OSHA Issued the Following Statement Regarding its Emergency Response Rulemaking & Volunteer Emergency Responders

On September 17, 2024, OSHA issued the following statement:

OSHA's rulemaking on Emergency Response is focused on providing long overdue protections to emergency responders. The agency has tremendous respect for both the work that emergency responders do and their unique role providing essential public safety services to every community in America. This statement describes the rulemaking's applicability to volunteer responders.

Where Are We Now?

On February 5, 2024, OSHA published the Notice of Proposed Rulemaking (NPRM), Emergency Response Standard. While OSHA does not directly cover volunteer emergency responders, some OSHA State Plans treat volunteers as employees under state law, which is how a federal proposed standard could affect volunteer responders in those State Plan states. In the NPRM, OSHA preliminarily determined, based on the limited evidence available to it at the time, that the proposed rule would be economically feasible for volunteer organizations. OSHA had sought information about the potential impact of the rule on volunteer organizations, but it did not have sufficient evidence to show that the rule would be infeasible for these organizations. Therefore, in accordance with the requirements of the Occupational Safety and Health Act of 1970, the proposal did not provide special allowances for the volunteer organizations that could be affected in some states. At the same time, the agency requested commenters' input on whether the proposed rule would be feasible for these entities. OSHA received that input during the extended comment period from February 5, 2024 through July 22, 2024.

What are Stakeholders' Concerns Regarding Volunteer Emergency Responders?

OSHA has received comments in response to the NPRM from many stakeholders, including volunteer emergency responders, fire chiefs, trade organizations, and members of Congress, which raise serious concerns about the economic feasibility of the proposed standard for volunteer fire departments. OSHA takes these concerns seriously. The comments submitted to the rulemaking docket provide crucial information that the agency did not have earlier in the rulemaking process. This new information will help the agency make the necessary determinations about whether the proposed standard is feasible for volunteer organizations.

Moving Forward

OSHA is committed to taking steps in any final standard, consistent with the rulemaking record, to assess and minimize detrimental effects on volunteer fire departments. If supported by the record, this may include excluding voluntary emergency response organizations entirely based on these feasibility concerns.

Can I Still Provide Input to OSHA?

Yes. While the initial comment period has closed, OSHA strongly encourages stakeholders to continue to provide information and data relevant to this question at the public rulemaking hearing scheduled to begin on November 12, 2024, and during the post-hearing comment period. Instructions for how to participate in the hearing are available on the Emergency Response rulemaking webpage, www.osha.gov/emergency-response/rulemaking. Once the rulemaking record is complete, OSHA will review all the information received and determine the appropriate approach to take with respect to volunteer organizations.

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How Did We Get Here?

OSHA created an advisory committee working group to help the agency craft a proposed standard so that stakeholders would have a direct hand in the process. That working group included representatives from labor and management; career, volunteer and industrial responders; as well as several other important stakeholder communities. OSHA included both career and volunteer responders in the working group because some OSHA State Plans treat volunteers as employees under state law, and a federal proposed standard could affect both groups in those states. The agency's intention has always been to work collaboratively with the emergency response community to find win-win solutions that ensure both responder safety and public safety.