

revising the paragraph before the "Note" to read as follows:

(Note: The text of Form 10-K does not and the amendments will not appear in the Code of Federal Regulations.)

Form 10-K

* * * * *

State the aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant. The aggregate market value shall be computed by reference to the price at which the common equity was sold, or the average bid and asked prices of such common equity, as of a specified date within 60 days prior to the date of filing. (See definition of affiliate in Rule 405, 17 CFR 230.405.)

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17. By amending the front page of Form 10-KSB (referenced in § 249.310b) by revising the paragraph before the "Note" to read as follows:

(Note: The text of Form 10-KSB does not, and the amendments will not appear in the Code of Federal Regulations.)

Form 10-KSB

* * * * *

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was sold, or the average bid and asked price of such common equity, as of a specified date within the past 60 days. (See definition of affiliate in Rule 12b-2 of the Exchange Act.)

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By the Commission.

Dated: August 30, 1996.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-22726 Filed 9-9-96; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-052]

RIN 1218-AB55

Exit Routes (Means of Egress)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed Rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is proposing to revise Subpart E of Part 1910, Means of Egress. The purpose of this revision is to rewrite the existing

requirements of Subpart E in plain English so they will be more understandable to employers, employees, and others who use them. This revision does not in any way change the regulatory obligations of employers or the safety and health protections provided to employees. To further the plain English goal, OSHA is also proposing to change the name of Subpart E from "Means of Egress" to "Exit Routes."

OSHA is proposing two alternative plain English versions of this revision to Subpart E. The first version is organized in the traditional OSHA regulatory format. The second version uses a question and answer format. OSHA invites interested parties to comment on the content and effectiveness of the proposed changes and on the plain English version of Subpart E that they prefer.

DATES: Comments and requests for hearings must be postmarked no later than November 12, 1996.

ADDRESSES: Comments and requests for hearings must be submitted in quadruplicate to the OSHA Docket Office, Docket No. S-052, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. (Telephone: 202-219-7894). Comments of 10 pages or less may be faxed to the Docket Office, if followed by hard copy mailed within two days. The OSHA Docket Office fax number is (202)-219-5046.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Cyr, OSHA Office of Information and Consumer Affairs, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. Telephone (202)-219-8148.

SUPPLEMENTARY INFORMATION:

I. Background

In 1971, acting under section 6(a) of the Occupational Safety and Health Act of 1970 (OSH Act), 29 U.S.C. § 655(a), OSHA adopted hundreds of national consensus standards as occupational safety and health standards. Over the ensuing twenty-five years, OSHA has become aware that these standards may be overly wordy, difficult to understand, repetitive, and internally inconsistent. Complaints about OSHA's technical, "nitpicky" standards have been repeated too many times to recount.

To make OSHA standards more "user-friendly," President Clinton, as part of the Administration's Reinventing Government initiative, together with Secretary of Labor Robert Reich and Assistant Secretary Joe Dear, has committed the Agency to reviewing

OSHA's standards "to determine which should be rewritten in plain English." OSHA's first "plain English" initiative is a proposed revision of Subpart E of Part 1910, which addresses means of egress (exit routes). In revising Subpart E, the goal of OSHA is to make its standards more understandable to those who use them. Toward this goal, the proposed revisions to Subpart E reorganize the text, remove internal inconsistencies among sections, and eliminate duplicate requirements.

In addition, the requirements of Subpart E have been rewritten using simple, straightforward, easy to understand, terms. The proposed rules are performance-oriented and shorter than the existing standards. They reduce the number of subparagraphs, and contain fewer cross-references to other OSHA standards. Each of the two proposed versions of Subpart E includes a detailed table of contents, which is intended to make the standards easier to use.

Both proposed versions leave unchanged the regulatory obligations placed on employers by Subpart E and the safety and health protections that it provides to employees. OSHA believes, however, that the revised Subpart E, which is more performance oriented than the existing Subpart, will make more compliance options available to employers.

Since OSHA is not proposing to change the substantive requirements of Subpart E, the Agency believes that the significant risk test described by the Supreme Court in *American Petroleum Institute v. Industrial Union Department* [448 U.S. 607(1980)] does not apply to this rulemaking. Further, OSHA has concluded that this rulemaking neither requires technological changes nor imposes increased costs. In fact, the proposed rule may decrease compliance costs by providing employers with more flexible compliance options. Accordingly, OSHA has determined that an analysis of the technological and economic feasibility of the standard is not necessary.

Finally, although OSHA recognizes that some portions of Subpart E may warrant updating, the Agency is not proposing to update the requirements of Subpart E at this time. Instead, the proposal addresses only one aspect of Subpart E: the overly technical language of the existing requirements. At a later date, the Agency will consider whether substantive revisions to these requirements are warranted.

II. Why Redraft OSHA Regulations in Plain English?

Since OSHA's adoption in 1971 of national consensus and established Federal standards under Section 6(a) of the Act, many of these "start-up standards" have been criticized for being written in a manner that can easily be misunderstood by employers and employees. For example, Robert Moran, former Chairman of the Occupational Safety and Health Review Commission, was an early critic of these standards, noting that they:

- Were not written in terms amenable to enforcement
- Were not exclusively concerned with worker safety (that is, requirements directed at the safety of equipment, buildings, consumers, the general public, and workers were intermingled)
- Were not specific enough so that an ordinary business person or employee could understand them
- Included "conflicts and inconsistencies."

[Moran, Cite OSHA for Violations, Occupational Safety and Health, Mar.—Apr. 1976 at 19–20].

Members of Congress, including those who had supported the Act, repeated similar criticisms of OSHA's 6(a) standards. For example, Congressman Steiger, quoting a constituent [117 Cong. Rec. 10839 (daily ed. March 29, 1971)], commented: "Perhaps large corporations have engineers who have the savvy to comprehend the 744 columns (of standards published in the Federal Register). Few businesses have."

He also complained [120 Cong. Rec. 21654 (daily ed. June 27, 1974)]:

For the small businessman without an attorney on retainer, or safety and health professional on their staff, the standards published in the Federal Register might as well be written in a foreign language.

Another Member of Congress, Mr. McKinney, noted that an employer needs "an interpreter to decipher the OSHA regulations" [120 Cong. Rec. 21654 (daily ed. June 27, 1974)]. Congressman Hungate complained that OSHA's regulations are voluminous, technical and complex, and that small businesses do not have the resources to daily monitor the Federal Register or hire engineers to interpret the technical language contained in the regulations [Id. P. 21658].

Additionally, Congressman Anderson [121 Cong. Rec. 36908 (daily ed. Nov. 17, 1975)] stated:

If OSHA can be faulted for anything, it is that it tends to be too bureaucratic and gets carried away with drawing up regulations

that are so laden with gobbledy-gook that even an FBI cryptographer would have difficulty decoding them. Pity then the poor small businessman who had not been tutored in reading gobbledy-gook and who cannot afford to hire a translator or special consultant to assist him in interpreting and implementing these standards.

The Clinton Administration's initiative to reinvent government, spearheaded by Vice President Gore, has focused renewed attention on the difficulty many employers and employees have in understanding OSHA requirements. Responding to President Clinton and Vice President Gore's challenge, in June 1995, the Department of Labor developed a complete regulatory reform strategy to "emphasize plain language to make rules more user-friendly."

