

Region 6 LEPC Update

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Implementation of the Hazardous Waste Operations and Emergency Response Program at the State and Local Levels

Introduction. The Chemical Safety and Security Executive Order (E.O. 13650) -- U.S. EPA-OSHA-DHS

Responding to recent catastrophic chemical facility incidents in the United States, including the tragic events in West Texas in April, 2013, President Obama issued Executive Order (EO) 13650 "Improving Chemical Facility Safety and Security" on August 1, 2013. The focus of the EO is to reduce risks associated with hazardous chemical incidents to owners and operators, workers, and communities by enhancing the safety and security of chemical facilities.

Regional Working Groups (RWGs) have been established in the Federal Regions under the leadership of regional tri-chairs from the Department of Homeland Security (DHS), the Environmental Protection Agency (EPA), and the Occupational Safety and Health Administration (OSHA). The RWGs were tasked with developing Standard Operating Procedures (SOPs), many of which serve as initiatives to assist local communities with emergency planning and preparedness. The Region 6 RWG has established eight (8) such SOPs, which includes SOP # 2, which is the focus of this publication.

Historically, lack of training has been identified as a contributing factor in injuries sustained by First Responders when responding to an emergency. The primary objective of SOP #2 is to ensure that response and planning organizations understand the requirements under the OSHA HAZWOPER Standard, and the accompanying EPA regulations.

Additionally, the RWG will coordinate with State Training Officers, State LEPC/HAZMAT Coordinators, as well as State Training Academies to determine what assistance federal agencies can provide in training of local responders, including Incident Command System / National Incident Management System (ICS/NIMS) training programs.

Accordingly, the RWG will coordinate with federal and state partners to ensure that responders have the appropriate level of HAZMAT training for the position and duties they occupy. Efforts in this regard will include outreach, including Region 6 HAZWOPER Awareness training and other effective Chemical Safety training. The goal is to ensure that First Responders understand the OSHA 29 CFR 1910.120 and EPA 40 CFR 311 requirements.



Section 1. Overview of EPA and OSHA Worker Protection Authority

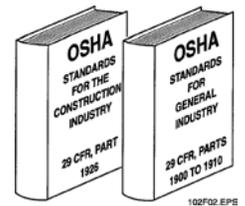
The Occupational Safety and Health Act of 1970, as amended, (OSH Act) established health and safety standards for the American workplace.

Section 6 of the OSH Act established Federal authority to issue general health and safety standards for private industry; Section 19 addresses standards for Federal government employees. Under the authority of Section 6 of the OSH Act, OSHA promulgated standards that are codified at 29 CFR and set forth the minimum health and safety requirements necessary to ensure protection for all private sector employees in the United States.

In 1986, Congress passed the Superfund Amendments and Reauthorization Act (SARA) section 126(a). SARA section 126(a) requires the Secretary of Labor to issue health and safety standards under Section 6 of the OSH Act for the benefit of private sector employees and Federal employees that are engaged in hazardous waste operations and emergency response.

Section 126(a) required the Assistant Secretary of OSHA, pursuant to section 6 of the Occupational Safety and Health Act of 1970, to promulgate standards ("regulations") for the health and safety of employees engaged in hazardous waste operations.

On March 6, 1989, OSHA issued the final Standard (29 CFR 1910.120) to fulfill the requirements of Section 126. This Standard is known as the Hazardous Waste Operations and Emergency Response (HAZWOPER). However, federal OSHA has no authority to enforce regulations protecting state and local government employees.





SARA section 126(f) required the EPA to issue regulations for hazardous waste operations and emergency response identical to OSHA's standards. The EPA promulgated the HAZWOPER regulation (40 CFR 311) in June, 1989, which requires state and local entities to follow the requirements under the HAZWOPER Standard.

Although the two sets of standards contain identical substantive provisions, EPA and OSHA address different audiences. The EPA's authority extends to state and local government employers conducting hazardous waste operations and emergency response in states that do not have a Federal OSHA approved State OSHA program.

PART 311—WORKER PROTECTION

§ 311.1 Scope and application.

The substantive provisions found at 29 CFR 1910.120 on and after March 6, 1990, and before March 6, 1990, found at 54 FR 9317 (March 6, 1989), apply to State and local government employees engaged in hazardous waste operations, as defined in 29 CFR 1910.120(a), in States that do not have a State plan approved under section 18 of the Occupational Safety and Health Act of 1970.

§ 311.2 Definition of employee.

Employee in § 311.1 is defined as a compensated or non-compensated worker who is controlled directly by a State or local government, as contrasted to an independent contractor.

The EPA regulations cover both compensated and uncompensated state and local government employees engaged in the covered activities. Therefore, the EPA standards protect volunteers, such as volunteer fire fighters who are responding to hazardous substance emergencies. Although Federal OSHA recommends that approved OSHA State programs also cover uncompensated employees, not all states have followed this recommendation.

