

**OSHA/DOE/Oak Ridge  
Pilot Project Work Plan  
for Field Activities**

**June 10, 1998**

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## Table of Contents

I.	SCOPE AND PURPOSE .....	1
II.	BACKGROUND .....	1
III.	INTRODUCTION AND RESPONSIBILITIES .....	2
IV.	OBJECTIVES .....	3
V.	PILOT PROJECT ACTIVITIES .....	4
A.	Pilot Core Group .....	4
B.	Inform and Engage Site Personnel .....	5
C.	Simulated OSHA Inspection .....	6
D.	Safety and Health Program Evaluation .....	10
E.	Resource Analysis .....	11
F.	OSHA Discrimination Complaint Investigations .....	11
G.	OSHA-NRC Regulatory Interface Review .....	11
H.	OSHA Security Clearance and Access Issues .....	12
I.	Regulatory Transfer at Privatized (Reindustrialized Facilities) .....	13
VI.	SCHEDULE OF ACTIVITIES .....	13
VII.	FUNDING .....	14
	Attachment 1. Roles and Guidelines .....	16
	Attachment 2. Oak Ridge Pilot Objectives .....	21
	Attachment 3. Candidate Facilities .....	29
	Attachment 4. Acronyms .....	30

## **OSHA/DOE/OAK RIDGE PILOT PROJECT WORK PLAN FOR FIELD ACTIVITIES**

### **I. SCOPE AND PURPOSE**

This document sets forth a work plan for a Pilot Project, jointly sponsored by the Department of Energy (DOE) and the Occupational Safety and Health Administration (OSHA), to be conducted at the Oak Ridge National Laboratory (ORNL) and the East Tennessee Technology Park (ETTP) in Oak Ridge, Tennessee. This work plan is implemented in accordance with Interagency Agreement DE-A101-96EH89745.001 and Modification 4 (and subsequent modifications) and an exchange of letters between Acting Assistant Secretary of Energy Peter N. Brush and Assistant Secretary of Labor Charles N. Jeffress, dated February 18, 1998, and March 12, 1998, respectively. The duration of the Pilot Project is four months from the date of signature of this Work Plan, although the term of the Pilot Project may be extended upon mutual agreement by both DOE and OSHA. Nothing in this work plan confers health and safety regulatory authority to OSHA at the Oak Ridge sites, where such authority is not already provided by law. DOE shall retain all safety and health authorities during the pilot.

### **II. BACKGROUND**

DOE is committed to pursuing external regulation of its operations for occupational safety and health. The Secretary of Energy is evaluating external regulation, by both the Nuclear Regulatory Commission (NRC) and OSHA, on a pilot basis, with transition conditional on feasibility and affordability. OSHA is participating in the Pilot Project at the request of DOE to help ensure that transition to external regulation would occur in an orderly fashion, and to assist OSHA in identifying the level of resources required to assume this new responsibility without adversely affecting the agency's ongoing programs. As part of this effort the Agencies will identify the cost of upgrading DOE facilities to meet regulatory requirements.

An earlier pilot at Argonne National Laboratories-E (ANL-E) provided initial data for DOE and OSHA review at a site that was energy research oriented. ANL-E did not have large amounts of radioactive material onsite, was not engaged in major cleanup activity, and had only one prime contractor managing and operating the site.

This Pilot Project at ORNL and ETTP will allow further evaluation of OSHA regulatory activities at large, multi-employer worksites, and has activities not available during the ANL-E pilot, such as: construction; environmental cleanup and deconstruction; activities involving radioactive material; privatization (reindustrialization) activities; multi-contractor worksites (as well as thousands of visiting researchers a year); and increased opportunities for worker and union involvement. These activities and opportunities will

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provide additional data and insight on transition issues for both DOE and OSHA to help ensure an orderly transition. OSHA will better understand the working conditions and regulatory challenges at DOE sites; and DOE and contractor personnel will better understand what would be expected under OSHA's external regulation and assist in transition planning.

