
MIOSHA

Michigan Occupational Safety and Health Administration (MIOSHA)
Department of Labor and Economic Opportunity (LEO)

AGENCY INSTRUCTION

DOCUMENT IDENTIFIER:
MIOSHA-STD-08-2R4

DATE:
October 15, 2024

SUBJECT: Post-Emergency Response Operations - Inspection Guidelines

- I. Purpose. This instruction provides procedures for ensuring uniform enforcement of post-emergency response training requirements specified in General Industry and Construction Standard Part 432, Hazardous Waste Operations and Emergency Response.
- II. Scope. This instruction applies to General Industry Safety and Health Division (GISHD) and Construction Safety and Health Division (CSHD).
- III. References.
 - A. General Industry and Construction Standard [Part 42 and Part 92, Hazard Communication](#) (Part 42 and Part 92, Hazard Communication).
 - B. General Industry and Construction Standard [Part 432, Hazardous Waste Operations and Emergency Response](#) (Part 432, HAZWOPER).
 - C. General Industry and Construction Standard [Part 451, Respiratory Protection](#) (Part 451, Respiratory Protection).
 - D. General Industry Standard [Part 6, Fire Exits](#) (Part 6, Fire Exits).
 - E. [Michigan Occupational Safety and Health Act](#), MCL 408.1001 et seq., P.A. 154 of 1974, as amended (MIOSH Act).
 - F. [MIOSHA Field Operations Manual](#), as amended (FOM).
 - G. Occupational Safety and Health Administration (OSHA) Instruction [CPL 02-02-051](#), November 5, 1990, Inspection Guidelines for Post-Emergency Response Operations under 29 CFR 1910.120.
 - H. Occupational Safety and Health Standards 29 CFR 1910.38, [Emergency Action Plans](#).
- IV. Distribution. MIOSHA Staff; Federal OSHA; S-drive Accessible; MIOSHA Messenger; and Internet Accessible.
- V. Cancellations. All previous versions of this agency instruction.
- VI. Next Review Date. This instruction will be reviewed in three (3) years from date of issuance.
- VII. History. History of previous versions includes:
 - MIOSHA-STD-08-2R3, July 6, 2021
 - MIOSHA-STD-08-2R2, December 14, 2016
 - MIOSHA-STD-08-2R1, February 24, 2012
 - MIOSHA-STD-08-2, August 26, 2008

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- IX. Originator: Barton G. Pickelman, Director
- X. Background. A final standard for Part 432, HAZWOPER became effective October 31, 1991, and was amended December 12, 2018. This standard regulates worker safety and health during post-emergency response operations, in addition to many other requirements. Part 432, HAZWOPER is a straight adoption of the federal HAZWOPER Standard, which is 29 CFR 1910.120. In 1990, federal OSHA established guidelines (CPL 02-02-051, November 5, 1990, Inspection Guidelines for Post-Emergency Response Operations Under 29 CFR 1910.120) that are comparable to this instruction.
- A. Part 432, HAZWOPER defines post-emergency response as: "...that portion of an emergency response performed after the immediate threat of a release has been stabilized or eliminated and clean-up of the site, has begun. If post-emergency response is performed by an employer's own employees who were part of the initial emergency response, it is considered to be part of the initial response and not post-emergency response. However, if a group of an employer's own employees, separate from the group providing initial response, performs the clean-up operation, then the separate group of employees would be considered to be performing post-emergency response and subject to . . ." provisions in Part 432, HAZWOPER (29 CFR 1910.120(q)(11)).
- B. The employer conducting the clean-up must comply with all the requirements in paragraphs 1910.120(b) - 1910.120(o) of Part 432, HAZWOPER unless the clean-up is done on plant property using plant or workplace employees. The requirements under sections 1910.120(b) - 1910.120(o) of the standard specify a minimum of 24 hours of off-site training. However, if the clean-up is done on plant property using plant or workplace employees, the employer may instead comply with the training requirements of Part 451, Respiratory Protection; 29 CFR 1910.38; Part 6, Fire Exits; Part 42 and 92, Hazard Communication; and MIOSH Act as amended, Sections 14a - 14m, and any other appropriate training made necessary by the tasks they are expected to perform.
- C. Based on OSHA's experience in applying the federal HAZWOPER rules during oil spills off the coasts of Texas, Alaska, and California, the hazards to employees vary widely in severity of potential injury or illness. For job duties and responsibilities with a low magnitude of risk, fewer than 24 hours of training may be appropriate for these post-emergency clean-up workers. The United States Coast Guard and other concerned parties have requested flexibility in the amount of employee training required for petroleum spill clean-ups and other types of clean-up operations which follow emergency situations. Therefore, it is MIOSHA's expectation that though the number of hours of training may vary, a minimum of four (4) hours would be appropriate in most situations. Moreover, petroleum spills are unique in that many people who assist in the clean-up operations may not engage in this activity on a recurring basis. In addition, for

maximum protection of the environment, petroleum spills dictate clean-up must be completed as soon as possible.

XI. Significant Changes. There are no significant changes.

XII. Enforcement Guidelines.

- A. Policy Background. If an employer complies with the clear intent of a standard but deviates from the particular requirements in a manner that has no direct or immediate relationship to employee safety or health, MIOSHA's FOM directs that such a violation be characterized as de minimis. Citations are not issued for de minimis violations. The FOM, Chapter VI. II. B. 8. states: A violation worksheet will not be completed for de minimis violations, except for those violations directly related to a complaint item. For those de minimis violations, a "De Minimis Notice of Violation" will be issued to the employer.
- B. Policy. Compliance with the intent of the training requirements in Part 432, HAZWOPER (29 CFR 1910.120(q)(11)(i)) is achieved when an employer provides sufficient training as outlined in paragraph XI. C. below, but the exact specifications of OSHA standards are not met (e.g., the specific number of hours required by the standard is not given). In such cases a de minimis violation exists and no citation will be issued. Violations of Part 432, HAZWOPER (29 CFR 1910.120(q)(11)(i)) can be abated by compliance with the criteria specified in X. C. of this instruction.
- C. De Minimis Criteria. All of the following criteria must be met in order to classify violations of the training requirements in Part 432, HAZWOPER (29 CFR 1910.120(q)(11)(i)) as de minimis:
 - 1. Clean-up is performed in an area that has been monitored and fully characterized by a qualified person indicating that exposures are presently, and can be expected to remain, below established permissible exposure limits and other published exposure limits.
 - 2. Health risks from skin absorption are minimal.
 - 3. Employees have completed the training requirements of Part 451, Respiratory Protection, paragraph 29 CFR 1910.38(a); Part 6, Fire Exits; and Parts 42 and 92, Hazard Communication, paragraph 1910.1200(h); MIOSH Act, Sections 14a - 14m and any other appropriate safety and health training including, but not limited to operating procedures, decontamination procedures, water safety, hypothermia, heat stress, and safety hazard controls as necessary for the tasks they are expected to perform.
 - 4. There is adequate on-site supervision by an individual who meets the training requirements in Part 432, HAZWOPER.
 - 5. All equipment that is used in the clean-up of the site is in operable condition and is inspected before use.