In summary, in states without an OSHA-approved plan, Federal OSHA standards protect all private sector and Federal employees engaged in hazardous waste operations and emergency response.

The EPA worker protection standards protect all state and local government employees, including volunteer workers. In states with an OSHA-approved plan, the state program covers all private sector employees, as well as state and local government employees; Federal OSHA covers Federal employees in those states. Regardless of affiliation (City/County or Parish), each employer must determine the need for such training of their employees. Such a threshold may be based upon the number and type of facilities within the jurisdiction, or the amount and type of hazardous material which is transported through their jurisdiction(s).

Various State and local response organizations may have adopted specific professional certification and/or accreditations, such as International Fire Service Accreditation Congress (IFSAC) and the Pro-Board Fire Service Professional Qualification System.

Additionally, certification programs for various response organizations may require hazardous materials response training which would meet the requirements under 29 CFR 1910.120 and 40 CFR 311. Each organization should work through their training officers, as well as state training officers, to determine the requirements their employees must meet, and how to best address those requirements.

Section 2. Inter-Agency Agreement

EPA and OSHA have an agreement to share responsibility for implementing the Title I worker protection standards. Under the terms of this agreement, OSHA performs the following activities:

- Support of the NRT and RRTs.
- Technical Assistance. OSHA advises EPA on the types of actions EPA should take at uncontrolled hazardous waste sites to ensure full compliance with the HAZWOPER requirements. As an advisor, OSHA will identify problems that EPA may face and suggest appropriate solutions.
- Compliance Activities. OSHA conducts inspections and takes enforcement actions to ensure compliance with the worker protection standards at a Superfund site.
- Implementation Activities. OSHA supports EPA in conducting workshops to explain the requirements of the standards, and provides official interpretations of the health and safety requirements.



Section 3. Scope of the HAZWOPER Standard

The HAZWOPER standard covers all employers performing the following three general categories of work operations:



- Hazardous waste site cleanup operations [29 CFR 1910.120 paragraphs (b)-(o)] (e.g., SUPERFUND cleanup),
- Operations involving hazardous waste that are conducted at treatment, storage, and disposal (TSD) facilities [paragraph (p)] (e.g., landfill that accepts hazardous waste), and
- Emergency response operations involving hazardous substance releases [paragraph (q)] (e.g., chemical spill at a manufacturing plant).

Scope and Application of the HAZWOPER Standard		
Work Operation	HAZWOPER (Applicable Paragraphs)	Examples of Work Activities
<p>Cleanup Operations</p> <ul style="list-style-type: none"> • Cleanup operations required by governmental body or other operations involving hazardous substances that are conducted at uncontrolled hazardous waste sites. • Corrective actions involving cleanup operations at sites covered by RCRA. • Voluntary cleanup operations at sites recognized by federal, state, local, or other governmental bodies as uncontrolled hazardous waste sites. 	1910.120(b)-(o)	<ul style="list-style-type: none"> • Site Characterization of Hazardous Waste Site • Drum Removal • Contaminated Soil Removal • Underground Storage • Tank (UST) Removal
<p>Operations at TSD Facilities</p> <ul style="list-style-type: none"> • Operations involving hazardous waste conducted at TSD facilities regulated by 40 CFR 264 and 265 pursuant to RCRA or by agencies under agreement with RCRA the EPA to implement RCRA regulations. 	1910.120(p)	<ul style="list-style-type: none"> • Treating Waste for Disposal at RCRA Landfill • Handling Waste at RCRA Landfill
<p>Emergency Response Operations</p> <ul style="list-style-type: none"> • Emergency response operations for releases of, or substantial threats of releases of, hazardous substances without regard to location of hazards 	1910.120(q)	<ul style="list-style-type: none"> • Response to spill of highly toxic substance from overturned 55-gallon drum • Response to leaking storage tank • Response to overturned truck carrying hazardous materials • Response to chemical fire

Section 4. Provisions of HAZWOPER for Emergency Response Operations

Paragraph (q) of HAZWOPER applies to releases of, or substantial threats of releases of, hazardous substances without regard to their location. Covered employees generally include first responders, such as HAZMAT team members, fire and rescue personnel, police, and medical personnel who may respond to emergency releases.



Paragraph (q) does not apply to “incidental releases” of hazardous substances, which are releases that do not pose a significant safety or health hazard to employees in the immediate vicinity or to the employees cleaning it up. Incidental releases are limited in quantity, exposure potential, or toxicity and present minor safety or health hazards to employees in the immediate work area or those assigned to clean them up (see 29 CFR 1910.120(a)(3) – “Definitions”) for an Interpretation on the definition of an emergency response.)

Section 5. Elements of the 1910.120(q) – Emergency Response Program to Hazardous Substance Releases

The emergency response program (subpart q) covers employers whose employees are engaged in emergency response no matter where it occurs. Those emergency response organizations that have developed and implemented programs equivalent to this paragraph for handling releases of hazardous substances pursuant to section 303 of the Emergency Planning and Community Right-to-Know Act (ECPRA) shall all be deemed to have met the requirements of this paragraph.

