MIOSHA/MDEQ ON CAMPUS

CENTRAL MICHIGAN UNIVERSITY
This procedure deals only with CMU Employees and does not cover contractor employee(s). If Michigan Occupational Safety & Health Administration (MIOSHA) or Michigan Department of Environmental Quality (MDEQ) shows up at a construction site, Environmental Health & Safety (EHS) should be notified but will not be involved in any MIOSHA/MDEQ proceedings involving the contractor. The following breaks down typical inspection procedures for a MIOSHA or MDEQ inspection.

**MIOSHA ON CAMPUS PROCEDURE**

If a Michigan Occupational Safety and Health Administration (MIOSHA) Inspector arrives in your department, please observe the following procedures.

1.) Treat the inspector as you would treat any visitor to the University, in a polite and professional manner.

2.) Ask them to wait while you contact the safety officer for the University.

3.) Contact Environmental Health & Safety at 7398. Tell them that a MIOSHA inspector is in your office.

4.) Inform the inspector of the situation regarding safety personnel. Under normal conditions it should not take Environmental Health & Safety more than 10 minutes to respond in person.

5.) Once Environmental Health & Safety arrives, they will be the liaison between the inspector and the University.

**What you should know about a MIOSHA Inspection**

Under the Michigan Occupational Safety and Health Act, “upon presenting appropriate credentials to the owner, operator, or agent in charge,” a MIOSHA compliance officer is authorized to:

- “enter without delay and at reasonable times any factory, plant, establishment, construction site or other areas, workplace, or environment where work is performed by an employee of an employer,” and to

- “inspect and investigate during regular working hours, and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein, and to question privately any such employer, owner, operator, agent or employee.”

If an employer refuses to admit a MIOSHA compliance officer, or an employer attempts to interfere with the inspection, the Act permits appropriate legal action. Based on a

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1978 Supreme Court ruling (Marshall v Barlow’s Inc.), MIOSH may not conduct warrantless inspections without an employer’s consent. It may, however, inspect after acquiring a judicially authorized search warrant based upon administrative probable cause, or upon evidence of a violation. We never want an inspector to obtain a warrant.

**Inspection Priorities**

MIOSH has established a system of inspection priorities. These priorities, in their order of importance include:

1. Situations of imminent danger.
2. Catastrophes and fatal accidents.
3. Employee complaints.
4. Programmed high-hazard inspections.
5. Follow-up Inspections.

**Imminent Danger**

Imminent danger situations are given top priority. An imminent danger is any condition where there is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm immediately, or before the danger can be eliminated through normal enforcement procedures.

Walking off the job because of potentially unsafe workplace conditions is not ordinarily an employee right; to do so may result in disciplinary action by the employer. However, an employee does have the right to refuse (in good faith) to be exposed to an imminent danger situation. MIOSH rules protect employees from discrimination if:

- Where possible, he or she asked the employer to eliminate the danger, and the employer failed to do so;
- The danger is so imminent that there is not sufficient time to have the danger eliminated through normal enforcement procedures;
- The danger facing the employee is so grave that “a reasonable person” in the same situation would conclude there is a real danger of death or serious physical harm; and
- No reasonable work alternative exists (for example, reassignment to another area is not possible.

**Catastrophes and Fatal Accidents**

Second priority is given to investigation of fatalities and catastrophes resulting in hospitalization of three or more employees. The employer must report such situations to MIOSH within 24 hours. Investigations are made to determine if MIOSH standards were violated, and to avoid recurrence of similar accidents.

**Employee Complaints**
Third priority is given to employee complaints of alleged violation of standards, or of unsafe or unhealthful working conditions. The Act gives each employee the right to request a MIOSHA inspection when the employee feels he or she is in imminent danger from a hazard, or when he or she feels that there is a violation of a MIOSHA standard that threatens physical harm. MIOSHA will maintain confidentiality if requested, will inform the employee of any action it takes regarding the complaint, and if requested, will hold an informal review of any decision not to inspect. Just as in situations of imminent danger, the employee’s name will be withheld from the employer, if the employee so requests.

Programmed High-Hazard Inspections

Next in priority are programmed, or planned, inspections that are aimed at specific high-hazard industries, occupations, or health substances. Industries are selected for inspection on the basis of several factors, such as the death, injury and illness incidence rates, and employee exposure to toxic substances. Depending on the distribution of the workplaces involved, special emphasis may be regional.

Follow-Up Inspections

A follow-up inspection determines whether previously cited violations have been corrected. If an employer has failed to abate a violation, the compliance officer informs the employer that he or she is subject to “Notification of Failure to Abate” alleged violations, and may face additional proposed daily penalties while such failure or violation continues.

