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TO: Distribution

FROM: T. G. Grumbles
DATE: February 22, 1990

Interoffice
Communication

SUBJ: OSHA PROPOSED RULE ON ACCREDITATION OF TRAINING PROGRAMS
FOR HAZARDOUS WASTE OPERATIONS

VISTA

OSHA has finally proposed their standard which would set the standards and procedures for training programs offering HAZWOPER training to comply with Paragraphs (e) and (p) for the standard. I've attached the draft standard. At this time, no action is required unless you wish to comment on the proposed standard.

Page 2790 of the standard expressly discusses retroactiveness of training provided prior to promulgation of this standard. Essentially, if you can demonstrate equivalency, by documentation or certification, that previous experience and training provided the "skill attainment" equivalent to accredited training program requirements, you have met the requirements. English translation of this means any course we give or outside contractor we use for training should generally meet the criteria listed on Page 2793 and 2794 of the attached.



T. G. Grumbles

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Attachment

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-760-B]

RIN 1218-AB27

Accreditation of Training Programs for Hazardous Waste Operations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is proposing a new rule containing the accreditation procedures for certain training programs required by OSHA. These proposed accreditation procedures were mandated by Congress when section 126 of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499, 29 U.S.C. 655 note) was amended in December 1987. That amendment requires OSHA to develop specific procedures for the accreditation of hazardous waste operation training programs that are no less comprehensive than those procedures adopted by the Environmental Protection Agency under Title II of the Toxic Substance Control Act (TSCA) (15 U.S.C. 2646). Title II of TSCA is also known as the Asbestos Hazard Emergency Response Act of 1986 (AHERA).

The training programs required to be accredited under this proposed regulation are found in 29 CFR 1910.120, paragraphs (e) and (p). These training programs are required for employees involved in clean-up operations at uncontrolled hazardous waste sites being cleaned-up under government mandate, and for employees involved in certain hazardous waste treatment, storage, and disposal (TSD) operations. It is not proposed to accredit training programs for employees engaged in emergency response activities.

This proposed rule would supplement the existing permanent final rule for hazardous waste operations and emergency response published on March 6, 1989 (54 FR 9294) as required by Congress in SARA.

This notice of proposed rulemaking contains the criteria OSHA proposes to use to evaluate for accreditation the training programs required in § 1910.120.

This notice also proposes to amend paragraphs (e) and (p) of 29 CFR 1910.120 to make the necessary references to this proposed rule.

DATES: 1. Comments and information on this proposal must be received on or before April 26, 1990.

2. Requests for public hearings on this proposal must be received on or before March 27, 1990.

ADDRESSES: 1. Comments and information on this proposal should be sent in quadruplicate to the Docket Office, Docket No. S-760-B, Occupational Safety and Health Administration, Room N-2634, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. Comments, requests for hearings and information received may be inspected and copied in the Docket Office.

2. Requests for a public hearing on this proposal should be sent in quadruplicate to Mr. Thomas Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3649, 200 Constitution Ave., NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Proposed Rule: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210, 202-523-8151.

Public Hearing: Mr. Thomas Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3649, 200 Constitution Ave., NW., Washington, DC 20210, 202-523-8615.

SUPPLEMENTARY INFORMATION:**I. Background**

On October 17, 1986, the President signed into law the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499). As part of SARA, the Secretary of Labor (the Secretary) was directed to issue an interim final rule within 60 days after the date of enactment, which was to provide no less protection for workers engaged in covered hazardous waste operations than the protections contained in two specified documents. Those two documents were the Environmental Protection Agency's (EPA's) "Health and Safety Requirements for Employees Engaged in Field Activities" manual (EPA Order 1440.2), dated 1981, and the existing Occupational Safety and Health Administration (OSHA) standards under subpart C of 29 CFR part 1926. OSHA published an interim final rule as directed in the Federal Register on December 19, 1986 (51 FR 45654).

SARA also directed the Secretary to issue, within one year after the date of

enactment of SARA, a final standard under section 6(b) of the Occupational Safety and Health Act for the health and safety of employees engaged in hazardous waste operations and emergency response. SARA also indicated that certain specific areas of employee protection, in particular employee training, were relevant to protect employees engaged in hazardous waste operations. OSHA issued a proposed rule on hazardous waste operations and emergency response, including provisions for training, on August 10, 1987 (52 FR 29620). Public hearings on the proposed rule were held during October 1987. As a result of that proposed rule and the public hearings held with respect to that proposal, OSHA published a permanent final rule for hazardous waste operations and emergency response on March 6, 1989 (54 FR 9294). That permanent final rule will become effective on March 6, 1990. The interim rule remains in effect until that date.

In related action, on December 22, 1987, as part of an omnibus budget reconciliation bill, the President signed several amendments to SARA. One of those amendments states:

That section 126(d)(3) of SARA is amended by adding a new sentence at the end thereof as follows: The certification procedures shall be no less comprehensive than those adopted by the Environmental Protection Agency in its Model Accreditation Plan for Asbestos Abatement Training as required under the Asbestos Hazard Emergency Response Act of 1986.

This proposed rule is prepared in response to this amendment to the budget reconciliation bill.

EPA's Contractor Model Accreditation Plan

On Thursday, April 30, 1987, the Environmental Protection Agency (EPA) issued its Contractor Model Accreditation Plan (Model Plan) in the Federal Register (52 FR 15875). This is the plan referred to as the Model Accreditation Plan for Asbestos Abatement Training in the amendment to SARA. The Model Plan was published in response to section 206 of Title II of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2646).

Note.—For the purposes of this discussion, Title II of TSCA will be referred to as AHERA.

While EPA was not required to issue the Model Plan as a final regulation, they decided to make the Model Plan available in the Code of Federal Regulations (CFR) as an appendix to regulations required under AHERA.

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Section 206 of AHERA, requires local education agencies (LEA's) to use "accredited persons" to perform the following asbestos-related tasks:

1. Inspecting for asbestos-containing materials (ACM) in school buildings under a local education agency's authority.
2. Preparing management plans for such schools.
3. Designing or conducting response actions with respect to ACM in such schools.

The Model Plan requires persons seeking accreditation to take an initial training course, pass an examination and participate in continuing education. LEA's have the option of hiring accredited contractors to conduct asbestos work or having in-house personnel receive accreditation. Accredited personnel are not required to be used to conduct operations and maintenance activities.

AHERA requires states to adopt a contractor accreditation Model Plan at least as stringent as the EPA Model Plan. Persons can be accredited by a state with an accreditation program at least as stringent as the EPA Model Plan. Persons may also obtain accreditation by passing an EPA-approved training course and examination that in EPA's judgment are consistent with the Model Plan. States may exercise their authority to have accreditation program requirements more stringent than the Model Plan.

The Model Contractor Accreditation Plan is divided into four units. The first unit discusses EPA's "Model Contractor Plan" for states. Unit II specifies procedures a state must follow to receive EPA Model Plan approval for the state's contractor accreditation program. OSHA is not considering the content of Units I and II because they address state plan issues, and they are being left to the states for their consideration.

The third unit of this Model Plan discusses EPA approval of courses and course examinations. EPA sponsors seeking approval of training courses must submit training materials to EPA. The training course and examination must be consistent with the Model Plan's requirements in these areas in order for approval to be granted.

The fourth unit of the Model Plan addresses the treatment of persons who have had previous training. Persons may be accredited if they have completed an EPA-approved asbestos training course in their discipline and have passed or can pass an examination in their discipline. Such persons may be accredited, on an interim basis, if in EPA's judgment the course and

examination are equivalent to the Model Plan's requirements.

OSHA will be considering the concepts of Units III and IV of the EPA Model Plan during the development of this rule.

OSHA's Proposed Rulemaking

The purpose of this rulemaking is to propose the criteria which OSHA will use to evaluate applicants who apply for accreditation to conduct the training required in 29 CFR 1910.120.

Hazardous Waste Operations and Emergency Response

The proposal is based, in part, upon the information and data collected by Dr. Richard F. Andree of Safety and Health Management Consultants, Inc. during the performance of work conducted under contract to the Occupational Safety and Health Administration, Directorate of Safety Standards Programs (Contract #B9F83334). Dr. Andree collected information from sources involved with hazardous waste operation and emergency response training. These sources include selected grantees developing courses under grants issued by the National Institute of Environmental Health Sciences (NIEHS) pursuant to section 126(g) of SARA, various unions, and various hazardous waste training consultants.

The hazardous waste operations training program of 40 hours duration, which is included in paragraph (h)(1) of 29 CFR 1910.121, was compiled from a review of the 29 CFR 1910.120 requirements and a content analysis of materials submitted by several of Dr. Andree's sources. These sources included the International Union of Operating Engineers; Law Environmental; the Midwest Consortium for Hazardous Waste Training; Noodwood Clyde Black and Veatch; correspondence from Dr. Michael S. Bisesi, Subcommittee Chairman, AIHA/ACGIH Hazardous Waste Committee; and the Superfund Hazardous Waste Worker Health and Safety Training Grants Program of the NIEHS.

The hazardous waste operations training programs of 24 hours duration, which are included in paragraphs (h)(2) and (h)(3) of 29 CFR 1910.121, were compiled from a review of the 29 CFR 1910.120 requirements and a content analysis of materials submitted by other sources. These sources included Law Environmental; the Oil, Chemical, and Atomic Workers (OCAW) Hazardous Waste Project; the Midwest Consortium for Hazardous Waste Training; and Dr. Michael Bisesi of the American Industrial Hygienist Association.

In addition, information from several other sources was utilized in outlining the 40- and 24-hour model training programs as well as the following documents: "Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities"—USDHHS, PHS, CDC, NIOSH; USGPO:1985; and "Protecting Personnel at Hazardous Waste Sites"—Levin, S. P. and Martin, W. F.; Butterworth, MA; 1985.

Each individual Topic/Standard and supporting criteria has been developed using the draft accreditation procedures, materials noted previously, and basic training/education theory.

The development of the accreditation procedures was based, as required by Congress, upon the Model Plan. The procedures were designed for both the 40-hour and 24-hour initial training programs.

Where possible, the OSHA program tracked the EPA Model Accreditation Plan for Asbestos, as directed by Congress in the December 22, 1987 amendment. The program does differ in several respects due to the OSHA regulatory format and requirements; the nature of the 29 CFR 1910.120 requirements; and the lack of detailed procedures in the EPA Model Plan.

The 40-hour program, to be provided "off-site" by either a specific employer or by a training vendor, is a "generic" program providing the course sponsor with a wide range of educational topics and methods for students. This 40-hour generic program is possible because the employer must also provide a three day (or more) site specific training program (non-accredited) to further qualify an employee. The generic approach also permits the employer to develop a course that more adequately addresses the work task that employees will be performing. For example, if employees are not required to wear Level A protection during the performance of their work, they would not have to be trained in the use of that equipment.

OSHA is providing certification for training programs—not for individual trainers. The reason for that decision is the legislative history of the amendment to section 126. That history states that the amendment is "to require Federal certification procedures for Superfund worker training programs (emphasis added)." (Congressional Record, H. 12683, December 21, 1987). No mention is made of certifying instructors. In addition, by certifying only training programs which contain procedures for hiring competent instructors, OSHA will accomplish the goal of having competent instructors without involving the government in the enormous

administrative burden of certification of individual instructors. Attempting to do that would substantially reduce resources OSHA would have available for other occupational safety goals.

Secondly, OSHA is providing certification of training programs for hazardous waste site workers and TSD facility workers, and not for emergency response employees. The reason for this decision is that the amendment requiring certification is to paragraph (d)(3) of section 126 which covers "general site workers" and their "managers and supervisors"—not to paragraph (d)(4) of section 126 which covers "training of emergency response personnel." Further, there are many universities and organizations (e.g., the International Fire Service Training Association or the International Society of Fire Service Instructors) which provide training programs for emergency response employees and which have developed training programs to be used by employers of emergency response personnel.

Finally, there is a very large number of emergency response personnel and fire departments and it would be difficult for OSHA to attempt to accredit such a large number of programs. Such accreditation would take away substantially from resources used for other occupational safety and health goals for which OSHA has prime responsibility. OSHA requests comments on this specific decision.