OSHA will focus on the safety and health aspects of the pilot, regulatory, resource and site access issues, and facilitate transfer of regulatory authority at Oak Ridge's privatized facilities (reindustrialized private sector employers) and assist resolution of overarching issues regarding OSHA regulation of DOE privatized activities. Both DOE and OSHA will focus on issues concerning cost-effectiveness and the impact of enforcement and abatement activities on Oak Ridge's budget. DOE will also evaluate the need for future changes to contract, Work Smart Standards, and Integrated Safety Management Systems requirements during the formal transition to external regulation by OSHA.

### **III. INTRODUCTION AND RESPONSIBILITIES**

The Pilot Project will involve a number of activities, including simulated OSHA inspections at selected facilities at ORNL and ETTP. The simulated inspections will utilize all relevant procedural steps that would be part of an actual OSHA inspection, including opening conferences with employer and employee representatives, reviews of injury and illness records, physical inspections of the worksite to determine compliance with OSHA standards, and the issuance of simulated citations for any violations noted. The simulated inspection portion of the Pilot Project also will include the investigation by OSHA of employee complaints about working conditions regarding safety and health.

The Pilot Project also will include an OSHA evaluation of site safety and health programs at ORNL and ETTP, a study by OSHA of the procedures implemented by DOE and its Oak Ridge contractors for security clearances, and a review by OSHA of the activities and operations at ETTP that have been privatized by DOE. As part of the Pilot Project, OSHA and DOE will conduct a briefing for site management and employees at ORNL and ETTP on the Pilot Project and the general issue of external regulation. In addition, OSHA will work with the Nuclear Regulatory Commission (NRC) to identify and resolve issues concerning OSHA-NRC interface for safety and health responsibilities at DOE facilities.

There are a number of parties with an interest in the Pilot Project, including: OSHA, the Tennessee Department of Labor, DOE-Environment Safety and Health (EH), DOE Oak Ridge Operations Office (ORO), Lockheed Martin Energy Research Corporation (LMER), Lockheed Martin Energy Systems (LMES), Bechtel Jacobs Company LLC Inc. (BJC), MK Ferguson, and the local labor unions, including the Atomic Trades and Labor Council (ATLC); the Oil, Chemical and Atomic Workers (OCAW); Knoxville Building and Construction Trades Council (KBCTC); the International Guard Union of America

(IGUA); and the United Plant Guard Workers of America (UPGWA). The specific roles and responsibilities of these parties (and others, as appropriate) are noted throughout this Work Plan and in Attachment 1.

#### **IV. OBJECTIVES**

OSHA-DOE Objectives. The following is a summary of the joint OSHA-DOE objectives for the Pilot Project at Oak Ridge. Details of these objectives are provided as Attachment 2.

1. To assess the nature and severity of the hazards present at the pilot site; determine the effectiveness of OSHA's regulations, enforcement, training and expertise to ensure worker protection by the employer; identify regulatory gaps; and examine the cost-effectiveness and other implications of OSHA's abatement requirements compared with those currently used by DOE.
2. To assess the effectiveness of DOE safety and health programs, including contractors and subcontractors, and the impact these programs would have on OSHA enforcement activities at DOE sites.
3. To provide a forum for OSHA and NRC to evaluate regulatory interface issues at DOE facilities.
4. To assess potential concerns related to OSHA inspections, including security clearance issues, site access training, and the need to protect compliance safety and health officers (CSHOs) from unique and unfamiliar hazards at DOE sites.
5. To engage and inform site management and employees about external regulation in general, and OSHA enforcement in particular.

An additional objective regarding privatization will be undertaken as a separate effort. This objective is to evaluate the impact of current and expected DOE privatization activities on OSHA and affected State Plan States.

