

New OSHA Proposed Rule 1910.156



Protecting the American Workforce

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Protect Your People™

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Lawyer Stuff

- ▶ I don't work for OSHA
- ▶ I don't make or enforce the laws
- ▶ 22 years teaching OSHA standards to state and federal OSHA officials and safety professionals
- ▶ "Your mileage may vary"
- ▶ Consult an attorney for legal opinions


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Session Overview

- OSHA's Purpose & Responsibility
 - The Standards & Employers
 - Incorporation by Reference
 - Citations, Fines & Penalties
- Present & Proposed Rule 1910.156
- Other OSHA Standards & Resources
- Q&A

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OSH Act of 1970: Purpose




"to ensure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."

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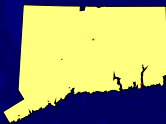

OSH Act: Coverage

All private **employers** and their employees in 50 states, DC, Puerto Rico, and territories under Federal Government jurisdiction



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Federal vs State OSHA



- Fed OSHA covers private employers – since **1971**
1-800-321-OSHA
- Htfd (860) 240-3152
- Bpt (203) 579-5581
- **CONN-OSHA** covers public employers, since **1986**
(860) 263-6900

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What About Volunteer Fire/EMS/Rescue?



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CONN-OSHA Free Consultation:
<https://ctdol.jotform.com/CT1/ConsultationRequest>



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A Safe Place to Work
A Safe Job to Do



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OSH Act General Duty Clause 5(a)(1)

Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.

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OSH Act General Duty Clause 5(a)(2)

▶ Each employer shall comply with occupational safety & health standards promulgated under this [OSH] Act.

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General Duty Clause 5(b):
Employee Role

- Each employee shall comply with all occupational safety & health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.



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What are the OSHA Standards?



- ▶ 29 CFR 1910
- ▶ 29 CFR 1926
- ▶ Incorporated by Reference
 - NFPA
 - ANSI
 - ACGIH
 - CGA
 - NEC...

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1910.6(a)(1) Incorporation by Reference

- ▶ The standards of agencies of the U.S. Gov't, and org's which are not agencies of the U.S. Gov't which are incorporated by reference in this part, have the **same force and effect** as other standards in this part. Only the **mandatory** provisions (i.e., provisions containing the word "**shall**" or other mandatory language) of standards IBR are adopted as standards under the OSH Act.

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OSHA Standards

- **Not** cutting edge
- **Minimum** threshold
- **Bottom** rung
- **Least** you can do and avoid penalty
- **NOT** ideal



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OSHA Citations, Fines, & Penalties



- criminal
- failure to abate
- egregious
- willful
- **serious**
- **other than serious**
- *de minimis*

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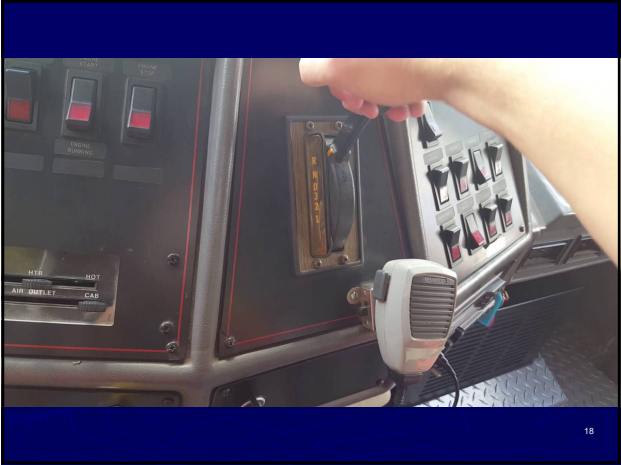
2024 OSHA Penalties (Fines)

FEDERAL	ConnOSHA
▶ Serious, OTS, FTA: \$16,131	▶ Serious, OTS, FTA: \$1,000
▶ Willful, Repeat: \$161,323	▶ Willful, Repeat: \$10,000

osha.gov/penalties/
Federal OSHA fines index by Jan. 15 each year

CGS 31-382

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1910.156: Fire Brigades History

- ▶ Sept. 12, 1980: Rule promulgated
- ▶ 2007 OSHA began exploring updating emergency response standards (see p. 56)
- ▶ 2014 OSHA held stakeholder meetings
- ▶ 2015-2016 NACOSH committee meetings
- ▶ 2021 SBREFA Review

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29 CFR 1910.155(c)(18)

- ▶ Fire brigade (**private** fire department, **industrial** fire department) means an organized group of employees who are knowledgeable, trained, and skilled in at least basic fire fighting operations.