This proposal begins the implementation of OSHA's goal of identifying at least three standards that can be rewritten in plain English. *Means of Egress* (Exit Routes) which is codified as Subpart E of OSHA's General Industry Standards (29 CFR 1910), was selected as the first plain English project because these rules were not technologically complex and their purpose—to protect employees in case of fire or other emergencies—was familiar.

Two alternate approaches to plain English rule writing are presented in this proposal. In redrafting other Section 6(a) standards, many of which are technologically more complex or more detailed than Subpart E, it may not be possible for OSHA to achieve the simplicity and user-friendliness of the proposed revisions to Subpart E.

III. What are OSHA's Goals in Revising Subpart E?

OSHA hopes to achieve three goals in this proposal:

- To maintain the safety and health protections provided to employees by Subpart E without increasing the regulatory burden on employers
- To create a regulation that is easily understood
- To state employers obligations in performance-oriented language to the extent possible.

Below, OSHA describes how each of these goals is served by the proposed revisions to Subpart E.

This project is a language revision project, not an effort to substantively revise OSHA's means of egress standards. Therefore, the Agency has been careful to ensure that the protections afforded to employees by Subpart E are not weakened in the revision process. Employers who were in compliance with Subpart E prior to

this proposal will continue to be in compliance with the new regulation after it becomes effective. Likewise, employees who are accustomed to relying on these OSHA requirements to ensure safe exit from the workplace during an emergency can continue to rely on those requirements with confidence.

OSHA's effort to redraft Subpart E in plain English has included a thorough, comprehensive review of the existing regulation. The Agency has reviewed all relevant OSHA interpretations of Subpart E and decisions of the Federal courts and the Occupational Safety and Health Review Commission to determine what each provision of Subpart E has meant in practice. OSHA has also reviewed comparable State regulations, existing training materials on means of egress, and current consensus standards, including the National Fire Protection Association (NFPA) Life Safety Code. This comprehensive analysis of Subpart E has enabled OSHA to reorganize Subpart E, and eliminate duplicate provisions and have confidence that the revisions will not diminish the safety and health protections provided by the existing rules.

During the revision process, OSHA has become aware that some provisions of Subpart E are outdated. Indeed, the current NFPA Life Safety Code and other consensus standards provide employers with contemporary fire safety compliance options that are not permitted by the existing rules. Where it was possible to revise the proposed language of Subpart E to allow employers the flexibility of relying on these more contemporary compliance approaches without decreasing the protectiveness of the requirements or increasing employers' obligations, OSHA has proposed to do so. For example, OSHA's existing rules require that exits lead directly outside, while recent revisions to NFPA's code permit exit routes that lead to a refuge area, particularly in high-rise buildings. The proposed revisions would recognize refuge areas as a permissible means of exit; OSHA is specifically asking for comment on this change. Another example of the increased flexibility of the of the proposed revisions relates to exit signs. Self-luminous or electroluminescent signs are now a commonplace method of alerting occupants to the location of exits in the workplace and are recognized by consensus organizations as appropriate for that purpose. Existing Subpart E, however, does not yet permit reliance on self-luminous or electroluminescent signs. The proposed revisions, however,

would permit employers to utilize such signs as an added option; current compliance methods would also continue to be permitted. In this way, OSHA has increased the flexibility of compliance for employers without reducing the safety and health protections provided to employees.

Another of OSHA's aims in revising Subpart E is to continue to rely on performance-oriented language to the extent that doing so is consistent with the maintenance of safety and health protections and does not increase the obligations of employers.

For example, the specification that exit signs use letters that are not less than six inches high and 3/4 inches wide was intended to ensure that any sign used to direct employees out of the building would be visible. In the proposed revision, OSHA has eliminated the size specification in favor of a requirement that simply states that exit signs must be clearly visible to all building occupants.

In addition, the proposed revisions to Subpart E increase the performance orientation and compliance flexibility of the standards where national consensus standards have led the way (without, of course, reducing employee protections).

For example, § 1910.37(c) contains detailed specifications for the number of persons per unit of exit width required for each means of egress. These specifications are extremely difficult for users to understand. The NFPA no longer relies on the number of persons per unit of exit width to determine adequate exit capacity. Instead, the NFPA's Life Safety Code incorporates the concept of exit geometry. Exit capacity, according to the NFPA, is determined not by width alone, but by considering the distance to be traveled to the exit and other factors affecting the flow of people out of the workplace. The performance-oriented language of the proposed regulations allows employers to consider the newer NFPA approach.

However, OSHA has *not* used performance-oriented language in revising Subpart E where the effect of doing so would:

- Eliminate a requirement that protects employee safety and health without substituting an equally effective requirement; or
- Expand an employer's compliance obligations.

For example, § 1910.37 now requires that a means of egress be at least 28 inches wide. Substituting a

performance-oriented criterion, such as a requirement that a means of egress be "of adequate width to support building occupants", would eliminate the minimum width but might also reduce the protection provided to those seeking to leave the workplace. For this reason, OSHA decided not to revise the minimum clearance requirement.

For some employers, reliance on performance-oriented regulations may create confusion as to the specific precautions necessary in a variety of situations. In the past, OSHA has used the NFPA Life Safety Code as an aid in interpreting Subpart E. OSHA intends to continue to rely on the NFPA Life Safety Code and other consensus standards as guidance in implementing performance-oriented requirements of revised Subpart E.

III. What Are the Results of OSHA's Revision to Subpart E?

The proposed revision to Subpart E has resulted in changes to the paragraph designations of existing requirements. The following table compares the proposed rule paragraph designations with the paragraph designations of the current Subpart E requirements.

COMPARISON OF PROPOSED RULE ON EXIT ROUTES WITH CURRENT SUBPART E STANDARD

Proposed rule on exit routes	Comparable Subpart E section
1910.35. What is covered by these regulations?	1910.36(a).
(b) Exits and Exits Routes Are Covered	1910.35(c)
(1) Definition Of An Exit.	
(2) Definition Of An Exit Route	1910.35(a).
1910.36. What are the design requirements for exit routes?	1910.37(a), 1910.37(g)(4).
(a) An Exit Must Be Permanent.	
(b) The Number Of Exit Routes Must Be Adequate	1910.36(b)(1)
(1) Two exit routes, remote from one another, must be available to provide alternate means for employees to leave the workplace safely during an emergency.	1910.36(b)(3)
(2) A single exit route is permitted where the number of employees, the size of the building, its occupancy, or the arrangement of the workplace indicate that a single exit will allow all employees to exit safely during an emergency. Other means of escape, such as fire exits or accessible windows, should be available where fewer than two exit routes are provided.	1910.36(b)(8).
(3) More than two exit routes must be available to allow employees to leave the workplace safely during an emergency where the number of employees, the size of the building, its occupancy, or the arrangement of the workplace reasonably suggest that reliance on two exit routes could endanger employees.	1910.37(e).
(c) An Exit Has Limited Openings	1910.37(a), 1910.37(b)(3), 1910.37(b)(4).
(d) An Exit Must Be Separated By Fire Resistant Materials	1910.37(b)(1)–(b)(2).
(e) Exit Route Access Must Be Unobstructed	1910.36(b)(4), 1910.36(d)(1). 1910.37(f)(1), 1910.37(k)(2).
(1) Free and unobstructed access to each exit route must be provided to ensure safe exit during an emergency.	
(2) The exit route must be free of material or equipment	1910.36(d)(1), 1910.37(f)(1).
(3) Employees must not be required to travel through a room which can be locked, such as a bathroom, or toward a dead end to reach an exit.	1910.37(f)(3).
(4) Stairs or a ramp must be used if the exit route is not substantially level	1910.37(j).
(f) An Exit Must Lead Outside	1910.37(h)(1).
(1) An exit must lead directly outside or to a street, walkway, refuge area, or to an open space with access to the outside.	New Compliance Option Included.