OSHA is not proposing to require certified refresher training. OSHA believes that refresher training is closely tied to the requirement of the work site and that in general the employer is in the best position to arrange training to accomplish that goal most effectively. In addition it would be difficult to arrange a certified training program for an 8-hour course.

The below discussion explains OSHA's procedures for certification training programs. If there are a substantial number of applications, a backlog of accreditation paperwork is likely to occur. OSHA has partially met this problem by providing for provisional certification permitting commencement of training prior to all procedural steps being completed. An additional way of reducing the initial backlog of applications would be to include a grandfather provision for training. Such a provision might permit, for example, a training program meeting certain objective criteria to continue in progress until final certification or denial of certification by OSHA. OSHA requests comments and suggestions on this issue.

In addition government resources will be used in the certification process.

OSHA requests comment on the appropriateness of charging a user's fee and, if so, on what basis the amount should be determined.

The certification process proposed has a number of steps. OSHA requests comments on whether a simpler system would be sufficient to insure a good basis for determining whether certificates should be granted.

Comments are also requested on the procedures which should be included in a simpler system of accreditation.

OSHA has not, in this proposal, required that refresher training be from a certified training program. The basis for this is that such training should be more oriented to a specific job and therefore could be better provided by the employer directly. It should be noted that § 1910.120 (e)(5) requires that all persons doing training be qualified. OSHA requests comment on this issue as well.

OSHA also requests comment on the property rights of training programs accredited by the Federal government and developed with Federal monies. Who can use these programs? What, if any, cost should be associated with the use of these programs?

II. Summary and Explanation of the Standard

The proposed rule is divided into two basic sections. First, OSHA is proposing the procedures by which an interested party must submit its application for accreditation. Second, the minimum criteria and content are proposed for the training programs that OSHA will consider as acceptable for accreditation.

This notice also proposes the necessary corrections to paragraphs (e) and (p) of 29 CFR 1910.120 that would recognize the content of this proposal when it becomes a final rule. The specific paragraphs in 29 CFR 1910.120 that are affected by this proposal and that would have to be changed are (e)(1)(i), (e)(3)(i), (e)(3)(ii), (e)(3)(iii), (e)(3)(iv), (e)(4), (e)(9), (p)(7)(i), and (p)(7)(iii).

In paragraph (a) of § 1910.121, OSHA proposes the scope, application and the necessary definitions for this proposal. Paragraph (a)(1) contains the scope statement. OSHA is proposing to accredit only those training programs required in 29 CFR 1910.120, paragraphs (e) and (p). All other training programs required by 29 CFR part 1910 would not be covered by this proposal.

In paragraph (a)(2), OSHA is proposing that this rule would apply to any applicant requesting accreditation

of training programs covered by the scope of this rule.

In paragraph (a)(3), OSHA proposes the definitions for terms that are used in this rule.

In paragraph (b), OSHA would establish the procedures for requesting accreditation of training programs. Paragraph (b)(1), provides that any interested party considering themselves capable of conducting any of the training programs required in 29 CFR 1910.120 may apply.

In paragraph (b)(2) OSHA is addressing the issue of multi-state accreditation. Section 18 of the OSHA Act permits any state to develop, and receive OSHA approval for, its own state occupational safety and health plan that provides worker protection "at least as effective" as that protection provided under the Federal program. The state plan states may choose to adopt a parallel state standard for the accreditation of hazardous waste training programs which relies solely on Federal OSHA accreditation of training programs or may establish their own state accreditation programs. States choosing to establish their own accreditation programs must establish a program that is "at least as effective" in structure and operation as the Federal program and must honor Federal accreditation. They must also assure that parties receiving state accreditation of their training programs understand that state accreditation applies only within that state.

OSHA is proposing paragraph (b)(2)(i) to consider any training program accredited under the OSHA accreditation program to be an acceptable accredited program in any state or territory. Thus persons seeking multi-state accreditation of their training programs must apply for Federal accreditation.

Likewise, OSHA is proposing in paragraph (b)(2)(ii) that where any training program that has received an individual state accreditation from an OSHA approved state plan, that training program must be resubmitted for accreditation, where necessary, in each state with an approved state plan unless the applicant's program has also received Federal OSHA accreditation. Thus, persons who already have a training program accredited in one state plan state and who wish to expand their program to other states must either apply for Federal accreditation of their training programs or apply individually to appropriate state plan states. Representatives of several state plan states have raised the further possibility of entering into reciprocity agreements.

whereby accreditation in one state plan state would be accepted by another such state and/or result in an expedited application procedure.

The proposals in paragraphs (b)(2)(i) and (ii) are being made to initiate discussion in the record on how OSHA should approach the issue of state plan accreditation and multi-state accreditation involving one or more state plan states.

In paragraph (b)(3) OSHA establishes the required content of applications for training program accreditation. In paragraph (b)(3)(i) OSHA proposes the specific information that must be present in the applications for Federal accreditation. OSHA would appreciate further information on the costs associated with submitting an application package containing the specific information proposed in this paragraph.

In paragraph (b)(3)(ii) OSHA is proposing the information required in applications for reciprocal Federal accreditation of state accredited training programs. Comments are specifically sought as to whether Federal applications for programs already accredited by an OSHA approved state plan should receive special consideration through an expedited procedure. Here too OSHA would appreciate any comments as to the cost of submitting the information proposed in this paragraph.

Paragraph (b)(4) would identify the locations where applications for accreditation could be filed. OSHA is presently considering the possibilities for filing locations. This paragraph contains a proposed general address in Washington, DC.

In paragraph (b)(5) OSHA is proposing the methods by which an applicant can amend or withdraw an application once it has been submitted for accreditation. Under paragraph (b)(5)(i), an applicant would be able to revise or amend an application at any time prior to the final decision by OSHA on the accreditation application.

In paragraph (b)(5)(ii) an applicant would be able to withdraw an application, without prejudice, at any time prior to the final decision on the accreditation application.

In paragraph (c) OSHA is proposing the review and decision process that the Agency will follow for processing training program accreditation applications.

In paragraph (c)(1) OSHA proposes to provide written notification of receipt by the Agency of all applications for accreditation. The Agency may also request in its notification of receipt any additional information it believes is

required before the application can be considered.

In paragraph (c)(2) OSHA is proposing the requirements for accreditation that would permit a preliminary decision by the Assistant Secretary for OSHA. In paragraph (c)(2)(i) OSHA would require that the applicant demonstrate in its application the following:

1. That it has a written training program indicating that it will train employees in the topics required by 29 CFR 1910.120;

2. That it has competent staff and facilities to carry out the training program properly;

3. That it is capable of properly and effectively training employees in the topics required in 29 CFR 1910.120;

4. That it has an effective method of measuring whether the employee has been adequately trained in the areas of required training;

5. That it maintains adequate records of the program and employees who have successfully completed the program; and

6. That it continues to meet the requirements for accreditation.

In paragraph (c)(2)(ii) OSHA would provide for a preliminary decision by the Assistant Secretary for OSHA as to whether or not the applicant has met the requirements for accreditation based upon the completed application file.

In paragraphs (c)(3)(i), (ii) and (iii), the Agency would grant preliminary accreditation of the applicant's training program if the application appears to meet the requirements for accreditation and would notify the applicant of the preliminary accreditation. Upon receipt of the notification of preliminary accreditation, the applicant could begin to conduct the accredited training program.

In paragraph (c)(4) OSHA is proposing the procedures to be followed if the preliminary review of an application warrants the denial of preliminary accreditation by the Assistant Secretary of OSHA.

Under paragraph (c)(4)(i) OSHA would deny preliminary accreditation of a training program if the application does not appear to meet the requirements of this proposed rule or the training program requirements of the targeted provision in § 1910.120.

In paragraph (c)(4)(ii) OSHA proposes to notify the applicant in writing of the decision not to grant preliminary accreditation and to identify the specific requirements of the training criteria that were not met and the reasons therefor.

In paragraph (c)(4)(iii) OSHA proposes to permit applicants to resubmit the original application with a statement of reasons why the applicant believes that the original application

met the requirements for accreditation, and would permit the applicant to request accreditation under paragraphs (e)(5) and (e)(6) of this section.

In paragraph (c)(4)(iv) OSHA proposes to permit applicants who receive a preliminary denial of accreditation to submit a revised application for further review by the Agency pursuant to the procedures of this section.

In paragraphs (c)(5)(i), (ii), and (iii) OSHA is proposing to have a public comment period during which any interested parties may comment on the preliminary decision by the Assistant Secretary for OSHA on a training program's accreditation application. OSHA is proposing that a 60-day comment period be provided to the public after the preliminary decision of the Assistant Secretary has been published in the Federal Register. All relevant documents associated with the training program application would be made available to the public for review and copying. OSHA also proposes to permit any interested party to request a public hearing, if the party can demonstrate the need for a hearing, in accordance with the requirement of 29 CFR part 1905, subpart C, on OSHA's decision.

In paragraph (c)(6) OSHA is proposing the procedures by which the Assistant Secretary for OSHA will make a final decision on applications for training program accreditation. In paragraph (c)(6)(i) OSHA proposes that the Assistant Secretary's preliminary decision will be reissued as the final decision if there are no comments objecting to the preliminary decision. Where there are comments objecting to the Assistant Secretary's preliminary decision, OSHA is proposing that the Assistant Secretary issue a written final decision on the application based upon the evidence in the record from the full applications, the supporting documentation, the staff recommendations, and the written comments and evidence submitted during the public comment period.

In paragraph (c)(6)(ii) OSHA is proposing the procedures to be followed when there is a valid request for a hearing on the Assistant Secretary's decision.

Under paragraph (c)(6)(ii)(A) the Assistant Secretary would issue a notice of hearing before an Administrative Law Judge of the Department of Labor pursuant to the rules specified in 29 CFR part 1905, subpart C.

Under paragraph (c)(6)(ii)(B) the Administrative Law Judge would issue a decision (including reasons) based on

the application, the supporting documentation, the staff recommendation, the public comments and the evidence submitted during the hearing (the record)—stating whether or not it has been demonstrated, based on a preponderance of evidence, that the applicant meets the requirements for accreditation.

Under paragraph (c)(6)(ii)(C) any party to the hearing may file exceptions within 20 days after the issuance of the decision of the Administrative Law Judge in accordance with the provisions of subpart C of 29 CFR part 1905. If exceptions are filed, the Administrative Law Judge would forward the decisions, exceptions and record to the Assistant Secretary for the final decision on the application.

Under paragraph (c)(6)(ii)(D), the Assistant Secretary would review the record, the decision by the Administrative Law Judge, and the exceptions. Based upon that review, the Assistant Secretary would issue the final decision (including reasons) of the Department of Labor stating whether the applicant has demonstrated that it meets the requirements of accreditation.

In paragraph (c)(6)(iii) OSHA proposes to publish a notice of the final decision in the Federal Register and to send a copy of the final decision to the applicant.

In paragraph (d) OSHA is proposing the terms and conditions of accreditation. The terms and conditions would have to be complied with in order for the applicant's training program accreditation to remain in effect.

Under paragraph (d)(1)(i) the Assistant Secretary will provide a letter of accreditation to the applicant that will serve as evidence of accreditation. The letter would provide the specific details of the scope of the OSHA accreditation as well as any conditions imposed by OSHA.

Under paragraph (d)(1)(ii) OSHA would grant accreditation for a period of three years after initial accreditation and for a period of five years for each subsequent renewal of accreditation. The dates of the period of accreditation would be stated in the accreditation letter.

Under paragraph (d)(1)(iii) the accredited applicant would be required to satisfy all of the requirements of this section and the letter of accreditation during the period of accreditation.

Under paragraph (d)(2) the accredited applicant may change elements of the accredited training program by notifying the Assistant Secretary of the change, certifying that the revised program change meets the requirements of this proposal; that the entire accredited

program continues to meet the requirements of this section; and that supporting documentation is provided upon which its conclusions are based. The applicant may also make a change upon notification of OSHA. However, if on subsequent review, OSHA determines that the change is inconsistent with this section and then notifies the applicant of the inconsistency, the applicant must revert to the original elements.

Under paragraph (d)(3) an accredited applicant may renew its accreditation by filing a renewal request at the address in paragraph (b)(4) of this section not less than 180 calendar days, nor more than one year, before the expiration date of its current accreditation period. When an accredited applicant has filed such a renewal request, the current accreditation would not expire until a final decision has been made on the renewal request. The procedures of paragraphs (b) and (c) of this section.