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Existing 29 CFR 1910.156

- Part Number: 1910
- Part Number Title: Occupational Safety and Health Standards
- Subpart: 1910 Subpart L
- Subpart Title: Fire Protection
- Standard Number: 1910.156
- Title: Fire brigades.
- GPO Source: e-CFR

1910.156(a)
Scope and application -

1910.156(a)(1)
Scope. This section contains requirements for the organization, training, and personal protective equipment of fire brigades whenever they are established by an employer.

1910.156(a)(2)
Application. The requirements of this section apply to fire brigades, industrial fire departments and private or contractual type fire departments. Personal protective equipment requirements apply only to members of fire brigades performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue or forest fire fighting operations.

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Existing 1910.156 Application

1910.156(a)(2)

Application. The requirements of this section apply to fire brigades, industrial fire departments and private or contractual type fire departments. Personal protective equipment requirements apply only to members of fire brigades performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue or forest fire fighting operations.

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OSHA National News Release

U.S. Department of Labor

December 21, 2023

Department of Labor seeks to expand, establish protections for today's emergency response workers

OSHA proposal seeks to update 1980s 'Fire Brigades' standard

WASHINGTON – The U.S. Department of Labor today announced that its Occupational Safety and Health Administration will publish a proposal in January 2024 to update an existing standard and expand safety and health protections for emergency responders, including firefighters, emergency medical service providers and technical search and rescue workers. President Biden is committed to protecting our emergency responders, the same way they protect us every day—and this proposed rule is a critical step to ensure their safety.

OSHA will issue a Notice of Proposed Rulemaking to modernize the agency's "Fire Brigades" standard — first published in 1980 — as its protections for a narrow set of industrial and private firefighters have become outdated.

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Emergency Response Rulemaking

Small Business Regulatory Enforcement Fairness Act (SBREFA)

The new *Emergency Response* proposed rule is here!

OSHA is happy to announce that an unofficial version of the new *Emergency Response* proposed rule is available for viewing.

An official version will be published in the Federal Register in January 2024, and upon publication, this website will be updated to include the official version. OSHA welcomes and encourages the submission of public comments once the official version is published in the Federal Register.

Background

Emergency response workers in America face considerable occupational health and safety hazards in dynamic and unpredictable work environments. Current OSHA emergency response and preparedness standards are outdated and incomplete. They 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

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Unofficial Version of Proposed Rule

▶ *Same version becomes official when published Jan., 2024 in Federal Register*

<https://www.osha.gov/sites/default/files/ER-NPRM-Unofficial-Web-Version.pdf>

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Billing Code: 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSHA-2007-0073]

RIN 1218-AC91

Emergency Response Standard

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; request for comments.

SUMMARY: OSHA is proposing through this notice of proposed rulemaking (NPRM) to issue a new safety and health standard, titled *Emergency Response*, to replace the existing Fire Brigades Standard, 29 CFR 1910.156. The new standard would address a broader scope of emergency responders and would include programmatic elements to

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Relevant NFPA Standards *presently* Incorporated by Reference

▶ NFPA 1971 Protective Clothing for Structural Firefighting, 1975 edition.