COMPARISON OF PROPOSED RULE ON EXIT ROUTES WITH CURRENT SUBPART E STANDARD—Continued

Proposed rule on exit routes	Comparable Subpart E section
(2) The street, walkway, refuge area, or open space to which an exit leads must be large enough to accommodate all building occupants likely to use that exit.	
(3) A refuge area must be:	
(i) a space along an exit route protected from the effects of fire either by separation from other spaces within the building or by its location; or	
(ii) a floor with at least two spaces separated by smoke-resistant partitions in a building where each floor is protected by an automatic sprinkler system. An automatic sprinkler system must comply with 29 CFR § 1910.159.	
(4) Exit stairs that continue beyond the floor of exit discharge must be interrupted by doors, partitions, or other effective means.	1910.37(h)(2).
(g) An Exit Door Must Be Unlocked	1910.36(b)(4), 1910.37(k)(3).
(h) A Side-hinged Exit Door Must Be Used	1910.37(f)(2).
(i) The Capacity Of An Exit Route Must Be Adequate	1910.37(c), 1910.37(d).
(j) An Exit Must Meet Minimum Height And Width Requirements	1910.37(f)(6), 1910.37(i).
(k) An Outdoor Exit Route Is Permitted	1910.37(g)(1)–(g)(5).
1910.37. What are the operation and maintenance requirements for exit routes?	
(a) The Danger To Employees Must Be Minimized.	
(1) The exit route must be maintained to minimize danger to employees during an emergency.	
(2) The exit route must be free of explosive or highly flammable furnishings or decorations	1910.36(b)(2).
(3) An exit route must not require employees to travel toward materials which burn very quickly, emit poisonous fumes, or are explosive, unless those materials are effectively shielded from the exit route.	1910.37(l)(2), 1910.37(f)(5).
(b) Lighting Must Be Adequate	1910.36(b)(6).
(c) An Exit Must Be Marked Appropriately	1910.37(f)(4).
(1) Each exit must be clearly visible and must be marked by a distinctive sign reading “Exit”	1910.36(b)(5), 1910.37(q)(1); (q)(3); (q)(4); (q)(8).
(2) An exit door must be free of signs or decorations that obscure its visibility	1910.37(f)(4).
(3) Signs must be posted along the exit route indicating the direction of travel to the nearest exit	1910.36(b)(5); 1910.37(q)(5).
(4) The line-of-sight to an exit sign must be uninterrupted.	
(5) Any doorway or passage that might be mistaken for an exit must be marked “Not an Exit” or with an indication of its actual use.	1910.37(f)(4); 1910.37(q)(3).
(6) An exit sign must be illuminated to a surface value of at least 5 foot candles by a reliable light source and must show a designated color. Self-luminous or electroluminescent signs have a minimum luminance surface value of .06 footlamberts.	1910.36(b)(5); 1910.37(q)(2), 1910.37(q)(6)–(q)(7). New Compliance Option Included.
(d) The Fire Retardant Properties Of Paints Or Other Coatings Must Be Maintained	1910.37(o).
(e) Each Emergency Safeguard Must Be Maintained	1910.37(m)–(n), 1910.38(b)(5).
(f) Exits Must Be Maintained During Construction And Repair	1910.36(c)(1)–(c)(3).
(g) An Employee Alarm System Must Be Operable	1910.36(b)(7), 1910.37(n).
1910.38. What are the requirements for an Emergency Action Plan?	1910.38(a)(1), 1910.38(a)(5)(iii).
(a) An Emergency Action Plan Must Be Available For Employee Review.	
(b) Minimum Elements Of An Emergency Action Plan	1910.38(a)(2), 1910.38(a)(4).
(c) Employee Alarm System	1910.38(a)(3).
(d) Training	1910.38(a)(5)(i).
(e) Employee Review	1910.38(a)(5)(ii), 1910.38(a)(5)(iii).
1910.39. What are the requirements for a Fire Prevention Plan?	
(a) A Fire Prevention Plan Must Be Available For Employee Review	1910.38(b)(1), 1910.38(b)(4).
(b) Minimum Elements Of A Fire Prevention Plan	1910.38(b)(2).
(c) Employee Information	1910.38(b)(4).

In revising the means of egress standards, OSHA has attempted to organize their requirements in a logical and understandable manner. OSHA has drafted this revision with the following general principles in mind:

- General provisions should appear before specific provisions or exceptions
- Important provisions should appear before less important provisions
- Frequently used provisions should appear before less frequently used provisions
- Substantive requirements should appear before procedural requirements
- Permanent provisions should appear before temporary, transitional, or “grandfather” provisions

• “Housekeeping” provisions and appendices should be placed at the end of the requirements.

OSHA has grouped the requirements around three common themes: (1) design and construction requirements for exit routes; (2) operation and maintenance requirements for exit routes; and (3) requirements for warning employees of the need to escape. For example, the design requirements for exit routes formerly were scattered both in § 1910.36 and § 1910.37. Previously, the requirement that exits discharge directly to a public street or to an open space was a general requirement found in § 1910.37(h)(1). Because the placement or location of exits is a requirement employers must address

during workplace design, that requirement has been moved to paragraph (f) of § 1910.36, which covers design of exit routes.

Reorganizing Subpart E in this manner has enabled OSHA to eliminate many duplicate provisions. In the prior version, both § 1910.36(b)(8) and § 1910.37(e) contained the design requirement that workplaces with more than one exit have two means of egress remote from one another. Now, however, § 1910.36(b) contains all requirements for the location of exit routes.

Throughout this revision, OSHA has placed the general provisions of each paragraph first, followed by any specific applications or exceptions. For example,

there is a proposed general design requirement (§ 1910.36(b)(1)) that requires employers to have two exit routes, remote from one another. Two specific exceptions follow that general requirement: single exit routes are permitted in certain circumstances if safe employee exit is possible; and more than two exit routes are required where workplace conditions suggest that reliance on only two exit routes will endanger employees (§ 1910.36(b)(2)–(3)).

Since OSHA regulates employment and places of employment, the Agency's standards are intended to impose those duties on employers that are necessary to protect employee safety and health. In the revised standards, the mandatory duty of employers to comply with the regulatory obligations set forth in Subpart E is retained. However, existing Subpart E too often addresses obligations that are not related to employee protection but pertain instead to protection of the general public or the occupants of buildings. The proposed revision limits the regulatory obligations to those relevant to workplace health and safety; buildings that are not workplaces are clearly outside the scope of the revised standards. There is an exception to this principle where the protection of employee safety and health requires an employer to assure that *all* building occupants, including employees, can evacuate a building safely. In such situations, revised Subpart E imposes a duty on employers to protect all building occupants. However, where the safety of building occupants is independent of employee safety, the revised language refers only to the protection of employees.

