



# OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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**DIRECTIVE NUMBER:** CPL 2-1.037

**EFFECTIVE DATE:** July 9, 2002

**SUBJECT:** Compliance Policy for Emergency Action Plans and Fire Prevention Plans

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## ABSTRACT

- Purpose:** To provide a consolidated compliance policy for the application of emergency action plans (EAPs) and fire prevention plans (FPPs), General Industry Standard for 29 CFR 1910.38.
- Scope:** OSHA-wide
- References:** OSHA Instruction CPL 2-103, Field Inspection Reference Manual (FIRM); 29 CFR 1910.38, Employee Emergency Plans and Fire Prevention Plans; 29 CFR 1910.119, Process Safety Management of Highly Hazardous Chemicals; 29 CFR 1910.272, Grain Handling; 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response.
- Cancellations:** Change to OSHA Instruction CPL 2-2.59A, Inspection Procedures for the Hazardous Waste Operations and Emergency Response Standard, Appendix F, page F-3, rescind citation policy of 1910.120(q)(1), April 24, 1998. Rescind Clarifications of Interpretations and Citation Policy on 29 CFR 1910.38 and 1910.157 Standards, June 24, 1992.
- State Impact:** State adoption is not required, See Paragraph V
- Action Offices:** National, Regional, and Area Offices
- Originating Office:** Directorate of Compliance Programs
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By and Under the Authority of

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## **Executive Summary**

This instruction is OSHA's Emergency Action (EAP) and Fire Prevention Plan's (FPP) (29 CFR 1910.38) consolidated compliance policy. This instruction is divided into seven sections: Section I - Purpose; Section II - Scope; Section III - References; Section IV - Cancellations; Section V - Federal Program Change; Section VI - Action Information; Section VII - Background; Section VIII - Guidelines.

## **Significant Changes**

This instruction will clarify several Regional Instructions regarding 29 CFR 1910.38. Change to OSHA Instruction CPL 2-2.59A, Inspection Procedures for the Hazardous Waste Operations and Emergency Response Standard, Appendix F, page F-3, rescind citation policy of 1910.120(q)(1), April 24, 1998. Rescind Clarifications of Interpretations and Citation Policy on 29 CFR 1910.38 and 1910.157 Standards, June 24, 1992.

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- I. Purpose. To provide a consolidated compliance policy for the application of emergency action plans (EAPs) and fire prevention plans (FPPs). This instruction is guidance for the uniform application of 29 CFR 1910.38.
- II. Scope. This instruction applies OSHA-wide
- III. References.
  - A. OSHA Instruction CPL 2-103, Field Inspection Reference Manual (FIRM)
  - B. 29 CFR 1910.38, Employee Emergency Plans and Fire Prevention Plans
  - C. 29 CFR 1910.119, Process Safety Management of Highly Hazardous Chemicals
  - D. 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response
  - E. 29 CFR 1910.157, Portable Fire Extinguishers
  - F. 29 CFR 1910.160, Fixed Extinguishing Systems, General
  - G. 29 CFR 1910.164, Fire Detection Systems
  - H. 29 CFR 1910.165, Employee Alarm Systems
  - I. 29 CFR 1910.272, Grain Handling
  - J. 29 CFR 1910.1047, Ethylene Oxide
  - K. 29 CFR 1910.1050, Methylenedianiline
  - L. 29 CFR 1910.1051, 1,3-Butadiene
- IV. Cancellations. Change to OSHA Instruction CPL 2-2.59A, Inspection Procedures for the Hazardous Waste Operations and Emergency Response Standard, Appendix F, rescind citation policy of 1910.120(q), April 24, 1998. Rescind Clarifications of Interpretations and Citation Policy on 29 CFR 1910.38 and 1910.157 Standards, June 24, 1992.
- V. Federal Program Change. This instruction describes a Federal OSHA program change for which State adoption is not required. However, States are expected to have enforcement policies and procedures which are at least effective as those of Federal OSHA.
- VI. Action Information.

- A. Responsible Office. Directorate of Compliance Programs (DCP).
- B. Action Offices. National, Regional, and Area Offices.
- C. Information Offices. Consultation Project Managers.