In paragraph (d)(4) OSHA is proposing that an accredited applicant could not transfer its accreditation to any other person or organization.

In paragraph (d)(5) OSHA is proposing the procedures by which the Agency could revoke the accreditation of a training program.

Under paragraph (d)(5)(i) the Agency may revoke its accreditation of a training program if the accredited applicant has failed to continue to satisfy the requirement of this section or the Agency's letter of accreditation, or has misrepresented itself in its application.

Under paragraph (d)(5)(ii) the Agency would notify the accredited applicants prior to proposing to revoke accreditation, of the basis for the proposed revocation, and would allow rebuttal or correction of the alleged deficiencies. Any evidence in rebuttal or of correction of deficiencies would have to be received by the Agency within 60 days of notification or OSHA would initiate its revocation proceedings. If the deficiencies could not be corrected, OSHA would be able to revoke its accreditation 30 days later unless the accredited applicant requested a hearing within that time.

Under paragraph (d)(5)(iii) any hearing requested by an applicant would have to be held pursuant to the rules specified in 29 CFR part 1905, subpart C.

Under paragraph (d)(5)(iv) the parties of the hearing would be limited to OSHA and the accredited applicant. Decisions at the hearing would be made in accordance with the procedures specified in paragraph (c)(6) of this

proposal, except that the burden of proof would be on OSHA to demonstrate that the accreditation should be revoked because the accredited applicant is not meeting the requirements of accreditation, the Agency's accreditation letter, or has misrepresented itself in its application.

Under paragraph (d)(5)(v) any interested party would be able to file a complaint stating that the accredited applicant is not meeting the requirements of accreditation, the Agency's accreditation letter, or has misrepresented itself in its application. Such a complaint would have to contain the specific information as to the deficiencies identified. OSHA would acknowledge such complaints in writing and provide the accredited applicant with a copy of the complaint subject to the Privacy Act limitations.

Under paragraph (d)(5)(vi) OSHA would investigate any complaints and, upon completion of any investigation, could invoke the revocation procedures described in this proposal. If the decision would be not to pursue revocations, the complainant would be notified in writing by OSHA of its investigation findings and reason why the accreditation remains valid.

In paragraph (e) OSHA is proposing the primary obligations of the accredited applicant.

Under paragraph (e)(1) the applicant would allow OSHA or its authorized representative to attend, evaluate and monitor any part of the accredited training program without charge or cost to OSHA. OSHA would not give advance notice of attendance at the training program.

Under paragraph (e)(2) the applicant would agree to modify the accredited training program if the training requirements of this section or § 1910.120 are changed, or if any other OSHA standard which is the subject of training is changed in a manner that will affect this section. Modifications in the training program would have to take place no later than 30 days after this section or other relevant standard becomes effective.

Under paragraph (e)(3) the applicant would have to agree to modify the accredited training program upon OSHA's request if the "state of the art" changes relative to any of the topics provided in the training program.

Under paragraph (e)(4) the applicant would agree to provide annually to OSHA, no later than 60 days after the accreditation anniversary date, the name and location of each program given, the date given, the number of participants in each program, and the

number of participants that were certified as having successfully completed each program.

In paragraph (f) OSHA is proposing the criteria for examinations. Examinations would cover the necessary skills and knowledge to perform expected duties. Each examination would have to cover the important topics included in the training program adequately. Comments are requested on whether the regulations should specify the type of exams in greater detail and, if so, in what way.

In paragraph (g) OSHA is proposing the criteria for certificates of completion to be given to students.

Under paragraph (g)(1) the accredited applicant would issue certificates to students who have attended and successfully completed the training program.

Under paragraph (g)(2) the certificate would have to include the accredited applicant's name, the student's name, the accredited program name, the dates of the program, a statement indicating that the participant successfully completed the program, the location where the program was given, and an identifying number unique to the student.

In paragraph (h) OSHA is proposing the specific course content for those training courses that will be offered in accredited training programs.

Under paragraph (h)(1) OSHA would establish the minimum subjects to be covered in the training course required in paragraph (e) of § 1910.120 for the 40-hour training program.

Under paragraph (h)(2) OSHA is proposing the minimum subjects that must be covered in the 24-hour training course required in paragraph (e) for employees engaged in occasional visits to uncontrolled hazardous waste sites.

Under paragraph (h)(3) OSHA is proposing the minimum subjects that must be covered for an additional sixteen hours of training for employees who have received 24-hours of accredited training for uncontrolled hazardous waste site operations, and who want to work in areas where 40-hours of training are required.

Under paragraph (h)(4) OSHA is proposing the minimum training subjects that must be covered in the training course required in paragraph (p) of § 1910.120 for the 24-hour training program.

Under paragraph (h)(5) OSHA is proposing the minimum training subjects that must be covered in the 8-hour training course for managers and supervisors.

III. Preliminary Regulatory Impact Analysis, Regulatory Flexibility Analysis and Environmental Assessment

I. Executive Summary

Regulatory History

The Occupational Safety and Health Administration (OSHA) is proposing to develop a new rule for the accreditation of training programs for hazardous waste operations as mandated in amendments made to the Superfund Amendments and Reauthorization Act of 1986 (SARA) in December 1987.

The training programs proposed to be accredited under this new regulation are required by the regulations in 29 CFR 1910.120, paragraphs (e) and (p), and apply to employees involved in clean-up operations at uncontrolled hazardous waste sites being cleaned-up under government mandate, and to employees involved in certain hazardous waste treatment, storage, and disposal (TSD) operations conducted under the Resource Conservation and Recovery Act of 1976, as amended (RCRA) (42 U.S.C. 6901 et seq.). It is not proposed to accredit training programs for employees engaged in emergency response activities.

This proposed rule would supplement the existing permanent final rule for hazardous waste operations and emergency response published on March 6, 1989 as required by Congress in the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499).

Executive Order 12291 (48 FR 13197, February 19, 1981) requires that a Regulatory Impact Analysis (RIA) be conducted for any rule having major economic consequences on the national economy, individual industries, or government. The Regulatory Flexibility Act (Pub. L. 96-353, 94 Stat 1164 [5 U.S.C. 601 et seq.]) similarly requires OSHA to consider the impact of a final rule on small entities.

On October 17, 1986, the President signed into law the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499). As part of SARA, the Secretary of Labor (Secretary) was directed to issue an interim final rule within 60 days after the date of enactment, which was to provide no less protection for workers engaged in covered hazardous waste operations than the protection contained in two specified documents. Those two documents were the U.S. Environmental Protection Agency's (EPA's) "Health and Safety Requirements for Employees Engaged in Field Activities" manual (EPA Order 1440.2), dated 1981, and the

existing Occupational Safety and Health Administration (OSHA) standards under subpart C of 29 CFR part 1926. OSHA published an interim final rule as directed in the Federal Register on December 19, 1986 (51 FR 45654).

SARA also directed the Secretary to issue, within one year after the date of enactment, a final standard under section 6(b) of the Occupational Safety and Health Act for the health and safety of employees engaged in hazardous waste operations and emergency response. SARA also indicated that certain specific areas of employee protection, in particular employee training, were relevant to protect employees engaged in hazardous waste operations. OSHA issued a proposed rule on hazardous waste operations and emergency response, including provisions for training, on August 10, 1987 (52 FR 29620). Public hearings on the proposed rule were held during October 1987. As a result of that proposed rule and the public hearings held with respect to that proposal, OSHA published a permanent final rule for hazardous waste operations and emergency response on March 6, 1989. That permanent final rule will become effective on March 6, 1990.

In addition, on December 22, 1987, as part of the Reconciliation Bill, the President approved several amendments to SARA. One of the amendments requires the Secretary to specify the content of hazardous waste operation training, and to set up a process to accredit the training programs. The original language of SARA mandated only the number of hours of training. This proposed rule is prepared in response to this amendment.

Populations and Industries Affected

This standard potentially affects approximately 7,000 individual trainers most of whom will be employed by consulting firms in SICs 17 (Special Trade Contractors) and 891 (Engineering, Architectural, and Surveying Services). It was assumed that individual trainers are employed by small consulting firms with an average size of 5 trainers per firm. Thus, there are approximately 1,400 (7,000 divided by 5) potential applicants affected by this standard. The total population to be trained are employed in government mandated hazardous waste operations, privately initiated operations and RCRA-regulated facilities.

Cost of Compliance

The standard is expected to involve an application cost of \$92.50 for each of the 1,400 potential applicants for

accreditation. OSHA expects that two thirds of these training firms will apply for reciprocal accreditation (i.e. accreditation in several states) at an additional cost of \$6.00 per application. The first year cost of compliance is \$135,098. The cost for the third and eighth years is also projected to be \$135,098 since complete reapplication is required by the proposed standard.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act (Pub. L. 96-353, 94 Stat. 1164 (5 U.S.C. et seq.)), the Assistant Secretary has assessed the impact of the standard and concluded that full compliance with the standard will not have a significant impact upon a substantial number of small entities.

The important criterion that governs a Regulatory Flexibility Analysis is whether the standard adequately considers the special compliance problems faced by small entities. "Significance" is determined by the effect upon the profits, the market share, and the financial viability of small entities. In particular, OSHA must determine whether compliance with the standard will place small entities at a competitive disadvantage to large entities.

The standard applies uniformly to all potential contracting instructors. Also, since OSHA's analysis of costs shows that the standard will impose minimal compliance costs and since many of the trainers are likely to be attached to contracting firms, OSHA has determined that there will be no differential impact on small firms.

Impact on International Trade

OSHA evaluated the potential impact that this standard will have upon international trade. Based upon the minimal potential impact of the standard on the prices of the affected products and services, OSHA believes that there will be no effective change in the level of exported or imported products.

Environmental Impact Assessment

In accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.), the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR part 1500, et seq.), and the Department of Labor's implementing regulations for NEPA compliance (29 CFR part 11), The Assistant Secretary has determined that the standard will not have a significant impact on the external environment.

Benefits

Case studies indicate that exposures to hazardous wastes cause both acute and chronic adverse health effects. Compliance with the standard will reduce employee exposures through accredited training programs and, therefore, will prevent potential employee fatalities and illnesses resulting from these exposures. Though not quantified, the primary economic benefits expected from this proposed regulation will be an improved level of training at hazardous waste operations. The main beneficiaries will be the employees and the employers at hazardous waste operations.

Technological Feasibility

The standard does not require the use of capital equipment or work practices not readily available. OSHA has, therefore, determined that the standard is technologically feasible.

II. Industries and Populations Affected Background

The proposed Part 1910 on Hazardous Waste require that the training provision of the standard be met by programs accredited by the Occupational Safety and Health Administration. The training programs proposed to be accredited under this new regulation apply only to employees involved in clean-up operations under government mandate, clean-up at uncontrolled hazardous waste treatment, storage, and disposal (TSD) operation conducted under the Resource Conservation and Recovery Act of 1976, as amended (RCRA) (42 U.S.C. 6901 et seq.). The new regulation does not propose to accredit training programs for employees engaged in emergency response activities. This proposed rule would supplement the existing permanent final rule for hazardous operations and emergency response as required by Congress in the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499).

In this chapter, OSHA briefly describes these hazardous waste operations and estimates the number of sites and employees potentially affected by the standard. The number of potentially affected employees was derived from OSHA's hazardous waste Regulatory Impact Analysis (RIA).

Data Sources

OSHA's primary data sources included: The April 1987 study by the Eastern Research Group (ERG) [1], a July 29, 1987 ERG Memorandum [2], and the comments supplied in response to the Notice of Proposed Rulemaking

(NPR), the comments made during the public hearings, and the post-hearing comments and submissions. The ERG report [1] were based on Environmental Protection Agency (EPA) sources, and the analyses of experts in the field of hazardous waste operations.

In OSHA's RIA [2] and in its Preamble to the Notice of Proposed Rulemaking (NPR), OSHA requested comments concerning the data used in its Preliminary Regulatory Impact Analysis (PRIA). Consequently OSHA believes that it has given due notice to all responsible parties and that the data used are the best available for this (PRIA).

