical examinations can be significant.
  - **Basic Physical Examination:** The cost for a comprehensive physical examination can range from \$150 to \$300 per person, depending on the healthcare provider and the geographic location.
  - **Cardiovascular Health Screenings:** Advanced cardiovascular tests such as echocardiograms can cost between \$1,000 and \$2,000, while stress tests may range from \$500 to \$1,200 per examination.
  - **Cancer Screenings:** The cost for specialized cancer screenings can vary significantly. For example, a low-dose CT scan for lung cancer screening might cost between \$100 and \$250, while blood tests for cancer markers can range from \$50 to \$200 each.
  - **Mental Health Evaluations:** Initial psychological assessments can cost between \$200 and \$500 per session, with ongoing mental health support or counseling services ranging from \$100 to \$250 per hour.
  - **Wellness Programs:** Implementing a wellness program can involve initial setup costs of \$2,000 to \$10,000, depending on the complexity and scope of the program, with ongoing costs potentially

reaching \$50 to \$150 per participant annually for educational materials, wellness activities, and support services.

- **Health Monitoring Systems:** The cost of establishing health monitoring databases and systems can range from \$5,000 to \$20,000 for software solutions, plus additional costs for hardware and administrative support, potentially adding thousands of dollars annually.
- **Training and Certification for Medical Evaluators:** Training for medical evaluators specific to emergency responder health risks can cost between \$500 and \$1,500 per medical professional, excluding the costs of certification or recertification exams, which can add an additional \$200 to \$400 per exam.
- **Economic Impact on Small and Volunteer Departments:** Small and volunteer fire departments might spend an estimated 5% to 10% of their annual budget on health and safety compliance under the new OSHA rules, a significant increase given their often-limited financial resources, which rely heavily on the generosity of their community.
- **Healthcare Inflation:** Healthcare costs have historically risen at rates exceeding general inflation, with an average annual increase of about 4.6% over the last decade. Given this trend, the estimated \$46 million annualized costs for medical and physical requirements may be significantly understated.

## FLEXIBILITY

We request that OSHA build regulatory flexibility and reasonable timelines into the implementation of proposed rule taking the above-mentioned items into consideration. Inspections and reviews that are currently conducted by the state departments for the local fire departments occasionally focus on minutiae that does not improve health and safety but creates administrative burdens that, in this environment with largely volunteers running the operation is not sustainable.

The OSHA on-scene Commander qualifications are a great example of flexibility provided in New Jersey. The state notices do not specify the exact training that is needed or qualifications to be an on-scene Commander. In practice, it requires performance and knowledge-based competencies. In New Jersey, the Division of Fire Safety (NJ DFS) establishes the requirements for on-scene Commander requirements. NJ DFS requires a Level 2 Instructor, plus successful completion of the on-scene commander train-the-trainer program. But it does not require experience as an on-scene commander. While there are many in New Jersey who are more than qualified to teach this class, the New Jersey Division of Fire Safety determines the requirements as to who can teach the class. This is an example of the type of flexibility that should be built in to demonstrate competency to the job performance requirements, but not necessarily require arbitrary certifications with no evidence that they need to be required.

## HUMAN FACTORS

Further, we request that the role of human factors be examined in assessing performance, both good and bad. To assess the role of human factors in an accident. Similar to what is utilized by Federal Aviation Administration (FAA), which has a Human Factors organization that develops regulations, guidance, and procedures to support aircraft certification, production, and airworthiness. FAA human factors researchers study the physical, behavioral, cognitive, and social characteristics of aviation professionals, such as pilots, air traffic controllers, and maintenance technicians. They also consider human conditions like fatigue and stress, which can contribute to accidents. According to the FAA, 80% of aviation maintenance errors can be attributed to human factors. Human factors science draws from many fields, including psychology, engineering, industrial design, statistics, operations research, and anthropometry. Human Factors can be described as:

- Lack of communication
- Distraction
- Lack of resources
- Stress
- Complacency
- Lack of teamwork
- Pressure
- Lack of awareness
- Lack of knowledge
- Fatigue

Human conditions that affect safety, such as stress, fatigue, and complacency that affect human decisions. These factors directly cause or contribute to many accidents, injuries and death.

## AFTER ACTION REPORT

Using an objective and proven After Action Report (AAR) process to review the incidents helps not only correct problems but even improves future performance. Conducting an after-action review, or debrief, enables crew members to analyze what happened, why it happened during an incident, and what improvements can be made. It also provides department leaders with suggestions for change, if necessary. After-action reviews in the formal sense were originally developed by the military and all effective leaders have used them as they support a culture of accountability. AAR debriefs can be structured and formal (appropriate after a large complex event) or informal, run by a company officer for a quick review.

The AAR is a tool to reduce critical errors, improve performance, increase proficiency and confidence, and a positive meeting that may at times focus on negative aspects of an event.

If you would like to discuss this matter further, please do not hesitate to contact Senior Legislative Analyst Paul Penna, at [PPenna@njlm.org](mailto:PPenna@njlm.org) or 609-695-3481, x110.

Very Truly Yours,

New Jersey State League of Municipalities  
NJ State Fire & EMS Institute  
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NJ Career Fire Chiefs Association  
NJ State Association of Fire Districts  
NJ Deputy & Battalion Fire Chiefs Association  
International Association of Fire Chiefs, NJ Section