VII. Definitions.

- A. Emergency Action Plan (EAP): The purpose of an EAP is to facilitate and organize employer and employee actions during workplace emergencies. An EAP is a written document that is required by a particular OSHA standard. The elements of the plan shall include but are not limited to:
  - 1. Escape procedures and emergency escape route assignments.
  - 2. Procedures to be followed by employees who remain to operate critical plant operations before they evacuate.
  - 3. Procedures to account for all employees after emergency evacuation has been completed.
  - 4. Rescue and medical duties for those employees who are to perform them.
  - 5. Means of reporting fires and other emergencies.
  - 6. Names or job titles of persons who can be contacted for further information or explanation of duties under the plan.
- B. Fire Prevention Plan (FPP): An FPP is a hazard prevention plan that is to assure advanced planning for evacuations in fire and other emergencies. An FPP is a written document that is required by a particular OSHA standard. The elements of the plan shall include but are not limited to:
  - 1. A list of major workplace fire hazards and their proper handling and storage procedures, potential ignition sources, their control procedures, and the type of fire protection equipment or systems which can control a fire.
  - 2. Names or job titles of those persons responsible for maintenance of equipment and systems installed to prevent or control ignition of fires.
  - 3. Names or job titles of those persons responsible for control of fuel source hazards.

- C. *Incipient Stage Fire*: A fire which is in the initial stage or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II standpipe or small hose systems without the need for protective clothing or breathing apparatus.

VIII. Background.

A. Standards that require EAPs include:

1. Process Safety Management of Highly Hazardous Chemicals - 1910.119
2. Fixed Extinguishing Systems, General - 1910.160
3. Fire Detection Systems, 1910.164
4. Grain Handling - 1910.272
5. Ethylene Oxide - 1910.1047
6. Methylenedianiline - 1910.1050
7. 1,3-Butadiene - 1910.1051

B. Standards that require FPPs include:

8. Ethylene Oxide, 1910.1047
9. Methylenedianiline - 1910.1050
10. 1,3-Butadiene - 1910.1051

NOTE: The 1910.38 provisions are applicable and may be referenced only when another OSHA standard requires an EAP or FPP. The above standards require an EAP or an FPP. Therefore, 1910.38 citations may be used in the abatement or variable language only when one of the above standards is cited. (VIII.A.1 through 7 and VIII.B.1 through 3) in accordance with the FIRM (CPL 2.103).

- C. Employers are generally required by 29 CFR 1910 to provide portable fire extinguishing equipment for use in fighting incipient stage fires in the workplace. 29 CFR 1910.157, however, provides alternatives for employers who do not want their employees to fight incipient stage fires in the workplace. Employers who opt for the evacuation of all or most employees to a safe area do not have to comply with certain requirements of 1910.157, depending on the option chosen. These options are:



1. The employer evacuates all employees to safety when a fire occurs [1910.157(b)(1)]: Employers who select this option are relieved from compliance with 1910.157 unless a specific standard in part 1910 requires that portable fire extinguishers be provided. If the employer selects this option, compliance with 1910.38(a) and (b) is required through 1910.157(b)(1).
2. The employer evacuates all employees except those designated to use portable fire extinguishers [1910.157(b)(2)]: Employers who select this option need not comply with the distribution requirements of 1910.157(d). This option allows for the employer to distribute extinguishers in a manner such that they are available to the employees designated to fight incipient stage fires. If the employer selects this option, compliance with 1910.38(a) is required through 1910.157(b)(2).
3. The employer keeps portable fire extinguishers in the workplace but does not want employees fighting fires and therefore evacuates the employees to safety [1910.157(a)]: OSHA recognizes that portable fire extinguishers may be required in the workplace by other organizations (e.g., insurance companies, local fire departments, etc.). Portable fire extinguishers that are not intended for employee use may still pose a hazard if they are not properly maintained. Employers who select this option must comply only with the maintenance, inspection, and testing requirements in paragraphs (e) and (f) of 1910.157.