▶ Development of Criteria for Fire Fighters Gloves; Vol. II, part II; Test Methods, 1976

▶ Publication "Model Performance Criteria for Structural Fire Fighters' Helmets"

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22 NFPA Standards *to be* Incorporated by Reference in the Proposed Rule:

▶ 1001 (2019)	▶ 1952 (2021)
▶ 1002 (2017)	▶ 1953 (2021)
▶ 1005 (2019)	▶ 1971 (2018)
▶ 1006 (2021)	▶ 1977 (2022)
▶ 1021 (2020)	▶ 1981 (2019)
▶ 1081 (2018)	▶ 1982 (2018)
▶ 1140 (2022)	▶ 1984 (2022)
▶ 1407 (2020)	▶ 1986 (2023)
▶ 1582 (2020)	▶ 1987 (2023)
▶ 1910 (2024)	▶ 1990 (2022)
▶ 1951 (2020)	▶ 1999 (2018)

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14 NFPA Standards **NOT IBR** but
Consistent with New Rule Provisions:

▶ 10

▶ 600

▶ 1201

▶ 1451

▶ 1500

▶ 1521

▶ 1561

▶ 1581

▶ 1660

▶ 1700

▶ 1710

▶ 1720

▶ 1851

▶ 2500

p. 67-72

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NFPA Standards Consolidation

▶ OSHA recognizes NFPA’s standards consolidation efforts

▶ Will take into account before publishing final rule

- 1010, 1020, 1400, 1580. 1970, 1950, 1955, 1985

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ANSI/ISEA Standard to be IBR

▶ ANSI/ISEA 207-2011, American National Standard for High-Visibility Public Safety Vests

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Proposed Rule begins at
page 96 of **608** Pages...

V. Summary and Explanation of the Proposed Rule

A. Section 1910.120 Hazardous Waste Operations and Emergency Response.

B. Section 1910.134 Respiratory Protection.

C. Section 1910.155 Scope, application and definitions applicable to this subpart.

D. Section 1910.156 Emergency response.

E. Section 1910.157 Portable fire extinguishers.

F. Section 1910.158 Standpipe hose systems.

G. Section 1910.159 Automatic sprinkler systems.

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1910.120 HAZWOPER

▶ Update PPE requirements

▶ Revise Apx B, remove 3 outdated refs, update consensus standard reference to NFPA 1990, 2022 ed.

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1910.134 Respiratory

▶ Move respiratory protection for structural firefighting from 1910.134 to 1910.156, with a cross-reference

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1910.155 Scope, Application, Defs

- ▶ Add definitions for Class K fire, clean agent, halogenated agent, wet chemical, wetting agent.
- ▶ Delete definitions for enclosed structure, fire brigade, flame resistance, helmet, lining, outer shell, positive pressure breathing apparatus, quick disconnect valve, vapor barrier.

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1910.156 "Emergency Response"

- ▶ The scope of the proposed rule is larger, expanding beyond employers who provide only firefighting services to include employers that provide other emergency services, such as pre-hospital EMS and technical search and rescue services. In addition, **the proposed rule would impact public and municipal fire departments** and other emergency response employers in States with OSHA-approved State Plans...

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1910.156 New Definitions

- ▶ Drawn from NFPA 600, 1500, 1561, 1660, 2500, 1700, 1710
- ▶ Community vulnerability assessment
- ▶ Control zone
- ▶ EMS (distinct from first aid)
- ▶ Incident Safety Officer
- ▶ Non-emergency service
- ▶ Rapid Intervention Crew (RIC)

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1910.156 Terms

- ▶ **WERE**: Workplace Emergency Response Employer
- ▶ **WERT**: Workplace Emergency Response Team (collateral duty) – "team member"
- ▶ **ESO**: Emergency Service Organization (primary duty) – "responder"

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1910.156 - Volunteers

- ▶ "any emergency responders who are referred to as volunteers but receive "significant remuneration" within the meaning of federal law would be included within the scope of this proposed rule as employees."
 - p. 101-102

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1910.156 - Volunteers

- ▶ "all volunteer emergency responders who are currently excluded from coverage under the OSH Act **should** expect that they will continue to be excluded from the scope of this rulemaking."
 - p. 101-102

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1910.156 - Volunteers

- ▶ "some States with OSHA-approved State Plans regard volunteer firefighters and other volunteers as employees under state law. ... Regardless of whether these volunteers are considered employees under federal law, such States must treat them as it does other emergency response workers under its analogue to any final standard resulting from this rulemaking." -p. 102

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1910.156 – Law Enforcement

- ▶ The proposed rule would apply to employers whose employees, in addition to performing law enforcement duties, also provide services such as firefighting, EMS, or technical search and rescue. ... the proposed rule would apply only with respect to when those employees provide services that do not qualify as law enforcement."
 - p. 104