<u>Elements of the Emergency Response Program</u>	
1910.120(q)(1)	<p>Emergency response plan</p> <ul style="list-style-type: none"> • Pre-emergency planning and coordination with outside parties • Personnel roles, lines of authority, training, and communication • Emergency recognition and prevention • Safe distances and places of refuge • Site security and control • Evacuation routes and procedures • Decontamination procedures not covered by the site safety & health plan • Emergency medical treatment and first aid • Emergency alerting and response procedures • Critique of response and follow-up • PPE and emergency equipment
1910.120(q)(3)	Procedures for handling emergency response
1910.120(q)(4)	Skilled support personnel
1910.120(q)(5)	Specialist employees
1910.120(q)(6)	Training (discussed in Section 6)
1910.120(q)(7)	Trainers
1910.120(q)(8)	Refresher training
1910.120(q)(9)	Medical surveillance and consultation
1910.120(q)(10)	Chemical protective clothing
1910.120(q)(11)	Post-emergency response operations



Section 6. 29 CFR 1910.120(q)(6): Training

Training shall be based on the duties and function to be performed by each responder of an emergency response organization. The skill and knowledge levels required for all new responders, those hired after the effective date of this standard, shall be conveyed to them through training before they are permitted to take part in actual emergency operations on an incident.

Employees who participate, or are expected to participate, in emergency response, shall be given training in accordance with the following:

- i. First responder awareness level: First responders at the awareness level are individuals who are likely to witness or discover a hazardous substance release and who have been trained to initiate an emergency response sequence by notifying the proper authorities of the release. They would take no further action beyond notifying the authorities of the release.
- ii. First responder operations level: First responders at the operations level are individuals who respond to releases or potential releases of hazardous substances as part of the initial response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the release. They are trained to respond in a defensive fashion without actually trying to stop the release. Their function is to contain the release from a safe distance, keep it from spreading, and prevent exposures.
- iii. Hazardous materials technician: Hazardous materials technicians are individuals who respond to releases or potential releases for the purpose of stopping the release. They assume a more aggressive role than a first responder at the operations level in that they will approach the point of release in order to plug, patch or otherwise stop the release of a hazardous substance.
- iv. Hazardous materials specialist: Hazardous materials specialists are individuals who respond with and provide support to hazardous materials technicians. Their duties parallel those of the hazardous materials technician, however, those duties require a more directed or specific knowledge of the various substances they may be called upon to contain. The hazardous

materials specialist would also act as the site liaison with Federal, state, local and other government authorities in regards to site activities.

- v. On scene incident commander: Incident commanders, who will assume control of the incident scene beyond the first responder awareness level, shall receive at least 24 hours of training equal to the first responder operations level and in addition will know and understand: how to implement the employer's incident command system; how to implement the employer's emergency response plan; the hazards and risks associated with employees working in chemical protective clothing; how to implement the local emergency response plan; the state emergency response plan and of the RRT; and the importance of decontamination procedures.
- vi. Trainers: Trainers who teach any of the above training subjects shall have satisfactorily completed a training course for teaching the subjects they are expected to teach, such as the courses offered by the U.S. National Fire Academy, or they shall have the training and/or academic credentials and instructional experience necessary to demonstrate competent instructional skills and a good command of the subject matter of the courses they are to teach.
- vii. Refresher training: Those employees who are trained in accordance with paragraph (q)(6) of this section shall receive annual refresher training of sufficient content and duration to maintain their competencies, or shall demonstrate competency in those areas at least yearly. A statement shall be made of the training or competency, and if a statement of competency is made, the employer shall keep a record of the methodology used to demonstrate competency.

Training Requirements – Emergency Response Operations	
Emergency Responders [1910.120(q)(6)]	
<ul style="list-style-type: none"> • First Responder Awareness Level (Witnesses or discovers a release of hazardous substances and is trained to notify the proper authorities) 	<ul style="list-style-type: none"> • Sufficient initial training and competencies • Annual refresher
<ul style="list-style-type: none"> • First Responder Operations Level (Responds to the releases of hazardous substances in a defensive manner, without trying to stop the release) 	<ul style="list-style-type: none"> • 8 hours initial training and competencies • Annual refresher
<ul style="list-style-type: none"> • Hazardous Materials Technician Level (Responds aggressively to stop the release of hazardous substances) 	<ul style="list-style-type: none"> • 24 hours initial training and competencies • Annual refresher
<ul style="list-style-type: none"> • Hazardous Materials Specialist (Responds with and in support of HAZMAT technicians, but who have specific knowledge of various hazardous substances) 	<ul style="list-style-type: none"> • 24 hours initial training and competencies • Annual refresher
<ul style="list-style-type: none"> • On Scene Incident Commander (Assumes control of the incident scene beyond the first responder awareness level) 	<ul style="list-style-type: none"> • 24 hours initial training and competencies • Annual refresher

There are two National Fire Protection Association standards. NFPA 472 - "Standard for Professional Competence of Responders to Hazardous Material Incidents" and NFPA 471 - "Recommended Practice for Responding to Hazardous Material Incidents", which are excellent resource documents to aid fire departments and other emergency response organizations in developing their training program materials.

