

INFORMATION MEMORANDUM #03 X 103

TO: Managers, Supervisors and Field Personnel

FROM: Dottie Ison

DATE: June 23, 2003

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

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 1910.38 and 1910.39.

II. References.

- A. South Carolina OSHA Field Manual
- B. 29 CFR 1910.38, Emergency Action Plans
- C. 29 CFR 1910.39, Fire Prevention Plans
- D. 29 CFR 1910.119, Process Safety Management of Highly Hazardous Chemicals
- E. 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response
- F. 29 CFR 1910.157, Portable Fire Extinguishers
- G. 29 CFR 1910.160, Fixed Extinguishing Systems, General
- H. 29 CFR 1910.164, Fire Detection Systems
- I. 29 CFR 1910.165, Employee Alarm Systems
- J. 29 CFR 1910.272, Grain Handling
- K. 29 CFR 1910.1047, Ethylene Oxide
- L. 29 CFR 1910.1050, Methylenedianiline
- M. 29 CFR 1910.1051, 1,3-Butadiene

III. 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 or 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.

IV. Background.

- A. Standards that require EAPs include:
1. Process Safety Management of Highly Hazardous Chemicals – 1910.119
 2. Fire Extinguishing Systems, General – 1910.160
 3. Fire Detection Systems, 1910.164
 4. Grain Handling – 1910.272
 5. Ethylene Oxide – 1910.1047
 6. Mehtylenedianiline – 1910.1050
 7. 1,3-Butadiene – 1910.1051

B. Standards that require FPPs include:

1. Ethylene Oxide – 1910.1047
2. Methylenedianiline – 1910.1050
3. 1,3-Butadiene – 1910.1051

Note: The 1910. 38 & 39 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 or 1910.39 citations may be used in the abatement or variable language only when one of the above standards is cited. (IV.A.1 through 7 and IV.B.1 through 3) in accordance with the SC OSHA Field Manual.

- 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 and 1910.39 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 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.

Employers 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.

1910.38 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 are not included in an emergency response plan referenced by 1910.120(q), the compliance officer 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, the employer shall be cited under one of the above 1910.120 standards but can abate through compliance with 1910.38.

V. Guidelines. The following guidance is provided for compliance officers 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>, <http://www.fema.gov>, <http://www.llr.state.sc.us/workplace/workplacesecurity.htm>.

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

1. The requirements of 1910.38 and 1910.39 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 and/or 1910.39. 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 and 1910.39, 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 and 1910.39, 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 and 1910.39, 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 and 1910.39. However, if the employer does not comply with requirements of 1910.38 and 1910.39, 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 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 and 1910.39; 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 compliance officers to use in planning inspections of workplaces where compliance with 1910.38 and/or 1910.39 may be applicable.
1. Opening Conference.
 - a. The compliance officer 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 IV.C as the workplace fire safety policy, the compliance officer 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 compliance officer will inspect for compliance with all the provisions of 1910.157.
- c. The compliance officer must obtain copies of the appropriate plans for review and inspection.

2. Walkaround Inspection.

- a. The compliance officer 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 compliance officer's determination of the employer's fire/emergency safety policy, the compliance officer will determine if the employer has met the applicable requirements of 1910.38 and 1910.39 as described in 1910.157. Citations alleging violations of 1910.38 and 1910.39 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 compliance officer can cite 1910.38 and/or 1910.39 by way of the host standard. In no case where a host standard requires an EAP and /or FPP will 1910.38 be cited alone. However, 1910.38 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 IV.C but the compliance officer 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 compliance officer finds deficiencies in the applicable

EAP or FPP, the compliance officer 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 the instruction to assist the compliance officer during an inspection.