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1910.156 – Technical Rescue

- ▶ The proposed rule defines technical search and rescue as a type of service that utilizes special knowledge and skills and specialized equipment to resolve unique or complex search and rescue situations, such as rope rescue, vehicle/machinery rescue, structural collapse, trenches, and technical water rescue.
- ▶ N/A to lower than technical rescue
 - p. 106

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1910.156 – Skilled Support Worker

- ▶ "an employee of an employer whose primary function is not as an emergency service provider and who is skilled in certain tasks or disciplines that can support a WERT or ESO."
- ▶ Operates under IC
- ▶ E.g., backhoe operator in trench rescue
- ▶ Once IC terminates, SSW role ends

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1910.156 Exclusions

- ▶ N/A to disaster site cleanup workers after emergency nature of incident has ended.
- ▶ N/A to HAZWOPER, separate rule remains
- ▶ N/A to rescue provisions in current PRCS 1910.146; would apply to ESO/WERT that does more than just PRCS rescue
- ▶ N/A if activity solely governed by other standard: 1910.38 EAPs, .157 FEs, .151 FA, .119 PSM, .272 grain

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1910.156 - Fitness

- ▶ Physical and mental fitness requirements, and addressing effects resulting from ER activities
- ▶ Medical eval and surveillance, ref NFPA 1582
- ▶ To be established based on type and level of services provided
 - p. 150

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1910.156 – Training – 1 of 4

- ▶ Initial, ongoing, refresher, professional development
- ▶ Commensurate with safe performance of expected duties and functions
- ▶ Language, literacy
- ▶ Online/Media - available trainer to answer questions
 - p. 177

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1910.156 – Training – 2 of 4

- ▶ Safety & health policy
- ▶ PPE selection, use, maintenance, limitations, retirement
- ▶ Portable fire extinguishers
- ▶ Incident management system
- ▶ Safe scene exit and accountability
- ▶ HAZWOPER Awareness
- ▶ Awareness & **avoidance** of confined space, trench, swift water, etc.

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1910.156 – Training – 3 of 4

- ▶ CPR & AED
- ▶ Vocational training JPRs per NFPA standard
- ▶ Firefighting: NFPA 1081 (2018)
- ▶ Structural firefighting: NFPA 1001 (2019)
- ▶ SAR: NFPA 1407 (2020)
- ▶ EV Operator: NFPA 1002 (2017)
- ▶ Crew Leader: NFPA 1021 (2020)
- ▶ Wildland FF: NFPA 1140 (2022)

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1910.156 - Training – 4 of 4

- ▶ Technical SAR: NFPA 1006 (2021)
- ▶ Marine FF: NFPA 1005 (2019)
- ▶ EMS: per local jurisdiction
- ▶ Annual skills checks: NFPA 600, 1500, 1670 and other OSHA standards

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1910.156 - Facility

- ▶ Safe for team members
- ▶ Emergency evacuation
- ▶ PPE decon, disinfection, cleaning, storage
- ▶ Fire detection, sprinklers
- ▶ Compatible standpipe and hose connections with mutual aid (x-ref to 1910.158, .159)
- ▶ 4 limbs to use a fire pole; landing cushion; access protected
 - p. 190 and following

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1910.158, .159

- ▶ Standpipe and hose fittings compatibility

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Reporting – Call OSHA

- ▶ Within 8 hours of management learning of any job-related fatality
- ▶ Within 24 hours of learning of:
 - 1 or more admitted to hospital
 - Amputation
 - Loss of an eye



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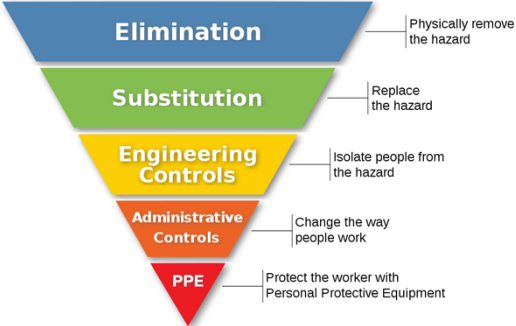
It's About Controlling Hazards