OSHA has revised Subpart E to state clearly that employers must comply with its requirements and indicate how compliance must be achieved. OSHA has continued the use of command words, such as "must," when the intent is to impose clear obligations on employers to take affirmative employee-protective steps. Thus, OSHA has avoided the use of such words as "should", which recommend but do not require a given action, or "may" which give the employer discretion to act unless the Agency is recommending or permitting the associated action.

The Agency believes that the proposed revisions make Subpart E more "user-friendly" and less easy to misinterpret. OSHA has reduced the level of subunits (subparagraphs or sub-subparagraphs) to make the requirements easier to locate and follow.

The proposed Question and Answer version of Subpart E is very different from the approach taken in current

OSHA standards. Each provision is written in the form in which a typical employer might ask a question about the rule, and this question is then followed by an answer that tells the employer about the applicable requirements. For example, employers frequently ask, "What are the requirements for Emergency Action Plans?" This question, now posed in § 1910.38, is followed by the answer, which consists of a description of the specific requirements for emergency action plans an employer must follow to comply with Subpart E.

Each provision of the proposed revision is preceded by a section heading that tells the reader what information can be found in that section. For example, the section heading for exterior exit routes is "An Outdoor Exit Route is Permitted." These descriptive headings help the user to locate relevant regulatory requirements. Using these section headings, OSHA has created a table of contents that precedes the proposed revisions. Focus groups evaluating the format of OSHA standards strongly recommended the addition of a table of contents as a guide to OSHA standards.

In keeping with OSHA's new "user-friendly" approach to drafting standards, the number of definitions also has been reduced from ten to two; all unused terms have been removed from the existing definitions. Because employers do not need definitions for ordinary words that are employed in a manner consistent with common usage, OSHA believes this revision will streamline the requirements and eliminate confusion. OSHA also has eliminated many cross-references to other standards so that most requirements for exit routes in general industry will now be found in Subpart E.

OSHA has incorporated plain English principles in this revision. Generally, OSHA has tried to use short, focused, sentences to keep the requirements simple. OSHA believes that a readable sentence is affirmative, declarative, and limited to a single idea or thought. Accordingly, qualifying phrases longer than a few words have been moved to separate sentences. OSHA also believes that paragraphs should be brief and be devoted to a single, unified topic.

Unnecessary technical language obscures meaning and impairs understanding. In this revision, OSHA has tried to use common words in ways that are consistent with their ordinary or accepted meaning. For example, Subpart E regulates "means of egress," a term understood by professionals but not used in everyday conversation.

Substituting the phrase "exit route" for "means of egress" will make it easier for most employers and employees to understand the requirements at first reading.

OSHA has used the active rather than the passive voice in this revision. In an active sentence, the subject performs an action. In a passive sentence, the subject is acted upon. Writers frequently use passive construction to emphasize the action instead of the actor, e.g., "The regulation was drafted," instead of "He drafted the regulation." Passive construction is less immediate and can be less compelling to the reader, as well as more ambiguous. For example, instead of "it is required that an employer * * *", OSHA now generally uses "The employer must * * *".

A positive sentence is preferred when an idea can be expressed either positively or negatively, although a negative sentence is an obvious choice when the subject of a standard is a prohibition, e.g., "No employee is permitted * * *". Consistent with the goals of this revision, OSHA has stated requirements affirmatively, rather than negatively. For example, instead of stating "no furnishing, decorations, or other objects shall be so placed as to obstruct exits, access hereto, egress therefrom, or visibility thereof," the revised language would read, "the escape route be free of material and equipment."

In drafting simpler sentences, OSHA has paired the actor (employer) with the action (conduct required or prohibited). Concise declarative sentences answer the question, "Who must do what?" In most situations covered by OSHA standards, the actor will be the employer. The proposed traditional version of Subpart E includes an introductory requirement that the employer comply with each of the requirements imposed by that section. Each section of the regulation then clearly identifies the conduct required or prohibited.

In the proposed question and answer revision of Subpart E, the actor and action are paired more closely. Since confusion might occur if conditions pertaining to the requirement or prohibition were inserted between the actor and the action, OSHA has placed the actor, action, and object close together in the sentence. For example, § 1910.37 of the proposed standard now requires that an employer comply with each duty described in that section, and paragraph (b) describes the required conduct. This proposed requirement now states, "Each exit route must be illuminated adequately." Thus, the employer's obligation is clearly

identified. Previously, the same requirement (§ 1910.37(b)(6)) stated, "In every building or structure equipped for artificial illumination, adequate and reliable illumination shall be provided for all exit facilities."

Finally, OSHA has paid careful attention to parallel structure and to the rules of grammar and punctuation in revising Subpart E.

IV. What Procedures Govern OSHA's Plain English Revision?

This proceeding to revise Subpart E differs from other OSHA rulemaking efforts because the Agency is proposing to modify only the language of the Means of Egress rule and not its substance. In the past, OSHA has waived public notice and comment when a rule contains "minor and non-controversial" changes. However, OSHA has decided against that approach in this rulemaking process in order to give public notice, and receive comments, about the Agency's revision of its standards into plain English.

The Agency expects to receive three types of public comments:

- Comments from interested parties on whether they perceive the two revised, plain English versions of Subpart E as providing levels of safety and health protection that are as effective as those currently in force. Where interested parties identify provisions of the proposed plain English rules that do not meet this criterion, OSHA expects to make changes to ensure that the final rule meets the Agency's goal of imposing no new burdens on employers and maintaining safety and health protections for employees.

- Comments by interested parties on their preference for the "traditional" plain English version of Subpart E or the "question and answer" version of Subpart E.

- Comments from interested parties identifying sections of Subpart E that are out-of-date and explaining why OSHA should substantively modify these provisions. OSHA will take such comments into consideration in setting its standard-setting priorities.

Because of the limited scope and purpose of this rulemaking, OSHA hopes to expedite the issuance of a final standard.

If the Agency receives significant objections to its proposal or, in the unlikely event that issues are raised that have not been fully considered in developing the proposed revision, OSHA will provide public notice of this fact and proceed with further rulemaking under section 6(b) of the Act.

V. What Legal Considerations Govern OSHA's Plain English Revisions?

OSHA does not believe that the significant risk analysis that the Agency usually performs prior to proposing a safety standard is necessary here. In *Industrial Union Department v. American Petroleum Institute*, 448 U.S. 607 (1980), the Supreme Court ruled that section 3(8) of the Act, which defines an occupational safety and health standard, requires the Agency, as a threshold matter, to determine whether the hazard it proposes to regulate poses a significant risk in the workplace and that a new, lower standard is "reasonably necessary and appropriate" to reduce the risk posed to workers. OSHA believes that an analysis of significant risk is not required here and, indeed, would not be helpful because the Agency is proposing no substantive revisions to the requirements of Subpart E. Because this proposal neither imposes new regulatory burdens nor impacts safety and health protection, any effort to measure the "benefits" of this effort would not be productive.