Employers who do not select any of these options but instead provide portable fire extinguishers for use by any employee to use in fighting incipient stage fires must comply with 1910.157 in its entirety. Employees who provide portable fire extinguishers for employee use must provide an educational program to familiarize all employees with the general principles of fire extinguisher use [1910.157(g)(1) and (g)(2)]. Employees who are expected to use portable fire extinguishers must be provided with "hands on" training in the use of the fire extinguishing equipment [1910.157(g)(3)]. If the employer chooses to comply with all of 1910.157, there is no requirement to comply with 1910.38.

#### D. Emergency Response.

The following guidance replaces and supersedes the guidance given in CPL 2-2.59A, Appendix F, page F-3. 1910.38(a) provides for alternative means of employee protection from hazardous substance release and hazardous waste operations and emergency response (HAZWOPER) release by implementing an effective EAP that includes evacuating all employees from the release area. In case of a HAZWOPER release, an employer must adhere to the provisions of 1910.120(q). If elements of 1910.38(a) are not included in an emergency response plan referenced by 1910.120(q), the CSHO may only cite 1910.120(q). Furthermore, both the emergency response program for certain operations conducted under the Resource Conservation and Recovery Act (RCRA), and

1910.120(l) and 1910.120(p)(8)(i) emergency response plan standards, provide for alternative means of employee protection from hazardous substance release by implementing an effective EAP that includes evacuating all employees from the release area. Therefore, these three standards will be cited in accordance with this instruction's compliance policy and in no case will 1910.38 be cited when it serves as an exemption from a particular OSHA Standard. If the employer chose total evacuation as afforded by the exemptions and did not comply with 1910.38(a), the employer shall be cited under one of the above 1910.120 standards but can abate through compliance with 1910.38(a).

IX. Guidelines. The following guidance is provided for CSHOs to use in planning inspections of workplaces where:

- Portable fire extinguishers are provided;
- Toxic, reactive, flammable, or explosive chemicals are used;
- Total flooding systems are used;
- Employees are part of grain handling operations;
- Ethylene oxide is used;
- Methylenedianiline is used;
- 1,3-Butadiene is used; or
- Employee alarm systems are used.

Other emergencies that may need to be addressed by EAPs or FPPs include, but are not limited to, natural disasters (e.g., hurricanes, tornadoes, floods, etc.) and man-made disasters (e.g., terrorism). Guidance on disaster/emergency planning with respect to terrorism can be found on internet sites such as <http://www.anser.org>, <http://www.nfpa.org>, <http://www.emassociation.org>, <http://www.nemaweb.org>, or <http://www.fema.gov>.

A. Emergency Action Plan (EAP) and Fire Prevention Plan (FFP) standards.

1. The 1910.38 requirements apply only when mandated by another OSHA standard.
2. Paragraphs 1910.157(a), (b)(1), and (b)(2) establish options that, if selected, require the employer to have an EAP that conforms to 1910.38(a) and / or (b). While the plan is not required directly in the 1910.157

standard, the employer must comply with the plan requirements to qualify for the various exemptions provided in 1910.157.

B. Portable Fire Extinguishers.

When, pursuant to 1910.157 (a), (b)(1), or (b)(2), the employer has established and implemented a fire safety policy including an Emergency Action Plan (EAP) and a Fire Prevention Plan (FPP) in accordance with 1910.38, the employer will be exempted from all or some of the provisions of 1910.157 as follows:

1. When extinguishers are provided in the workplace but are not intended for employee use, and the employer has developed an EAP and a FPP fully meeting the requirements of 1910.38, only citations for violations of inspection, maintenance, and testing [1910.157(e)], and hydrostatic testing [1910.157(f)] may be issued. However, if the employer does not comply fully with the requirements of 1910.38, then citations alleging violation(s) of 1910.157(c) through (g) may be issued. The employer will then have an option to abate the violation(s) through compliance with 1910.157(c) through (g) or by correcting the specific deficiencies in the EAP and / or FPP.
2. Where portable fire extinguishers are not available and are not required by a particular OSHA standard, citations for violations of 1910.157(c) through (g) will not be issued if the employer's written fire safety policy requires **immediate and total** evacuation of employees from the workplace upon the sounding of a fire alarm signal, and if the employer's policy includes an EAP and a FPP in compliance with 1910.38. However, if the employer does not comply with requirements of 1910.38, citations for violation(s) of 1910.157(c) through (g) may be issued. The employer will then have an option to abate the violation(s) through compliance with 1910.157(c) through (g), or by correcting the deficiencies in the EAP and / or FPP. Furthermore, where extinguishers are required by a particular OSHA standard, (e.g., fire control at flammable or combustible liquid storage locations) but are not provided, the employer is in violation of the OSHA standard requiring the extinguishers.
3. Where an employer has 1) an EAP and / or FPP which meets the requirements of 1910.38; 2) designates certain employees to be the only employees authorized to use the available portable fire extinguishers; and 3) requires all other employees in the **fire area** to immediately evacuate the affected work area upon the sounding of a fire alarm, citations for violations of the distribution requirements of fire extinguishers will not be issued. All other paragraphs of 1910.157 may be cited as appropriate.

C. Conducting the Workplace Inspection. The following guidance is provided for CSHOs to use in planning inspections of workplaces where compliance with 1910.38 may be applicable.

1. Opening Conference.

- a. The CSHO will determine, by means of interviewing management and employees, what employees are specifically expected to do in the event of a fire, explosion, chemical spill, or other related workplace emergency.
- b. If it is determined that the employer has selected one of the options described in paragraph VIII.C as the workplace fire safety policy, the CSHO will determine if the appropriate emergency action plan or fire prevention plan is available. If the employer did not select one of the options, then the CSHO will inspect for compliance with all the provisions of 1910.157.
- c. The CSHO must obtain copies of the appropriate plans for review and inspection.

2. Walkaround Inspection.

- a. The CSHO will interview employees and observe work practices to determine whether the employer's designated fire and / or emergency safety policy exists and is being followed by employees.
- b. Based upon the CSHO's determination of the employer's fire/emergency safety policy, the CSHO will determine if the employer has met the applicable requirements of 1910.38 as described in 1910.157. Citations alleging violations of 1910.38 will not be issued unless the employer has not addressed all the required elements of an EAP or FPP.
- c. If the employer's workplace and / or industry requires compliance with the provisions of 1910.119, .160, .164, .272, .1047, 1050, and /or .1051, an EAP and / or FPP is required. Therefore, the CSHO can cite 1910.38(a) and / or (b) by way of the host standard. In no case where a host standard requires an EAP and / or FPP will 1910.38(a) be cited alone. However, 1910.38(a) may be referenced in the variable language with one of the above standards.