- *highly*
- *mostly*
- *generally*
- *selectively*
- *loosely*
- *poorly*
- *randomly*
- *un*



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Hierarchy of Controls

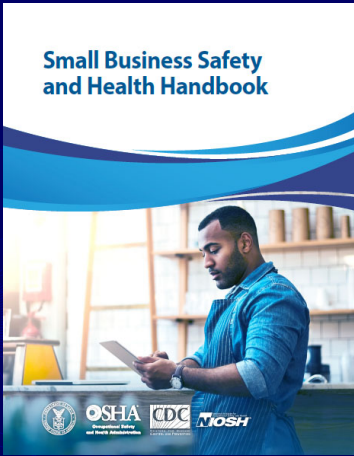


The diagram shows a pyramid with five levels, from most effective at the top to least effective at the bottom. A color gradient bar on the left indicates this effectiveness. The levels are: Elimination (blue), Substitution (green), Engineering Controls (yellow), Administrative Controls (orange), and PPE (red).

Control Level	Description
Elimination	Physically remove the hazard
Substitution	Replace the hazard
Engineering Controls	Isolate people from the hazard
Administrative Controls	Change the way people work
PPE	Protect the worker with Personal Protective Equipment

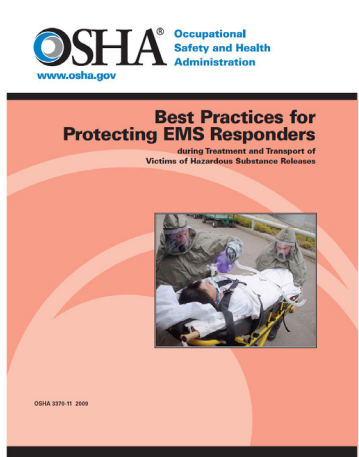
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Small Business Safety and Health Handbook



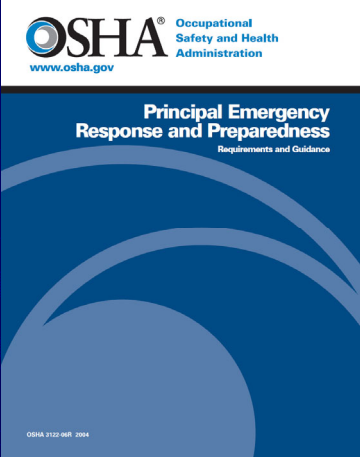
The cover features a man in a blue shirt looking at a tablet in a workshop setting. Logos for OSHA, CDC, and NIOSH are at the bottom.

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The cover has an orange background with a photo of a person in a hazmat suit. Text includes: OSHA Occupational Safety and Health Administration, www.osha.gov, Best Practices for Protecting EMS Responders, during Treatment and Transport of Victims of Hazardous Substance Releases, and OSHA 3070-11 2009.

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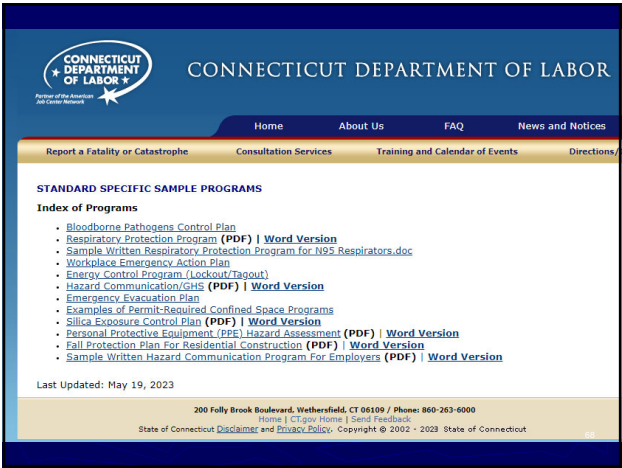


The cover has a blue background with abstract shapes. Text includes: OSHA Occupational Safety and Health Administration, www.osha.gov, Principal Emergency Response and Preparedness, Requirements and Guidance, and OSHA 3122-08B 2009.

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