This does not mean that the Agency believes that this effort will not yield substantial benefits. To the contrary, rules written in plain English are easier for employers and employees to follow and understand. Ease of understanding should facilitate compliance by employers. With OSHA's limited resources, any effort that can substantially increase opportunities for compliance without sacrificing employee safety and health protection will have long-term benefits.

OSHA also believes that this proceeding neither requires technological changes nor imposes increased compliance costs on employers. Indeed, employers may save money. Therefore, OSHA does not believe an analysis of the economic or technological feasibility of the proposal is necessary. See *American Textile Mfrs. Inst. v. Donovan*, 452 U.S. 490 (1981). Likewise, Executive Order 12866 does not require that OSHA prepare an Economic Analysis for this rulemaking.

Finally, OSHA does not believe that section 6(b)(8) applies to this proceeding. Section 6(b)(8) requires OSHA to provide an explanation when a rule differs substantially from an existing national consensus standard. OSHA does not view the revisions to Subpart E as differing from the provisions of the national consensus standard, because the agency is modifying the wording of Subpart E and not its substance. Therefore, the requirements imposed by Subpart E will

remain comparable to those imposed by the national consensus standard upon which Subpart E was based.

Furthermore, OSHA has evaluated current consensus standards addressing means of egress and has concluded that the requirements of Subpart E are consistent with those of these national consensus standards.

The current requirements contained in § 1910.38 address both employee action plans (§ 1910.38(a)) and fire prevention plans (§ 1910.38(b)). OSHA is proposing that § 1910.38 continue to contain requirements for emergency action plans, but that a new section, § 1910.39 contain requirements for fire prevention plans. Therefore, OSHA is proposing that the appendix to Subpart E be revised to reflect the new section designation for fire prevention plans. The Agency, however, is not proposing any changes to the text of the Subpart E appendix.

Summary of Economic Impact Analysis and Certification of No Significant Impact

Because the proposed rule for Means of Egress (proposed to be renamed "Exit Routes") will impose no obligations on employers beyond those imposed by the existing rule, which has been in effect since 1971, OSHA has not conducted a preliminary economic analysis to accompany the proposed rule. Because the proposed rule will have no economic impacts, the Agency certifies that it will have no significant impacts on a substantial number of small entities. This certification is necessitated by the Regulatory Flexibility Act (as amended, 1996).

Public Participation

Interested parties are invited to submit written data, views, and comments with respect to this proposed revision. These comments must be postmarked on or before November 12, 1996. Comments are to be submitted in quadruplicate, or in 1 original (hard copy) and 1 disk (3½" or 5¼") in WordPerfect 5.0, 5.1, or 6.0, or ASCII, to the Docket Office, Docket No. S-052, Room N2625, U.S. Department of Labor, 200 Constitution Ave. N.W., Washington, DC. 20210.

All written comments, views, data, and arguments received within the specified comment period will be made part of the record and will be available for public inspection and copying at the above Docket Office address.

Requests for an informal public hearing on objections to the proposed rule, pursuant to § 6(b)(3) of the Occupational Safety and Health Act (29 U.S.C. 655(b)(3)), must be submitted to

the Docket Office at the above address, and postmarked no later than November 12, 1996. Hearing requests must comply with the following requirements: they must include the name and address of the objector; they must specify with particularity the provision of the proposed rule to which the objection is taken, and must state the grounds therefore; and they must be accompanied by a summary of the evidence proposed to be adduced at the requested hearing.

State Plan States

The 25 States and Territories with their own OSHA-approved occupational safety and health plans must revise their existing standard within six months of the publication date of the final standard 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 revised Federal standard. These States are: Alaska, Arizona, California, Connecticut (State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (State and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

List of Subjects in 29 CFR Part 1910

Means of egress, Exit, Exit route, Emergency action plan, Fire prevention plan, Occupational safety and health.

Authority

This document was prepared under the authority of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

Accordingly, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657.), Secretary of Labor's Order No. 1-90 (55 FR 9033), and 29 CFR Part 1911, it is hereby proposed to amend 29 CFR Part 1910 as set forth below.

Signed at Washington, D.C., this 4th day of September 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

29 CFR Part 1910 would be amended as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

1. The Authority citation for Subpart E of 29 CFR Part 1910 would continue to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), or 1-90 (55 FR 9033), as applicable.

2. Subpart E—Means of Egress would be amended by revising §§ 1910.35 through 1910.39 as follows [traditional text version]:

Subpart E—Exit Routes

§ 1910.35. Coverage.

(a) *Every Employer Is Covered.* This subpart requires a general industry employer to provide exit routes for employees to leave the workplace safely during emergencies. This subpart does not apply to mobile workplaces, such as vehicles or vessels.

(b) *Exits and Exit Routes Are Covered.*

(1) *Definition Of An Exit.* The term "exit" refers to that portion of the exit route that generally is separated from other areas to provide a protected way of travel out of the workplace.

(2) *Definition Of An Exit Route.* The term "exit route" means a continuous and unobstructed path of exit travel from any point within a workplace to safety outside. An exit route generally consists of three parts: access to the exit; the exit, which provides a way of travel out of the workplace; and the way from the exit to the outside. An exit route includes all vertical and horizontal areas.

§ 1910.36. Design requirements for exit routes.

(a) *An Exit Must Be Permanent.* Each exit must be a permanent part of the workplace.

(b) *The Number Of Exit Routes Must Be Adequate.* (1) At least two exit routes, remote from one another, must be available to provide alternate means for employees to leave the workplace safely during an emergency.

(2) A single exit route is permitted where the number of employees, the size of the building, its occupancy, or the arrangement of the workplace indicates that a single exit will allow all employees to exit safely during an emergency. Other means of escape, such as fire escapes or accessible windows, should be available where only one exit route is provided.

(3) More than two exit routes must be available to allow employees to leave the workplace safely during an emergency where the number of employees, the size of the building, its occupancy, or the arrangement of the workplace reasonably suggests that reliance on two exit routes could endanger employees.

(c) *Openings Into An Exit Must Be Limited.* An exit must have only those openings necessary to permit access to, or exit from, occupied areas of the workplace. An opening into an exit must be protected by a self-closing fire door that remains closed. Each fire door, its frame, and its hardware must be listed or approved by a nationally recognized testing laboratory.

Note to paragraph (c): 29 CFR 1910.155(c)(3)(iv)(A) defines "listed", 29 CFR § 1910.7 defines a "nationally recognized testing laboratory.", and 29 CFR § 1910.155(c)(3) defines "approved."

(d) *An Exit Must Be Separated By Fire Resistant Materials.* Construction materials used to separate an exit must have at least a 1-hour fire resistance rating if the exit connects three stories or less. Construction materials used to separate an exit must have at least a 2-hour fire resistance rating if the exit connects 4 stories or more.

(e) *Exit Route Access Must Be Unobstructed.* (1) Free and unobstructed access to each exit route must be provided to ensure safe exit during an emergency.

(2) The exit route must be free of material or equipment.

(3) Employees must not be required to travel through a room that can be locked, such as a bathroom, or toward a dead end to reach an exit.

(4) Stairs or a ramp must be used if the exit route is not substantially level.

(f) *An Exit Must Lead Outside.* (1) An exit must lead directly outside or to a street, walkway, refuge area, or to an open space with access to the outside.