3. Closing Conference.

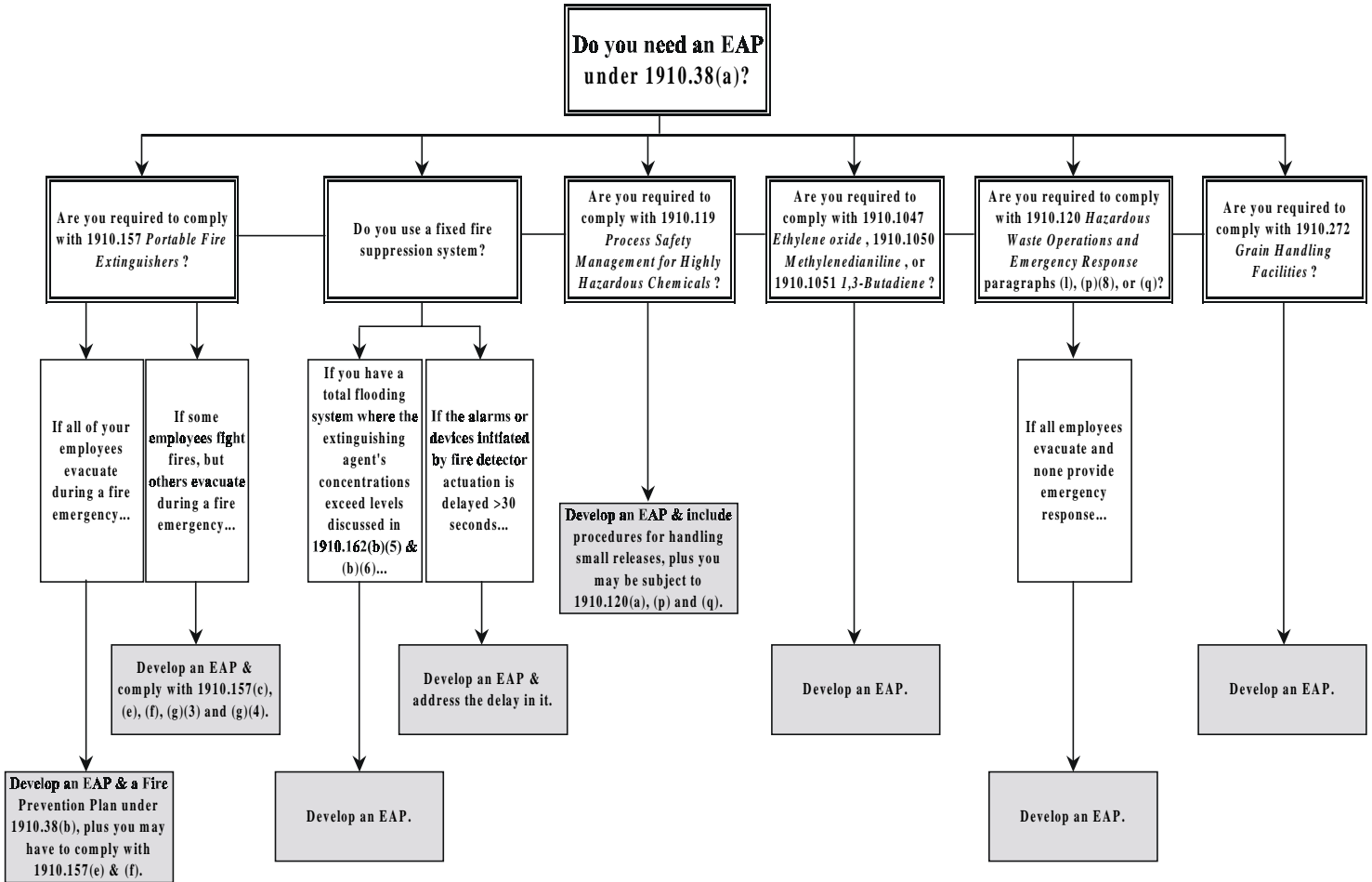
- a. If the employer has selected one of the options in paragraph VIII.C but the CSHO found deficiencies in the applicable EAP or FPP, the employer and employee representatives will be advised during the closing conference that total compliance with 1910.157 is expected unless the deficiencies with respect to 1910.38 can be corrected.
- b. If the employer's workplace and/or industry requires compliance with the provisions of 1910.119, .160, .164, .272, .1047, 1050, and / or .1051 but the CSHO finds deficiencies in the applicable EAP or FPP, the CSHO will advise the employer and employee representatives during the closing conference that citations alleging violations of one of the above standards referencing 1910.38 in the variable language will be issued.

D. Flow Diagram. Flow logic charts for EAPs (Appendix A) and FPPs (Appendix B) are included in this instruction to assist the CSHO during an inspection.

