
MIOSHA

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

DIVISION INSTRUCTION

DOCUMENT IDENTIFIER:
CSHD-COM-16-1R2

DATE:
November 14, 2024

SUBJECT: Inspection and Citation Policy for Accident Prevention Programs and First Aid Training

- I. Purpose. To establish policy when alleging a violation of Construction Standard Part 1, General Rules.
- II. Scope. This instruction applies to all MIOSHA CSHD field and supervisory staff.
- III. References.
 - A. Construction Standard [Part 1, General Rules](#).
 - B. MIOSHA [Field Operations Manual](#), as amended (FOM).
 - C. [Occupational Safety and Health Administration Standard Interpretation: Clarification of systems for electronic access to MSDSs](#); dated February 18, 1999.
 - D. [Occupational Safety and Health Administration Standard Interpretation: Material Safety Data Sheets\(sic\)](#); dated January 30, 1997, corrected April 16, 2009.
- IV. Distribution. MIOSHA Staff; Federal OSHA; S-drive Accessible; and MIOSHA Messenger, and Internet Accessible.
- V. Next Review Date. This instruction will be reviewed three (3) years from date of issuance.
- VI. Cancellations. All previous versions of this division instruction.
- VII. History. History of previous versions include:
 - CSHD-COM-16-1R1, October 27, 2020
 - CSHD-COM-16-1, November 1, 2016
 - CSHD-MEMO-COM-10-1R1, September 23, 2013
 - CSHD-MEMO-COM-10-2R1, September 9, 2013
 - CSHD-MEMO-COM-10-2, August 27, 2010
 - CSHD-MEMO-COM-10-1, August 27, 2010
- VIII. Contact. Contact. [Dan Maki](#), Safety and Health Manager or [Nikilia Clark](#), Safety and Health Manager
- IX. Originator. [Lawrence Hidalgo, Jr.](#), Director
- X. Background. Construction is a mobile industry with constantly changing environments. Many jobsites have multiple employers within the same shared or adjacent space(s). Safety officers (SO) and industrial hygienists (IH) may inspect the same employer several times throughout the year at different jobsites. It is important for employers to develop an Accident Prevention Program (APP) to comply with the requirements established in Construction Standard Part 1, General Rules.

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Construction is an industry where, on any given day, workers may work at a different location, project, or work alone. There are several scenarios surrounding the requirements of Rule 114(1) and Rule 132(3) that could be used as a basis to allege a violation. CSHD strives to be consistent in applying the requirements for an APP and first aid training.

- XI. Significant Changes. Added guidance on when violations are issued as serious, other-than-serious and when violations may be grouped. See XIV. Citation Guidelines.
- XII. Procedures for Alleging an APP Violation of Rule 114(1) or 114(2).
 - A. A violation of 114(1) can be alleged for any or all of the scenarios listed below that are required for an APP. The scenario must be documented in the case file and described on the respective alleged violation against the employer.
 - 1. The employer has not developed an APP (i.e., program was not established and/or in writing).
 - 2. The employer has not maintained their APP (i.e., program was not updated).
 - 3. The employer has not coordinated their APP with their employees (i.e., instruction or training was not provided to employees).
 - 4. The employer cannot produce a copy of their APP while at the worksite. (i.e., it is not physically or electronically available at the jobsite).
 - B. When the SO/IH requests to review the employer's APP and the employer is not able to produce it, this is a violation of Rule 114(1). It is MIOSHA CSHD's stance that the APP is to be available at the worksite, as indicated in the plain text of the rule.
 - C. The SO/IH will allege a violation for 114(1) even if an employer is able to provide a copy of their APP before the SO/IH conducts the closing conference. In this scenario, the violation would be marked as abated if all the elements are met. The SO/IH shall not return to the job site for the sole purpose of reviewing an employer's APP. The employer not having their APP available on-site is a violation even if the SO/IH has reviewed the APP at a previous time/inspection.
 - D. Employers are allowed to use electronic devices for the retention of their APP, or other documents (i.e., Hazard Communication Program). (Reference; Occupational Safety and Health Administration Standard Interpretations: January 30, 1997, corrected April 16, 2009, and February 18, 1999.)
 - E. The SO/IH will not allege a violation of Rule 114(2) if alleging a violation of Rule 114(1), unless the following two situations are both present:
 - 1. The APP was provided after the employer was found to not have it at the jobsite or available; and,
 - 2. The reviewed APP was discovered to have missing elements.
 - F. A violation of Rule 114(2) will be alleged when an employer has an APP but is not implementing their APP and/or when there is a deficiency of an employer's

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APP. The specific item not in compliance {e.g., 114(2) (a - e)} and details of the deficiency will be documented in the case file and described on the alleged violation.