(2) The street, walkway, refuge area, or open space to which an exit leads must be large enough to accommodate all building occupants likely to use that exit.

(3) A refuge area must be:

(i) a space along an exit route protected from the effects of fire either by separation from other spaces within the building or by its location; or

(ii) a floor with at least two spaces separated by smoke-resistant partitions, in a building where each floor is protected by an automatic sprinkler system. Automatic sprinkler systems must comply with 29 CFR 1910.159.

(4) Exit stairs that continue beyond the floor of exit discharge must be interrupted by doors, partitions, or other effective means at the floor of exit discharge to assure that the direction of exit travel is clear to employees.

(g) *An Exit Door Must Be Unlocked.* An exit door must be able to be readily opened from the inside without keys, tools, or special knowledge. A device that locks only from the outside, such as

a panic bar, is permitted. An exit door must be free of any device or alarm, which, if it fails, could restrict emergency use of an exit.

Note to paragraph (g): An exit door may be locked or blocked from the inside in a mental, penal, or correctional institution, if supervisory personnel are continuously on duty and a plan exists to remove occupants during an emergency.

(h) *A Side-Hinged Exit Door Must Be Used.* A side-hinged exit door must be used to connect any room to an exit route. A door that connects any room to an exit route must swing out if the room may be occupied by more than 50 persons or highly flammable or explosive materials may be located inside.

(i) *The Capacity Of An Exit Route Must Be Adequate.* Each exit route must support the maximum-permitted occupant load for each floor served by the exit route. The capacity of an exit must not decrease with the direction of exit travel.

(j) *An Exit Must Meet Minimum Height And Width Requirements.*

(1) The exit route must be at least 6 feet, 8 inches high at all points.

(2) An exit route must be at least 28 inches wide at all points between handrails. An exit route must be wider than 28 inches if necessary to accommodate the expected occupant load.

(3) Objects that project into the exit route must not reduce the minimum height and width of the exit route.

(k) *An Outdoor Exit Route Is Permitted.* (1) An outdoor exit route is permitted if it meets the requirements for an indoor exit route and the following additional requirements:

(i) the exit route must have guardrails to protect unenclosed sides;

(ii) the exit route must be covered if accumulation of snow or ice is likely and is not removed regularly;

(iii) the exit route must be reasonably straight with smooth, solid, substantially level floors; and

(iv) the exit route must have no dead ends longer than 20 feet.

§ 1910.37. Operation And Maintenance Requirements For Exit Routes.

(a) *The Danger To Employees Must Be Minimized.*

(1) Each exit route must be maintained to minimize danger to employees during an emergency.

(2) Each exit route must be free of explosive or highly flammable furnishings and decorations.

(3) An exit route must not require employees to travel toward materials that burn very quickly, emit poisonous fumes, or are explosive, unless those

materials are effectively shielded from the exit route.

(b) *Lighting Must Be Adequate.* Each exit route must be illuminated adequately.

(c) *An Exit Must Be Marked Appropriately.* (1) Each exit must be clearly visible and must be marked by a distinctive sign reading "Exit."

(2) An exit door must be free of signs or decorations that obscure its visibility.

(3) Signs must be posted along the exit route indicating the direction of travel to the nearest exit.

(4) The line-of-sight to an exit sign must be uninterrupted.

(5) Any doorway or passage that might be mistaken for an exit must be marked "Not an Exit" or with an indication of its actual use.

(6) An exit sign must be illuminated to a surface value of at least 5 foot candles by a reliable light source and must show a designated color. Self-luminous or electroluminescent signs must have a minimum luminance surface value of .06 footlamberts.

(d) *The Fire Retardant Properties Of Paints Or Other Coatings Must Be Maintained.* The fire retardant properties of paints or other coatings used in the workplace must be maintained.

(e) *Each Emergency Safeguard Must Be Maintained.* Each safeguard to protect employees during an emergency (e.g., sprinkler systems, alarm systems, fire doors, exit lighting) must be maintained in proper working order.

(f) *Exits Must Be Maintained During Construction And Repair.*

(1) Employees must not occupy a workplace under construction until an adequate number of exit routes that complies with these rules is available for the portion of the workplace to be occupied.

(2) Employees must not occupy a workplace during repair or alteration unless all exits and existing fire protection are maintained or alternate fire protection is provided that ensures an equivalent level of safety.

(3) Flammable or explosive materials used during construction or repair must not expose employees to hazards not otherwise present in the workplace or impede emergency escape from the workplace.

(g) *An Employee Alarm System Must Be Operable.* An operable employee alarm system with a distinctive signal to warn employees of fire or other emergencies must be installed and maintained, unless employees can see or smell a fire or other hazard so that it would provide adequate warning to them. The employee alarm system must

comply with the requirements of 29 CFR § 1910.165.

§ 1910.38. Requirements for an Emergency Action Plan.

(a) *Development of An Emergency Action Plan.*

(1) Whenever another OSHA standard requires an employer to develop an emergency action plan, the plan must comply with this section and cover each part of the workplace.

(2) The plan must be in writing, be kept in the workplace, and be made available to employees on request, except that

(3) An employer with 10 or fewer employees in a workplace may communicate the plan orally to employees rather than develop a written plan.

(b) *Minimum Elements Of An Emergency Action Plan.* An emergency action plan must include:

(1) Procedures for emergency evacuation, including type of evacuation and exit route assignments;

(2) Procedures to account for all employees after evacuation;

(3) Procedures for reporting a fire or other emergency;

(4) Procedures to follow for emergency operation or shut down of critical equipment before evacuation;

(5) Procedures to follow for rescue and medical duties; and,

(6) Names or job titles of employees to be contacted to get more information about the duties of employees under the plan.

(c) *Employee Alarm System.* The employer must install and maintain an employee alarm system. The alarm system must use a distinctive signal for each purpose and comply with 29 CFR § 1910.165.

(d) *Training.* An employer must designate employees to assist in the safe emergency evacuation of other employees. An employer must ensure that the designated employees receive training in emergency evacuation procedures.

(e) *Employee Review.* An employer must review the emergency action plan with each employee covered by the plan:

(1) When the plan is developed or the employee is assigned initially to the job;

(2) When the employee's responsibilities under the plan change; and,

(3) When the plan is changed.

§ 1910.39. Requirements for a fire prevention plan.

(a) *Development of A Fire Prevention Plan.* (1) Whenever another OSHA standard requires an employer to

develop a fire prevention plan, the plan must comply with this section and cover each part of the workplace.

(2) The plan must be in writing, be kept in the workplace, and be made available to employees on request; except that

(3) An employer with 10 or fewer employees in the workplace may communicate the plan orally to employees rather than develop a written plan.

(b) *Minimum Elements Of A Fire Prevention Plan.* A fire prevention plan must include:

(1) A list of all major fire hazards, including proper handling and storage procedures for hazardous materials, potential ignition sources and their control, and the type of fire protection equipment necessary to control each major hazard;

(2) Procedures to control accumulations of flammable and combustible waste materials;

(3) Procedures for regular maintenance of safeguards installed on heat producing equipment to prevent accidental ignition of combustible materials;

(4) Names or job titles of employees responsible for maintaining equipment to prevent or control sources of ignition or fires; and,

(5) Names or job titles of employees responsible for control of fuel source hazards.

