



OSHA PROPOSES EXPANSION TO EMERGENCY RESPONSE REQUIREMENTS

OSHA plans to expand the reach of the emergency response standard to private employers with employees who respond to emergency incidents as a part of their duties.

By Lowell Randel

In February, the U.S. Occupational Safety and Health Administration (OSHA) proposed new rule that would expand the reach of its emergency response standard. OSHA stated it has undertaken the rulemaking because it believes current OSHA emergency response and preparedness standards are outdated and incomplete.

According to OSHA, current regulations do not address the full range of hazards facing emergency responders, lag behind changes in protective equipment performance and industry practices, conflict with industry consensus standards and are not aligned with many current emergency response guidelines provided by other U.S. federal agencies (e.g., Department of Homeland Security/Federal Emergency Management Agency).

The proposed rule seeks to ensure that workers involved in emergency response activities get appropriate protections from

the hazards they are likely to encounter while on the job. The proposed rule would replace OSHA's existing Fire Brigades standard, 29 CFR 1910.156, which was originally promulgated in 1980 and covers only a subset of today's emergency responders – firefighters.

The focus of the proposed emergency response rule is to provide basic workplace protections for workers who respond to emergencies as part of their regularly assigned duties. The expansion of the rule will likely bring many GCCA member facilities under the regulation.

The updated standard proposes a category of employers called Workplace Emergency Response Employers (WERE) and a category of employees called Workplace Emergency Response Teams (WERT).

Workplace Emergency Response Employer

The proposed rule defines this term as an employer who has a workplace emergency response team; and whose employees on the team, as a collateral duty to their regular daily work assignments, respond to emergency incidents to provide service such as firefighting, emergency medical service or technical search and rescue.

WEREs are typically for-profit entities engaged in industries such as manufacturing, processing and warehousing. They have a workplace emergency response team to respond to emergency incidents at the facility.

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Workplace Emergency Response Team (WERT)

The proposed rule defines this term as a group of employees (known as team members) who, as a collateral duty, prepare for and respond to emergency incidents in the WERE's workplace. This term, and variations of it, are currently in use in multiple industries, with varying degrees of application.

OSHA is providing this proposed definition to clearly identify what it means by the term WERT. In the proposed rule, team members are workers who would typically be engaged in an activity related to the employer's primary business function and leave that position when alerted to an emergency requiring the worker's service as a WERT team member.

Under the proposed rule, WEREs would be subject to a list of requirements related to facility planning, maintenance of facilities and equipment and training. Some of the requirements are consistent with practices already in place to meet other existing OSHA standards or national consensus standards. Others introduce requirements specific to the proposed rule.

Below is a summary of key areas of requirements being proposed:

- Develop and implement a written Emergency Response Plan (ERP) that provides protection for each of its employees designated to operate at an emergency incident.
- Conduct a vulnerability assessment of their facility for the purpose of establishing its emergency response capabilities and determining its ability to match the facility's vulnerabilities with available resources.
- Specify the resources needed, including personnel and equipment, for mitigation of emergency incidents identified in the facility vulnerability assessment.
- Establish and implement a process to involve team members and responders in developing and updating the ERP, in implementing and evaluating the ERP and in the review and change process.
- Develop and implement a written comprehensive risk management plan based on the type and level of service(s) that would be established to ensure that risks to the team members' and responders' health and safety have been identified and evaluated.
- Implement medical and physical requirements to ensure that responders are physically and mentally capable of performing their duties without injury to themselves or their fellow responders and identify and address physical and mental health effects resulting from emergency response activities.
- Require initial and follow-up training for responders and team members, as well as requirements for maintaining proficiency in the necessary skills and knowledge through regular – at least annual – skills checks.
- Ensure that WERE facilities are safe for team members by addressing issues including: egress, emergency lightning, exit marking; decontamination, disinfection, cleaning, and storage of PPE and other equipment; and fire detection, suppression and alarm systems.
- Conduct a PPE hazard assessment and ensure the proper provision, maintenance and use of equipment and PPE.
- Ensure vehicle safety, both in preparation and operation, in both emergency and nonemergency incidents.
- Develop Pre-Incident Plans (PIPs) for locations within the facility where team members may be called to provide service. The PIPs are based on the facility vulnerability assessment and the type(s) and level(s) of service(s).
- Develop an incident Management System (IMS) for managing and directing incident scene operations and activities. IMS should establish functions for managing incidents, describe the roles and responsibilities to be assumed by team members and responders, and standard operating procedures to be utilized.
- Establish requirements for incident command and management based on current industry practices, as reflected by NFPA consensus standards and FEMA's "National Incident Management System."
- Develop and implement SOPs for emergency events likely to be encountered, based on the type and level of service.
- Conduct a Post-Incident Analysis (PIA) to determine the effectiveness of the WERT's response after a significant event such as a large-scale incident involving multiple WERTs; a significant near-miss incident; a team member, responder injury or illness

requiring off-scene treatment; or a team member or responder fatality.

- Evaluate the adequacy and effectiveness of the ERP at least annually. Identify and implement recommended changes to the ERP and provide a written timeline for correcting identified deficiencies.

OSHA recognizes in the proposed rule that there are multiple other OSHA standards that address aspects of emergency response, including Process Safety Management (PSM). The proposed rule states that it is OSHA's intention that the protections of those standards apply instead of the protections of the proposed rule. So, if an emergency response employer limits its activities exclusively to activities covered by those other standards (such as PSM), it may not be subject to any provisions of this proposed rule.

It is also important to note that the proposed rule specifically would not apply to Hazardous Waste Operations and Emergency Response (HAZWOPER). OSHA notes, however, that most employers engaged in activities covered by those other standards are likely to also engage in other emergency response activities and would therefore need to comply with the proposed standard in order to prepare for, and respond to, covered emergency incidents. As a result, the proposed rule is likely to apply to many GCCA members who have employees that perform emergency response functions as part of their duties. Public comments on the proposed rule will be accepted by OSHA until May 6, 2024.

GCCA will be engaging with OSHA and industry partners to communicate concerns and questions regarding the proposal as the rulemaking process moves forward. ☎

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