



July 16, 2024

Chair Steven W. Hirsch
National Volunteer Fire Council
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The Honorable Douglas L. Parker
Assistant Secretary of Labor for Occupational Safety and Health
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Comments: Docket ID: “Emergency Response Standard” (Emergency Response) Rule [Docket No. OSHA-2007-0073] (RIN 1218-AC91)

Dear Assistant Secretary Parker,

On behalf of the National Volunteer Fire Council (NVFC), I offer the following comments regarding the proposed rule the Occupational Safety and Health Administration (OSHA) published in the Federal Register entitled “Emergency Response Standard.” 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 well-being 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 due to compliance and liability concerns. As written, this proposed standard could also compromise the safety and emergency response capabilities of many small communities, particularly small communities in rural areas served by volunteer departments.

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 its implementation; an unrealistic proposed timeline for implementation; a lack of adequate scalability; and a lack of understanding the risks faced by volunteer fire departments. More explanation is provided below.

For these reasons, the NVFC would like OSHA to exempt volunteer firefighters and volunteer fire departments from this proposed standard if it is adopted as written. We would then like to work with OSHA on a less arbitrary and more feasible approach to ensure the safety of volunteer firefighters.

The NVFC serves as the national voice for the over 676,000 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.

The Standard is Economically Infeasible for Volunteers to Comply With:

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.¹ 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.²

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. Some departments are entirely self-funded through fundraising efforts like pancake breakfasts, chicken dinners, and bingo nights. These efforts are often labor intensive with low yields.

Additionally, many small communities are unable to take advantage of economies of scale. For example, in communities with populations of a million or more residents there are more than 30,000 people for every pumper truck and more than 100,000 people for every non-pumper vehicle. In communities with populations of 2,500 or fewer residents there are only 800 people for every pumper truck and 500 for every non-pumper vehicle. Keep in mind that these vehicles cost over \$1 million, if purchased new and often cost hundreds of thousands of dollars if purchased used.

Similarly, for communities with populations of less than 2,500, 2,500-4,999, and 5,000-9,999, the number of residents per firefighter is 46.8, 96.9, and 264.1, respectively. By comparison, for communities with populations of 250,000-499,999, 500,000-999,999, and over 1 million the number of residents per firefighter is 833.3, 702.6, and 703.1, respectively.

The Small Business Advocacy Review (SBAR) panel on the proposed Emergency Response Standard recommended that OSHA do more to take into account the economic feasibility of the

¹ National Fire Protection Association, US Fire Department Profile 2020, Rita Fahy, Ben Evarts and Gary P. Stein, September 2022

² National Fire Protection Association, US Fire Department Profile 2020, Rita Fahy, Ben Evarts and Gary P. Stein, September 2022

proposed standard on departments that self-fundraise. The NVFC believes that the proposed Emergency Response Standard still doesn't adequately accomplish this.

The NVFC believes OSHA's use of Firehouse Magazine's 2021 Volunteer Fire Department Run Survey and 2021 Combination Fire Department Run Survey to estimate revenue data for volunteer and combination departments presents a significantly inflated view of average fire department revenue levels. The NVFC conducted a survey of our membership and asked about department budgets. Of the 2,444 responses we received 19% 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.

Fire departments operating with an average annual budget of about \$75,000 often barely subsist and have no financial capacity to do anything more than pay for fuel, maintain their trucks and building, and purchase basic replacement gear and supplies. In addition to the lack of availability of funding, many states place caps on the percentage municipal budgets can grow year to year. For example, 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.

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.

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 (FEMA). 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 through 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, and approximately \$2.8 billion in SAFER funding applications for only \$360 million in available funding. That represents *\$4.5 billion* in unmet need, and this amount is understated due to the number of volunteer departments who lack the personnel time and expertise to apply for these grants.

The notice of proposed rulemaking (NPRM) for the proposed Emergency Response Standard estimates the average cost to volunteer fire departments to be an average of approximately \$14,000 each. The NVFC believes this average cost would be significantly higher, due to the costs of physicals, needed administrative staff and equipment, among other provisions within the proposed standard. Based on an estimate of the cost of firefighter physicals that OSHA put together for the National Advisory Committee on Occupational Safety and Health (NACOSH) Emergency Response Subcommittee, the NVFC estimates that the cost of implementing a physicals program alone for communities serving populations of 2,500 or fewer residents would be about \$16,000 per fire department. For some departments that is the size of their annual operating budget. Even for a well-funded volunteer fire department, that would be a significant portion of their operating budget. Many departments will be unable to comply with a physicals mandate, while others will be forced to shift funding away from other important priorities.