NFPA 472 provides guidance on the skills and knowledge needed for first responder awareness level, first responder operations level, hazmat technicians, and hazmat specialist. It also offers guidance for the officer corps who will be in charge of hazardous substance incidents. The scope of NFPA 472 includes:

This standard shall identify the minimum levels of competence required by responders to emergencies involving hazardous materials/weapons of mass destruction (WMD). This standard shall apply to any individual or member of any organization who responds to hazardous materials/WMD incidents. This standard shall cover the competencies for awareness level personnel, operations level responders, hazardous materials technicians, incident commanders, hazardous materials officers, hazardous materials safety officers, and other specialist employees.

In general, employers of emergency response organizations who follow the NFPA standards should be in compliance with 29 CFR 1910.120(q). For more information on the NFPA 472 Standard, go to: <http://www.nfpa.org/codes-and-standards/document-information-pages?mode=code&code=472>

Section 7. OSHA Interpretation Letters as it Pertains to HAZWOPER and Emergency Response

Since the early 1990's, OSHA has issued numerous interpretation letters to assist organizations in answering questions posed about the HAZWOPER Standard. These interpretations are available on the OSHA website, and provide a valuable resource when you are researching a particular standard. To access these letters of interpretation for HAZWOPER-related questions, go to: https://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=INTERPRETATIONS&p_toc_level=3&p_keyvalue=1910.120&p_status=CURRENT

Below are specific interpretations issued by OSHA on applicability to emergency response definition, hours needed for awareness training, and applicability of HAZWOPER to local responders.

OSHA Standard Letter of Interpretation, June 29, 1992 Definition of an Emergency Response

This is in further response to your letter of April 23, concerning the Occupational Safety and Health Administration's (OSHA's) Hazardous Waste Operations and Emergency Response final rule (HAZWOPER), 29 CFR 1910.120. Your question concerns clarification on the definition of an emergency response. The HAZWOPER standard was written to cover a wide array of facilities. Releases of hazardous substances may require differing emergency responses depending on the facility, knowledge of the employees in the immediate area, and the equipment at their disposal. However, there are certain parameters that OSHA has identified which clearly define releases of hazardous substances that can only be handled by emergency responders and a coordinated emergency response effort.

A release is covered by the HAZWOPER standard wherever conditions create an emergency. In other words, there need not be both an emergency and a response by outside responders. For example, a release of chlorine gas above the IDLH moving through a facility is an emergency situation even if the responders are from the immediate release area. Employees who would respond to this hypothetical situation, regardless of where they normally work, would need to act in accordance with 1910.120 paragraph (q).

Conversely, incidental releases of hazardous substances that are routinely cleaned up by those from outside the immediate release area need not be considered emergency responses solely because the employee responsible for cleaning it up comes from outside the immediate release area. For example, paint thinner is spilled in an art studio and the janitor is called from outside the immediate release area to mop it up. The janitor does not have to respond in accordance with HAZWOPER, although the janitor would be expected to understand the hazards associated with paint thinner through training required by the Hazard Communication Standard [(29 CFR 1910.1200)]. The HAZWOPER standard covers responses "by employees from outside the immediate release area or by other designated responders." The use of the "or" means that "responders" can be any persons so designated by the employer, including employees from within the immediate release area. Employees working in the area, not just outsiders, are covered if the employer expects those employees to perform emergency response operations for releases or substantial threats of releases of hazardous substances. HAZWOPER's paragraph (q) uses the term "responders" generally, which is interpreted to mean employees who respond to emergencies.

The Superfund Amendments and Reauthorization Act of 1986 (SARA), which required OSHA to create and implement HAZWOPER, directs OSHA to protect all employees responding to emergencies without specifying their location. Section 126(d)(4) of SARA states, "standards shall set forth requirements for the training of workers who are responsible for responding to hazardous emergency situations who may be exposed to toxic substances in carrying out their responsibilities." The HAZWOPER standard does not fully address releases of hazardous substances that are limited in quantity and pose no emergency or threat to the safety and health of workers in the immediate vicinity. This type of release is referred to as an "incidental release" in paragraph 1910.120(a)(3), where "emergency response" or "responding to emergencies" is defined. Training in accordance with 1910.120(q) is not required for these spills. In such situations other OSHA standards do cover employees, such as the Hazard Communication Standard (1910.1200), standards for personal protective equipment [(1910 Subpart I)] or the Laboratory Standard (1910.1450).

