



Standard Interpretations

07/26/1994 - OSHA Policy Regarding Voluntary Rescue Activities.

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July 26, 1994

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

FROM: JAMES W. STANLEY
DEPUTY ASSISTANT SECRETARY

SUBJECT: OSHA Policy Regarding Voluntarily Rescue Activities

The purpose of this memorandum is to reiterate OSHA's citation policy regarding employers whose employees perform or attempt to perform rescues of individuals in life-threatening danger. If an employer has met his or her responsibilities as outlined in the attached memorandum, that employer shall not be cited for an employee's voluntary heroic actions.

Attachment

March 31, 1994

MEMORANDUM FOR: Regional Administrators

THROUGH: LEO CAREY, Director
Office of Field Programs

FROM: H. BERRIEN ZETTLER, Deputy Director
Directorate of Compliance Programs

SUBJECT: Policy Regarding Voluntary Rescue Activities

The Occupational Safety and Health Administration (OSHA) is aware that conditions may arise at workplaces where employees are exposed to life-threatening situations; and fellow employees may enter a danger zone in an attempt to rescue the imperiled workers, thereby exposing themselves to mortal danger. Such situations too often lead to the death of the would be rescuer as well as the person originally in danger. It is not the intent of OSHA to interfere with or to regulate an individual's choice to place himself/herself heroically at risk to save the life of another person. OSHA believes, however, that it is appropriate to provide instruction to the field offices as to the agency's citation policy toward employers whose employees perform or attempt to perform rescues of individuals in life-threatening danger.

Individuals who place themselves at risk to save the life of another person fall into two groups: those who have an occupational responsibility to rescue others and those who do not. The safety and health of persons designated for service on rescue teams or directed to perform rescue activities in the course of carrying out the duties of their jobs are the responsibility of the employer, and citations are appropriate for violations causing hazards to which such employees are exposed. Citations could be issued, for example, if

appropriate rescue equipment is not provided or if an employee is sent into danger without adequate personal protective equipment.

Employer responsibility for employees with no occupational rescue obligation depends on the work environment. Should an occasion arise where the employees of such an employer expose themselves in an attempt to rescue a fellow worker, normally no citation shall be issued to the employer, whether or not the rescue is successful. An exception to this rule is discussed in the following paragraph.

In work environments where there is little or no foreseeable likelihood of a life-threatening emergency, the employer would not be required to provide either rescue equipment or training and would not be subject to citation. **On the other hand, there are certain workplace operations where the likelihood of life-threatening accidents is relatively high, such as confined spaces, hazardous waste and emergency response situations, working on or near unguarded energized power conductors, trenches and excavations, diving operations and working around or over water.** OSHA believes that employers with employees in these situations, who may be faced with a rescue decision, have the obligation to implement an accident prevention program which will address how such emergencies should be addressed by his employees and to ensure that each such employee is trained to recognize the hazards inherent in rescue efforts and the associated risks to potential rescuers not trained in or properly equipped for rescue operations.

Although this does not necessarily mean that the employer is required to provide rescue equipment (except where required by a specific standard, e.g., 1926.106) or to train the employees in proper rescue procedures unless he intends them to conduct rescues, circumstances may arise where the employer may be under an obligation to supply such equipment, e.g., where he knows that conditions at a site are dangerous and that his employees are likely to attempt rescues. It does mean that he must instruct employees in the dangers attendant upon rescuing persons without such training and equipment and that they are not to attempt such rescues in the absence of proper equipment and training.

OSHA bases its understanding on the fact that in construction, employers are required to have an accident prevention program (29 CFR 1926.20(b)(1)) and a training program addressing the specific hazards which their employees are likely to encounter on their worksites (29 CFR 1926.21). In general industry, although there is no overall training requirement, specific training requirements exist relating to hazard communication, permit-required confined spaces, hazardous waste and emergency response, the use of respiratory protection and other standards.

If an employer has trained his or her employees as outlined in this document, that employer will not be cited for an employee's voluntary heroic actions (whether or not they are successful).

This memorandum establishes OSHA's citation policy regarding voluntary rescue activities until the development of a directive is completed. This memorandum should be shared with the State Program designees, who are urged to adopt a similar policy.

103D CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. KEMPTHORNE (for himself. _____
 _____) introduced the following bill: which
 was read twice and referred to the Committee on

A BILL

To provide an exemption from citation by the Secretary of Labor under the Occupational Safety and Health Act to employers of individuals who perform rescues of individuals in imminent danger as a result of an accident, and for other purposes.

1 Be it enacted by the Senate and House of Representatives
 2 of the United States America in Congress assembled,
 3 **SECTION 1. SHORT TITLE.**
 4 This Act may be cited as the "Heroic Exemptions to
 5 Regulation Under the Occupational Safety and Health Act" (HERO
 6 Act).
 1 **SEC. 2. FINDINGS AND PURPOSES.**
 2 (a) FINDINGS.--Congress finds that--
 3 (1) the strict application of existing Occupational
 4 Safety and Health Administration regulations
 5 requires the issuance of a citation to an employer in
 6 a circumstance in which an employee of such employer
 7 has voluntarily acted in a heroic manner to
 8 rescue individuals from imminent harm during work
 9 hours;
 10 (2) application of such regulations to employers
 11 in such circumstance causes hardships to those employers
 12 who are responsible for individuals who perform
 13 heroic acts to save individuals from imminent
 14 harm;
 15 (3) strict application of such regulations in such
 16 circumstance penalizes employers as a result of the
 17 necessary time lost and legal fees incurred to defend
 18 against such citations; and
 19 (4) in order to save employers the cost of un-necessary
 20 enforcement an exemption from the issuance
 21 of a citation to an employer under such circumstance
 22 is appropriate.
 23 (b) PURPOSE.--It is the purpose of this Act to provide
 24 a complete exemption from the issuance of citations
 25 by the Secretary of Labor under section 9 of the Occupational
 26 Safety and Health Act (29 U.S.C 658) to employers
 1 of individuals who voluntarily perform rescues of persons
 2 in imminent danger.
 3 **SEC. 3. DEFINITION.**
 4 For purposes of this Act, the term "imminent harm"
 5 means the existence of any condition or practice that could
 6 reasonably be expected to cause death or serious physical
 7 harm before such condition or practice can be abated.
 8 **SEC. 4. CITATIONS.**
 9 Section 9 Of the Occupational Safety and Health Act
 10 (29 U.S.C. 658) is amended by adding at the end the following
 11 subsection:
 12 "(d) No citation may be issued under this section
 13 with respect to a voluntary rescue by an employer's employee
 14 of an individual in imminent harm."

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