Volunteers in many departments 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 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, the first and only national recruitment and retention campaign to help departments maintain or increase volunteer 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 as written. 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 proposed standard would fail to 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. Some departments would be forced to close.

In the NPRM's economic feasibility analysis, public volunteer fire departments are the only emergency response service group with costs as a percent of revenues estimated to exceed the one percent revenue test, at an OSHA-estimated 4.99% of revenues. OSHA says they expect that in most situations the affected community would be able to allocate the very small additional share of the locality revenues necessary to permit the fire department to comply with the standard. The NVFC strongly disagrees with this.

First, the NVFC believes that 4.99% is a significant underestimation of the average percentage of volunteer fire department revenue it would cost to comply with this standard, based on the inflated data OSHA used from Firehouse Magazine. The NVFC believes that the use of median data is a more accurate reflection of volunteer fire department budgets than average data. Second, because many departments won't have much of a budget available to comply with this standard, the municipality would have to pay a large share of the compliance cost. Third, most volunteer fire departments serve rural communities with very small budgets that would lack the funds to assist their fire departments with compliance of this standard. This assertion has been supported by many NVFC members speaking with their municipal officials and the NVFC's conversations with the National League of Cities and the National Association of Counties. Additionally, there are nonprofit departments and departments that self-fundraise that lack access to municipal funds.

The NPRM says that OSHA is concerned with the potential "downstream" economic impact the proposed rule may have on organizations with volunteer responders. The NPRM says OSHA 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, but was unable to determine any appropriate exclusions in light of the agency's obligation to ameliorate significant risks to employees where economically feasible.

Per the data above, the NVFC argues that this proposed standard as written is economically infeasible for many volunteer fire departments to comply with. The public comment period for this proposed standard did not provide enough time for the volunteer fire service to determine the appropriate exclusions for these departments. The NVFC believes volunteer fire departments and firefighters must be exempt from this standard as written until it can determine such exclusions via additional dialogue with OSHA.

Scope of the Proposed Rule:

There are a number of instances in the NPRM that indicate OSHA does not have an accurate understanding of the number of volunteer departments the proposed Emergency Response Standard would impact. The NPRM also lacks clarity about which volunteer fire departments and personnel would be covered by the standard.

Some of the SBAR panel's 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. While Paragraph A of the proposed Emergency Response Standard does explain how emergency response organizations and the personnel of these organizations would fall within the scope of the standard, it doesn't delve further into specifics, leaving many unanswered questions. There are many variables such as compensation level, department structure/funding sources, and location that may impact how volunteers fall within the scope of this proposed standard. These are not clearly and adequately addressed by OSHA and leave much ambiguity about which volunteers are included or excluded in the proposed Standard.

Regarding compensation, the NPRM 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 explains 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 as an employer. However, there are 27 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 the 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 which 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 27 states with OSHA-approved State Plans are assumed to classify volunteers as employees that would be covered by the proposed Emergency Response Standard.

Though OSHA says it believes that volunteer emergency responders rarely receive compensation substantial enough to render them employees under this "significant remuneration" legal test, they do not provide a definition for "significant remuneration." 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.³ The NVFC is concerned about the accuracy of OSHA's determination that the "significant remuneration" threshold would rarely be triggered without OSHA defining what "significant remuneration" is.

³ Department of Labor, Wage and Hour Division Opinion Letter, Aug. 7, 2006

While the NVFC strongly believes the best course of action would be to exempt volunteer firefighters from this proposed Emergency Response Standard as written, a better metric to define a volunteer based off compensation would be the “20 percent rule” as defined in the Department of Labor’s August 7, 2006, opinion letter, which extends the application of this 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.”⁴ 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, “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. We believe it is OSHA’s responsibility to have a clear understanding of the entity they are regulating before any standard is adopted.

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 department’s 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.

OSHA’s argument that the proposed Emergency Response Standard is not an unfunded mandate relies on the agency’s standards not directly applying to state and local governments. Rather, states that have elected voluntarily to adopt an OSHA-approved State Plan must adopt a standard at least as effective as the Federal standard, which must apply to state and local government agencies. However, the NVFC believes OSHA did not account for volunteer departments that are

⁴ Department of Labor, Wage and Hour Division Opinion Letter, Aug. 7, 2006

organized as nonprofits in Federal OSHA states; therefore this proposed standard could be an unfunded mandate on those volunteer fire departments if the firefighters in such departments are compensated at a level that is considered “significant remuneration.”

