



UTAH SHERIFFS' ASSOCIATION

July 20th, 2024

Douglas Parker
Assistant Secretary for Occupational Safety and Health
U.S. Department of Labor, OSHA
200 Constitution Avenue, N.W.
Washington D.C. 20210

Subject: RIN 1218-AC91: OSHA Emergency Response Standard changes

Dear Secretary,

The Utah Sheriff's Association is a member driven organization representing all 29 county sheriffs in the state of Utah. Utah's sheriffs have reviewed RIN 1218-AC91, the proposed changes to 29 CFR 1910 referred to as the Emergency Response Standard. After reviewing the proposed changes, the Utah Sheriffs, through our association, appreciates the opportunity to respond to these proposed changes and offers the following comments.

The State of Utah currently operates under a federal OSHA plan. Given this fact, the rule changes proposed within this action would most certainly affect state and local entities and political subdivisions including every county sheriff.

It is our desire to lay out some of the primary concerns regarding the proposed rule changes from the perspective of the sheriffs in the state of Utah. Current Utah law requires sheriffs in Utah to manage all Search and Rescue (SAR) operations within their respective county 17-22-2(p). There is seemingly a lack of understanding in the proposed rule of how SAR activities are handled in Utah and across the Western United States. The drafters of the document appear to make the assumption that most rescues are conducted by fire brigades and should therefore be subject to improved fire safety rules. Utah is home to some of the most world class scenic wonders. We enjoy the best of the great outdoors with 45 State Parks. We have some of the best federally managed public lands such as National Parks known as the Mighty 5, six National Forests, two National Recreation areas and eight National Monuments. Utah is host to some of the most popular ski areas in the world. Slot Canyons and spectacular rock formations scatter the earth here. Visitors come to Utah from all over the world to recreate. When they get lost or injured and call for rescue, it is sheriff SAR teams that respond to save the day. Fire brigades are not, and have never been responsible to respond to any of the thousands of calls for service in these remote areas of Utah.

Many of the resources attached to sheriff SAR teams are volunteer in nature. While the proposed rule change would offer the likelihood that traditional volunteers are exempt, OSHA specifically describes "technical SAR" as a service that utilizes special knowledge, skills and specialized equipment to resolve unique or complex SAR operations such as rope rescue,

Sheriff Mike Smith
President
mikes@utahcounty.gov

Sheriff Tracy Glover
First Vice-President
sheriffglover@kane.ut.gov

Sheriff Kelly Sparks
Second Vice-President
ksparks@co.davis.ut.us

Sheriff Travis Tucker
Secretary
tucker@duchesne.utah.gov

Scott Burns
Executive Director
burnslaw7@gmail.com



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vehicle rescue, trenches, and technical water rescue. The rule goes as far as to designate ATV work as a specialized skill.

It is clear from reading the proposed rule that OSHA itself is unsure where to draw the line between technical and less-technical rescue. Of great concern is the fact that OSHA estimates that 80% of SAR activities are technical rescue operations. Where is that statistic coming from and what is the metric?

OSHA surmises that:

- *Since exposure cannot be eliminated due to the nature of emergency response activities, OSHA has determined that medical surveillance is necessary.*
- *Emergency responders come into contact with people who have infectious diseases.*
- *Emergency responders, particularly firefighters, are exposed to carcinogens and physically strenuous activities while wearing heavy, insulated PPE.*
- *Emergency responders encounter belligerent behaviors, (active shooter) - one study cited - firefighters.*

These assumptions are false and misleading. If OSHA had conducted a comprehensive study of Sheriff SAR activities, it would have observed that volunteer SAR responders are not routinely placed in situations involving any of the exposures listed. Furthermore, exposures for such examples can be entirely eliminated for volunteer SAR personnel. Sheriff's wilderness and back-country SAR personnel do not respond to structure fires, drug overdoses, dangerous confrontational situations and they are never asked to directly participate an active shooter situation as a course of their duties. They do not wear fire gear such as turn outs or SCBA tanks and they are not issued gas masks.

In the proposed rule, OSHA outlines the number of hours it would take for each organization to be in compliance for each activity. For small organizations, the estimate indicates a baseline of 690 hours. This baseline estimate does not include bringing new volunteers up to speed nor does it include the increases to administrative staff and procedures to track the status of each volunteer's level of compliance.