(c) *Employee Information.* The employer must:

(1) inform employees of the fire hazards to which they are exposed; and

(2) review with each employee those parts of the fire prevention plan necessary for self-protection upon initial assignment to a job.

3. Subpart E—Means of Egress would be amended by revising §§ 1910.35 through 1910.39 as follows [Question and Answer version]:

SUBPART E—EXIT ROUTES

§ 1910.35. Coverage.

(a) *What is covered by these regulations?* These regulations require every general industry employer to provide exit routes that allow employees to leave the workplace safely during an emergency. These regulations do not apply to mobile workplaces, such as vehicles or vessels.

(b) *What is an exit?* The term “exit” refers to the portion of an exit route that is generally separated from other areas to provide a protected way of travel out of the workplace.

(c) *What is an exit route?* The term “exit route” means a continuous and unobstructed path of exit travel from

any point within a workplace to safety outside. An “exit route” generally consists of three parts: access to the exit; the exit, which provides a way of travel out of the workplace; and the way from the exit to the outside. An “exit route” includes all vertical and horizontal areas along the route.

§ 1910.36. The Design of Exit Routes.

(a) *Must exits be a permanent part of the workplace?* Yes, an employer must ensure that each exit is a permanent part of the workplace.

(b) *How many exit routes must be available in the workplace?* An employer must ensure that at least two exit routes are available to permit prompt escape during an emergency of all employees and other building occupants. The exit routes must be as far away from one another as is practicable so that if the route to one exit is blocked by fire or smoke, employees may escape safely using the alternate exit route. In many instances, more than two exit routes are necessary where the number of employees, the size of the building, its occupancy, or the arrangement of the workplace suggests that reliance on two exit routes may endanger employees. A single exit route is permitted where the number of employees, the size of the building, its occupancy, or the arrangement of the workplace indicates that a single exit will allow all employees to exit safely during an emergency. Other means of escape, such as fire exits or accessible windows, should be available where only one exit route is provided.

(c) *What openings are permitted into an exit?* An employer must ensure that an exit has only those openings necessary to permit access to, or exit from, occupied areas of the workplace. An opening into an exit must be protected by a self-closing fire door that remains closed. Each fire door, its frame, and its hardware must be listed or approved by a nationally recognized testing laboratory.

Note to paragraph (c): 29 CFR § 1910.155(c)(3)(iv)(A) defines “listed”, 29 CFR § 1910.7 defines a “nationally recognized testing laboratory.”, and 29 CFR § 1910.155(c)(3) defines “approved.”

(d) *What types of material may be used in exit construction?* An employer must ensure that construction materials used to separate an exit have at least a one-hour fire resistance rating if the exit connects three stories or less. If the exit connects four stories or more, the employer must ensure that construction materials used to separate the exit have at least a two-hour fire resistance rating.

(e) *What is required to ensure that employees have access to exit routes*

during an emergency? An employer must ensure that there is free and unobstructed access to each exit route to ensure safe exit from the workplace during an emergency. No materials or equipment may be placed, either permanently or temporarily, along the exit route. The employer must ensure that, to reach an exit, no employee is required to travel through a room which can be locked, such as a bathroom, or to a dead end. Stairs or a ramp must be used if the exit route is not substantially level.

(f) *Where must exits discharge?* An employer must ensure that each exit leads directly outside to a street, walkway, refuge area, or open space with access to the outside. The street, walkway, refuge area, or open space to which an exit leads must be large enough to accommodate all building occupants likely to use the exit. Exit stairs that continue beyond the floor of exit discharge must be interrupted by doors, partitions, or other effective means at the floor of exit discharge to assure that the direction of exit travel is clear to employees. For the purposes of this section, a refuge area is:

(1) a space along an exit route that is protected from the effects of fire either by means of separation from other spaces within the building or by its location; or

(2) a floor with at least two spaces separated from each other by smoke-resistant partitions, in a building protected throughout by an automatic sprinkler system that complies with 29 CFR 1910.159.

(g) *Can exit doors be locked?* An employer must ensure that an exit door can be readily opened from the inside without keys, tools, or special knowledge. A device that locks only from the outside, such as a panic bar, is permitted. An employer must ensure that the exit door is free of any device or alarm which, if it fails, could restrict emergency use of an exit. An exit door may be locked from the inside in mental, penal, or correction facilities only if supervisory personnel are continuously on duty and a plan exists to remove occupants from the facility during an emergency.

(h) *What are the requirements for exit doors?* An employer must ensure that a side-hinged door is used to connect any room to an exit route. A door to an exit should swing out from a room.

A door that connects any room to an exit route must swing out if the room is likely to be occupied by more than 50 people or if highly flammable or explosive materials may be located inside.

(i) *What is the required capacity for exit routes?* An employer must ensure that each exit route supports the maximum-permitted occupant load for each floor served by the exit route. The capacity of an exit may not decrease with the direction of exit travel.

(j) *What are the height and width requirements for exit routes?* An employer must ensure that the exit route must be at least 6 feet, 8 inches high at all points. An employer must ensure that the exit route is at least 28 inches wide at all points between handrails. An exit route must be wider than 28 inches if necessary to accommodate the expected occupant load. Objects that project into the exit route must not reduce the minimum height and width of an exit route.

(k) *Are there additional requirements for exit routes that are outside the building?* An outdoor exit route is permitted if it meets the requirements for an indoor exit route and the following additional requirements:

- (1) the exit route has guardrails to protect unenclosed sides;
- (2) the exit route is covered if accumulation of snow or ice is likely and is not removed regularly;
- (3) the exit route is reasonably straight with smooth, solid, substantially level floors; and
- (4) the exit route has no dead ends longer than 20 feet.

§ 1910.37. Operation and Maintenance of an Exit Route.

(a) *How must an employer maintain the workplace to protect employees during an emergency?* An employer must maintain the workplace to minimize the dangers to employees during an emergency. An employer must keep the workplace free of explosive or highly flammable furnishings and other decorations. An exit route must not require employees to travel toward materials that burn very quickly, emit poisonous fumes, or are explosive, unless those materials are effectively shielded from the exit route.

(b) *Must exit routes be lit?* Yes, an employer must ensure that each exit route is illuminated adequately.

(c) *Must exit routes be marked?* Yes, an employer must ensure that each exit clearly is visible and is marked by a distinctive sign reading "Exit." The employer must ensure that an exit door is free of decorations or signs that obscure its visibility. Signs must be posted along the exit route indicating the direction of travel to the nearest exit. The employer must ensure that the line-of-sight to an exit sign is uninterrupted. Any doorway or passage that might be mistaken for an exit must be marked

"Not an Exit" or with an indication of its actual use. The employer must ensure that an exit sign is illuminated to a surface value of at least 5 foot candles by a reliable light source and shows a designated color. Self-luminous or electroluminescent signs that have a minimum luminance surface value of .06 footlamberts are permitted.

(d) *What are the requirements for maintaining fire retardant paints?* An employer must maintain the fire retardant properties of paints or other coatings used in the workplace.

(e) *Must fire safeguards be maintained?* Yes, an employer must ensure that each safeguard to protect employees during an emergency is maintained in proper working order.