# APPENDIX A

## Standards That Refer to 1910.38(a) *Emergency Action Plan (EAP)*

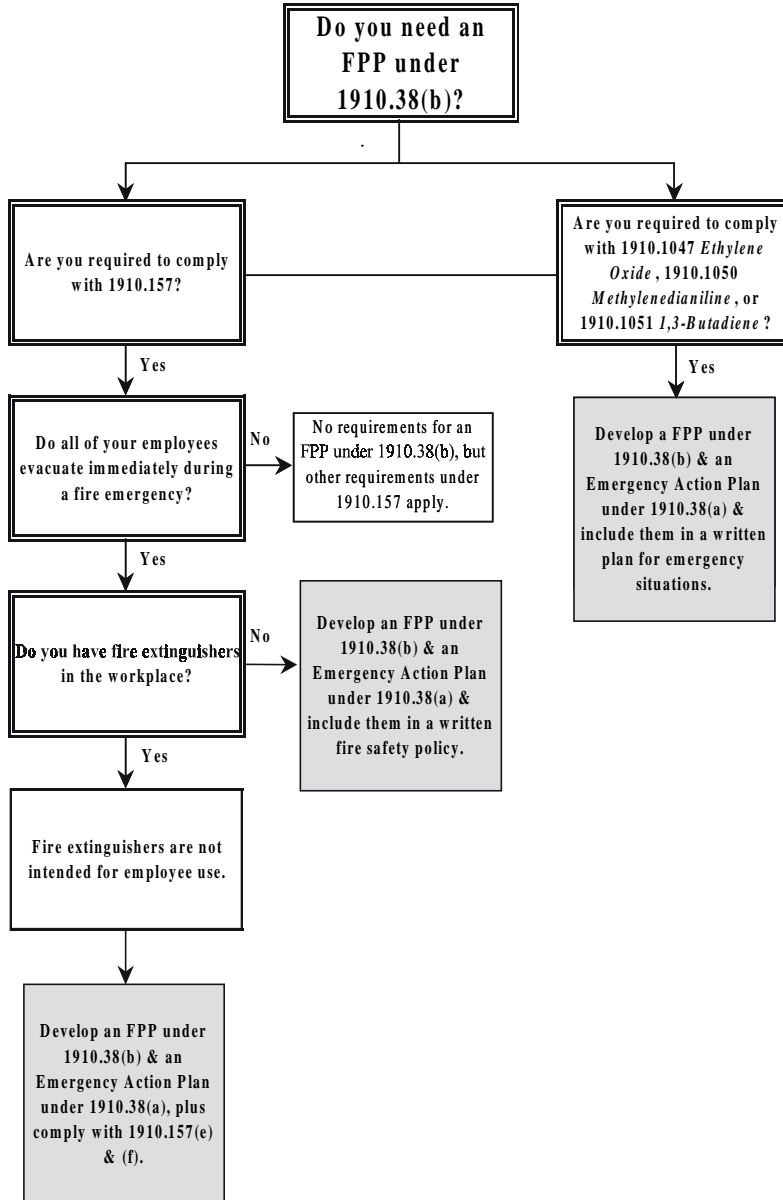
### and Additional Emergency Planning Procedures



APPENDIX B

Standards That Refer to 1910.38(b) *Fire Prevention Plan (FPP)*

and Additional Emergency Planning Procedures



## APPENDIX C Nonmandatory Guideline

The following nonmandatory appendix to Subpart E is reprinted as guidance for employers and others in developing and evaluating emergency action plans.

### APPENDIX TO SUBPART E TO PART 1910—MEANS OF EGRESS

This appendix serves as a nonmandatory guideline to assist employers in complying with the appropriate requirements of subpart E.

#### 1910.38 Employee emergency plans

1. "Emergency action plan elements." The emergency action plan should address emergencies that the employer may reasonably expect in the workplace. Examples are: fire; toxic chemical releases; hurricanes; tornadoes; blizzards; floods; and others. The elements of the emergency action plan presented in paragraph 1910.38(a)(2) can be supplemented by the following to more effectively achieve employee safety and health in an emergency. The employer should list in detail the procedures to be taken by those employees who have been selected to remain behind to care for essential plant operations until their evacuation becomes absolutely necessary. Essential plant operations may include the monitoring of plant power supplies, water supplies, and other essential services which cannot be shut down for every emergency alarm. Essential plant operations may also include chemical or manufacturing processes which must be shut down in stages or steps where certain employees must be present to assure that safe shut down procedures are completed.

The use of floor plans or workplace maps which clearly show the emergency escape routes should be included in the emergency action plan. Color coding will aid employees in determining their route assignments.

The employer should also develop and explain in detail what rescue and medical first aid duties are to be performed and by whom. All employees are to be told what actions they are to take in these emergency situations that the employer anticipates may occur in the workplace.