Industries and Activities Affected by the Standard

The majority of instructors are currently employed in the industry sectors Special Trade Contractors (SIC 17) and Engineering, Architectural and Surveying Services (SIC 891). In general, these instructors are attached to firms servicing specific hazardous waste operations.

In this section, OSHA has developed estimates of the potential population of workers to be trained. This is identical to the population at risk analysis developed in the RIA for Hazardous Waste Operations and Emergency Response.

Average Potential Population to be Trained at Uncontrolled Hazardous Waste Sites. Personnel involved in hazardous waste cleanup operations may be employed by federal and state governments, Superfund program contractors and subcontractors with EPA, state cleanup contractors and subcontractors, and private-party cleanup contractors. In order to determine the number of employees needed for a cleanup operation, OSHA estimated the approximate types and numbers of personnel needed to clean up a typical small uncontrolled hazardous waste site and a typical large uncontrolled hazardous waste site. These estimates are based on ERG [1, p. 3-59].

As seen in Table 1, the number of personnel at the site varies during the cleanup procedures. With respect to the typical small site, between 4 and 6 employees work at the site taking samples and making visual observations during the preliminary investigation. During the actual cleanup activities, between 7 and 12 employees (primarily heavy equipment operators, truck drivers, and drum handlers/technicians/laborers) work at the site removing the hazardous waste. Finally, between 4 and 6 employees (primarily heavy equipment

operators and truck drivers) are required for the final grading and site reclamation work.

TABLE 1.—AVERAGE PERSONNEL REQUIREMENTS TO CLEAN UP UNCONTROLLED WASTE SITES

Type of Activity	Small site: Number of employees	Large site: Number of employees
Preliminary activities:		
State and Federal supervisors	1-2	4-8
Sampling technicians	1-2	3-6
Chemists	1	3-6
Construction supervisors/contractor managers	1	2
Security personnel	0	1
Total	4-6	13-23
Cleanup:		
State and Federal supervisors	0-1	4-6
Safety director	0	0-1
Heavy equipment operators	2	6-8
Drum handlers/technicians/laborers	2-3	30-40
Truck drivers	2-4	12-14
Other craftsmen, electricians, maintenance men	0	1-2
Construction supervisors/contractor managers	1	1-3
Security personnel	0	2-3
Decontamination officer	0-1	1
Total	7-12	57-78
Final grading and site reclamation:		
State and Federal supervisors	0-1	0-2
Heavy equipment operators	2	3-4
Truck drivers	1-2	3-4
Construction supervisors	1	2
Total	4-6	7-11

Source: ERG [1, p. 3-59].

Typically, between 13 and 23 employees work at large sites taking samples and making visual observations during the preliminary investigation. During the actual cleanup activities, between 60 and 80 employees (primarily drum handlers/technicians/laborers, truck drivers, and heavy equipment operators) work at the site removing the hazardous waste.

Finally, between 7 and 11 employees (primarily heavy equipment operations and truck drivers) are required for the final grading and site reclamation.

Total Potential Population to be Trained at Uncontrolled Hazardous Waste Sites. ERG reported (1, p. 3-62) that there are 10 large contractors (each employing about 400 workers) and 40

smaller contractors (each employing about 75 workers) involved in cleanup operations at uncontrolled hazardous waste sites. OSHA, therefore, estimates that there are about 50 firms with approximately 7,000 workers performing the cleanup of uncontrolled hazardous waste sites. In addition to these primary cleanup contractors, local subcontractors are often hired to perform various tasks during the cleanup. ERG estimated (1, p. 3-62) that there are about 1,750 subcontractor employees who work for some length of time during the year at hazardous waste site cleanup operations. Further, there are about 17 contractor and subcontractor site managers for each of the 50 cleanup contractors giving a total of approximately 850 site supervisors who would be at risk from exposure to hazardous substances during these site cleanups. This is presented in Table 2.

The engineering/technical services employees will also need to be trained. Based on the ERG report (1, Table C-5), OSHA estimates that there are 100 engineering/technical services firms each with an average of 25 professionals and 6 managers who are at risk from exposure to hazardous substances during cleanup operations. Thus an estimated 3,100 employees and managers of waste engineering/technical services firms will be in the population at risk. OSHA estimates that the potential population to be trained at government-mandated uncontrolled hazardous waste site cleanups is 12,700 employees per year.

With respect to the total population covered at privately initiated hazardous waste site cleanups, most of these employees also work at government-mandated hazardous waste site cleanups. Nevertheless, there are some employees who work only at privately-initiated waste site cleanups. OSHA estimates that the number of workers in this latter group is 10-percent of the population to be trained at government-mandated hazardous waste site cleanups. Thus, about 1,300 employees who work only at privately-initiated hazardous waste site cleanups will need to be trained.

In sum, OSHA estimates that the total annual population-at-risk at all uncontrolled hazardous waste site cleanups is 14,000 employees.

Potential Population to be trained at RCRA-Regulated Facilities. At a manufacturer's RCRA-regulated facility, employees may face potential exposure during container handling and waste treatment processes. At a commercial land disposal facility, employees may face potential exposure during vehicle

unloading, handling of containers prior to waste disposal, disposal operations, and subsequent activities (e.g., entry into disposal units which may leak, general maintenance operations, etc.).

ERG reported (1, p. 3-18) that the number of employees who work in the vicinity of the hazardous waste treatment and storage area of RCRA-regulated facilities ranges from 5 employees at small and/or highly automated facilities to 100-150 employees at very large facilities. In the Hazardous Waste RIA (2, p. II-26), OSHA had estimated that there are an average of 25 employees at land disposals, injection wells, and incinerators (hereafter referred to as land disposal facilities) and an average of 10 employees at other treatment, storage, and disposal facilities.

ERG reported (1, p. 3-19) that there are 888 active land disposal facilities of which 523 are land disposal facilities, 48 are injection well facilities, and 319 are incinerators. Multiplying the 888 active land disposal facilities times 25 employees per facility indicates that there are about 22,200 employees at risk from hazardous wastes in land disposal facilities. In addition, multiplying the estimated number of 3,050 other treatment, storage, and disposal facilities times 10 employees per facility indicates that there are about 30,500 employees at risk from hazardous wastes in these facilities. Thus, in its RIA (2, p. II-26)j, OSHA estimated that 52,700 employees work in active RCRA-regulated facilities and potentially subject to training.

No dissenting comments concerning these estimates received by OSHA, these estimates have been incorporated into this PRIA.

III. Regulatory and Non-Regulatory Environments

Regulatory Environment

OSHA has examined the existing regulatory environment and believes that the training certification provisions of Part 1910 will help to insure adequate training for workers and will not produce any adverse economic impacts.

Economic inefficiency would result if OSHA takes too much time to certify applicants and programs. The time spent by an applicant awaiting accreditation is time during which no certified training can be performed. OSHA has, however, attempted to offset this effect by allowing for "preliminary accreditation". After review of the application and any additional information, the agency will grant a preliminary accreditation if the applicant appears to meet the general

requirements stipulated by the standard. This preliminary accreditation will allow the instructor to begin his program at a facility pending a final decision. The agency will also allow for "preliminary non-accreditation" if a cursory review indicates an inadequate program. Preliminary decisions are subject to reversal.

Non-Regulatory Environment

Executive Order 12291 requires the investigation of the non-regulatory environment as a possible alternative to the regulatory environment.

OSHA believes that a non-regulatory environment would be inferior to a regulatory environment. The training certification requirements were promulgated because employers and employees are often unable to independently evaluate training programs. Essentially, the regulation is designed to insure an independent review of the content of training programs and the qualifications and experience of potential instructors. In the absence of regulation, employers may encounter situations in which they would have to bear the economic loss of replacing unqualified trainers or require that employees face increased risk. The requirement that trainers possess certain qualification is a requirement that should promote greater employee safety and also greater economic efficiency. Thus, OSHA concluded that the regulatory environment is preferred to the non-regulatory environment.

IV. Proposed Regulatory Environment

Introduction

The proposed regulation has been designed to ensure that the levels of safe work procedures indicated in 29 CFR part 1910 on hazardous wastes and materials is maintained via a training provision. In order to fulfill this purpose, this proposed regulation establishes the criteria and administrative procedures to be met in order that:

- Potential training instructors and programs may be recognized.
- Proposed training programs may be reviewed and evaluated by expert staff in order to determine whether the programs meet the appropriate standards which ensure worker safety.
- The potential trainers and training programs meeting the appropriate criteria become accredited by an OSHA certification system.

As these criteria and procedures have been described in the Preamble to this proposed regulation, they are not described in detail in this Preliminary Regulatory Impact Assessment (PRIA).

Costs of Compliance Methodology

The costs of compliance for this standard apply only to clean up operations at uncontrolled hazardous waste sites under government mandate, and to certain hazardous waste treatment and disposal operations under the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6901 *et seq.*). Training instructors and

programs for employees engaging in emergency response activities are not covered.

The cost of compliance are estimated in the following manner. OSHA determined, based on the estimated population at risk from Chapter II of this PRIA, the number of employees to be trained by the standard. OSHA then calculated the number of instructors required to adequately train employees. The appropriate cost for assembling and mailing out an application package was applied to the total number of applicants to calculate the total compliance cost for the first year. Annual costs of compliance were determined by applying the appropriate number of accreditations demanded per year to the cost of an application package in conjunction with the stipulation that an initial accreditation is renewed in three years from the date of issuance and every five years thereafter.

OSHA calculated the total number of employees to be trained based on ERG's [1] estimates of numbers of firms, employees per firm, and approximate turnover rates for government mandated and RCRA-regulated facilities. Table 2 shows the total number of existing employees, turnover rates, employees retained per year, and the number of new hires per year. First year populations to be trained are developed in Table 3. Populations to be trained in subsequent years are developed in Table 4.

TABLE 2.—TOTAL NUMBERS OF EXISTING AND NEW EMPLOYEES AT GOVERNMENT MANDATED FACILITIES AND RCRA-REGULATED FACILITIES

Type of firm	Number of firms	Employees per firm	Employee type	Existing employees	Turnover rate	New employees	Employees retained per year
Government mandated facilities:							
Contracting firm.....	50	175	Contractor.....	7,000	.25	1,750	5,250
			Subcontractor.....	1,750	.25	440	1,310
Contracting firm.....	50	17	Contractor supervisor.....	700	.20	140	560
			Subcontractor supervisor.....	150	.73	110	40
Engineering firm.....	100	25	Workers.....	2,500	.10	250	2,250
		6	Managers.....	600	.10	60	540
RCRA-Regulated facilities:							
Disposal facility.....	888	25	Workers.....	22,200	.20	4,400	17,800
Treatment and storage facility.....	3,053	10	Workers.....	30,530	.20	6,100	24,400

Source: ERG [1], Tables C-1, C-4. U.S. Department of Labor, Office of Regulatory Analysis, February 1989.

TABLE 3.—FIRST YEAR POPULATION TO BE TRAINED

Employee type	Existing employees			New employees			Total number to train
	Total	Current compliance	Number to train	Total	Current compliance	Number to train	
Government mandated facilities:							
Contractor.....	7,000	8.40	4,200	1,750	.230	1,225	5,425
Subcontractor.....	1,750	.00	1,750	440	.10	400	2,150
Contractor supervisor.....	700	.75	175	140	.30	96	273
Subcontractor supervisor.....	150	.25	112	110	.19	90	212
Engineering worker.....	2,500	.75	625	250	.70	75	700

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TABLE 3.—FIRST YEAR POPULATION TO BE TRAINED—Continued

Employee type	Existing employees			New employees			Total number to train
	Total	Current compliance	Number to train	Total	Current compliance	Number to train	
Engineering manager.....	600	.75	150	60	.70	18	168
RCRA regulated facilities:							
Disposal worker.....	22,200	.75	5,500	4,400	.50	2,200	7,700
Treatment and storage worker.....	30,530	.75	7,625	6,100	.25	4,575	12,200

Source: ERG [1] Tables C-1, C-4. U.S. Department of Labor, Office of Regulatory Analysis. February 1989.