We hope this information is helpful. If you have any further questions please feel free to contact us at [(202) 693-2190]. Sincerely, Patricia K. Clark, Director, Directorate of Enforcement Programs

OSHA Standard Letter of Interpretation, November 8, 1994 Clarification on HAZWOPER emergency response training requirements

You request clarification on HAZWOPER emergency response training requirements. It appears from your letter that your workers will only be trained to the First Responder Operations Level. The function of the First Responder Operations Level is to take defensive action to contain an uncontrolled release, acting at a safe distance from the point of release. Defensive activities include placing of sorbent, shutting off valves outside the danger area, or activating emergency control systems.

The standard does not allow Operations Level First Responders to actually enter the danger area to attempt to stop a release. Therefore, if you choose not to train your people beyond the First Responder Operations Level, you must arrange in advance to call in an outside HAZMAT team in the event your employees are unable to control a release through the use of defensive action.

We will now address your specific questions.

- 1) Our operating personnel are trained to the level of First Responder Operations. Is it a requirement that one individual on each shift be trained as an "Incident Commander" or would it suffice for plant management, called out to the plant, to be trained as the incident commander? The second part of this question is this. If there is an "Incident Commander" on the scene, either from the shift or a plant supervisor called in, and the Plant Manager or some other senior manager arrives on site, must he be "Incident Commander" trained or can he defer to the individual who is trained and handling the situation?

There must be someone on-site designated and trained to be in charge of the incident, HAZWOPER describes this individual as the Senior Official. It is not acceptable to designate and train the plant manager or supervise as the Senior Official if this person needs to be called in from off-site.

Your facility emergency response plan must detail the procedures to be followed, roles and duties of responders, and lines of authority and communication. All activity must be coordinated through the Incident Command System, which specifies that one individual be in charge of coordinating and supervising emergency response efforts.

The Incident Command System is to include a pre-established chain of command, in which control of the incident is passed up the chain of command as more senior officers arrive. For example, in the event it is necessary to call in the outside HAZMAT team, your Senior Official would turn over control of the incident to the head of the outside HAZMAT team.

You must specify in advance whether you intend for the on-site Senior Official to turn over control of the incident to the plant supervisor or manager who arrives from off-site. OSHA would not require that your senior managers who arrive from off-site take over control of the incident. However, whoever serves the role of Senior Official must have full authority to coordinate and supervise emergency response activities. Off-site senior managers would not need to be trained to head up the incident response if they truly defer to the on-site Senior Official.

It may be of interest to you that, since your Senior Official is coordinating and supervising first response only, the full training of the On-Scene Incident Commander may not be needed. The Senior Official (both on-site and, if you so decide, your off-site plant managers) must be trained based on the duties and function to be performed.

The type and extent of training would depend on the facility and the complexity of defensive emergency prevention measures. In situations where it is necessary to call in the outside HAZMAT team, the role of Senior Official would be passed up the pre-established lines of authority to the head of the outside HAZMAT team. The head of the HAZMAT team must be certified as an On-Scene Incident Commander as described in 29 CFR 1910.120(q)(6)(v).

- 2) The regulations state that the Hazardous Materials Specialist: ... would also act as a liaison with Federal, state, local and other government authorities in regards to site activities... Does this mean we must have a Hazardous Materials Specialist on each shift to provide this liaison or can our First Responder Operations-trained individuals or our "Incident Commander" provide this liaison?

You are not required to have a Hazardous Materials Specialist on your response team. However, the role of liaison with government authorities should be designated in your emergency response plan. You should coordinate in advance with local emergency planning authorities to determine what information needs to be reported to them in the event of an incident.

It would be the responsibility of the Senior Official (described in response to your first question) to determine whether outside assistance is needed. Your emergency response plan must define what scenarios your plant can and cannot handle without the aid of an outside hazmat team, and your workers, particularly the Senior Official, must be trained to understand the limits of their response capabilities.

- 3) After the completion of the emergency response phase of an incident, a contractor would normally be hired to provide the clean-up and disposal services. Is it necessary for our plant management to be trained as "On-Site Management and Supervisors" if their involvement is telling the contractor to "clean up the problem?"

These management personnel would be responsible for arranging the contract, monitoring contract expenditures and monitoring procedures followed by the contractor to insure general compliance with OSHA and other regulations. They might go to the site of the incident simply as an observer. They would have previously received First Responder Operations level training.

The On-Site Management and Supervisory training to which you refer is intended for on-site management personnel who are directly responsible for clean-up operations. Contract management personnel who simply instruct the contractor to "clean up the problem" would not require this level of training.

However, access to contaminated areas of clean-up operations is generally limited to personnel who are certified under paragraph (e) of the standard. First Responder Operations Level Training would not be applicable because clean-up by outside contractors is regulated separately from emergency response activities.

Clean-up operations are regulated under paragraphs (b) through (o) of HAZWOPER. Clean-up workers must have 24 or 40 hours of training as specified in paragraph (e)(3). This training is a prerequisite to the training specified in (e)(4) for on-site management and supervisors.