## V. PILOT PROJECT ACTIVITIES

### A. Pilot Core Group.

1. A Pilot Core Group will be established to facilitate the conduct of the Pilot Project to achieve the objectives outlined in Section II, and will:
  - (a) periodically meet to plan, facilitate, assess progress, and resolve issues arising from the Pilot Project;
  - (b) identify stakeholders prior to commencement of Pilot Project and establish points of contact;
  - (c) coordinate meetings and interface with various stakeholders and ensure that stakeholders receive information and are provided an opportunity for input;
  - (d) interpret and modify work plan and examine and resolve issues not addressed in the Pilot Project work plan; and
  - (e) issue a Core Group report summarizing the results of the Pilot Project.
2. The Pilot Core Group will consist of the following members:
  - (a) For OSHA, there will be a core group of four persons to coordinate the project, one of whom will be onsite throughout the onsite phases of the Pilot:

Nashville/Frankfort Area Office: David Barnhill

Directorate of Technical Support : Mike Turner, National Office;  
Rick Cee, Salt Lake City Technical Center (SLTC); John Moran,  
contractor

The OSHA core group members will be supplemented for periods of time during the Pilot by personnel with various disciplines and from various offices within OSHA.

- (b) The DOE core group members will be:
  - (1) Office of Environment, Safety and Health, EH-51:
    - (a) Terry Krietz
    - (b) Phil Wilhelm
  - (2) Office of Energy Research, ER-80: Jay Larson
  - (3) Oak Ridge Operations and Site Offices:
    - (a) Doug Paul, ORO and ORNL Site Office
    - (b) Marcee Myers Addington, EM Support Office
    - (c) Cathy Stachowiak, ETPP Site Office
    - (d) Scott Davis, Reindustrialization
  - (4) Contractor core group members will be:
    - (a) Ann Shirley, ORNL, LMER
    - (b) Randy Ogle, ORNL, LMER
    - (c) Jim Craven, ETPP, BJC
  - (5) Labor representatives will be:
    - (a) David Barncord, ATLC
    - (b) Jim Blankenship, ATLC
    - (c) Bruce Lawson, OCAW
    - (d) John Steward, OCAW
    - (e) Danny Maples, KBCTC
    - (f) Danny Hatfield, KBCTC
    - (g) Tanya Phillips, IGUA
    - (h) Steve Lattimore, UPGWA
    - (i) David Leffew, UPGWA
    - (j) Joe Anderson, OCAW

B. Inform and Engage Site Personnel. It will be important to inform managers and workers at the pilot sites in order that they: understand the extent of the pilot; understand what external regulation by OSHA means to them; and become actively engaged in the Pilot Project. The following activities will provide avenues to achieve this objective:

1. The OSHA Directorate of Technical Support will formally notify the international union representatives through the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) Safety and Health Committee of those unions representing workers at ORNL and ETPP about the Pilot Project and will offer a briefing for them. The intent of this briefing will be to provide background information about external regulation of DOE, lay a foundation of working with their local unions, and discuss the Oak Ridge Pilot Project.
2. OSHA and DOE will conduct an initial briefing for a broad cross-section of line management and employees at ORNL and ETPP on the Pilot Project and the issue of external regulation in general. Workers will be informed about their opportunities to participate, e.g., attend opening and closing conferences as part of the simulated OSHA inspections, accompany OSHA during walk-around inspections, address questions informally to OSHA staff, file certain complaints directly with OSHA, etc. The Operations Office and contractors will coordinate and provide logistics as necessary for at least one briefing at ORNL and ETPP each. Briefings should occur at least one week before first onsite OSHA regulatory activity begins. During these briefings, it will be important to convey that DOE worker protection management systems will remain in place during the OSHA pilot. It will also be important to clearly communicate the OSHA employee complaint mechanism that will be in place during the Pilot Project, but does not replace DOE worker protection management systems.
3. The contractors will provide additional avenues to inform their workforce including newsletter articles, briefings at staff /all hands meetings, and bulletin boards. Unions will be provided opportunities to participate in these activities.

C. Simulated OSHA Inspection.

1. OSHA will conduct simulated inspections of selected facilities at ORNL and ETPP.
  - a. The inspections will simulate actual OSHA inspections as closely as possible, in order to provide a realistic assessment of what would occur under external regulation by OSHA. OSHA will issue simulated citations, including a designated time to abate.

