

G-1

Operational Status Agreement

**MEMORANDUM OF UNDERSTANDING
AND ADDENDUM TO THE OPERATIONAL STATUS AGREEMENT
BETWEEN
U. S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
AND
THE OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

This Memorandum of Understanding is intended to restate through compilation in a single document Federal OSHA's enforcement jurisdiction in the State of Oregon and to serve as an addendum to existing jurisdictional agreements contained in the January 23, 1975, Operational Status Agreement between the parties, as amended in December 1983, November 1991, and December 1998, and related subsequent clarifying Memoranda of Understanding dated August 1984, February 1987, October 1992 and September 1998. Generally, Federal OSHA has coverage in those areas identified as "exclusive federal jurisdiction" and also in those issues where OR-OSHA has declined or returned coverage. Also, OR-OSHA has jurisdiction over all work performed by employees of the State or of a political subdivision of the State, as provided by Section 18(c)(6) of the Occupational Safety and Health Act of 1970, and Federal OSHA has jurisdiction over all Federal employees.

This agreement supersedes the Memorandum of Understanding signed September 21, 1998.

F-1. Shipyards and Boatyards - As established in the January 1975 Oregon OSHA/Federal OSHA Operational Agreement, Federal OSHA has jurisdiction for private sector employment on the navigable waters of the United States. By this addendum, OR-OSHA relinquishes to Federal OSHA additional jurisdiction for the shoreside shipyard and boatyard activity, from the foot of the gangway on floating vessels, dry docks, graving docks and marine railways to the front gate at the work site, at all private sector work sites located on or immediately adjacent to the navigable waters. Federal OSHA will now exercise enforcement authority over all shipyard employment on or immediately adjacent to the navigable waters in Oregon from the front gate of the work site to the U.S. statutory limits. OR-OSHA maintains jurisdiction in all other private sector shipyard and boatyard operations not located on or immediately adjacent to the navigable waters. OR-OSHA has exclusive jurisdiction for all employees of the State and its political subdivisions on land or any waters in the State.

F-2. Longshoring/Marine Terminals - Federal OSHA's jurisdiction for longshoring and marine terminal operations includes coverage of private sector employment on the wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or

materials from vessel to shore or shore to vessel, including structures which are devoted to receiving, handling, holding, consolidating and loading or delivery of waterborne shipments or passengers, including areas devoted to the maintenance of the terminal or equipment. This does not include production or manufacturing areas nor does the term include storage facilities directly associated with those production or manufacturing areas. All employees of the State and its political subdivisions engaged in such activities are covered by OR-OSHA during all such operations.

This coverage is consistent with the approved State-Initiated Plan Change published in the Federal Register, effective June 15, 1977, where the jurisdiction for on-shore longshoring activities was returned to Federal OSHA. Federal OSHA has jurisdiction for all activities at marine grain terminals including all structures which are devoted to receiving, handling, holding, consolidating and loading or delivery of waterborne shipments.

F-3. Marine Construction - Federal OSHA has jurisdiction for construction activities emanating from or on floating vessels on the navigable waters of the United States. OR-OSHA has jurisdiction for construction activities emanating from land, piers, docks, wharves, bridges, or any other non-floating structure attached to land along navigable waters. OR-OSHA has exclusive jurisdiction for all employees of the State and its political subdivisions on land or any waters in the State.

F-4. Commercial Diving - The jurisdiction between Federal OSHA and OR-OSHA for commercial diving operations in the waters of Oregon is dependent on the dive location. Federal OSHA has coverage if the dive is originating from an object afloat (vessel, barge, etc.) a navigable waterway. OR-OSHA has jurisdiction if the dive originates from land or a dock, pier, wharf or bridge appended to land along navigable waters. OR-OSHA maintains jurisdiction for all other commercial diving. OR-OSHA has exclusive jurisdiction for all employees of the State and its political subdivisions on land or any waters in the State.

F-5. Other Waterfront Activity - At all other private sector places of employment on or adjacent to navigable waters, that are not described in F-1 through F-4 above, Federal OSHA will exercise its jurisdiction whenever the activity occurs on or from the water, and OR-OSHA will exercise its jurisdiction whenever the activity occurs on or from the land. Within its jurisdictional limits, each agency is authorized to enforce any applicable standard, rule or requirement under the agency's respective statutory authority.