TABLE 4.—ANNUAL POPULATION TO BE TRAINED

Employee type	Existing employees retained			New employees			Total number to train
	Total	Current compliance	Number to train	Total	Current compliance	Number to train	
Government mandated facilities:							
Contractor.....	5,250	0.90	525	1,750	0.30	1,225	1,750
Subcontractor.....	1,310	.00	1,310	440	.10	400	1,710
Contractor supervisor.....	560	.90	56	140	.30	98	154
Subcontractor supervisor.....	40	.50	20	110	.10	100	120
Engineering worker.....	2,250	.90	225	250	.70	75	300
Engineering manager.....	540	.90	54	60	.70	18	72
RCRA regulated facilities:							
Disposal worker.....	17,800	.50	8,900	4,400	.50	2,200	11,000
Treatment and storage worker.....	24,400	.25	18,300	6,100	.25	4,575	22,875

Source: ERG [1] Table C-1, C-4. U.S. Department of Labor, Office of Regulatory Analysis. February 1989.

Population To Be Trained. (Government Mandated Cleanups)

All supervisors and employees at hazardous waste site cleanups must either have sufficient experience or be adequately trained in the safe handling of hazardous substances. Adequate training is dependent upon the level of protective clothing required for the job, for example, employees required to wear Levels A or B or C protective clothing will need 40 hours of training plus 3 additional days of supervised work experience. The amount of training required for supervisors is also dependent upon the level of protective clothing to be worn by the employees being supervised. Supervisors are required to have 8 hours more training than that received by employees at every level of protective clothing. All employees and supervisors are to receive a written certificate upon completion of training.

ERG reported [1, C-4] that although some contractor employees have had formal classroom training, few have had 40 hours of off-site training. Many contractor employees, however, have had substantial hazardous waste site cleanup experience. OSHA determined that 40-percent of the 7,000 current contractor employees (2,800 employees) but none of the 1,750 current subcontractor employees have had sufficient training and/or work experience to fulfill this training requirement (see Table 3).

ERG reported [1, C-4] that, on average, the 1,750 newly hired contractor employees receive 30-percent and the 440 newly hired subcontractor employees receive 10-percent of the training required by the standard. Consequently, initial training will be provided to a full-time equivalent of 1,625 new employees of whom 1,225 will be new contractor employees and 400 will be new subcontractor employees.

The training provision also requires that all employees receive 8 hours of annual retraining. Based on the ERG report [1, C-4], OSHA estimates that 90-percent of contractor employees but none of the subcontractor employees receive this annual retraining. Consequently, annual retraining will be needed by 525 of the 5,250 contractor employees and all of the 1,310 subcontractor employees who have been employed by the same employer for at least a year (see Table 4).

The training provision also affects contractor and subcontractor supervisors. OSHA estimates that 175 current contractor supervisors (105 at Levels A and B protective clothing and 70 at Level C protective clothing) and 112 current subcontractor supervisors (56 at Level B protective clothing and 56 at Level C protective clothing) will need off-site initial training. In addition, OSHA estimates that 70-percent of the 140 new contractor supervisors hired annually (98 supervisors) and 90-percent of the 110 new cleanup subcontractor supervisors hired annually (100

supervisors), will need this initial training in the first year and in each year thereafter (See Table 3).

The training provision also requires that all supervisors receive 8 hours of annual retraining. Based on the ERG report [1, C-4], OSHA estimates that 90-percent of the contractor supervisors and 50-percent of the subcontractor supervisors currently receive annual retraining. Consequently, annual retraining will be needed for 56 of the 560 contractor supervisors and 20 of the 40 subcontractor supervisors who remain with the same employer for at least a year (see Table 4).

In addition to the contractors and subcontractors, the training provision will also affect engineering/technical service employees and managers who work at government-mandated cleanup sites. Consequently, 825 current employees (315 at Levels A and B protective clothing and 310 at Level C protective clothing) and 150 current managers (75 at Levels A and B protective clothing and 75 at Level C protective clothing) will need off-site initial training. In addition, ERG reported [1, Table C-4] that 30-percent of the 250 new employees hired annually (75 employees) and 30-percent of the 60 new managers hired annually (18 managers) will need this initial training in the first year and in each year thereafter (see Table 3).

The training provision also requires that all employees receive 8 hours of annual retraining. Based on the ERG

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report [1, Table C-4], OSHA estimated that 90-percent of the engineering/technical services employees receive this annual retraining. Consequently, annual retraining will be needed by 225 of the 2,250 engineering/technical services employees who remain with the same employer for at least a year (see Table 4).

The training provision also requires that all managers receive 8 hours of annual retraining. Based on the ERC report [1, C-4], OSHA estimates that 90-percent of the engineering/technical services managers receive this annual retraining. Consequently, annual retraining will be needed by 54 of the 540 managers who remain with the same employer for at least a year (see Table 4).

Population To Be Trained (Privately Initiated Cleanups)

OSHA assumes that the activity level of privately-initiated hazardous waste site cleanups is 10-percent of that at a government-mandated hazardous waste sites and training requirements are similarly scaled (i.e. training levels at privately initiated cleanups are 10-percent of those at government mandated cleanup sites). (See Table 3 and Table 4).

Population To Be Trained (RCRA-Regulated Facilities)

Paragraph (p)(7), requires that all RCRA-regulated facility supervisors and employees must have either sufficient experience or be adequately trained in the safe handling of hazardous substances. Adequate training is defined as 24 hours of initial training and 8 hours of annual refresher training. In addition, all supervisors and employees are to receive a written certification upon completion of training. Supervisors and employees who have had sufficient work experience or training are considered to have fulfilled this initial training requirement but they must receive 8 hours of retraining annually.

OSHA estimates that approximately 75-percent of current supervisors and employees working at RCRA-regulated facilities have had sufficient training and/or work experience to fulfill the initial training requirement. Thus, compliance with this provision will require the initial training of 13,125 current employees (5,500 employees at land disposal sites and 7,625 employees at treatment and storage facilities). The average RCRA-regulated facility will conduct training sessions on-site and these sessions will involve the safety and health supervisor training an average of 10 employees.

All new employees will need this initial training. Assuming a 20 percent turnover rate, RCRA-regulated facilities annually hire 10,500 new employees (4,400 at land disposal sites and 6,100 at treatment and storage facilities). ERC reported [1, Table C-1] that one-half of the 4,400 new land disposal site employees (2,200 employees) and 75-percent of the 6,100 treatment and storage facility employees (4,575 employees) currently do not receive initial training. Unlike the initial training of current employees in which a number of employees can be trained at one time, the initial training of new employees will be done on an individual basis. OSHA estimates that the initial training of new employees will involve one instructor training two new employees.

The training provisions also require that these employees receive 8 hours of annual retraining. ERC reported [1, Table C-1] that 50-percent of the 17,800 land disposal site employees (8,900 employees) and 75-percent of the 24,400 treatment and storage facility employees (18,300 employees) who have been employed at the same RCRA-regulated facility for at least 1 year will need additional annual retraining. RCRA-regulated facilities can conduct annual retraining on-site and these sessions will involve a safety and health supervisor training an average of 10 employees.

Population of Instructors Demanded

From the above analysis, there are 9,820 employees involved in government mandated and privately initiated hazardous waste clean-up operations who require training in order to comply with the Hazardous Waste Operations and Emergency Response Standard. Assuming on average one instructor to train 5 employees, a total of 1,964 instructors will be required. Similarly, RCRA-regulated facilities employ 6,775 new employees who will need to be trained.

Since new employees are hired at irregular intervals, it is not feasible to train new hires at the same ratios as existing employees. Therefore, an instructor to employee ratio of 1 to 2 was assumed for new employees. In addition, 13,125 current employees will require training at an instructor to employee ratio of 1 to 5. Calculations yield 4,700 instructors for RCRA-regulated facilities. The total number of instructors required, therefore, is projected to be 6,700. Assuming that the average training team consists of five instructors, OSHA estimates that there will be roughly 1,400 applicants (each training group services about 9 RCRA and/or CERCLA facilities [see Table 5]).

TABLE 5.—POPULATIONS TO BE TRAINED AND THE NUMBER OF INSTRUCTORS REQUIRED

	First year	Annual
Government Mandated Waste Operations		
Population to be trained:		
Existing and new contractor staff	7,575	3,460
Existing and new contractor supervisors	485	274
Existing and new engineering employees	700	300
Existing and new engineering managers	168	72
Subtotal	9,728	4,108
Privately initiated waste operations employees	893	411
Subtotal	9,821	4,517
Number of instructors (at 1:5 Ratio)	1,964	903
RCRA-Regulated Facilities		
Population to be trained:		
Land disposal employees (new)	2,200	2,200
Treatment and storage employees (new)	4,575	4,575
Subtotal	6,775	6,775
Number of instructors (at 1:2 Ratio)	3,390	3,390
Population to be trained:		
Land disposal employee (current)	5,500	8,900
Treatment and storage employees (current)	7,625	18,300
Subtotal	13,125	27,200
Number of instructors (at 1:10 Ratio)	1,310	2,720
Total number of instructors demanded	6,700	7,000

Cost of the Standard

A standard application package is required to have the following materials included:

(i) *Application for Federal Accreditation.* The application for Federal accreditation of training programs shall provide, as a minimum, the following information:

(A) The applicant's name, address and telephone number.

(B) The name, title, address and telephone number of person who will act as liaison with OSHA.

(C) The training program curriculum.

(D) An analysis of how the training program meets the subject criteria noted in this section.

(E) Length of training in hours.

(F) Amount and type of hands-on training.

(G) Length, format, content and passing score of examinations.

(H) Topics covered in the training program.

(I) A copy of all course materials (student manuals, instructor notebooks, handouts, audio visual aids, etc.).

(J) A detailed statement about the development of the examinations used in the training program, including skill demonstration examinations.

(K) Required qualifications for each instructor position by subject area. Instructors shall have academic credentials, field experience or a combination of both and training experience for the specific subject they are teaching.

(L) The applicant's experience in providing related training programs.

(M) Description and an example of the numerically identified certificates issued to students who attend and successfully complete the training program.

(N) The materials required in paragraphs (C), (G) and (I) above shall also be provided in any language other than English if the program is to be provided in a language other than English.

(O) The maximum number of students to be accepted into a given training program course.

(P) The ratio of instructors to students for each hands-on subject.

(Q) Certification that the information submitted in the application is accurate and complete.

(ii) *Application for reciprocal accreditation.* Applicants for reciprocal accreditation shall provide as a minimum the following:

(A) The applicant's name, address and telephone number.

(B) The name, title, address and telephone of the person who will act as a liaison with OSHA.

(C) Certification that the information submitted in the application is accurate.

(D) A copy of the letter granting accreditation from any of the OSHA approved state programs.

OSHA estimates that the assembly of the application package will consume two hours of professional time at \$20.00 per hour, one hour clerk typist time at \$9.00 per hour and a fee of \$3.50 for administrative expenses (photocopies, packaging, postage, etc.). Individual item costs are as follow: video tape copies at \$5.00 a copy, one video tape of a slide show at \$25.00 a copy (approximately 20 minutes of running time accounting for 200 slides at 5 seconds per slide), and \$5.00 for photocopies of pamphlets and handout materials. The total cost of the application package is \$92.50.

Applying this cost to the number of first year applicants (1,400 potential applicants), the first year cost of applications will be \$129,500. OSHA

assumes that of the 1,400 first time potential applicants, two thirds will apply for reciprocal accreditation (accreditation in several states). This is estimated to consume half an hour of clerical time at \$9.00 a hour and \$1.50 in administrative expenses for a total application cost of \$9.00. The first year cost of reciprocal applications is \$5,598.00. The total first year cost is, therefore, \$135,098.00.

Instructors must renew their accreditation three years from the date of initial accreditation and five years after the first renewal. OSHA estimates that 1,400 accredited instructors will be needed each year to meet mandatory retraining needs of employees and initial training of new employees. Assuming 1,400 potential applicants, the total cost of reapplications for accreditation and reciprocity for the third and eighth years of regulation is \$135,098.00.

OSHA assumes that the application cost per instructor will be recovered in the fee charged for his services. As the standard imposes a minimum cost of compliance on firms and individuals seeking accreditation, OSHA has determined that there will be no substantive economic impact as a result of this standard. Also, since the demand for instructors is expected to be relatively inelastic (due to the mandatory training requirement), costs should be passed along to those requiring instruction.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act (Pub. L. 96-353, 94 Stat. 1164 (5 U.S.C. et seq.)), the Assistant Secretary has assessed the impact of the standard and concluded that full compliance with the standard will not have a significant impact upon a substantial number of small entities.