- b. To simulate activities as if under external regulation by OSHA, the contractors in coordination with ORO, will review the simulated citations and respond to OSHA by: 1) accepting the citation and designated abatement dates; or 2) participating in an informal conference to request changes to items listed in the citation, including penalty and proposed abatement dates. OSHA will take a position on the response to each simulated citation through the informal conference mechanism. The contractors also have the option, after the informal conference, to contest the citation by filing simulated contest notices to the Occupational Safety and Health Review Commission (OSHRC). Since the OSHRC is not participating in the Pilot Project, the OSHA Pilot Core Team will receive the contest notice, but will not take any further actions on the contested citations.
- c. Because OSHA citations (and related abatement requirements and associated abatement times) are part of a simulated external regulation pilot activity, DOE and its contractors are not required to take any action in response to such citations and requirements. DOE and its contractors, following established DOE procedures, will use the citations to assist in the identification of worksite hazards and in determining actual timing and funding priorities for any abatement action (including interim protective measures) associated with such hazards. Differences in abatement cost, timing, and effect on funding priorities will be analyzed as outlined in paragraph V.E.1.
- d. OSHA will rely on its normal inspection procedures, as described in the OSHA Field Inspection Reference Manual (FIRM), OSHA Instruction CPL 2.013, in particular those procedures concerning the opening conference, walkaround inspection, and closing conference, as well as post-inspection procedures for establishing simulated abatement dates, issuing simulated citations, assessing simulated monetary penalties, and conducting informal conferences (including responding to contractor requests for modification of abatement dates). In addition, as noted below in the section on Safety and Health Program Evaluation, OSHA will use the simulated inspection process to help determine how well DOE contractors have implemented site safety and health programs.

2. During the course of the simulated inspections, DOE or its contractor will advise OSHA of the existence of any variances, exemptions or interpretations that DOE has issued for particular OSHA standards that are relevant to conditions that OSHA believes are possible violations. (These variances, exemptions and interpretations include, but are not limited to, radiation protection [including 10 CFR 835] those in the fire protection area, particularly those involving life safety/egress issues, which are granted to a contractor by DOE headquarters, Operations Office, or site office.) Preferably, DOE or its contractor will give this notification to OSHA as part of the walkaround inspection, at the same time that the potential violations are being observed and discussed. However, circumstances may dictate that these issues will be brought to OSHA's attention during the closing conference or during a post-inspection informal conference.

In addition, DOE or its contractor may elect to notify OSHA about the existence of general classes of variances, exemptions or interpretations during the opening conference, so that OSHA will be aware of these issues during the course of the walkaround. Upon request of OSHA or at their own volition, DOE or its contractor will provide OSHA with written documentation concerning these variances, exemptions or interpretations. Whether they are provided orally or in writing, however, OSHA will give due consideration to these issues in conducting the inspection, including the development of simulated citations.

3. Facilities at ORNL and ETTP will be selected for simulated OSHA inspection to provide a wide range of working conditions and different kinds of operations using the following selection criteria:

- Chemical processing with radiation issues
- Chemical processing with no radiation issues
- Laboratory operations with no radiation
- General construction
- Environmental cleanup and deconstruction, with radiation contamination
- General industry (e.g., machine shops, facility maintenance, and utilities)

During the first core group work planning meeting, facilities were selected using these criteria; those facilities are listed in Attachment 3.

