



VIA ELECTRONIC SUBMISSION

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

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

Dear Assistant Secretary Parker,

The American College of Occupational and Environmental Medicine ([ACOEM](#)) appreciates this opportunity to comment upon the Occupational Safety and Health Administration (OSHA) proposed rule entitled “*Emergency Response Standard*” (Emergency Response)¹. Founded in 1916, ACOEM is the nation’s largest medical society dedicated to promoting worker health through preventive medicine, clinical care, research, and education. The College represents Occupational and Environmental Medicine (OEM) physicians and other healthcare professionals devoted to preventing and managing occupational and environmental injuries and exposures.

We appreciate that OSHA’s proposed rule would replace OSHA’s existing Fire Brigades standard at 29 CFR 1910.156 (originally promulgated in 1980) and cover a broader set of present-day emergency responders beyond firefighters, including private sector emergency responders and public fire and rescue entities in all OSHA state plan states (including an undetermined number of volunteer fire departments). However, we strongly encourage OSHA to consider the comments provided by ACOEM below and other comments it receives from impacted entities regarding this rulemaking.

We request that OSHA fully consider and explain in detail the benefits of the many provisions that would create significant burdens on employers and workers covered by the proposed standard. Based on current conditions, we expect that many leading employers in the covered workplaces would not be in compliance with the proposed standard despite these workplaces already having robust voluntary health and safety practices and policies. We expect that small employers will also have significant challenges in complying with the proposed rule. We encourage OSHA to provide flexibility to the greatest extent possible, and OSHA should commit to working closely with impacted workers and employers on implementation.

The proposed rule contains several significant provisions, such as requiring written emergency response plans, hazard vulnerability assessments, training, personal protective equipment, medical screening, behavioral health services, workplace violence control, and other requirements. We believe these provisions, if appropriately constructed and applied, will provide

¹ 89 Fed. Reg. 7774 (Feb. 5, 2024).

more extensive workplace protections for critical front-line personnel who respond to emergencies as part of their regularly assigned duties, recognizing the importance of safeguarding the health and safety of these workers who serve communities across the United States. OSHA should ensure these requirements are in place and supported according to the best scientific evidence available. ACOEM would like to provide the following comments in response to the proposed standard:

Reference to NFPA 1582

The proposed standard extensively quotes National Fire Protection Association (NFPA) 1582, *the Standard on Comprehensive Occupational Medical Program for Fire Departments*,² which was updated with changes effective December 20, 2023, and published in November 2023. These changes ended the 12 metabolic equivalents (METs) requirement (which is referenced by OSHA in the proposed rule in the context of NFPA 1582) and created new standards based on age, sex, and disability status. Depending on age and sex, a firefighter may only need an aerobic capacity of 4.3 METs to meet NFPA 1582. ACOEM wants to draw OSHA's attention to this potential discrepancy in the proposed standard.

ACOEM also urges OSHA to consider whether referencing NFPA 1582 in this context is appropriate, as it is unclear if there is any scientific basis in support of these recent changes in NFPA 1582, and these changes have created uncertainty for employers in the context of their alignment with requirements under the Americans with Disabilities Act (ADA) of 1990.³ In an effort to remedy potential inconsistencies, ACOEM's Task Group on Guidance for the Medical Evaluation of Public Safety Employees, in collaboration with the ACOEM Public Safety Medicine Section, is working to create an alternative to the aerobic capacity sections of the recent update of NFPA 1582. We recommend OSHA consider ACOEM's forthcoming guidance, which recommends an aerobic capacity protocol.

Medical Requirements

Regarding the proposed *Medical and Physical Requirements* under (g)(2)(iii)⁴, ACOEM disagrees with mandating cholesterol levels and spirometry for all employees who are only performing emergency medical services (EMS) and technical search and rescue. Spirometry should be limited to employees who are expected to wear self-contained breathing apparatus (SCBA) and full-face respirators unless a physician or other licensed health care professional (PLHCP) deems the spirometry to be appropriate. ACOEM recommends that cholesterol levels be optional for employees who are only performing EMS duties (i.e., left to the discretion of the PLHCP) unless the employee's age is over 40 (to comply with the US Preventive Service Task Force general population recommendations). The ACOEM Task Group on Guidance for the Medical Evaluation of Public Safety Employees has created guidance for EMS employees⁵,

² NFPA 1582, Standard on Comprehensive Occupational Medical Program for Fire Departments, 2022 Edition.

³ Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 (1990). <https://www.ada.gov/pubs/adastatute08.htm>

⁴ <https://www.federalregister.gov/d/2023-28203/p-1538>

⁵ ACOEM Guidance for the Medical Evaluation of Public Safety Employees, Emergency Medical Service (EMS).

<https://www.publicsafetymedicine.org/ems>

which is forthcoming this year. We would be happy to engage with OSHA further on how this guidance could assist in implementing this proposed standard.