Additionally, OSHA-approved State Plans are larger in scope and cover many more state and local employees than this proposed Emergency Response Standard alone. It is unrealistic to assume that states would opt out of their OSHA-approved State Plans because of the proposed standard, and if they did, it would be contrary to OSHA’s goal of ensuring employee safety. Therefore, this proposed rule would effectively be an unfunded mandate.

In reviewing the NPRM, 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 impact this proposed Emergency Response Standard could have on the volunteer fire service. The NVFC therefore recommends that the volunteer fire service be exempt from OSHA’s proposed Emergency Response Standard as written. OSHA should not arbitrarily regulate an entity it does not adequately understand.

Need for a More Scalable and Risk-Based Standard:

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 Standard scalable, much more needs to be done. As seen in the data above, most volunteer departments in the United States serve small communities and career departments mostly serve larger communities with more robust funding streams and tax bases.

As a result, the volunteer and career fire services mostly serve different communities with different risk profiles. Though the role performed and risk level encountered in each of these communities is the same, the nature of the risks encountered are different. For example, many career departments will not have to respond to a grain silo fire, just like many volunteers would not have to respond to a high-rise fire.

Additionally, many volunteer departments in small town or rural areas lack administrative staff and serve communities with part-time local officials that are unable to provide additional administrative support. Volunteer fire departments also face major challenges with staffing, recruitment, and retention. Between 2010 and 2020 the number of volunteer firefighters nationwide dropped 12%.⁵ Since 1987, the percentage of firefighters over the age of 50 serving in communities with populations of 2,500 or fewer residents has surged from 15.9⁶ percent to 34 percent⁷ indicating a challenge in recruiting younger members. In some areas around the country, there are communities where every member of the volunteer fire department is over 50 years old. Understaffed departments and departments whose members are balance volunteering with full-

⁵ National Fire Protection Association, US Fire Department Profile 2020, Rita Fahy, Ben Evarts and Gary P. Stein, September 2022

⁶ Survey of Fire Departments for U.S. Fire Experience, National Fire Protection Association, 1987

⁷ U.S. Fire Department Profile 2020 Supporting Tables, National Fire Protection Association, September 2022

time jobs do not have the human resources needed to implement broad-sweeping requirements such as those outlined in the proposed standard. The NVFC believes the NPRM substantially underestimates the time needed to comply with the proposed standard's administrative and training requirements. This proposed standard would further increase the time burden placed on volunteers and exacerbate the recruitment and retention problem. Furthermore, these small communities do not have the tax base to hire a full-time paid fire chief, let alone paid firefighters. These communities could be left completely unprotected by a fire department due to compliance and liability concerns if this proposal is adopted as written.

OSHA needs to do more to make this standard scalable. One criterion that OSHA highlights as scalable to accommodate the economic challenges and risk profile of smaller departments is the threshold requiring an annual NFPA 1582 medical exam only if a firefighter is exposed to 15 combustion product events per year. However, OSHA needs to better explain how they arrived at the arbitrary threshold of 15 exposures to combustion products per year and better define what a combustion product exposure event. Many small departments could still fall within this threshold depending on the definition of these events.

These factors combined with the scope and economic issues above clearly show that it is arbitrary and infeasible to have a small volunteer department adhere to an Emergency Response Standard that is nearly identical to the standard a large metropolitan fire department would have to comply with. The NPRM also states that this proposed standard was developed through a process akin to negotiated rulemaking, and the NVFC believes this standard should have warranted a full negotiated rulemaking process.

In addition to volunteers being exempted from this standard as written, the NVFC would like to work with OSHA on an approach that would be much more scalable and appropriate for the volunteer fire service. This approach should be based on a framework of risks faced by the communities volunteer fire departments serve and take into account factors such as call volume, population protected, square miles protected, and annual budgets.

Burdensome Requirements and Incorporation of Consensus Standards by Reference:

As previously mentioned in these comments, there are many requirements contained within the proposed Emergency Response Standard that are 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 several 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 are incorporated by reference and are consolidated into other standards afterwards.

Third is the lack of reasonable availability of these consensus standards. NFPA standards are available to view for free online, but printed copies of these standards are not free. An \$11.99 a month NFPA membership would be required to print these standards, plus the cost of ink and

paper. The NFPA also sells printed copies of their standards. For example, a printed copy of NFPA 1021 costs \$149.00. This limited access to NFPA standards is particularly problematic since many volunteer fire departments in rural areas lack reliable internet access or funding to purchase printed copies.