Regarding your concerns about monitoring compliance with OSHA regulations, the standard requires that there be a "Site Safety and Health Supervisor" for all clean-up operations, who has the authority and knowledge necessary to implement the site safety and health plan and verify compliance with applicable safety and health requirements.

You should ensure that any clean-up contractor you hire has a qualified Safety and Health Supervisor and will be able to comply with the other safety and health requirements for clean-up operations, and may wish to specify this in your contractual agreement. We hope this information is helpful. If you have any further questions please feel free to contact the Office of Health Compliance Assistance at (202) 219-8036. Sincerely, Ruth McCully, Director Office of Health Compliance Assistance

OSHA Standard Letter of Interpretation, February 2, 1990

Training requirements under 1910.120 for General firefighters and police officers

Thank you for your letter of January 2 to the OSHA Chicago Regional Office, concerning training requirements of OSHA's HAZWOPER, 29 CFR 1910.120. Your letter was forwarded to our office for a reply and we apologize for the delay in response. A copy of the standard is enclosed for your information. I will attempt to answer your questions in the order they were presented in your letter and based on telephone conversations my staff has had with you.

General firefighters and police officers who have the emergency response responsibilities described in 29 CFR 1910.120(a) (3) are subject to the standard. Training requirements for all classifications of responders are based on "the duties and function to be performed by each responder" and the standard sets forth five general categories of responders and the training requirements for each. See 29 CFR 1910.120(q) (6). Generally, police officers are the first-responder awareness level, since they are likely to witness or discover a hazardous substance release. General firefighters are usually considered to be first responders at the operations level (Level 2 of Table 2 referenced in your letter), since they are individuals who respond to releases -potential releases of hazardous substances as part of the initial-response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the release. Paragraphs (q)(6)(i) and (ii) of the standard describe the training requirements for these personnel.

At the first-responder awareness level, the training is geared to teaching employees to recognize the hazards to humans present during these emergencies and how to protect themselves from such hazards. The required training also includes instruction on how to accurately and fully report the necessary information to an "alarm dispatcher" so that subsequent emergency responders are fully informed. The standard does not set a mandatory minimum number of hours for this training, but such courses often run from 4 to 12 hours. The mandatory result of the training, regardless of its duration, is that the trained employees be able "to objectively demonstrate competency" in the six areas of knowledge listed in the standard. See 1910.120(q)(6)(ii).

First responders at the operational level shall have received at least eight hours of training or have sufficient experience to objectively demonstrate competency in the following areas in addition to those listed for the awareness level (1910.120(q) (6) (i)) and the employer shall so certify:

- A. KNOWLEDGE of the basic hazard and risk assessment techniques.
- B. Know how to select and use PPE provided to the first responder operational level.
- C. An understanding of basic hazardous materials terms.
- D. Know how to perform basic control, containment, and/or confinement operations within the capabilities of the resources and personal protective equipment available with their unit.
- E. Know how to implement basic decontamination procedures.
- F. An understanding of the relevant standard operating procedures and termination procedures.

Training and competency requirements for on scene incident commanders who will assume control of the incident scene beyond the first responder awareness level are delineated in 29 CFR 1910.120(q) (6) (v). Incident commanders shall receive at least 24 hours of training equal to the first responder operations level and in addition have competency in the following areas and the employer shall so certify:

- A. Know and be able to implement the employer's incident command system.
- B. Know how to implement the employer's emergency response plan.
- C. Know and understand the hazards and risks associated with employees working in chemical protective clothing.

- D. Know how to implement the local emergency response plan.
- E. Know of the state emergency response plan and of the Federal Regional Response Team.

Refresher training requirements are found at 1910.120(q)(8). All employees trained in accordance with 29 CFR 1910.120(q) (6) must "receive annual refresher training of sufficient content and duration to maintain their competencies, or shall demonstrate competency in those areas at least yearly." Illinois does not have an OSHA state plan. Therefore, employees of state and local governments who engage in HAZWOPER are covered by EPA regulation. The applicable EPA regulations are identical to those under OSHA, but are administered and enforced by the EPA. If you have further questions, please do not hesitate to contact us again. Sincerely, Patricia K. Clark, Director Designate, Directorate of Compliance Programs

OSHA Standard Letter of Interpretation, August 1, 2003

Firefighter training requirements to respond to emergency releases, or potential emergency releases, of hazardous substance.

Thank you for your February 3, 2003 letter to the Occupational Safety and Health Administration's (OSHA's) Directorate of Enforcement Programs (DEP). This letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any scenarios or situations not delineated within your original correspondence.

You had specific questions regarding the Hazardous Waste Operations and Emergency Response (HAZWOPER) standard, 29 CFR 1910.120, and the level of training required for fire fighters. Please excuse the delay in our response. Your questions are re-stated below, followed by our responses.

- a) Question 1: If the fire department dispatcher receives an emergency call reporting a suspected release of a hazardous material, could an Awareness Level fire fighter respond to the scene to confirm the existence of a hazardous material release and then notify another agency with a Hazardous Materials Response Team?