F-6. U.S. Military Reservations - In an addendum to the Operational Status Agreement dated December 7, 1983, the Workers' Compensation Department relinquished back to Federal OSHA jurisdictional and enforcement authority for conducting safety and health inspections within the borders of all federal military reservations within the State of Oregon. All establishments and reservations of the U.S. Navy, Army, Air Force, Marine Corps, and Coast Guard are included except for private contractors working on U.S. Army Corps of Engineers' dam construction projects, including reconstruction of docks and other

appurtenances. The State retains jurisdiction for these private contractor activities, subject to the provisions in F-3. In addition, respective jurisdictional responsibilities for Oregon National Guard facilities are as follows:

1. Uniformed Military personnel: neither Federal OSHA nor OR-OSHA has jurisdiction.
2. Federal National Guard civilians: Federal OSHA jurisdiction.
3. State National Guard civilians: OR-OSHA jurisdiction.
4. Private civilians contractors: Federal OSHA jurisdiction.

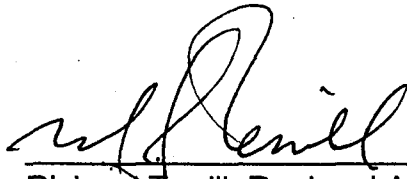
F-7. Warm Springs Indian Reservation - In the August 18, 1978, Federal Register, an approval of a supplement to the Oregon State Plan was published whereby the State of Oregon relinquished enforcement jurisdiction over all employment and places of employment on the Reservation and on Tribal Trust Lands, except for all employees of the State and its political subdivisions.

F-8. Umatilla Indian Reservation - In the September 14, 1997, Federal Register, an approval of a supplement to the Oregon State Plan was published whereby the State of Oregon relinquished enforcement jurisdiction over all employment and places of employment on the Reservation and on Tribal Trust Lands, except for all employees of the State and its political subdivisions.

F-9. All Other Indian Reservations - By an addendum to the Operational Status Agreement dated December 1, 1998, OR-OSHA relinquished back to Federal OSHA enforcement jurisdiction over all private sector establishments, including tribal and Indian-owned enterprises, on all Indian and non-Indian lands within the currently established boundaries of all other Indian reservations, and on lands outside of these reservations that are held in trust by the Federal government for these tribes. These reservations include but are not limited to reservations of the: Confederated Tribes of the Grand Ronde Community of Oregon (Grand Ronde Tribes); Confederated Tribes of Coos, Lower Umpqua and Siuslaw (Coos Tribes); Confederated Tribes of Siletz (Siletz Tribes); Cow Creek Band of Umpqua (Cow Creek); Klamath Tribe; Coquille Tribe; and Burns Paiute Tribe. Oregon OSHA retains enforcement jurisdiction over all employees of the State and its political subdivisions working on these reservation or trust lands. Oregon OSHA also continues to offer its consultation and training services to private sector establishments on these lands.

F-10. Tribal or Indian Owned Businesses Outside Reservation and Trust Lands - Businesses owned by Indians or Indian Tribes that conduct work activities outside the Tribal Reservation or Trust Lands are subject to the same jurisdiction as non-Indian owned businesses.

F-11. Superfund Sites - As a result of Federal OSHA Instruction CPL 2, dated February 8, 1988, OR-OSHA has assumed jurisdiction for private sector employees, as well as public sector employees, at most Superfund Sites in the State of Oregon. Federal OSHA also maintains jurisdiction for all Superfund Sites on U.S. military reservations. Federal OSHA approved this change in the September 14, 1997, Federal Register.