Alternative Standards to NFPA

The proposed OSHA standard references “*the occupational medical examination criteria specified in a national consensus standard, such as NFPA 1582*”, as in (g)(2)(iii). ACOEM is requesting to add a reference to the ACOEM consensus standards, in line with the following: “*the occupational medical examination criteria specified in a national consensus standard, such as NFPA 1582 or the ACOEM Guidance for the Medical Evaluation of Public Safety Employees.*”

NFPA References

For the proposed rule to be implementable for employers and achieve OSHA’s intended outcome of protecting workers, OSHA will need to ensure the rule is maintained and updated to reflect changes in NFPA standards. For example, NFPA 1500 was recently replaced by NFPA 1550. OSHA standards should no longer refer to NFPA 1500. Additionally, in 2025, NFPA anticipates replacing NFPA 1582 with NFPA 1580. We appreciate that OSHA has noted that they are aware of the NFPA process of updating and combining standards that will impact the final rule. We would encourage OSHA to detail how it plans to address this challenge and ensure that the final rule is usable and interpretable by employers.

WERT and ESO Risk Management Plan - Respiratory Protection

Not every workplace emergency response team (WERT) or emergency service organization (ESO) will require respiratory protection. ACOEM suggests changing (f)(iii)(B)⁶ from “*A respiratory protection program that meets the requirements of § 1910.134;*” to: “*If exposed to combustion products or to other respiratory hazards, a respiratory protection program that meets the requirements of § 1910.134;*”

ACOEM provides the following comments responding to specific topics raised by OSHA in the associated “Questions and Issues” document⁷:

MEDICAL SCREENING AND SURVEILLANCE

(g)-1. OSHA is seeking input and data on whether the proposed rule’s requirements for medical evaluations are an appropriate minimum screening for team members and responders. Should the minimum screening include more or fewer elements, and if so, what elements? Commenters should provide documentation and data supporting any additions or subtractions from the minimum medical screening. OSHA is also seeking additional data and information on the feasibility of the proposed medical evaluation and surveillance requirements for Workplace Emergency Response Employers (WEREs) and Emergency Service Organizations (ESOs).

⁶ <https://www.federalregister.gov/d/2023-28203/p-1527>

⁷ https://www.osha.gov/sites/default/files/ER_NPRM_Questions_and_Issues.pdf

ACOEM strongly recommends that OSHA reference and consider existing and forthcoming ACOEM Guidance for the Medical Evaluation of Public Safety Employees, specifically emergency medical service (EMS)⁸, as it determines possible requirements for medical evaluations (initial evaluations and periodic examinations).

(g)-3. OSHA is seeking input on whether the additional medical surveillance proposed in paragraph (g)(3) should be extended to include WEREs and team members. Commenters should provide supporting documentation and data that substantiate team member exposures to combustion products at or above the proposed action level.

[Joint Response to (g)-3 & (g)-5] Medical surveillance and health and fitness programs should be determined by the expected duties of the employees (i.e., essential job functions) and not by the structure of their employment (i.e., WERE vs. ESO). If WERE and ESO perform the same duties or are expected to perform the same duties (e.g., fire suppression), medical surveillance and health and fitness programs should be identical.

(g)-5. OSHA is seeking input on whether the required health and fitness program in proposed paragraph (g)(6) should be extended to include WEREs and team members.

[Joint Response to (g)-3 & (g)-5] Medical surveillance and health and fitness programs should be determined by the expected duties of the employees (i.e., essential job functions) and not by the structure of their employment (i.e., WERE vs. ESO). If WERE and ESO perform the same duties or are expected to perform the same duties (e.g., fire suppression), medical surveillance and health and fitness programs should be identical.

HEAT

OSHA is seeking stakeholder input and supporting documentation on whether it should include requirements for operating in external environments with elevated temperature in situations that are not emergency incidents.

ACOEM suggests that OSHA include requirements for training in external environments with elevated temperature. ACOEM encourages OSHA to review [ACOEM's 2021 Guidance Statement, Prevention of Occupational Heat-Related Illnesses](#)⁹, for additional considerations and resources on high ambient temperatures and strenuous physical activity that may put workers at risk for a variety of heat-related illnesses and injuries.

BENEFITS

OSHA assumes the benefit of reduced fatalities due to colorectal cancer begins in Year 10 after publishing a final rule but is seeking comment and data on the most appropriate lag time to begin seeing this benefit

⁸ ACOEM Guidance for the Medical Evaluation of Public Safety Employees. Emergency Medical Service (EMS) <https://www.publicsafetymedicine.org/ems>

⁹ https://acoem.org/acoem/media/News-Library/Prevention_of_Occupational_Heat_Related_Illnesses-25.pdf

It is not clear that firefighting increases the risk of colorectal cancer. The majority of cohort studies on cancer in firefighters do not show a statistically significant increase in colorectal cancer incidence among firefighters. A recent meta-analysis found a standardized incidence ratio estimate of 0.96 (95% CI 0.89 to 1.04) for colon cancer and a standardized incidence ratio estimate of 0.86 (95% CI 0.80 to 0.93) for colorectal cancer among firefighters¹⁰. Given that uncertainty, we cannot assume that the proposed OSHA standard will decrease the mortality from colorectal cancer. This uncertainty likely extends to other types of cancer.

Conclusion

ACOEM is prepared and willing to work with OSHA to develop and implement this proposed rule. On behalf of ACOEM, I would like to reiterate our gratitude for providing this opportunity to provide feedback on the proposed rule, and we hope to see OSHA address the comments and issues raised above to ensure employers and workers can create and maintain working environments that help them achieve the highest levels of health, safety, and productivity. Thank you for your leadership on this critical issue. Please do not hesitate to contact Dane Farrell (Dane@cascadeassociates.net), ACOEM's Government Affairs Representative, with any questions.

Sincerely,

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