Response: No. If a fire department receives an emergency call reporting a suspected release of a hazardous substance, this would be considered sufficient information to warrant an emergency response. The fire department should not knowingly dispatch an "Awareness Level" fire fighter to respond to a hazardous substance emergency response.

As the scenario you presented in your letter to us explains, a police officer reports the discovery of three 55-gallon drums on the side of a road and the officer believes the drums may be the result of an illegal methamphetamine laboratory "meth lab" operation in the area. These facts provide enough information to classify the situation as a potential emergency release of a hazardous substance and thus require it to be treated as an emergency response.

29 CFR 1910.120(q)(6)(ii) states, "First responders at the operations level are individuals who respond to releases or potential releases of hazardous substances as part of an initial response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the release." Training requirements for all classifications of emergency responders are based on the "duties and functions to be performed by each responder" and are found at 29 CFR 1910.120(q)(6)(i)-(v). Fire fighters who respond to emergency releases or potential emergency releases of hazardous substances must be trained to at least the first responder operations level.

- b) Question 2: How close could the Awareness Level fire fighter get to the scene and what level of PPE is appropriate?

Response: Fire fighters trained at the first responder awareness level are trained to identify the release of a hazardous substance and to notify the proper authorities of the release without approaching the point of release.

To further explain this role, OSHA has provided a possible emergency response scenario in the Summary and Explanation of the Preamble to the Hazardous Waste Operations and Emergency Response Standard. In this scenario, a state trooper assumes the role of first responder at the awareness level:

"A state trooper is on routine patrol along a highway passing through a residential and light industrial area of a large metropolitan city. Ahead in his path of travel, the trooper notices a multi-vehicle accident involving a large overturned tank truck. Immediately the trooper uses his radio to contact his dispatcher to report the accident. After letting the dispatcher know the location and type of accident, the trooper places his vehicle across the travel lanes of the highway approaching the accident site to stop traffic.

While he is doing this, the dispatcher is alerting the fire and rescue companies in the immediate area and dispatching an established number of fire and rescue vehicles. The trooper then surveys the accident scene from his vehicle trying to identify the type of cargo on the overturned truck. Seeing three different U.S. DOT placards on the vehicle the trooper makes note of the four digit numbers and checks his DOT Emergency Response Guide for a summary of actions to be taken for the chemicals identified on the placards.

After determining his next on-site responsibility, he re-contacts his dispatcher with the additional information and secures the scene. He stays away from the immediate accident site and does not become involved in rescue or site mitigation.

As described above, personnel trained to the first responder awareness level can make an effort to identify hazardous substances, but must do so from a distance. Since they are not permitted to approach the point of release to either contain or stop the release, they are not trained to select and use appropriate PPE. They are also not trained to establish perimeters or boundaries designating safe and unsafe areas. These actions are to be deferred to more highly trained personnel, such as those trained to the operations or technician/specialist level.

You had three additional questions in reference to the scenario below. Your scenario is re-stated for clarity, and your questions and our responses follow.

Scenario: "A police officer contacts dispatch to report the discovery of three 55-gallon drums located in a drainage ditch on the side of a road. The police officer believes the drums may be the result of an illegal meth lab operation in the area. The drums have no labels, but have a pungent odor. The police officer requests a response by the local fire department. The local fire department is composed of volunteers, and all of the fire fighters are trained to the Awareness Level. The fire department responds to the call and establishes a perimeter around the barrels.

In surveying the scene, the fire department determines that one barrel has the odor of acetone, another barrel has the odor of ammonia, the third barrel is leaking, and the paint near the leak is discolored. The fire department contacts a regional hazmat team based on a mutual aid agreement. The senior fire officer for the volunteer fire department is the Incident Commander.

Under the direction of the Incident Commander, the Hazardous Materials team isolates the barrels for removal, believing that the barrels are hazardous. The volunteer fire fighters establish and maintain a secure perimeter and assist the hazmat team in staging materials.

The barrels are recovered and tested. The lab indicates that the barrels contain mixtures of acetone, lye, ammonia and other compounds associated with the manufacture of meth."

c) Question 3: Would the actions of the fire department based upon the level of training constitute a violation of the rule?

Response: Dispatching awareness level fire fighters to respond to a suspected hazardous substance emergency response would constitute a violation of 29 CFR 1910.120. For more information, please see the responses to questions #1 and #2.

d) Question 4: What would the minimum level of training be in order to comply with the rule?

Response: Fire fighters responding to a suspected hazardous substance emergency response must be trained to at least the first responder operations level. For more information, please see the responses to questions #1 and #2.

e) Questions 5: Would the violations be considered as de minimis?

Response: De minimis violations occur when an employer complies with the clear intent of the standard but deviates from its particular requirements in a manner that has no direct or immediate relationship to employee safety or health. In your scenario, awareness level trained fire fighters are dispatched to respond to "survey the scene" and as a result make close approach to the point of release exceeding their level of training.