The important criterion that governs a Regulatory Flexibility Analysis is whether the standard adequately considers the special compliance problems faced by small entities. "Significance" is determined by the effect upon the profits, the market share, and the financial viability of small entities. In particular, OSHA must determine whether compliance with the standard will place small entities at a competitive disadvantage to large entities.

The standard applies uniformly to all potential applicants. Also, since OSHA's analysis of costs indicate that the standard will impose minimal compliance costs, OSHA believes that there will be no substantial differential impact on small firms.

Impact on International Trade

OSHA evaluated the potential impact that this standard will have upon international trade. Based upon the minimal potential impact of the standard upon the prices of the affected products and services, OSHA determined that there will be no effective change in the level of exported or imported products as a consequence of this standard.

Environmental Impact Assessment

In accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.), the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR part 1500, et seq.), and the Department of Labor's implementing regulations for NEPA compliance (29 CFR part 11), the Assistant Secretary has determined that the standard will not have a significant impact on the external environment.

Benefits

The primary economic benefits expected from this proposed regulation would be a guaranteed level of adequate training at hazardous waste operation. The main beneficiaries would be the employees and the employers at hazardous waste operations. At present, there exists no private or public training accreditation program which would ensure the integrity of training courses. The guarantee of effective training programs ensures not only that the benefits outlined in the RIA on hazardous waste operations are met, but also that there will be a greater level of information available in the appropriate markets regarding safety instruction and procedures. Economic theory suggests that greater information leads to greater efficiency in the competitive market.

References

1. Eastern Research Groups, Inc. "Preparation of Data to Support a Regulatory Analysis and Environmental Impact Assessment of the Proposed Standard for Working at Hazardous Waste Sites." Preliminary Report prepared for the U.S. Department of Labor under Contract No. T-9-F-5-0057. Arlington, Massachusetts, April 1987.
2. U.S. Department of Labor. Occupational Safety and Health Administration. Office of Regulatory Analysis. "Regulatory Impact and Regulatory Flexibility Analysis of the Occupational Standard for Hazardous Waste Operations and Emergency Response (29 CFR Part 1910)." Washington, D.C. December 14, 1988.

IV. OMB Approval Under the Paperwork Reduction Act

This proposed standard contains "collection of information" (recordkeeping) requirements pertaining to the procedures for applying for accreditation of training programs. OSHA estimates that these records would be required to be maintained by the applicant in order to fulfill the renewal requirements of this rule. The Agency believes that the records necessary for renewal would not be retained by the employer for more than five years when a new set of records would be developed.

Public reporting burden for this collection of information is estimated to average three and one-half hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden to, Docket Office, Docket No. S-760-B, Occupational Safety and Health Administration, Room N-2634, U.S. Department of Labor, Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1218-AB27), Washington, DC 20503.

V. Federalism

This proposed regulation has been reviewed in accordance with Executive Order 12612 (54 FR 41685; October 30, 1987) regarding Federalism. Executive Order 12612 requires that agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions that would restrict state policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. The Executive Order provides for preemption of state law only if there is a clear Congressional intent for the Agency to do so. Any such preemption is to be limited to the extent possible.

This proposed rulemaking is directed by Congress under amendments to the Superfund Amendments and Reauthorization Act of 1986, as amended (SARA). The constitutional authority and Congressional intent for Federal action in the area of training accreditation for employees engaged in hazardous waste operations is mandated clearly in the amendments to paragraph (d)(3) of section 128 of SARA. Congress therefore has identified the accreditation of employee training

programs for employees engaged in hazardous waste operations as a problem of national scope through the enactment and amendment of SARA.

With respect to section 4 of Executive Order 12612, section 18 of the OSH Act also expresses Congress' clear intent to preempt state laws relating to issues with respect to which Federal OSHA has promulgated occupational safety or health standards. Under the OSH Act, a state can avoid preemption only if it submits, and obtains Federal OSHA approval of a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such approved Plan states must, among other things, be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Where such standards are applicable to products distributed or used in interstate commerce, they may not unduly burden commerce and must be justified by compelling local conditions (See section 18(c)(2)).

Section 128 of SARA, under paragraph (f), requires that the U.S. Environmental Protection Agency (EPA) provide those state and local government workers who are not covered by the protections of OSHA approved state plans with protection that is identical to that provided under the Federal OSHA standards. State and local government workers, employed in 27 non-OSHA state plan states and the District of Columbia, would not normally be covered by the standards promulgated under Federal OSHA or approved state OSHA programs. OSHA has worked with EPA in the development of this proposed rule to assure that the protections provided to all state and local government employees is consistent with that provided by the Federal OSHA standard and the OSHA Act.

It is not clear to OSHA whether it would be appropriate for EPA to set up a duplicate certification of training programs for the 27 states for which EPA will issue a regulation. OSHA requests comment on this issue.

This proposed rule is written so that employees engaged in hazardous waste operations and related emergency response operations in every state, including those state and local government employees in states regulated by EPA, would be protected by general performance oriented standards. States that will be covered by regulations issued by EPA under paragraph 128(f) of SARA will be provided the same option. Moreover, the

performance oriented nature of this proposed rule, of and by itself, allows for flexibility by states and owners or operators of hazardous waste sites or providers of acceptable training to provide as much safety as possible using varying methods consonant with the conditions in each state.

In summary, there is a clear national problem, identified by Congress, related to accredited occupational safety and health training programs in hazardous waste operations. Those states which have elected to participate under section 18 of the OSH Act would not be preempted by these proposed regulations and would be able to address special, local conditions within the framework provided by this performance oriented standard while ensuring that their standards are at least as effective as the Federal standard. State comments are invited on this proposal and those that are submitted to the record will be fully considered prior to promulgation of a Final Rule.

The Agency certifies that this document has been assessed in light of the principles, criteria, and requirements stated in sections 2 through 5 of Executive Order 12621. This rulemaking would not change the state's ability to discharge traditional state governmental functions or other aspects of state sovereignty.

VI. Public Participation

Interested persons are requested to submit written data, views and arguments concerning this proposal. These comments must be postmarked by April 26, 1990, and submitted in quadruplicate to the Docket Office, Docket No. S-760-B, Room N-2634, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding.

Additionally, under section 6(b)(3) of the OSH Act and 29 CFR 1911.11, interested parties may file objections to the proposal and request an informal hearing. The objections and hearing requests should be submitted in quadruplicate to Mr. Thomas Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, N-3649, U.S. Department of Labor, Washington, DC 20210 and must comply with the following conditions:

1. The objections and hearing requests must include the name and address of

the individual or organization making the objection or request; ~

2. The objections and hearing requests must be postmarked by March 27, 1990.

3. The objections and hearing requests must specify with particularity the provisions of the proposed rule to which objection is taken or about which the hearing request is made, and must state the grounds therefor.

4. Each objection and hearing request must be separately stated and numbered; and

5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

Interested persons who have objections to various provisions or have changes to recommend may, of course, make these objections or recommendations in their comments and OSHA will fully consider them. There is only need to file formal "objections" separately if the interested person desires to request an oral hearing.

OSHA recognizes that there may also be interested persons who, through their knowledge of safety or their experience in the operations involved, would wish to endorse or support certain provisions in the standard. OSHA welcomes such supportive comments, including any pertinent accident data or cost information which may be available, in order that the record of this rulemaking will present a balanced picture of the public response on the issues involved.

VII. State Plan Standards

This Federal Register document proposes a new standard, 29 CFR 1910.121, Certification of Hazardous Waste Operations Training Programs, for inclusion in subpart H of 29 CFR part 1910, OSHA's general industry standards. It also would revise certain parts of 29 CFR 1910.120 to reflect requirements in this proposal.

The 25 states or U.S. territories with their own OSHA approved occupational safety and health plans must develop a comparable standard applicable to both the private and public (state and local government employees) sectors within six months of the publication date of a permanent final rule or show OSHA why there is no need for action, e.g., because an existing state standard covering this area is already "at least as effective as" the new Federal standard.

These states and territories are Alaska, Arizona, California, Connecticut (Plan covers only state and local government employees), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (Plan covers only state and local government employees),

North Carolina, Puerto Rico, South Carolina, Oregon, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington and Wyoming.

After the effective date of a final Federal rule, until such time as a state standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these states.

List of Subjects in 29 CFR Part 1910

Accreditation, Certification, Hazardous materials, Hazardous substances, Hazardous wastes, Incorporation by reference, Training, Waste disposal.

Authority

This document has been prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Pursuant to section 126 of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499) as amended (29 U.S.C. 655 note), sections 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657, section 4 of the Administrative Procedures Act (5 U.S.C. 553), Secretary of Labor's Order 9-83 (48 FR 35736) and 29 CFR part 1911, it is proposed to amend 29 CFR part 1910 by adding a new section, 29 CFR 1910.121, Accreditation of Training Programs for Hazardous Waste Operations, and by revising paragraphs (e) and (p) of § 1910.120, as set forth below.

Signed at Washington, DC this 22nd day of January, 1990.

Gerard F. Scannell,
Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

1. The authority citation for subpart H of part 1910 is proposed to be amended by revising the third paragraph to read as follows:

Authority: * * *

Sections 1910.120 and 1910.121 issued under the authority of section 126 of the Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655 note), sections 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), section 4 of the Administrative Procedure Act (5 U.S.C. 553), 29 CFR part 1911 and Secretary of Labor's Order 9-83 (48 FR 35736).

2. Section 1910.120 as revised effective March 6, 1990, and published at 54 FR 9317 (March 6, 1989) is proposed to be amended by revising paragraphs (e) (1), (3), (4), and (9) and (p)(7) to read as follows:

§ 1910.120 Hazardous waste operations and emergency response.

(e) Training.

Note to this paragraph (e): Training provided prior to the effective date of 29 CFR 1910.121 will be considered acceptable in meeting the requirements of this paragraph even though it may not have been provided through an OSHA accredited training program.

(1) *General.* (i) All employees (such as, but not limited to, equipment operators, general laborers and others) working onsite and exposed to hazardous substances, health hazards, or safety hazards shall receive training meeting the requirements of this paragraph and accredited by OSHA under 29 CFR 1910.121 before they are permitted to engage in hazardous waste operations that could expose them to hazardous substances, safety, or health hazards. They shall also receive refresher training as specified in this paragraph. * * *

(3) *Initial training.* (i) General site workers (such as equipment operators, general laborers and others) engaged in hazardous substance removal or other activities which expose or potentially expose workers to hazardous substances and health hazards shall receive a minimum of 40 hours of training in a program accredited by OSHA under 29 CFR 1910.121, and a minimum of three days actual field experience under the direct supervision of a trained, experienced supervisor.

(ii) Workers on site only occasionally for a specific limited task (such as, but not limited to, ground water monitoring, land surveying, inspections, management site visits or geo-physical surveying), and who are unlikely to be exposed over permissible exposure limits and published exposure limits, shall receive a minimum of 24 hours of training in a program accredited by OSHA under 29 CFR 1910.121, and a minimum of one day actual field experience under the direct supervision of a trained, experienced supervisor.

(iii) Workers regularly on site who work in areas which have been monitored and fully characterized indicating that exposures are under permissible exposure limits and published exposure limits where respirators are not necessary, and when the characterization indicates that there are no health hazards or the possibility of an emergency developing, shall receive a minimum of 24 hours of training in a program accredited by OSHA under 29 CFR 1910.121, and a minimum of one day actual field

experience under the direct supervision of a trained, experienced supervisor.

(iv) Workers with 24 hours of OSHA accredited training who are covered by (a)(3)(ii) and (iii) of this section, and who become general site workers or who are required to wear respirators, shall receive an additional 16 hours of accredited training and two days of supervised field training necessary to total the training specified in paragraph (e)(3)(i) of this section before performing general site work.

