

State of Alaska
Department of Labor
Labor Standards and Safety Division

AKOSH Program Directive 91-3

Date: June 24, 1991

To: All Compliance Staff

From: Robert W. Libbey, Director

Subject: Inspection Guidelines for Emergency and Post-Emergency Response Operations Under Subchapter 10, Hazardous Waste and Emergency Response Code

- A. **Purpose.** This Program Directive (PD) provides procedures for ensuring uniform enforcement of training under the Hazardous Waste Operations and Emergency Response standard for employees involved in emergency and post-emergency response operations.
- B. **Background.** A final standard for Hazardous Waste Operations and Emergency Response, Subchapter 10, became effective December 27, 1990. This standard was subsequently revised. The revision is currently under review by the Lieutenant Governor Office and the Attorney General's Office. It is anticipated that the revised standard (Appendix A) will become effective by July, 1991. In addition to many other requirements, the standard regulates worker safety and health during emergency and post-emergency response operations.
1. The standard has the following definition for emergency response and for post-emergency response:

Emergency Response:

"...a response effort by employees from outside the immediate release area or by other designated responders (i.e. mutual-aid groups, local fire departments, etc.) to an occurrence which results, or is likely to result, in an uncontrolled release of a hazardous substance ..."

Post-emergency Response:

"...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 are 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 that clean-up portion, then the separate group of employees would be

considered to be performing post-emergency response and subject to paragraph (q)(11) of this section.

2. The employer conducting the clean-up must comply with all the requirements of 10.0101(b)-(o) of the standard (10.0101(q)(11)(A)) unless the clean-up is done on plant property using plant or work place employees. The requirements under (b)-(o) of the standard specify a minimum of 24 hours of off-site training. If cleanup is done on plant property using plant or work place employees, the employer must comply with the training requirements of 02.320 (b)(4), OIS; 01.0403 GSC; Subchapter 15, Hazard Communication; and other appropriate training made necessary by the tasks they are expected to perform (10.0101(q)(11)(B)).
3. Based on experience with the standard during the oil spill caused by the grounding of the tanker Exxon Valdez in Prince William Sound and federal OSHA's experience responding to oil spills off the coasts of Texas 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. It is AKOSH's expectation that through the number of hours of training may vary, a minimum of four (4) hours would be appropriate in most situations involving oil spills. 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 the maximum protection of the environment, petroleum spills dictate clean-up must be completed as soon as possible.
4. The U.S. 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.
5. The Commissioner, in consultation with the Director, shall make the decision when fewer than 24 hours of training is required.

C. Enforcement Guidelines.

1. **Policy Background.** If an employer complies with the clear intent of a standard but deviates from its particular requirements in a manner that has no direct or immediate relationship to employee safety or health, the AKOSH Compliance Manual directs that such a violation be characterized as minor. Citations are not issued for minor violations.
2. **Policy.** Compliance with the intent of the training requirements of 10.0101 (q)(11)(A) is achieved when an employer provides sufficient training as outlined in paragraph C.3 below, but the exact specifications of AKOSH standards are not met (i.e., the specific number of hours

required by the standard is not given). In such cases a minor violations exists and no citation will be issued. Violations of 10.0101 (q)(11)(A) can be abated by compliance with the criteria specified in C. 3.

3. **Minor Violation Criteria.** All of the following criteria must be met in order to classify violations of the training requirements of 10.0101 (q)(11)(A) as minor:
 - a. 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 under permissible exposure limits and other published exposure limits;
 - b. Health risks from skin absorption are minimal;
 - c. Employees have completed the training requirements of 02.320 (b)(4) OIS, and Subchapter 15, Hazard Communication, including refresher training as appropriate.
 - d. Employees have completed other safety and health training made necessary by the tasks they are expected to perform such as, but not limited to, operating procedures, decontamination procedures, water safety, hypothermia, heat stress, and safety hazard controls;
 - e. There is adequate on-site supervision by employees who meet the training requirements of 10,0101 (e)(4).