The Inspection Process

Prior to inspection, the compliance safety and health officer becomes familiar with as many relevant facts as possible about the workplace, taking into account such things as the history of the establishment, the nature of the business, and the particular standards likely to apply. Preparing for the inspection also involves selecting appropriate equipment for detecting and measuring fumes, gases, toxic substances, and noise.

Inspector’s Credentials

An inspection begins when the compliance officer arrives at the establishment. He or she displays official credentials and asks to meet an appropriate employer representative. CMU representatives should always insist upon seeing the compliance officer’s credentials.

During the course of the inspection, the compliance officer will point out to CMU any unsafe or unhealthy working conditions observed. At the same time, the compliance officer will discuss possible corrective action if CMU so desires. The CMU representative should always seek this information.
Some apparent violations detected by the compliance officer can be corrected immediately. When they are corrected on the spot, the compliance officer records such corrections to help in judging CMU’s good faith in compliance. Even though corrected, however, the apparent violation may still serve as a basis for a citation and/or notice of proposed penalty. An inspection tour may cover part or all of an establishment, even if the inspection resulted from a specific complaint, fatality or catastrophe.

Closing Conferences

After the inspection tour, a closing conference is held between the compliance officer and the appropriate representative(s). The compliance officer discusses with CMU all unsafe or unhealthy conditions observed during the inspection and indicates all apparent violations for which a citation may be issued or recommended.

During the closing conference, CMU may wish to produce records to show compliance efforts, and to provide information that can help MIOSHA determine how much time may be needed to abate an alleged violation. When appropriate, more than one closing conference may be held.

Inspection Results

After the compliance officer reports the findings, the area director determines whether citations will be issued, and whether penalties will be assessed. Citations inform CMU and CMU employees of the regulations and standards alleged to have been violated, and of the proposed length of time set for their abatement. CMU will receive citations and notices of proposed penalties by certified mail. CMU must post a copy of each citation at or near the place a violation occurred, for 3 days, or until the violation is abated, whichever is longer.

The types of violations that may be cited, and the penalties that may be proposed include: other-than-serious, serious, willful, repeated, and failure to abate.
MDEQ ON CAMPUS PROCEDURE

If a Michigan Department of Environmental Quality (MDEQ) Inspector arrives in your department, please observe the following procedures.

1) Treat the inspector as you would treat any visitor to the University, in a polite and professional manner.

2) Ask them to please wait while you contact the environmental administrator or an appropriate environmental and safety representative.

3) Contact Environmental Health & Safety at 7398. Tell them that a MDEQ inspector is in your office.

4) Inform the inspector of the situation regarding environmental personnel. Under normal conditions it should not take Environmental Health & Safety more than 10 minutes to respond in person.

5) Once Environmental Health & Safety arrives, they will be the liaison between the inspector and the University.

What you should know about a MDEQ Inspection

MDEQ inspections will be typically “surprise” inspections, meaning there will be limited detail on the exact timeframe of an onsite inspection. These “surprise” inspections are by design allowing the inspector an unbiased view of everyday environmental operations.

During an inspection the MDEQ inspector has the authority to access any part of the University in question as well as copy and review records or documentation as deemed necessary by the inspector as found in: The Natural Resource and Environmental Protection Act 451 Part 111.

Prior to an on-site inspection the MDEQ follows protocol starting with:

Pre-evaluation

- Gaining access to sites.
- File reviews of previous evaluation reports and pertinent information.
- Review of legal requirements or performance standards that are to be evaluated.
- How and when to make site contacts.

Evaluation

- Sampling procedures.
- Evidence collection.
- Chain-of-custody requirements.
• Completion of required forms, reports, and checklists.

Post-evaluation

• Post-evaluation consultations.
• Site compliance status determination.
• File documentation.
• Database documentation.
• Written notification of inspection results to site personnel.
• When and what type of follow-up evaluation are needed.

During the post-evaluation consultations the inspector will determine site compliance status as well as verbally report any regulatory deficiencies where applicable. This concludes the on-site portion of the MDEQ inspection.

A formal report of any regulatory deficiencies/violations will be sent to the University point of contact. A typical deadline to remediate most outstanding deficiencies/violations is thirty days upon the delivery of the report. As outlined in the formal report, if all issues of concern are properly addressed according to all applicable rules and regulations, additional visits by the MDEQ should not be necessary.

If you should have any questions regarding this policy, please feel free to contact Jon Kujat at 3154 or Dan Lyons at 2770.