(4) *Management and supervisor training.* On-site management and supervisors directly responsible for hazardous waste operations shall receive 40 hours of initial training accredited by OSHA under 29 CFR 1910.121, and three days of supervised field experience. The training may be reduced to 24 hours and one day supervised field experience if the only area of their management and supervisory responsibility is employees covered by paragraphs (e)(3)(ii) and (iii) of this section. In addition, all on-site management and supervisors directly responsible for employees engaged in hazardous waste operations shall receive at least eight additional hours of specialized training, accredited by OSHA under 29 CFR 1910.121, at the time of job assignment. The specialized training shall cover such topics as, but not be limited to, the employer's safety and health program and the associated employee training program (including site hazards); personal protective equipment program; spill containment program; and health hazard monitoring procedures and techniques. . . .

(9) *Equivalent training.* Employers who can show by documentation or certification that an employee's work experience and/or previous training received prior to March 8, 1990, has resulted in training equivalent to that OSHA accredited training required in paragraphs (e)(1) through (e)(4) of this section shall not be required to provide the initial training required in this paragraph to such employees. However, certified employees who begin work at a new site shall receive appropriate, site specific training before site entry and have the appropriate supervised field experience at the new site. Equivalent training includes academic training, the training that existing employees might have already received from actual hazardous waste site work experience, or any previously unaccredited training received to meet the requirements of 29 CFR 1910.120 prior to the effective date of 29 CFR 1910.121.

(p) Certain Operations Conducted Under the Resource Conservation and Recovery Act of 1976 (RCRA). . . .

(7) Training program.

Note to this paragraph (p)(7): Training provided prior to the effective date of 29 CFR 1910.121 will be considered acceptable in meeting the requirements of this paragraph even though it may not have been provided through an OSHA accredited training program.

(i) *New employees.* The employer shall develop and implement a training program, which will be part of the employer's safety and health program, for employees involved with hazardous waste operations so that those employees will be able to perform their assigned duties and functions in a safe and healthful manner. The initial training shall be for 24 hours and be accredited by OSHA under 29 CFR 1910.121. Employees shall receive eight hours of refresher training annually. Employees who have received and successfully completed the initial accredited training required by this paragraph shall be given a written certificate attesting that they have successfully completed the necessary training in accordance with 29 CFR 1910.121.

(ii) *Current employees.* Employers who can show by documentation or certification that an employee's work experience and/or previous training has provided the skill attainment equivalent to the initial accredited training required by this paragraph, shall be considered as meeting the initial training requirements of this paragraph for that employee. Equivalent training includes the training that existing employees might have already received from actual site work experience or from unaccredited training programs given prior to the effective date of 29 CFR 1910.121. Current employees shall receive eight hours of refresher training annually.

3. A new § 1910.121 of Title 29 of the Code of Federal Regulations is proposed to be added to read as follows:

§ 1910.121 Accreditation of training programs for hazardous waste operations.

(a) *Scope, application, and definitions.*—(1) *Scope.* (i) This section contains the procedures to be used in obtaining the necessary accreditation from the U.S. Department of Labor, Occupational Safety and Health Administration, to conduct the 40-hour, the 24-hour, and the manager training programs for hazardous waste operations required in 29 CFR 1910.120, paragraphs (e) and (p).

Notes to this paragraph (a)(1)(i):

1. Training programs containing more hours than the minimum amount required for accreditation may be submitted for accreditation if it is necessary for more time to present appropriate training material. For example, applicants may submit a 60-hour training program for 40-hour accreditation if it is necessary for more time to cover the training material necessary for a particular operation. Courses would be accredited for the amount of hours closest to but below the amount of hours submitted in the application. In the above example, the 60-hour course would be accredited as a 40-hour course if it met the minimum criteria for 40 hours of training.

2. An accredited training program may make use of courses or materials designed for other training programs so long as they meet the requirements of this section. For example, a generic course addressing personal protective equipment would be acceptable as part of an accredited training program provided that employees are also given specific training for the particular types of personal protective equipment to be worn at a specific site.

(ii) All other OSHA training requirements in Title 29 of the Code of Federal Regulations are not within the scope of this section.

(2) *Application.* This section applies to any applicant who requests accreditation of training programs within the scope of this section.

(3) *Definitions.* "Applicant" means an employer or organization capable of conducting training programs meeting the requirements of this paragraph who has applied to the U.S. Department of Labor, Occupational Safety and Health Administration, for accreditation of a specific training program. "Examination" means any written test or non-written practical test used to evaluate the knowledge and/or specific skill level of the student during or at the conclusion of a training program.

(b) *Requests for accreditation.*—(1) *Eligibility.* Any applicant considering itself capable of conducting any of the training programs as required in 29 CFR 1910.120 (e) and (p) eligible to apply for accreditation of that training program.

(2) *Reciprocity.*—(i) *Federally accredited programs.* Any hazardous waste operation training program that has received accreditation from the U.S. Department of Labor, Occupational Safety and Health Administration, shall be considered an accredited program pursuant to section 128 of the Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655 note) in any state or territory.

(ii) *State accredited programs.* Each training program for hazardous waste operations that has received an individual state accreditation from an

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OSHA approved state plan state shall not be considered accredited outside of the individual state's jurisdiction unless OSHA also has granted accreditation to the training program.

(3) *Content of applications.*—(i) *Application for Federal accreditation.* The applicant for Federal OSHA accreditation of training program shall provide, as a minimum, the following information:

(A) The applicant's name, address and telephone number.

(B) The name, title, address and telephone number of the person who will act as liaison with OSHA.

(C) The training program curriculum including the topics to be covered and the length, format, content and passing scores of examinations.

(D) An analysis of how the training program meets the subject criteria noted in this section, and which training requirements in § 1910.120 the training program is targeted to meet.

(E) Length of training in hours.

(F) Amount and type of hands-on training.

(G) A copy of all student textbooks and instructor notebooks including lesson plans.

(H) Required qualifications for each instructor position by subject area. Instructors shall have completed a "train-the-trainer" type of training session for their subject training area or shall have the academic credentials, field experience or a combination of both and the training experience for the specific subject they are teaching.

(I) Description and an example of the numerically identified certificates that would be issued to students who would attend and successfully complete the training program.

(J) The materials required in paragraphs (b)(3)(i) (C), (G) and (I) of this section shall also be provided in a language other than English if the training program is to be provided in a language other than English.

(K) The maximum number of students to be accepted into a given training program course.

(L) The ratio of instructors to students for each hands-on subject.

(M) Certification that the information submitted in the application is accurate and complete.

(ii) *Application for reciprocal Federal accreditation of state accredited programs.* Applicants for Federal reciprocal accreditation of state accredited programs shall provide as a minimum the following:

(A) The applicant's name, address and telephone number.

(B) The name, title, address and telephone number of the person who will act as liaison with OSHA.

(C) Certification that the information submitted in the application is accurate.

(D) An official copy of the letter granting state accreditation of a training program from any of the OSHA approved state programs.

(E) The materials submitted to the state for its accreditation if requested by OSHA.

(4) *Filing office location.* Applications shall be submitted to: OSHA Hazardous Waste Training Accreditation Program, U.S. Department of Labor, Washington, DC 20210.

(5) *Amendments and withdrawals.* (i) The applicant shall be permitted to revise an application any time prior to a final decision on the accreditation application.

(ii) The applicant shall be permitted to withdraw an application, without prejudice, at any time prior to the final decision on the accreditation application.

(c) *Review and decision process.*—(1) *Acknowledgement.* The Agency will acknowledge in writing the receipt of all applications it receives. The Agency may request additional information if it believes information relevant to the requirements for accreditation has been omitted or is incomplete.

(2) *Requirements for accreditation and preliminary decision by the Assistant Secretary of Labor for Occupational Safety and Health.* (i) The requirements for accreditation are:

(A) That the applicant demonstrate that it has a written training program that meets the applicable paragraphs of this section and it will train employees in the topics required by 29 CFR 1910.120;

(B) That it has competent staff and facilities to carry out the training properly;

(C) That it is capable of effectively training employees in the topics required in 29 CFR 1910.120;

(D) That it has an effective method of measuring whether the employees have been adequately trained in the areas of required training;

(E) That it will maintain adequate records of the program and employees who have successfully completed the program; and

(F) That it is capable of and will continue to meet the requirements for accreditation.

(ii) The Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) will make the preliminary decision as to whether or not the applicant has met the requirements for accreditation, based

upon the completed application file and the written recommendations of the accreditation staff.

(3) *Preliminary accreditation.* (i) After review of the application and any additional information, the Agency will grant preliminary accreditation if the application appears to meet the requirements for proper accreditation.

(ii) The Agency will notify the applicant in writing of the decision to grant preliminary accreditation.

(iii) Upon receipt of the notification of preliminary accreditation, the applicant may begin to conduct the accredited training program.

(4) *Denial of preliminary accreditation.* (i) After review of the application and any additional information, the Agency will deny preliminary accreditation if the application does not appear to meet the requirements of this section or the training program requirements of the targeted provisions in § 1910.120.

(ii) The Agency will notify the applicant in writing of the decision not to grant preliminary accreditation, and will identify the specific requirements of this section or those of § 1910.120 that were not met and the reasons therefor.

(iii) After receipt of a notification of preliminary non-accreditation, the applicant shall be permitted to submit a revised application for further review by the Agency pursuant to the procedures of this section.

(iv) The applicant may resubmit the original application with a statement of reasons why the applicant believes that the original application meets the requirements for accreditation, and may request accreditation under paragraphs (c)(5) and (c)(6) of this section.

(5) *Public comment period.* (i) The preliminary decision by the Assistant Secretary to grant accreditation or to deny accreditation when the applicant appeals the preliminary decision, with a summary of the application and decision, will be published by the Agency in the Federal Register. A decision to deny accreditation which is not appealed will not be published in the Federal Register.

(ii) The Agency will provide a minimum of 60 calendar days for written comments on the applicant's fulfillment of the requirements for accreditation and the Assistant Secretary's decision. The application, supporting documents, staff recommendations, statement of applicant's reasons for requesting approval, and any comments received will be made available for public inspection and copying at the Docket Office, U.S. Department of Labor, OSHA, Room N-2634, 200 Constitution

Avenue, NW., Washington, DC. (202) 523-7894.

(iii) Any interested party may submit comments. In addition, any interested party may request a public hearing on OSHA's decision by the close of the comment period in accordance with the requirements of 29 CFR part 1905, subpart C, if the party can demonstrate why a hearing is necessary to present evidence relevant to the decision which can not be presented through public comments.

(6) *Final decision by the Assistant Secretary*—(i) *Without a public hearing.* Where there is no hearing, the Assistant Secretary will issue a written final decision on the application based on the evidence in the record from the comments, if any, the full application, the supporting documentation, the staff recommendations, and the written comments and evidence submitted.

(ii) *With a public hearing.* If there is a valid request for a hearing on an application, the following procedures will be used:

(A) The Assistant Secretary will issue a notice of hearing before an Administrative Law Judge of the Department of Labor pursuant to the rules specified in 29 CFR part 1905, subpart C.

(B) After the hearing, pursuant to 29 CFR part 1905, subpart C, the Administrative Law Judge shall issue a decision (including reasons) based on the application, the supporting documentation, the staff recommendation, the public comments and the evidence submitted during the hearing (the record), stating whether it has been demonstrated, based on a preponderance of evidence, that the applicant meets the requirements for accreditation. If no exceptions are filed, this is the final decision of the Department of Labor.

(C) Upon issuance of the decision, any party to the hearing may file exceptions within 20 days, pursuant to subpart C. If exceptions are filed, the Administrative Law Judge shall forward the decision, exceptions and record to the Assistant Secretary for the final decision on the application.

(D) The Assistant Secretary shall review the record, the decision by the Administrative Law Judge, and the exceptions. Based on these, the Assistant Secretary shall issue the final decision (including reasons) of the Department of Labor stating whether the applicant has demonstrated by a preponderance of evidence that it meets the requirements for recognition.

(iii) *Publication of the final decision.* A notice of the final decision will be published in the Federal Register, and a

copy of the Assistant Secretary's final decision will be sent to the applicant.

(iv) *Review of the Assistant Secretary's final decision.* The final decision of the Assistant Secretary, or the Administrative Law Judge if no exceptions are filed, is the final decision of the Department of Labor.

(d) *Terms and conditions of accreditation*—(1) *Accreditation of program.* The following terms and conditions shall be part of every accreditation:

(i) The accreditation of each training program will be evidenced by a letter of accreditation from the Assistant Secretary. The letter will provide the specific details of the scope of the OSHA accreditation as well as any conditions imposed by OSHA.

