

EFCOG Best Practice #83

Best Practice Title: Fire Protection Program Applicability to DOE Contractor-Leased Facilities

Facility: Multiple

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Brief Description of Best Practice: The Fire Protection Subgroup of EFCOG developed a recommended best practice that can be used as a guide for adopting a comprehensive "DOE/DOE-Prime Contractor" Fire Protection Program for Contractor-leased facilities into the DOE contractor's overall fire protection program to ensure protection of workers and government owned equipment resident in leased facilities.

Why the best practice was used:

DOE Order 420.1B, Paragraph 3. (APPLICABILITY) states that "...this Order applies to all DOE elements with responsibility for **DOE-owned or -leased facilities**....."

- Attachment 1 to the Order lists the DOE Elements (e.g. Office of Science, NNSA, etc.)
- DOE O 420.1B Contractor Requirements Document (CRD) does not replicate the same language in regards to the Orders' applicability to leased facilities for DOE contractors. Attachment 2, Section 1, Requirements, establishes the scope to be design, construction, operation, management, decontamination or decommissioning of **DOE sites or facilities**.
- The Applicability paragraph in the CRD of the Order (Chapter II of Attachment 2) states "APPLICABILITY. This chapter applies to both fire protection programs and facility safety design for DOE nuclear, non-nuclear, and weapons facilities²."
 - Footnote ² relates to activities within weapons facilities relating to accidental or unauthorized detonations also being subject to the 452 series of DOE Directives.....

Thus, O 420.1B CRD does not specifically include contractor leased facilities in its scope for fire protection. The commentary identifies a "covered workplace" to be where work is being performed in furtherance of a DOE mission at a DOE site.

- 10 CFR 851 section 851.3 defines that a DOE site means DOE-owned or leased area or location or other area or location controlled by DOE where activities and operations are performed by a contractor in furtherance of a DOE mission.

Thus, the 851 rule also does not specifically include contractor leased facilities in its scope.

- There are no specific DOE fire protection requirements for the DOE contractors to meet for contractor leased facilities. However, the contractor would still need to meet OSHA requirements. Therefore the Fire Protection Subgroup identified a need for a best practice to be applied at DOE sites relative to implementing fire protection requirements in leased facilities.

What are the benefits of the best practice: This Best Practice helps the DOE contractors select the appropriate level of fire protection program activities to include when negotiating lease agreements. It is expected that each contractor will work with their respective site office to take a graded approach to ensure the protection of workers, protection of government owned equipment to limits established by the DOE, and protection against unacceptable DOE program or mission interruption.

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What problems/issues were associated with the best practice: Lease agreements do not specifically address fire protection-related requirements, roles and responsibilities.

How the success of the Best Practice was measured: This Best Practice was developed based on consensus input from the Fire Protection Subgroup members in 2010, based on their experience implementing 10 CFR 851 and DOE O 420.1B.

Description of process experience using the Best Practice:

It is expected that each contractor will work with their respective site office to take a graded approach to ensure the protection of workers, protection of government owned equipment to limits established by the DOE, and protection against unacceptable DOE program or mission interruption. Prior to signing any lease agreement, the DOE contractor should consider:

- Performing a fire protection assessment on the leased facility to assess the adequacy of facility life safety features and fire protection systems to protect government owned equipment. The contractor should communicate all actionable fire protection deficiencies with the facility to the owner for remediation prior to lease approval.
- Participating with the local jurisdiction's fire fighting service to ensure a pre-fire plan is in place to limit the loss of government-owned equipment to limits established by the DOE and potential mission interruption due to a fire event. The contractor can use a graded approach for requesting a pre-fire plan such as if the leased facility will be a hazardous occupancy, or if a joint tenant is classified as a hazardous occupancy.
- Defining who will perform after-occupancy fire-protection inspections and how deficiencies will be processed for resolution; e.g., life safety issues within the facility, such as means of egress, should be corrected by the owner within 30 days and validated by the contractor. Whereas, the contractor will provide funding to address any additional fire protection systems required for protecting high-value DOE owned equipment.
- Working with the local jurisdiction on coordination of evacuation plans.
- Defining the periodicity of owner/contractor conducted fire protection assessments as a check on continued life safety compliance. A graded approach may be taken to establish the frequency. In general, the owner would be responsible for "off-site" leases in accordance with local jurisdictions and the contractor for "on-site" leases.
- Specifying who is responsible (owner or contractor) for inspecting, testing, and maintenance (ITM) of facility fire protection systems in accordance with local jurisdiction building and fire code requirements. In general, the owner would be responsible for "off-site" leases and the contractor for "on-site" leases.
- Where applicable, the lease agreement should specify how the maximum allowable quantities of hazardous material defined in the building code will be apportioned to the DOE contractor and to any other tenants in the building. Thus, the leased building's fire safety control areas should be documented.
- All fire protection assessments and ITM records of the leased facility should be accessible to the local Authority Having Jurisdiction, the owner, and to the DOE contractor.

Implementation of these recommendations allows Integrated Safety Management "Clear Roles and Responsibilities" as well as "Define Scope of Work" for leased facility contracts.