- G. A violation will not typically be alleged against an employer for not following specific elements within their own APP that are more stringent or exceed the requirement of Rules 114(1) and 114(2).
- H. Each employer must have their own APP. On some jobsites, the controlling contractor (CC) will require a subcontractor to abide by their (controlling contractor's) APP. In this scenario, the employer is still required to have an APP for their own company and use of a controlling contractor's APP does not alleviate any employer's requirements under Rule 114(1) and/or 114(2).

XIII. Procedures for Alleging a Violation of Rule 132(3) and/or 132(4), Medical Services and First Aid.

- A. The rule does not indicate each individual employer on a worksite is required to have a person who has a valid certificate in first aid training.
- B. First aid services can be designated to a specific person on-site. If someone is designated to provide first aid services for the site, the SO/IH must ascertain if that person(s) has a valid certificate in first aid training, is willing to render first aid to all workers at the worksite, and is always present when the worksite is active. Back-up person(s) must meet the same criteria as above and can be utilized to ensure presence of first aid services whenever workers are present. If the appropriately trained person(s) designated to render first aid is not always present when the worksite is active, this is a violation.
- C. When a CC is present on site, CSHD staff will first ascertain, from the representative of the CC, whether a person(s) present at the worksite has a valid certificate in first aid training. If the person(s) met all obligations in XIII.B., then all employers onsite are in compliance.
- D. If the CC does not have a valid certificate in first aid but can identify the first aid person(s) at the worksite, staff will verify this with the person(s) indicated during the walk around. If the SO/IH is able verify compliance with obligations in XIII. B., then the employers involved in the inspection are in compliance.
- E. When only subcontractors are present, then it is appropriate to ask each subcontractor involved in the inspection for a valid certificate in first aid training. If one of the workers meets all obligations in XIII. B., then the employers on-site are in compliance. When there are no employees with a first aid card, the SO/IH will allege a violation to each employer involved in the inspection.
- F. If the first aid person is not able to produce their first aid certificate while at the site, a citation is to be issued. If the first aid person is able to provide a valid first aid certificate by the end of the on-site inspection, a citation is not to be issued. The SO/IH shall not return to the job site for the sole purpose of reviewing/obtaining an employer's first aid certificate.

- G. When an employer has only one employee on the site, a written plan as prescribed in Rule 132(4) may be substituted for a first aid trained person.

XIV. Citation Guidelines.

A. Serious.

1. When a SO/IH encounters a workplace containing hazards or exposures that could result in a life-threatening injury or illness, the employer has no APP or there is no employee onsite with a valid first aid card, and an incident has occurred, the SO/IH shall recommend a serious violation(s).
2. When a SO/IH encounters a workplace containing hazards or exposures that could result in a life-threatening injury or illness, the employer has no APP or there is no employee onsite with a valid first aid card, and an incident has the potential to occur, the SO/IH shall recommend a serious violation. For example, if there is a serious hazard identified at the site, such as fall protection, struck-by, crushed, or electrocution hazard, and the employer has no APP or they do not have an employee onsite with a valid first aid card, the SO/IH shall recommend a serious violation(s).
3. The SO/IH may contact their supervisor prior to recommending a serious violation. Before contacting their supervisor, the SO/IH shall evaluate the employer's efforts with regard to the following:
 - a) Identify and assess workplace risks that have potential to cause worker injury or illness.
 - b) Identify emergency medical services and availability for all times of the day when employees are working. Response times for treatment must be planned taking into consideration normally anticipated delays such as auto or train traffic. Plans for response time must be reevaluated when conditions change.
 - c) Designate available trained first aid providers and readily accessible location of first aid supplies.
 - d) Communicate and make readily accessible contact personnel and phone numbers. Ensure this information is current.
 - e) Instruct all workers about the first aid program, including what workers should do if a coworker is injured or ill.

B. Other-than-serious. The SO/IH shall consider an other-than-serious violation only after evaluation of the following:

1. An APP or first aid violation has been determined, no incident has occurred, and there is no potential for a serious injury or illness to occur at the worksite based on the conditions identified at the site.
2. There are extenuating circumstances that affect the employer's ability to comply (such as community-wide emergency conditions).

C. Grouping.

1. Violations may be grouped where there are violations of multiple rules/standards involving the same hazard (e.g., APP, first aid requirements, and/or recordkeeping requirements). Violations shall be grouped in accordance with the [FOM](#).
2. When two (2) or more individual violations are proposed which, if considered individually, represent other-than-serious violations, these violations may be grouped and issued as serious when there is a substantial probability of death or serious physical harm occurring because of the overall violative conditions.