The draft rule requires physical examinations by a specifically trained doctor that specializes in NFPA standards. Sheriffs do not have funding for this added cost. To accomplish this medical standard, many rural sheriffs would need to provide for extended travel to find a certified provider. Presumably, volunteers would give up on an opportunity to serve their community because of the difficulty and expense of getting cleared for service.

OSHA proposes that personnel be split up into levels based on the training they have acquired and the duties they perform. While a certification process may have some value, it should be left up to the discretion of the sheriff supported by state organizations.

Sheriff Mike Smith
President
mikes@utahcounty.gov

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First Vice-President
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In order to justify the new rule, OSHA concludes:

- *The standard must be reasonably necessary - when a significant risk of material harm exists, and the standard would substantially reduce or eliminate risk.*
- *Standards must address significant risk - Reviewing courts have upheld that the Secretary's significant risk determinations were supported by substantial evidence and "a reasoned explanation for his policy assumptions and conclusions".*

There is little to no substantial evidence indicated in the document supporting the application of the rule changes specific to sheriff SAR teams that operate primarily in wilderness, mountainous, and back-country areas. In the document, OSHA cites data from the National Association of Search and Rescue estimating that 90% of SAR units focus on back-country and wilderness search and rescue. If OSHA is truly using this data in the development of the proposed rule changes, it is false and misleading to bridge that information over to a standard based on firefighting, toxic exposure, medical responses, decontamination and active shooter scenarios. These factors simply do not apply equally across the spectrum.

A clear line needs to be drawn between traditional urban search and rescue operations and the manner of search and rescue offered by Utah sheriffs. We respectfully request that OSHA conduct more inclusive research to include SAR activities conducted by sheriff SAR units in the Western United States where the federal government owns large percentages of the land and hosts millions of visitors in a rural, wilderness type of setting.

Title 17-22-2(p) of the Utah Code directs the county sheriff to manage all SAR operations in his county. This places SAR under the jurisdiction of a public agency in all cases. Every sheriff SAR team in Utah is primarily made up of capable volunteers who save lives each and every day. While the rule purports to exclude volunteers, most of them would be brought back under the jurisdiction of the rule within the definitions of a responder. This is a catastrophic problem that can not possibly be overcome. SAR volunteers are essential and must be allowed to operate with limited restriction and regulation. We call upon OSHA to modify the proposed rule to exempt all sheriff SAR volunteers from the requirements in the proposed rule. Failure to do so will inevitably cause a mass exodus of volunteers in the system placing countless lives at risk across Utah and across the west.

Throughout the text of the document, OSHA cites deaths and injuries related to firefighting and emergency service providers. OSHA appears to unnecessarily lump sheriff SAR providers into those statistics without any direct correlation. We are calling upon OSHA to conduct further information gathering that reflects actual call/risk data from responders and volunteers attached to western sheriff SAR units to obtain a real picture of what they do and the limited risks that are placed upon them.

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President
mikes@utahcounty.gov

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The Utah Sheriffs Association calls upon OSHA to work closely with individual sheriffs, state sheriffs associations and the western states sheriff's association to obtain a more realistic view of the working conditions for SAR teams across operating on wide open public lands in the western United States.

Sincerely,

The Utah Sheriffs

Beaver County, Sheriff Cody Black
Box Elder County, Sheriff Kevin Potter
Cache County, Sheriff D. Chad Jensen
Carbon County, Sheriff Jeff Wood
Daggett County, Sheriff Erik Baily
Davis County, Sheriff Kelly Sparks
Duchesne County, Sheriff Travis Tucker
Emery County, Sheriff Tyson Huntington
Garfield County, Sheriff Eric Houston
Grand County, Sheriff Jamison Wiggins
Iron County, Sheriff Ken Carpenter
Juab County, Sheriff Douglas Anderson
Kane County, Sheriff Tracy D. Glover
Millard County, Sheriff Richard Jacobsen
Morgan County, Sheriff Corey Stark

Piute County, Sheriff Marty Gleave
Rich County, Sheriff Dale Stacey
Salt Lake County, Sheriff Rosie Rivera
San Juan County, Sheriff Lehi Lacy
Sanpete County, Sheriff Jared Buchanan
Sevier County, Sheriff Nate Curtis
Summit County, Sheriff Frank Smith
Tooele County, Sheriff Paul Wimmer
Uintah County, Sheriff Steve Labrum
Utah County, Sheriff Mike Smith
Wasatch County, Sheriff Jared Rigby
Washington County, Sheriff Nate Brooksby
Wayne County, Sheriff Micah Gulley
Weber County, Sheriff Ryan Arbon

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