(ii) The accreditation of each training program shall be valid for three years after the initial accreditation, and valid for five years for each subsequent renewal unless revoked for good cause. The dates of the period of accreditation will be stated in the accreditation letter.

(iii) The accredited applicant shall continue to satisfy all the requirements of this section and the letter of accreditation during the period of accreditation.

(2) *Revision of an accredited program.* The accredited applicant may change elements of the accredited training program by notifying the Assistant Secretary of the change, certifying that the revised program change meets the requirements of this section; that the entire accredited program continues to meet the requirements of this section; and that supporting documentation is provided upon which its conclusions are based. The applicant may make the change upon notification of OSHA. However, if on subsequent review, OSHA determines the change is inconsistent with this section and so notifies the applicant, the applicant must revert to the original elements.

(3) *Renewal of an accredited program.* An accredited applicant may renew its accreditation by filing a renewal request at the address in paragraph (b)(4) of this section not less than 180 calendar days, nor more than one year, before the expiration date of its current accreditation. When an accredited applicant has filed such a renewal request, the current accreditation will not expire until a final decision has been made on the renewal request. The renewal request will be processed in accordance with the procedures of paragraphs (b) and (c) of this section.

(4) *Transfer of an accredited program.* An accredited applicant may not transfer its accreditation to any other person or organization.

(5) *Revocation of an accredited program.* (i) The Agency may revoke its accreditation of a training program if the accredited applicant either has failed to continue to satisfy the requirements of this section or the Agency's letter of accreditation, or has misrepresented itself in its application.

(ii) Before proposing to revoke accreditation, the Agency will notify the accredited applicant of the basis of the proposed revocation, and will allow rebuttal or correction of the alleged deficiencies. The Agency must receive any evidence in rebuttal or of corrections of deficiencies from accredited applicants within 60 days from the date of OSHA's notice of proposed revocation or OSHA will initiate revocation proceedings. If the deficiencies are not corrected, OSHA may revoke its accreditation 30 days later after the date OSHA receives the applicant's response unless the accredited applicant requests a hearing within that period.

(iii) If a hearing is requested, it shall be held before an Administrative Law Judge of the Department of Labor pursuant to the rules specified in 29 CFR part 1905, subpart C.

(iv) The parties of the hearing shall be limited to OSHA and the accredited applicant. The decision shall be made pursuant to the procedures specified in paragraph (c)(6) of this section, except that the burden of proof shall be on OSHA to demonstrate that the accreditation should be revoked because the accredited applicant is not meeting the requirements of accreditation, the Agency's accreditation letter, or has misrepresented itself in its application.

(v) Any interested party may file a complaint stating that the accredited applicant is not meeting the requirements of accreditation, the Agency's accreditation letter, or has misrepresented itself in its application. Such complaint shall contain specific information as to the deficiencies identified. OSHA will acknowledge such complaints in writing and provide the accredited applicant with a copy of the complaint subject to Privacy Act limitations.

(vi) OSHA will investigate such complaints and upon completion of such investigation may invoke the revocation procedures described in this section. If the decision is not to pursue revocation, the complainant will be notified in writing by OSHA of its investigation findings and reason why the accreditation remains valid.

(e) *Requirements of an accredited applicant.* Each accredited applicant shall:

(1) Allow OSHA or its authorized representative to attend, evaluate and monitor any part of the accredited training program without charge or cost to OSHA. OSHA will not give advance notice of attendance at the training program.

(2) Agree to modify the accredited training program if the training requirements of this section or § 1910.120 are changed or if any other OSHA standard which is the subject of training is changed so that it will affect this section. The modification in the training program shall take place no later than 30 days after this section or other relevant standard becomes effective.

(3) Agree to modify the accredited training program if the "state of the art" changes relative to any of the topics provided in the training program.

(4) Agree to provide OSHA annually, no later than 60 days after the accreditation anniversary date, the name and location of each program given, the date given, the number of participants in each program, and the number of participants that were certified as having successfully completed each program.

(f) *Examinations.* Examinations shall cover the necessary skills and knowledge. Each examination shall adequately cover the important topics included in the training program.

(g) *Certificates.* (1) The accredited applicant shall issue certificates to students who have attended and successfully complete the training program.

(2) The certificate shall include the accredited applicant's name, the student's name, the accredited program name, the dates of the program, a statement indicating that the participant successfully completed the program, the location where the program was given, and an identifying number unique to the student.

(h) *Specific course content*—(1) *40-hour hazardous waste clean-up course.* As a minimum, the training course required in paragraph (e) of § 1910.120 for the 40-hour training program shall include the following topics:

(i) Overview of the applicable paragraphs of 29 CFR 1910.120 and the elements of an employer's effective occupational safety and health program.

(ii) Effect of chemical exposures to hazardous substances (i.e., toxicity, carcinogens, irritants, sensitizers, etc.).

(iii) Effects of biological and radiological exposures.

(iv) Fire and explosion hazards (i.e., flammable and combustible liquids, reactive materials).

(v) General Safety hazards, including electrical hazards, powered equipment hazards, walking-working surface hazards and those hazards associated with hot and cold temperature extremes.

(vi) Confined space, tank and vault hazards and entry procedures.

(vii) Names of personnel and alternates, where appropriate, responsible for site safety and health at the site.

(viii) Specific safety, health and other hazards that are to be addressed at a site and in the site safety and health plan.

(ix) Use of personal protective equipment and the implementation of the personal protective equipment program.

(x) Work practices that will minimize employee risk from site hazards.

(xi) Safe use of engineering controls and equipment and any new relevant technology or procedure.

(xii) Content of the medical surveillance program and requirements, including the recognition of signs and symptoms of overexposure to hazardous substances.

(xiii) The contents of an effective site safety and health plan.

(xiv) Use of monitoring equipment with "hands-on" experience and the implementation of the employee and site monitoring program.

(xv) Implementation and use of the informational program.

(xvi) Drum and container handling procedures and the elements of a spill containment program.

(xvii) Selection and use of material handling equipment.

(xviii) Methods for assessment of risk and handling of radioactive wastes.

(xix) Methods for handling shock-sensitive wastes.

(xx) Laboratory waste pack handling procedures.

(xxi) Container sampling procedures and safeguards.

(xxii) Safe preparation procedures for shipping and transport of containers.

(xxiii) Decontamination program and procedures.

(xxiv) Emergency response plan and procedures including first-aid.

(xxv) Safe site illumination levels.

(xxvi) Site sanitation procedures and equipment for employee needs.

(xxvii) Review of the applicable appendices to 29 CFR 1910.120.

(xxviii) Overview and explanation of OSHA's hazard communication standard (29 CFR 1910.1200).

(xxix) Sources of reference, additional information and efficient use of relevant manuals and hazard coding systems.

(xxx) Principles of toxicology and biological monitoring.

(xxxi) Rights and responsibilities of employees and employers under OSHA and CERCLA.

(xxxii) "Hands-on" field exercises and demonstrations.

(xxxiii) Final examination.

(2) *24-hour hazardous waste clean-up course.* As a minimum, the 24-hour training course required in paragraph (e) of this section for employees engaged in occasional visits to uncontrolled hazardous waste sites shall include the following topics where they are applicable to the job function to be performed:

(i) Overview of applicable paragraphs of 29 CFR 1910.120 and the elements of the employer's effective occupational safety and health program.

(ii) Employee rights and responsibilities under OSHA and CERCLA.

(iii) Overview of relevant chemical exposures to hazardous substances (i.e., toxics, carcinogens, irritants, sensitizers, etc.).

(iv) Overview of the principles of toxicological and biological monitoring.

(v) Use of monitoring equipment with hands/on practice and an overview of a site monitoring program.

(vi) Overview of site hazards including fire and explosion, confined spaces, oxygen deficiency, electrical hazards, powered equipment hazards, walking-working surface hazards.

(vii) The contents of an effective site safety and health plan.

(viii) Use of personal protective equipment and the implementation of the personal protective equipment program.

(ix) Work practices that will minimize employee risk from site hazards.

(x) Site simulations with "hands-on" exercises and practice.

(xi) Emergency response planning and response including first-aid.

(xii) Content of the medical surveillance program and requirements, including the recognition of signs and symptoms of overexposure to hazardous substances.

(xiii) Decontamination programs and procedures.

(xiv) Safe use of engineering controls and equipment.

(xv) Sources of references and efficient use of relevant manuals and knowledge of hazard coding systems.

(xvi) Final examination.

(3) *16-hour supplemental training for uncontrolled hazardous waste sites.* As

a minimum, employees who have received 24 hours of accredited training for uncontrolled hazardous waste site operations shall receive training in the following topics before they are allowed to work in areas where 40 hours of training is required:

- (i) Relevant chemical exposures to hazardous substances beyond that previously covered.
- (ii) Site hazards including fire and explosion, confined spaces, oxygen deficiency, electrical, powered equipment, and walking-working surfaces beyond that previously covered.
- (iii) Names of personnel and alternates responsible for site safety and health at the site, where appropriate.
- (iv) Use of monitoring equipment and the implementation of the employee and the site monitoring program beyond that previously covered.
- (v) Implementation and use of the informational program.
- (vi) Drum and container handling procedures and the elements of a spill containment program.
- (vii) Selection and use of material handling equipment.
- (viii) Methods for assessment of risk and handling of radioactive wastes.
- (ix) Methods for handling shock-sensitive wastes.
- (x) Laboratory waste pack handling procedures.
- (xi) Container sampling procedures and safeguards.
- (xii) Safe preparation procedures for shipping and transport of containers.
- (xiii) Decontamination program and procedures.
- (xiv) Safety site illumination levels.
- (xv) Site sanitation procedures and equipment.
- (xvi) Review of the applicable appendices to 29 CFR 1910.120.

(xvii) Overview and explanation of OSHA's Hazard Communication Standard (29 CFR 1910.1200).

(xviii) Sources of reference and additional information.

(xix) Final examination.

(4) *24-hour treatment, storage, and disposal (TSD) course.* As a minimum, the training course required in paragraph (p) of § 1910.120 for the 24-hour training program shall include the following topics:

(i) Overview of the applicable paragraphs of 29 CFR 1910.120 and the elements of an employer's effective occupational safety and health program and those responsible for the program.

(ii) Overview of relevant hazards such as, but not limited to, chemical exposures, biological exposures, fire and explosion exposures, radiological exposures, heat and cold exposures.

(iii) General safety hazards including those associated with electrical hazards, powered equipment, and walking-working surfaces.

(iv) Confined space hazards and procedures.

(v) Work practices that will minimize employee risk from workplace hazards.

(vi) Emergency response plan and procedures including first-aid meeting the requirements of paragraph (p)(8) of § 1910.120.

(vii) A review of the employer's hazardous waste handling procedures including the materials handling program and the spill containment program.

(viii) An overview and explanation of the employer's Hazard Communication Program meeting the requirements of 29 CFR 1910.1200 for those chemicals other than hazardous wastes in the workplace.

(ix) A review of the employer's medical surveillance program meeting the requirements of 29 CFR

1910.120(p)(3) including the recognition of signs and symptoms of overexposure to relevant hazardous substances.

(x) A review of the employer's decontamination program and procedures meeting the requirements of 29 CFR 1910.120(p)(4).

(xi) A review of the employer's training program and the personnel responsible for that program.

(xii) A review of the employer's personal protective equipment (PPE) program including the proper selection and use of PPE based upon specific site hazards.

(xiii) Safe use of engineering controls and equipment.

(xiv) A review of the applicable appendices to 29 CFR 1910.120.

(xv) Principles of toxicology and biological monitoring.

(xvi) Rights and responsibilities of employees and employers under OSHA and RCRA.

(xvii) Sources of reference and efficient use of relevant manuals and knowledge of hazard coding systems.

(xviii) Hands-on exercises and demonstrations with equipment expected to be used during the performance of work duties.

(xix) Final examination.

(5) *Additional 8 hours of training for supervisors and managers.* Supervisors and managers shall receive an additional eight hours of training in the following subjects:

(i) Management of hazardous wastes and their disposal.

(ii) Federal, state and local agencies to be contacted in the event of a release of hazardous substances.

(iii) Management of emergency procedures in the event of a release of hazardous substances.

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