

REGULATORY RESPONSIBILITY FOR WORKER SAFETY AND HEALTH
at the
UMATILLA CHEMICAL AGENT DISPOSAL FACILITY

A FEDERAL/STATE PARTNERSHIP AGREEMENT
Between
THE UNITED STATES DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
And
THE STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
OCCUPATIONAL SAFETY AND HEALTH DIVISION

PURPOSE AND SCOPE

The purpose of this Partnership Agreement is to set forth the principles of a working relationship between the State of Oregon Department of Consumer and Business Services, Occupational Safety and Health Division (Oregon-OSHA) and the United States Department of Labor, Occupational Safety and Health Administration, Region X (OSHA). This agreement establishes the framework of a joint federal/state presence, and specific roles and responsibilities for each agency, during the start-up, operation, and tear down of the Umatilla Chemical Agent Disposal Facility (UMCDF) at the U.S. Army Umatilla Chemical Depot. This partnership agreement clarifies, but does not change, the pre-existing formal state-wide jurisdictional arrangement between the two agencies as described in the Operational Status Agreement, and, therefore, no Federal Register Notice or other formal public notification regarding the terms of the partnership is necessary.

BACKGROUND

The Operational Status Agreement between the Occupational Safety and Health Administration (OSHA) and the Oregon Occupational Safety and Health Division (Oregon-OSHA) reflects that OSHA has jurisdiction over private sector employers on U.S. Military Reservations in Oregon. OSHA also has jurisdiction over non-military federal employees. Under the Operational Status Agreement, Oregon-OSHA has jurisdiction for private sector employers operating outside of the boundaries of U.S. military reservations, except for certain maritime employers and employers on Indian reservations. Oregon-OSHA also has jurisdiction for public sector employers, with the exception of the federal government, and including fire or emergency response units operated by state, county, or local governments.

In 1997 a contract was awarded to the Raytheon Demilitarization Company (now Washington Demilitarization Company) to build and operate an incinerator to destroy chemical weapon agents stored at the U.S. Army Umatilla Chemical Depot. The facility, which is nearing completion, is federal government owned and contractor operated (GOCO). The agents to be destroyed are categorized as hazardous waste by the U.S. Environmental Protection Agency (EPA), and by agreement with the EPA, regulated by the Oregon Department of Environmental Quality (DEQ). A major element of this regulatory oversight is a permit process, which requires the Oregon Governor's approval prior to the destruction of any of the agents. In addition to the State's role in environmental protection, the Oregon Governor has indicated he

also wishes Oregon-OSHA to have an oversight role in assuring the safety of workers employed at the UMCDF.

In a November 15, 2001 letter to OSHA, the U.S. Army raised concerns about OR-OSHA assuming jurisdictional authority over the civilian personnel working at the UMCDF. The Army's primary concern is that the private sector contractor who operates the facility would be subject to a different set of standards and procedures which could be more stringent than OSHA's. Since planning and workforce training already have been undertaken to comply with OSHA's standards, the Army feels unnecessary delays could effect the start of the disposal of the chemical agents if compliance with state standards is required. The army has recommended that OSHA maintain jurisdictional authority.

AGREEMENT

In order to assure the safety of workers at the UMCDF, address the concerns of the U.S. Army in its desire to have contractors operate within an efficient regulatory framework, and to abide by the desires of the Oregon Governor, OSHA and OR-OSHA agree to the following framework for exercise of jurisdiction during the start-up and operation of the Umatilla Chemical Agent Disposal Facility:

- OSHA will exercise jurisdiction for the private sector employers and employees who operate the disposal facility. This includes the primary contractor and subcontractors who operate or perform maintenance at the facility. Federal OSHA safety and health regulations and standards will be applied, and any citations will be issued by federal OSHA. OR-OSHA will accompany OSHA personnel during site inspections and visits, and will be advised and consulted as to the results of inspections and other OSHA actions relative to the UMCDF. If there is a disagreement between the agencies as to the result of an inspection or other regulatory action, it will be resolved by agreement of the Regional Administrator, OSHA, and the Administrator, Oregon-OSHA.
- OSHA will retain and exercise jurisdiction for all non-military federal employees at the disposal facility, and the Depot proper. OSHA will likewise retain jurisdiction for all private sector employers at the U.S. Army Umatilla Chemical Depot who are not involved with the operation or maintenance of the UMCDF.
- Oregon-OSHA will retain and exercise jurisdiction for state, county or local emergency response operations both on and off the U.S. Army Umatilla Chemical Depot.
- Upon request, Oregon-OSHA will provide consultation to employers operating on the Umatilla Chemical Depot through it's 21(d) Consultation Program.
- It is understood that neither OSHA nor OR-OSHA has any jurisdiction over U.S. Military personnel.

PROCEDURES

Any inspection (programmed or unprogrammed) at the UMCDF will be conducted simultaneously by compliance officers of both OSHA and Oregon-OSHA. To accomplish this, the two agencies will coordinate their efforts to make the best utilization of resources.

Upon entry at the Umatilla Chemical Depot the compliance officers will first contact the Depot Commander and advise him or her of the purpose of the inspection. Any and all security requirements will be followed. The Commander will be offered the opportunity to accompany the compliance officers.

Each compliance officer will follow the policies and procedures of his or her respective agency during the inspection and for any post-inspection activity.

In the event that the private sector employer or a subcontractor at the facility denies entry to the Oregon-OSHA representative, then OSHA will conduct the inspection.

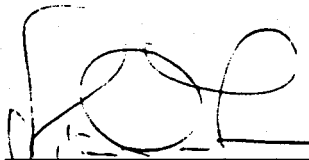
SUMMARY

Nothing in this agreement is intended to diminish or otherwise affect the authority of either agency to implement its respective statutory functions, nor is it intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any other person. This agreement is effective upon signature by both parties. It may be amended at any time by mutual agreement of the agencies and may be terminated by either agency upon thirty days written notice. This agreement will no longer be effective upon the completion of chemical weapon agents destruction at the facility.



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

April 11, 2002
Date



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

April 16, 2002
Date