



# Occupational Safety and Health Regulation

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## Volunteer Fire Departments & Indiana OSH Act

September 13, 2012

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Question:

Are Volunteer Fire Departments Regulated under Indiana OSHA regulations?

Answer:

This letter is in response to your request for an informal legal opinion regarding the applicability of the Indiana Occupational Safety and Health Act to volunteer fire departments.

Section 18 of the Occupational Safety and Health Act of 1970 (the Act) encourages states to develop and operate their own job safety and health programs.

There are currently 22 States and jurisdictions operating complete state plans (covering both the private sector and state and local government employees) and 5 - Connecticut, Illinois, New Jersey, New York and the Virgin Islands - which cover public employees only.

States must set job safety and health standards that are "at least as effective as" comparable federal standards. Most States including Indiana adopt standards identical to federal ones. States have the option to promulgate standards covering hazards not addressed by federal standards.

Indiana's regulation that applies to public sector, state, and local governments is 610 IAC 9-2-2 entitled, "Application of Article to Public and Private Employers". This rule makes it clear that the federal OSH Act applies to Indiana public sector employees. In addition, the regulation specifically states that "volunteer fire companies that exist under Ind. Code § 36-8-12 are public sector employers" and

as such are covered by the OSH Act and all promulgated standards, rules, and regulations pertaining to the Indiana Occupational Safety and Health Act.

Volunteer fire departments are public sector employers and subject to the Indiana OSH Act if the department is “a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.” Ind. Code § 36-8-12-2.

Volunteer firefighters are covered by Indiana Occupational Safety and Health Act if they meet the following requirements of Ind. Code § 36-8-12-2:

"Volunteer firefighter" means a firefighter:

(1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;

(2) who has executed a pledge to faithfully perform, **with or without nominal compensation**, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and

(3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

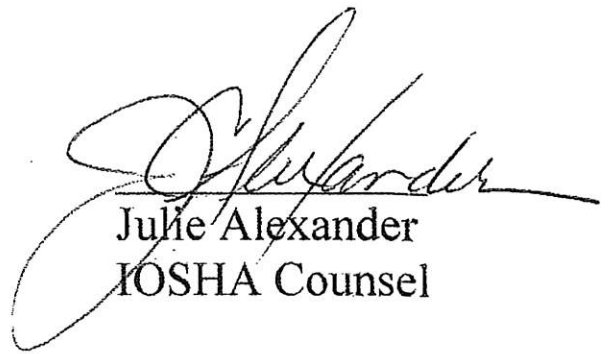
Nominal compensation means annual compensation of not more than twenty thousand dollars (\$20,000). Ind. Code § 36-8-12-2.

In summary, volunteer fire departments are public sector employers and are subject to the jurisdiction of the Indiana Occupational Safety and Health Division.

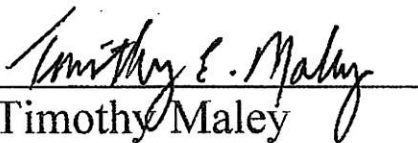
Sincerely,



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