Finally, adoption of industry consensus standards is voluntary. The NVFC believes these industry consensus standards are excellent as best practices and that departments should strive to comply with as much as their resources on hand allow. 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. The NVFC strongly believes they should not become law by being completely or partially incorporated by reference into OSHA's proposed Emergency Response Standard.

One standard incorporated by reference that would be particularly burdensome is 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. The Federal Emergency Management Agency (FEMA), through SAFER grants, has awarded \$1200 per NFPA 1582 medical exam. Many NVFC members have been quoted much higher costs for these firefighter physicals and have said their communities lack doctors with the expertise to administer a full NFPA 1582 physical. Per the economic data previously mentioned in these comments, this cost would be overwhelming for many departments.

Another burdensome consensus standard partially incorporated by reference into this proposed Emergency Response Standard is 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, expertise, and access to training 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. This training is provided through four progressive levels of qualification, with Level 1 being a tier for an entry level/first-line supervisor, company officer, or team leader, and Level 4 being the top level or top tier for the chief. Incorporation of this standard by reference would again fall under the burdensome one-size-fits-all approach of this Emergency Response Standard with some of this training not easily accessible or attainable in many areas of the country.

Courses offered through NFPA 1021 require hours of training in addition to the hundreds of hours of training volunteers already 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 are often much broader than required for officers in small volunteer departments. Additionally, access to training like that offered via NFPA 1021 is a particularly large obstacle for many volunteers, 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 approximately 20 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 proposed Emergency Response Standard. There are also other requirements outside these standards included in the proposed standard that would be very 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. The NVFC again believes that OSHA's significantly underestimates the time and funds needed to comply with these administrative requirements and procedures.

The NPRM specifically asks about the feasibility of the on-scene requirement of identifying and clearly labeling control zones. This provision of the proposed standard would require time and personnel that many small volunteer departments would not have available when arriving on scene. OSHA also seeks input on whether the agency should specify a retirement age for PPE. The NVFC believes OSHA should not specify a retirement age for PPE or other firefighting equipment. Due to funding restraints many small and rural departments must use older or second-hand equipment. Though well-funded departments can afford more updated equipment, older equipment sometimes used by small rural departments is still adequate and purchased at a significant mark down or donated from better-funded departments when they are able to upgrade their equipment. Placing a mandated retirement age on firefighting equipment would place an additional economic burden on small volunteer departments and make this standard that much more economically infeasible for these departments and increase the already unmet need for AFG and SAFER grants.

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.

Items in the Proposed Standard that the Volunteer Fire Service Could Comply With:

While there are many provisions within the proposed standard that would be infeasible for many volunteer fire departments to comply with, there are others that could be broadly implemented

with minimal hardship. These include the use of seatbelts, baseline cardiac screening, and use of PPE for emergency medical service personnel (EMS).

Many firefighters killed in vehicle crashes were found to have not been wearing seatbelts at the time of their fatal crash. The use of seatbelts and harnesses, after PPE is donned, in vehicles that have them is likely to be the most efficient method of saving firefighter lives. Cardiac death is the leading cause of on-duty death among firefighters. While a full NFPA 1582 medical exam for personnel may be too much for volunteer fire departments to comply with, a baseline cardiac screening (electrocardiogram and stress test) for volunteers would be an effective way to protect firefighter well-being in a more economically feasible manner. Requiring proper PPE for EMS personnel is an economically feasible way to protect both EMS providers and patients.

Conclusion:

The NVFC again appreciates OSHA's commitment to ensuring the safety of firefighters and appreciates the opportunity to comment on this proposed Emergency Response Standard. As expressed previously in these comments, the NVFC would like volunteer firefighters and volunteer fire departments to be exempt from this proposed standard as written. We understand that following the conclusion of this public comment period, OSHA will be holding a public hearing on this proposed standard. The NVFC would like to be a witness at this hearing and have the opportunity to further engage with OSHA regarding the challenges the volunteer fire service would face in its attempts to comply with this standard and how we can work together to find a feasible approach to protecting the wellbeing of volunteer firefighters.

Additionally, the NVFC would also like to further engage with OSHA to develop a safety enforcement approach for volunteer firefighters who fall under the OSH Act that is appropriately scalable according to the types of risks faced by volunteer fire departments and takes into greater account factors like call volume, population protected, square miles protected, and annual budgets. Thank you for your consideration of this important matter.

Sincerely,

A handwritten signature in black ink that reads "Steven W. Hirsch". The signature is written in a cursive, flowing style.

Chief Steven W. Hirsch
Chair, National Volunteer Fire Council