

Comments on the draft regulatory text that the NACOSH Emergency Response and Preparedness Subcommittee developed

Submitted to NACOSH on December 14, 2016 on behalf of the National Volunteer Fire Council (NVFC)

The NVFC would like to thank OSHA for undertaking to develop updated emergency responder occupational safety and health regulations. The NVFC appreciates having had an opportunity to appoint representatives to the Emergency Responder and Preparedness Subcommittee. The NVFC believes that the document has a number of strong points, including the flexibility that it affords departments to assess their risks and determine for themselves how to address those risks. There are concepts in this draft that will benefit the safety and health of firefighters and EMS personnel. The NVFC supports this initiative generally and looks forward to continuing to work with OSHA to improve the document.

With that said, the NVFC would need some accommodations for small and economically-challenged departments that are not in the current draft regulatory document before we can support implementation. Specifically, we oppose any blanket federal requirement that agencies provide physicals unless there is funding provided to pay for it. Additionally, we believe that an exemption for departments that cannot afford to comply with the requirements of the draft regulations should be added to the document before it is finalized.

There was a lot of discussion on the ERP subcommittee about whether to require physicals and if so at what level. There was also discussion about including a carve-out for smaller departments in the draft regulations. Ultimately, the document that you have before you requires departments to provide physicals and does not exempt any departments from complying with the regulations. The NVFC feels that if this document were to be implemented as-is that it would not be economically feasible for thousands of small-town fire departments to comply without outside funding.

Our concern centers on the impact that these regulations will have on fire departments that lack resources and have no realistic ability to access additional resources. National needs assessments demonstrate that fire departments serving smaller communities severely lack resources compared to agencies that serve larger, more densely populated communities. The reason for this is economic. It costs a lot of money to pay for all of the equipment and training necessary to put out a fire, and you need a lot of people to be able to do it safely. Small communities just don't have a robust enough tax base, and they can't take advantage of economies of scale. A small rural community might only respond to one structure fire every two or three years, but the cost of readiness is still significant.

For example, in communities with populations of one 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 hundreds of thousands of dollars if purchased new.

This is the reality is that thousands of small departments face. In order to make ends meet they rely on volunteer staffing, they frequently acquire vehicles that are used rather than new, and they use protective gear and other equipment for longer. Most volunteer fire departments do not receive adequate support from local taxes and have to engage in private fundraising to make up the difference. In short, there are a lot of fire departments that are stretched to their limit financially.

In that sort of environment, any new regulation that is going to incur extra costs is going to be difficult to comply with. Based on an estimate of the cost of firefighter physicals that OSHA put together for the ERP subcommittee, the NVFC estimates that the cost of implementing a physicals program for communities serving populations of 2,500 or fewer residents would be more than \$200 million annually, or 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 health and safety priorities.

The NVFC recognizes that there is a long way to go between now and final implementation. We understand that if OSHA decides to move forward with this process – and to be clear, the NVFC supports moving forward – that it will engage in economic modelling, organize a subgroup of small public safety agencies to gather feedback on the impact that the draft regulations would have on them, and solicit input from the public at large. We hope that through that process the document can be improved and that we can reach a final product that will be acceptable.

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