

National Incident Management System Training and You

By Joe Wainscott, IDHS Director of Training

The Indiana Department of Homeland Security has received many inquiries during the past months regarding the levels of training required for NIMS compliance. Many questions center around how best to determine who should attend which level of training to be compliant. Keep in mind there are several components affecting NIMS compliance, in this article we are going to focus solely on the training issues associated with the NIMS program guidance.

We should first look at the legal issues associated with NIMS compliance. USDHS Homeland Security Presidential Directive 5 (2-28-2003) set the direction for the nationwide implementation of NIMS for the federal government. Federal Occupational Safety and Health Administration (OSHA) requirements under 29CFR 1910.120 and compliance directive CPL:02-02-073, dated 8-27-2007, have established the requirement that the Incident Command System be used during incidents covered by these directives be NIMS compliant. This also applies to EMS personnel and First Receivers in hospital departments. Governor Daniels has directed state compliance to NIMS in Executive Order 05-09. It is important to note that while local agencies are not *legally* bound to comply with NIMS metrics, it is a requirement to receive federal or state public safety related funding. Additionally, with the adoption of NIMS compliant Incident Command procedures by OSHA, we recommend that departments consult their legal advisor about any potential liability that may be incurred by failing to become NIMS compliant and properly implementing the approved Incident Command System.

Federal Fiscal Year 2006 grant requirements called for states and local jurisdictions to adopt NIMS by executive order, proclamation, resolution, or legislation. During that period, the State of Indiana and every Indiana county agreed through some type of documentation that they have complied with this requirement. The FFY2007 NIMS compliance included the completion of IS-700, ICS-100 and ICS 200 as a Tier 1 requirement (mandatory) for the appropriate level of personnel specified in the guidance.

These requirements were defined as “Tier 1” or required for compliance. Tier 1 metrics and questions were deemed critical to measuring FFY07 compliance. The Tier 1 metrics are derived from previously established NIMS requirements and are fundamental to the success of NIMS implementation. The draft of the NIMS 5 year training plan (9-6-2007), published by the NIMS Integration Center, shows that the completion of ICS-300 and ICS-400 are scheduled to be Tier 1 requirements for FFY2008. Changes to this requirement have been suggested to the NIC by agencies representing various states and modifications to this requirement may be forthcoming. Guidance indicates that ICS-300 is required for middle and upper management and ICS-400 for those serving in Command and General Staff positions.

IDHS has the following suggestions for local departments as they address NIMS compliance training issues:

- Each department has the responsibility to “self-select, self-certify, and self-regulate” which personnel attends which level of training. Much like OSHA

- compliance, NIMS compliance and justification is the responsibility of the department (employer). So the department head has the responsibility for identifying which staff member needs to complete which level. The department head is also responsible to be able to justify those decisions if challenged by USDHS or OSHA.
- Agency heads must be aware of the types of incidents their personnel are trained to handle and be prepared to require the hand off of command at incidents they are not trained to handle. Just like EMS protocol requires, that a responder hand off patient care to someone with a higher level of training and capability, (i.e., an EMT-B turns over patient care to a Paramedic), an Incident Commander should turn over command authority to one more qualified when they arrive on scene. The Incident Commander also has the responsibility to call in properly trained personnel if the incident exceeds their level of training and capability.
 - Incidents have been classified under NIMS typing as follows:
 - Type 5 – Under one operational period, minimum resources, the only ICS position staffed is the Incident Commander (i.e., single vehicle crash)
 - ICS-100, ICS-200, and IS-700 apply
 - Type 4 – Limited to one operational period, command and general staff positions activated as needed (i.e., house fire, protest rally).
 - ICS-100, ICS-200, and IS-700 apply, ICS-300 will apply when any command and general staff positions are activated.
 - Type 3 – May extend into multiple operational periods, some/all command and general staff positions activated (i.e., large industrial fire, tornado, hostage stand-off).
 - ICS-100, ICS-200, ICS-300, ICS-400, IS-800 and IS-700 apply
 - Type 2 – Multiple operational periods, many command and general staff positions filled, regional and/or national resources brought in (i.e., devastating flood or earthquake).
 - ICS-100, ICS-200, ICS-300, ICS-400, IS-800 and IS-700 apply
 - Type 1 – Expected to go into multiple operational periods, event of national significance (i.e., major terrorist attack like 9/11 or Katrina level disaster).
 - ICS-100, ICS-200, ICS-300, ICS-400, IS-800 and IS-700 apply
 - If an Incident Commander does not hand off command when not qualified to handle an incident, the Incident Commander may be making themselves legally responsible and/or personally liable for things that goes wrong or other failures (could be fined by OSHA or even be subject to a civil lawsuit).
 - If a department does not have anyone trained to the ICS-300 and ICS-400 level, then they are not qualified to manage a Type 3, Type 2, or Type 1 incident under the NIMS guidelines. The department could manage a Type 5 incident but if, during a Type 4, any command and general staff positions are activated then they are again not qualified to run the incident and would need to hand over command to a qualified person from another agency or to a qualified incident management team.
 - This appears to be supported in OSHA Compliance Directive CPL:02-02-073 (August 27, 2007). Readers should research news articles regarding