2. "Emergency evacuation." At the time of an emergency, employees should know what type of evacuation is necessary and what their role is in carrying out the plan. In some cases where the emergency is very grave, total and immediate evacuation of all employees is necessary. In other emergencies, a partial evacuation of nonessential employees with a delayed evacuation of others may be necessary for continued plant operation. In some cases, only those employees in the immediate area of the fire may be expected to evacuate or move to a safe area such as when a local application fire



suppression system discharge employee alarm is sounded. Employees must be sure that they know what is expected of them in all such emergency possibilities which have been planned in order to provide assurance of their safety from fire or other emergency. The designation of refuge or safe areas for evacuation should be determined and identified in the plan. In a building divided into fire zones by fire walls, the refuge area may still be within the same building but in a different zone from where the emergency occurs.

Exterior refuge or safe areas may include parking lots, open fields or streets which are located away from the site of the emergency and which provide sufficient space to accommodate the employees. Employees should be instructed to move away from the exit discharge doors of the building, and to avoid congregating close to the building where they may hamper emergency operations.

3. "Emergency action plan training." The employer should assure that an adequate number of employees are available at all times during working hours to act as evacuation wardens so that employees can be swiftly moved from the danger location to the safe areas. Generally, one warden for each twenty employees in the workplace should be able to provide adequate guidance and instruction at the time of a fire emergency. The employees selected or who volunteer to serve as wardens should be trained in the complete workplace layout and the various alternative escape routes from the workplace. All wardens and fellow employees should be made aware of handicapped employees who may need extra assistance, such as using the buddy system, and of hazardous areas to be avoided during emergencies. Before leaving, wardens should check rooms and other enclosed spaces in the workplace for employees who may be trapped or otherwise unable to evacuate the area.

After the desired degree of evacuation is completed, the wardens should be able to account for or otherwise verify that all employees are in the safe areas.

In buildings with several places of employment, employers are encouraged to coordinate their plans with the other employers in the building. A building-wide or standardized plan for the whole building is acceptable provided that the employers inform their respective employees of their duties and responsibilities under the plan. The standardized plan need not be kept by each employer in the multi-employer building, provided there is an accessible location within the building where the plan can be reviewed by affected employees. When multi-employer building-wide plans are not feasible, employers should coordinate their plans with the other employers within the building to assure that conflicts and confusion are avoided during times of emergencies. In multi-story buildings where more than one employer is on a single floor, it is essential that these employers coordinate their plans with each other to avoid conflicts and confusion.

4. "Fire prevention housekeeping." The standard calls for the control of accumulations of flammable and combustible waste materials. It is the intent of this standard to assure that

hazardous accumulations of combustible waste materials are controlled so that a fast developing fire, rapid spread of toxic smoke, or an explosion will not occur. This does not necessarily mean that each room has to be swept each day. Employers and employees should be aware of the hazardous properties of materials in their workplaces, and the degree of hazard each poses. Certainly oil soaked rags have to be treated differently than general paper trash in office areas. However, large accumulations of waste paper or corrugated boxes, etc., can pose a significant fire hazard. Accumulations of materials which can cause large fires or generate dense smoke that are easily ignited or may start from spontaneous combustion, are the types of materials with which this standard is concerned. Such combustible materials may be easily ignited by matches, welder's sparks, cigarettes and similar low level energy ignition sources.

5. "Maintenance of equipment under the fire prevention plan." Certain equipment is often installed in workplaces to control heat sources or to detect fuel leaks. An example is a temperature limit switch often found on deep-fat food fryers found in restaurants. There may be similar switches for high temperature dip tanks, or flame failure and flashback arrester devices on furnaces and similar heat producing equipment. If these devices are not properly maintained or if they become inoperative, a definite fire hazard exists. Again employees and supervisors should be aware of the specific type of control devices on equipment involved with combustible materials in the workplace and should make sure, through periodic inspection or testing, that these controls are operable. Manufacturers' recommendations should be followed to assure proper maintenance procedures.

[45 FR 60714, Sept. 12, 1980]

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