Richard Ferrill, Regional Administrator
Occupational Safety and Health
Administration
U.S. Department of Labor

December 18, 1998
Date



Peter DeLuca, Administrator
Oregon Occupational Safety and
Health Division
Department of Consumer and
Business Services

December 23, 1998
Date

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- **Information Date:** 01/06/1999
 - **Federal Register #:** 64:913-914
 - **Type:** Notice
 - **Agency:** OSHA
 - **Subject:** Oregon State Plan; Extension of Federal Jurisdiction to Shipyards and Indian Reservations.
 - **CFR Title:** 29
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DEPARTMENT OF LABOR**Occupational Safety and Health Administration****Oregon State Plan; Extension of Federal Jurisdiction to Shipyards and Indian Reservations**

This document gives notice of assumption by the Federal Occupational Safety and Health Administration (OSHA) of additional enforcement jurisdiction in the State of Oregon for shore side shipyard and boatyard employment, and over private sector establishments, including tribal and Indian-owned enterprises, within the boundaries of all Indian reservations, and on trust lands outside of reservations, effective January 6, 1999.

On December 23, 1998, the Occupational Safety and Health Administration (OSHA) and the Oregon Occupational Safety and Health Division (OR-OSHA) signed a Memorandum of Understanding (MOU) relinquishing State jurisdiction and extending Federal OSHA's enforcement jurisdiction in the State of Oregon to include shipyards, and employment on Indian reservations and lands, and clarifying other areas of jurisdiction. The MOU serves as an addendum to the 1975 Operational Status Agreement between the parties. By this addendum, Federal OSHA is assuming additional jurisdiction for shore side shipyard and boatyard activity. By a separate December 1, 1998 addendum, which is also reflected in this MOU, Federal OSHA has also assumed jurisdiction over private sector employment, including tribal and Indian-owned enterprises, on all Indian reservations, including establishments on trust lands outside of reservations. A copy of the Memorandum of Understanding is annexed hereto.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, Office of Public Affairs, Occupational Safety and Health Administration, Room N3467, 200 Constitution Avenue, NW, Washington, DC, 20210, Telephone (202) 693-1999.

Signed at Washington, DC this 30th day of 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.**Memorandum of Understanding and Addendum to the Operational Status Agreement Between U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration and The Oregon Occupational Safety and Health Division Department of Consumer and Business Services**

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This agreement supersedes the Memorandum of Understanding signed September 21, 1998.

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F-6. U. S. Military Reservations--In an addendum to the Operational Status Agreement dated December 7, 1983, the Workers' Compensation Department relinquished back to Federal OSHA jurisdictional and enforcement authority for conducting safety and health inspections within the borders of all federal military reservations within the State of Oregon. All establishments and reservations of the U.S. Navy, Army, Air Force, Marine Corps, and Coast Guard are included except for private contractors working on U.S. Army Corp of Engineers' dam construction projects, including reconstruction of docks and other appurtenances. The State retains jurisdiction for these private contractor activities, subject to the provisions in F-3. In addition, respective jurisdictional responsibilities for Oregon National Guard facilities are as follows:

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2. Federal National Guard civilians: Federal OSHA jurisdiction.
3. State National Guard civilians: OR-OSHA jurisdiction.
4. Private civilians contractors: Federal OSHA jurisdiction.

F-7. Warm Springs Indian Reservation--In the August 18, 1978, **Federal Register** (43 FR 36624) an approval of a supplement to the Oregon State Plan was published whereby the State of Oregon relinquished enforcement jurisdiction over all employment and places of employment on the Reservation and on Tribal Trust Lands, except for all employees of the State and its political subdivisions.

F-8. Umatilla Indian Reservation--In the September 14, 1997 **Federal Register** (62 FR 49908-49910) an approval of a supplement to the Oregon State Plan was published whereby the State of Oregon relinquished enforcement jurisdiction over all employment and places of employment on the Reservation and on Tribal Trust Lands, except for all employees of the State and its political subdivisions.

F-9. All Other Indian Reservations--By an addendum to the Operational Status Agreement dated December 1, 1998, OR-OSHA relinquished back to Federal OSHA enforcement jurisdiction over all private sector establishments, including tribal and Indian-owned enterprises, on all Indian and non-Indian lands within the currently

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Dated: December 18, 1998.

Richard Terrill,
Regional Administrator, Occupational Safety and Health Administration,
DEPARTMENT OF LABOR.

Dated: December 23, 1998.

Peter DeLuca,
Administrator, Oregon Occupational Safety and Health Division, Department of
Consumer and Business Services.

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