

1. OBJECTIVES AND RESPONSIBILITIES

The basic objective of the agencies and companies involved in the publication and distribution of this Guide is to prevent loss of life, property and natural resources and the disruption of operations as a result of wildfires.

1.1 Cooperation

It is generally agreed that the most effective means of attaining the above objective is a cooperative approach. The ways in which cooperation can be implemented can include, but certainly are not limited to, joint training sessions, joint inspections, notification of critical fire weather, supplemental fire detection, coordinated communications, and the sharing of research and other information.

No fire protection agency can afford, at taxpayer expense, to maintain the large force of personnel and equipment required to prevent or suppress all fires all the time before they can do serious damage. It is, therefore, necessary for operating companies to assume the impact created by their activities. In addition, operating companies are liable for damages resulting from fires caused by them.

Joint inspections can be difficult to arrange and are not always feasible. However, they provide excellent on-the-job training while promoting mutual trust and understanding. Typically, information and discovery are made available through the filing of reports and other forms of written communications. It is easier to discuss and explain a situation or condition on site.

1.2 Fire Danger

The wildland fire agencies, in cooperation with the National Weather Service, have a system for keeping themselves informed of fire weather conditions, which includes critical or “Red Flag” conditions. This information is computed over a wide area and available upon request. Operators who manage and operate their own stations often require more specific and localized information. These stations can profit from their combined information. Managers of other types of industrial operations can make arrangements to obtain useful weather information from either or both of these sources, in addition to the World Wide Web.

1.3 Responsibilities for Compliance

Operating companies have both legal and management responsibilities for fire safety inspections of their operating areas and mechanical equipment. Fire protection agencies are responsible for assuring that the companies are in compliance with the law. The reasons for and purposes of their inspections differ. Although joint inspections are desirable and helpful, often they are not practical. Agency personnel are also responsible for other types of fire prevention activities. This precludes their spending as much time on industrial compliance inspections as might be desired.

1.4 Operating Company

The operating companies are responsible for the fire safety of their operations and for compliance with the forest and fire laws. They must determine what work needs to be done in order to comply with laws, regulations and contract requirements, to prevent fires and to ensure safe and efficient progress of their operation. They also need to know whether or not the work has been accomplished and to what standards. They cannot rely on fire agency inspectors for this information.

1.5 Protection Agency

The protection agencies' inspection responsibilities are primarily regulatory. They are expected to make fire prevention inspections of operating areas as often as their other duties reasonably allow to ensure that operating companies are complying with laws, regulations and contract provisions. The protection agency should always notify the company in writing of its findings. This also applies when the inspection has been conducted jointly with a company representative. The protection agency should take appropriate enforcement action when warranted by the findings.

However, the company should not treat these notifications as work lists. The company should not assume that remarks of "no violations observed" contained in agency reports nor the lack of inspection of some areas or equipment mean that there are, in fact, no violations. Agency inspections or investigations will also be made to determine the causes of fires that do occur.

1.6 Correction of Violations

Correction of violations and the maintenance of effective risk and hazard reduction measures are the responsibilities of the operating companies. They should not wait for agency inspectors to point them out. Ignorance of the law or commonly accepted fire-safe practices is not a valid excuse. The companies have an obligation to make their employees and contractors aware of requirements and then to police themselves. Company employees of any level or specialty should never pass over an obvious violation or any other problem merely because it is not on their assigned work list. Fire agency personnel must never ignore observed violations. They should report broken or damaged equipment and ineffective or unsafe fire prevention practices to the company so they may be corrected promptly.

1.7 Law Enforcement

Fire protection agencies are charged with the responsibility of enforcing certain fire prevention laws. Wildland protection agencies may initiate administrative, civil, criminal or injunctive actions to secure compliance with laws and ordinances. It is the policy of all these agencies not to take indiscriminate and arbitrary law enforcement action. However, when violations are present, and can be supported by evidence, failure to take action represents a dereliction of duty. Under such circumstances some form of legal action is probable.

1.8 Legal Actions

Inspections or fire-cause investigations may lead to any one, or a combination of, four basic types of legal action. Since these actions are sometimes misunderstood and confused with each other by both agency and company personnel, each will be briefly described as follows:

Administrative

Administrative action is not a legal action in the sense that a court is involved. It is, however, a formal notification of violation of a law or regulation and a notice to correct the violation, usually within a specified time. It becomes a matter of record and may serve as the basis for more stringent action later. The administrative action, in addition to being a legal notice, becomes a documented history.

Administrative action is initiated by the protection agency and addressed to the operating company. It may take any number of forms. The red tag for internal combustion engines is affixed to

the machine itself and is both a notice of violation and an order to shut down the engine. The engine is not to be placed back into service until the violation is corrected. It is important for all involved to understand that the Inspection Report (LE-38 or R5-5100-209) is not a citation. It is a notification requiring immediate attention/correction.

Administrative action may also come in the form of a letter, memo, telegram, etc., from the inspector or supervisor. Letters of demand for damages or costs of suppression fall in this category, as do actions to suspend or revoke licenses and permits.

Civil

This is a filing, with a court of appropriate jurisdiction, of a suit for damages or costs of fire suppression or both. It is seldom filed unless a letter of demand has been ignored or denied.

Criminal

A citation or a complaint usually initiates criminal action. Most criminal actions coming from violations of fire laws or regulations are misdemeanor actions. Such actions may name as the defendant either the company or the employee who was found committing the act, or both. If the company is named, the only penalty possible is a fine. If an employee is named, the penalty may be a fine and/or a jail term.

Equity

An equity action is one seeking a court order requiring the defendant to refrain from doing some specific act that is harmful to the plaintiff or to the public at large, or to do something to avoid such damage. This is commonly known as an injunction.

1.9 Public-Private Meetings

Although public agencies and industrial operators are often in adversary roles in regard to regulatory taxation and other matters, there is one field in which they have, or should have, a community of interest and a common purpose. This is the field of fire protection. Though the goal may be the same, the means of reaching said goal may not appear compatible. It has been found in the railroad and timber industries that coordination and understanding can be gained by meeting once or twice a year to discuss mutual problems, plans and results. This principle applies to all wildland industries.

The most productive meetings are those including middle and upper level management personnel. It should also include fire protection specialists from both public agencies and industrial operators in a regional area. Since very large groups of people are seldom productive, the area involved should be kept small enough to keep the meeting manageable.

A meeting involving only one company and one agency is often unable to resolve problems that may be caused by an adjoining or nearby company or agency. As with attendance, the agenda should not be too broad and unstructured. Specific problems should be addressed. Solutions need to be agreeable to all involved. The best meetings seem to be relatively short ones (e.g., two or three hours).

Spring meetings are particularly appropriate for planning fire prevention activities and fire control operations. Fall meetings are good for reporting results, planning fire prevention activities and meeting budgeting deadlines.