(f) *Are there additional requirements for maintaining exit routes during construction and repair?* Yes, three special rules apply to exit routes during construction and repair. During new construction, an employer must ensure that employees do not occupy a workplace until an adequate number of exit routes that comply with these rules is available for the portion of the workplace employees will occupy. During repair and alterations, an employer must ensure that employees do not occupy an existing workplace unless all exits and existing fire protection are maintained or alternate fire protection is provided that ensures an equivalent level of safety. An employer also must ensure that flammable or explosive materials used during construction or repair do not expose employees to hazards not otherwise present in the workplace or impede emergency escape from the workplace.

(g) *Are employee alarm systems required?* An employer must ensure that an operable employee alarm system with a distinctive signal to warn employees of fire or other emergencies is installed and maintained, unless employees can see or smell a fire or other hazard so that it would provide adequate warning to them. The employee alarm system must comply with 29 CFR § 1910.165.

§ 1910.38. Emergency Action Plans.

(a) *When is an employer required to develop an emergency action plan?* An employer must develop an emergency action plan whenever another OSHA standard requires one. This rule governs what the employer must include in the plan.

(b) *Must the emergency action plan be in writing?* An employer must keep a written emergency action plan in the workplace and make it available to employees at their request, except that

an employer with 10 or fewer employees in the workplace may communicate the plan orally to employees rather than develop a written plan.

(c) *What is required to be included in an emergency action plan?* An emergency action plan must include at a minimum:

- (1) procedures for emergency evacuation, including type of evacuation and exit route assignments;
- (2) procedures to account for all employees after evacuation;
- (3) procedures for reporting a fire or other emergency;
- (4) procedures to follow for emergency operation or shut down of critical equipment before evacuation;
- (5) procedures to follow for rescue and medical duties; and,
- (6) names or job titles of employees to be contacted to get more information about the duties of employees under the plan.

(d) *Must an emergency plan include an employee alarm system?* Yes, an employer must install and maintain an employee alarm system. The alarm system must use a distinctive signal for each purpose and comply with 29 CFR 1910.165.

(e) *Does an employer have to designate employees to assist others in evacuation?* An employer must designate employees to assist in the safe emergency evacuation of other employees. The employer must ensure that these designated employees receive training in emergency evacuation procedures.

(f) *How often must an employer inform employees of their duties under an emergency action plan?* An employer must review the emergency action plan with each employee covered by the plan;

- (1) when the plan is developed or the employee is assigned initially to the job;
- (2) when the employee's responsibilities under the plan change; and
- (3) when the plan is changed.

§ 1910.39. Fire Prevention Plans.

(a) *When is an employer required to have a fire prevention plan?* An employer is required to have a fire prevention plan when another OSHA standard requires it. This section governs what the employer must include in the plan.

(b) *Must the fire prevention plan be in writing?* Employers must keep a written fire prevention plan in the workplace and make it available to employees at their request. However, an employer with 10 or fewer employees in the workplace may communicate the plan

orally to employees rather than develop a written plan.

(c) *What is required to be included in a fire prevention plan?* A fire prevention plan must include at a minimum:

(1) a list of all major fire hazards, including proper handling and storage procedures for hazardous materials, potential ignition sources and their control, and the type of fire protection equipment necessary to control each major hazard;

(2) procedures to control accumulations of flammable and combustible waste materials;

(3) procedures for regular maintenance of safeguards installed on heat producing equipment to prevent accidental ignition of combustible materials;

(4) names or job titles of employees responsible for maintaining equipment to prevent or control sources of ignition or fires; and,

(5) names or job titles of employees responsible for control of fuel source hazards.

(d) *Must employers inform employees of the fire hazards at the workplace?*

Yes, an employer must inform employees of the fire hazards to which they are exposed. The employer must review with each employee those parts of the fire prevention plan necessary for self-protection upon initial assignment to a job.

Appendix to Subpart E—[Amended]

4. The appendix to Subpart E would be amended by inserting the heading: “§ 1910.39 Fire prevention plans” before the paragraph designated as “4. Fire prevention housekeeping.”

5. The appendix to subpart E would be amended by redesignating the paragraph: “Fire prevention housekeeping” from “4.” to “1.”

6. The appendix to Subpart E would be amended by redesignating the paragraph: “Maintenance of equipment under the fire prevention plan” from “5” to “2.”

[FR Doc. 96-22926 Filed 9-9-96; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

[SPATS No. CO-030-FOR]

Colorado Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Colorado regulatory program (hereinafter, the “Colorado program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to Colorado’s statutory provisions pertaining to (1) definitions, (2) development of rules no more stringent than SMCRA, (3) requirements for permit applications, (4) material damage resulting from subsidence caused by underground coal mining operations, (5) improvidently issued permits, (6) release of performance bonds, (7) entities and operations which are or are not subject to the requirements of the act, (8) authority to apply for funds the administration and fulfillment of the requirements of an abandoned mine reclamation program, and (9) creation of a Colorado coal mine subsidence protection program. to clarify ambiguities and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., M.D.T., October 10, 1996. If requested, a public hearing on the proposed amendment will be held on October 7, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., M.D.T., on September 25, 1996.

ADDRESSES: Written comments should be mailed or hand delivered to James F. Fulton at the address listed below. Copies of the Colorado program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM’s Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733

Michael B. Long, Director, Division of Minerals and Geology, Department of Natural Resources, 1313 Sherman St., Room 215, Denver, Colorado 80203, Telephone: (303) 866-3567

FOR FURTHER INFORMATION CONTACT:

James F. Fulton, Telephone: (303) 844-1424.

SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. General background information on the Colorado program, including the Secretary’s findings, the disposition of comments, and the conditions of approval of the Colorado program can be found in the December 15, 1980, Federal Register (45 FR 82173). Subsequent actions concerning Colorado’s program and program amendments can be found at 30 CFR 906.11, 906.15, and 906.16.

II. Proposed Amendment

By letters dated August 13 and 27, 1996, Colorado submitted a proposed amendment (administrative record No. CO-680) to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Colorado submitted the proposed amendment at its own initiative. Colorado proposed to revise the following provisions of the Colorado Surface Coal Mining Reclamation Act, Colorado Revised Statutes (C.R.S.):

C.R.S. 34-33-103(1), definition of “Administrator,” to mean the head of the Office of Mined Land Reclamation in the Division of Minerals and Geology in the Department of Natural Resources;

C.R.S. 34-33-103(7), definition of “Division,” to mean the Division of Minerals and Geology in the Department of Natural Resources;

C.R.S. 34-33-103(13.5), definition of “Office,” to mean the Office of Mined Land Reclamation;

C.R.S. 34-33-103(14), the definition of “Operator,” to include any person who intends to remove more than two hundred and fifty tons of coal from coal mine waste disposal facilities;

C.R.S. 34-33-103(21), the definition of “Person,” to include (1) an Indian Tribe conducting surface coal mining and reclamation operations outside Indian lands, and (2) any agency, unit, or instrumentality of Federal, State or local government, including any publicly owned utility or publicly owned corporation of Federal, State, or local government;

C.R.S. 34-33-103(26)(a), the definition of “Surface coal mining operations,” to (1) include removal of coal from coal mine waste disposal facilities, and (2) delete the exemption for the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent of the tonnage of minerals removed for purposes of commercial use or sale;