These actions do not comply with the clear intent of the standard and have a direct relationship to employee safety and health (e.g., breathing in vapors emanating from the drums). As a result, the violations would not be considered de minimis.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations.

This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. If you have further questions, please feel free to contact the Office of Health Enforcement at (202) 693-2190. Sincerely, Richard E. Fairfax, Director, Directorate of Enforcement Programs

OSHA Standard Letter of Interpretation, June 17, 1991
Minimum number of hours required for awareness level for police officers

This is in response to your inquiry of April 10, 1991 concerning the OSHA HAZWOPER final rule (29 CFR 1910.120). Please accept my apology for the delay in this reply. Your specific question relates to the application of this regulation to police officers and the minimum number of hours of training required for the awareness level. OSHA concurs with your assessment that police officers should be trained to the awareness level as a minimum.

There is no specific number of hours of training required for the First Responder Awareness Level. The training requirements are performance oriented, which means the training must develop certain competencies in an individual regardless of how long it takes. The regulation defines these competencies in paragraph (q)(6)(i) which reads;

. . . First responders at the awareness level shall have sufficient training or have had sufficient experience to objectively demonstrate competency in the following areas:

- A. An understanding of what hazardous materials are, and the risks associated with them in an incident.
- B. An understanding of potential outcomes associated with an emergency created when hazardous materials are present.
- C. The ability to recognize the presence of hazardous materials in an emergency.
- D. The ability to identify the hazardous material if possible.
- E. An understanding of the role of the first responder awareness individual in an employer's emergency response plan including site security and control and the U.S. Department of Transportation's Emergency Response Guidebook.
- F. The ability to realize the need for additional resources, and to make appropriate notifications to the communications center.

I hope this information is helpful. If you have any further questions please feel free to contact MaryAnn Garrahan at (202) 523-8036. Sincerely, Patricia K. Clark, Director, Directorate of Compliance Programs

Section 8. EPA/Regional Response Team (RRT) HAZWOPER Awareness On-Line Training

EPA Region 6 and the Regional Response Team has developed an online HAZWOPER First Responder Awareness Level training. The training meets the requirements of 29 CFR 1910.120(q), and was developed to meet the competencies listed under NFPA 472.

Users can access the training through the Region 6 Regional Response Team website, (<http://rrt6.org>) under the Training Repository section. Users can launch the training via an active internet connection, or can download a pdf version of the training for use on the desktop offline.

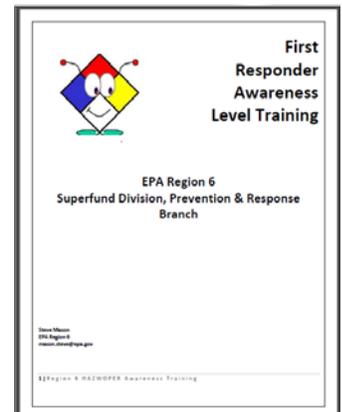
Once users have had the opportunity to review the course materials, they can register and take the test online to receive their HAZWOPER First Responder Awareness Level certification. Examples of personnel who might benefit from the training include facility personnel and operators, municipal and county employees, and anyone who could potentially witness a chemical emergency. The program covers the following:

- Basics of Hazardous Materials
- HAZWOPER Regulatory Requirements
- Identification of Hazardous Materials
- Using the Emergency Response Guidebook
- Physical and Chemical Properties
- Incident Command System 101
- Awareness of Weapons of Mass Destruction
- Putting it All Together

TWO IMPORTANT CONSIDERATIONS BEFORE USING THIS TRAINING:

- 1) Classroom style training is preferable to an online training program, as the participants have direct interaction with the instructor and can ask questions. If you can attend a classroom training, please do so.
- 2) This training is for employees and others who need awareness level training. Their responsibilities do not include any type of response to the incident which would necessitate training to the operations or technician level training.

Please check with your Training Program Officers to determine requirements for certification within your own state.



State EPCRA / LEPC Coordinators and SERC Contacts

Arkansas	Kenny Harmon	501-683-6700	kenny.harmon@adem.arkansas.gov
Louisiana	Gene Dunegan	225-925-6113	gene.dunegan@dps.la.gov
New Mexico	Henry Jolly	505-476-6240	henry.jolly@state.nm.us
Oklahoma	Tom Bergman	405-702-1013	tom.bergman@deq.ok.gov
	Bonnie McKelvey	405-521-2481	bonnie.mckelvey@oem.ok.gov
Texas	Bernardine Zimmerman	800-452-2791	Bernardine.zimmerman@tceq.texas.gov

Emergency Response Numbers

Arkansas Dept. of Emergency Management	800-322-4012
Louisiana State Police	877-925-6595
New Mexico State Police	505-827-9126
Oklahoma Dept. of Environmental Quality	800-522-0206
Texas Environmental Hotline	800-832-8224
National Response Center	800-424-8802
EPA Region 6	866-372-7745
CHEMTREC	800-424-9300



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