the fines imposed by OSHA, such as in connection with the Charleston, SC June 18, 2007 firefighter tragedy.

The IDHS Training Division has been supporting NIMS compliant ICS training for nearly three years. We continue to support ICS related training through a variety of means:

- The Training Division will have completed at least one ICS-300 and one ICS-400 class in each homeland security district by the end of 2008.
- There are currently more than 90 state recognized trainers (these are people who have completed the train-the-trainer course offered by IDHS) who are qualified to teach ICS-100 through ICS-400.
- The Training Division will have completed at least five train-the-trainer courses by the end of 2008 which will help to increase the number of state recognized trainers to about 120 to 150.
- The Center for Domestic Preparedness in Alabama, as well as the Emergency Management Institute and National Fire Academy in Maryland, offer training in ICS-300 and ICS-400 at their training sites. They provide the travel, training, lodging, and meals to state and local organizations free of charge.
- There are other trainers around the state who meet the instructor qualifications of the NIMS Integration Center but have not completed the IDHS train-the-trainer course. These instructors do not receive support or recognition from IDHS. They may conduct the training, but must retain their own training records and other required documentation to support a federal audit or legal challenge.
- ICS-100, ICS-200, IS-700 and IS-800 are still available for free on-line through the www.fema.gov web site.

The Training Division's plan for conducting NIMS/ICS training is to offer the latest courses as soon as they are released to us by FEMA in order to get a base of local responders qualified to attend a Train-the-Trainer course on the subject. Once the Train-the-Trainer courses become available, the Training Division then focuses half of our resources on offering courses and the other half on getting local instructors through the Train the Trainer courses. When sufficient local instructors are available, then all instruction will be provided by the local trainers and the Training Division will move on to the next NIMS/ICS Tier 1 training requirement, repeating the process. We anticipate the release of Incident Management Team training courses and Command and General Staff position specific courses in the future.

In conclusion, every public safety agency or department in the State of Indiana is responsible for first responder training based on the assigned duties their responders will be performing during an emergency. Response personnel should not perform any emergency response operation unless they have been trained to the level required by their job function or responsibility and have been determined by their department as having completed the necessary training. Failure to train is an often used legal challenge used against public safety agencies when incidents are not handled properly and fines from OSHA or other regulatory agencies are levied for inadequate training or improper actions.

Each department should be aware of the different types of incidents and identify to which types of incident their agency is prepared to respond. If the department expects to only respond to Type 5 and Type 4 incidents, there is less need for them to have a person(s) trained in ICS-300 and ICS-400. However, this department should also be aware that if a Type 3, Type 2, or Type 1 incident does occur in their jurisdiction, they would be expected to hand over the command of the incident to persons or an agency that is qualified to handle it. Otherwise, the department could be held legally responsible for things that went wrong or failures and could also face consequences from the Occupational Safety and Health Standards Administration or other regulatory agency for non-compliance.

For more information, go to www.fema.gov or to www.in.gov/dhs and click on the NIMS link. You may also contact the IDHS NIMS point of contact, David Barrabee at dbarrabee@dhs.in.gov or contact the IDHS Training Division.