4. As part of the Pilot Project, OSHA will respond to employee complaints about alleged safety and health conditions, in accordance with prioritization and other employee complaint procedures established in the FIRM.
  - a. To facilitate the completion of the Pilot Project within the time allotted, employees will be allowed to submit complaints directly to OSHA any time following the initial pilot briefing on June 17 through the end of the Phase I onsite visit on July 10. OSHA will respond to only those employee complaints of current unsafe working conditions 1) which exist and result in worker exposure or potential exposure during the time frame of the Pilot Project (June 17 - July 10), and 2) which are not the subject of an active federal tort claim suit against DOE. Depending on the particular circumstances, OSHA's response may be in the form of a physical inspection of the alleged hazard or it may be handled by letter, telephone call or fax to the employer, with prompt response. The complaint will contain enough information to enable the contractor to effectively respond. If abatement is required, the conditions outlined in paragraph V.C.1 will apply. OSHA will maintain the anonymity of the complainant, if requested. Any OSHA citations or penalties that result from an inspection would be simulated to approximate what would occur during an actual complaint investigation.
  - b. To facilitate the completion of the Pilot Project within the time allotted, employees will be allowed to submit complaints directly to OSHA during the period following the initial pilot briefing (June 17) through the end of the Phase I on-site visit (July 10). OSHA will respond to as many employee complaints as feasible during the pilot until the Core Group pilot report is issued (September 25). OSHA will expedite the investigation of those complaints involving potential imminent danger conditions or serious hazards within timeframes outlined in the OSHA FIRM and before the end of the Pilot (September 25). For any remaining complaints that are other-than-serious, and OSHA is not able to respond to due to the limited Pilot Project timeframe, OSHA will notify the employees about its inability to respond to the complaint and will advise the employees of their options to further resolve the issue (including OSHA transferring the complaint to the DOE or contractor employee concerns program).

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- c. DOE will be made aware of the information (except names of employees) in all employee complaints made directly to OSHA. Unions will also be informed of complaints alleging hazardous conditions to their union members. Employees from any facility at ORNL or ETTP (except privatized facilities) may file a complaint to OSHA during the Pilot Project, not just workers at the facilities listed for simulated OSHA inspections. Employees will be encouraged to go through their immediate supervisor, union representative and contract management to try to reach local resolution of their safety and health concerns prior to elevating to DOE or OSHA.
  - d. DOE retains its safety and health authority to conduct inspections of all alleged safety and health hazards identified by employee complaints.
5. In addition to its other safety and health program responsibilities, DOE and its contractors will remain responsible for the investigation of fatalities and catastrophes (as defined by 29 CFR 1904.8) in accordance with DOE O 225.1A that may occur at the Oak Ridge site during the course of the Pilot Project; however, OSHA will evaluate the DOE investigation process, perform an inspection and may issue simulated citations as appropriate based on this review. A contractor incurring an accident between June 17 and August 14 will notify the OSHA Nashville Area Office within 8 hours of the accident.

D. Safety and Health Program Evaluation.

1. OSHA will conduct a safety and health program evaluation at both ORNL and ETTP that will be used to gauge the general effectiveness of the program, in particular the level of management leadership, employee involvement, worksite analysis, hazard prevention and control, and safety and health training. The safety and health program evaluation will focus on a macro review at the site level.
2. The safety and health program evaluations will employ the general approach described in OSIIA's Revised Voluntary Protection Programs (VPP) Policies and Procedures Manual. OSHA Directive TED 8.1a, for VPP Pre-Approval, although in an abbreviated form. The evaluations will involve a review of safety and health documentation, including the written site safety and health program and other documents, that will help demonstrate line accountability for safety and health. The evaluations will also include a thorough review of injury and illness records of the

contractor and subcontractors and an examination of written programs that address various safety and health issues. Written programs which will be evaluated may include hazard communication, industrial hygiene, process safety management, lockout-tagout, self-inspection, and job hazard analysis. In addition, the evaluations will involve an examination of training programs and interviews with high-level management officials and a random sample of employees.

3. The safety and health program evaluations will be integrated with the simulated inspection activities described above, utilizing many of the same OSHA personnel. As part of the simulated inspection, OSHA will verify how effectively the written safety and health program has been put into practice at the site. For example, during the walkaround phase of the simulated inspection, OSHA will determine through physical observation and informal interviews with employees if safety and health practices included in the site program are well understood by employees and are being followed.
4. OSHA will prepare a narrative report of its findings for each DOE contractor, comparing the site's safety and health program with OSHA's standards for VPP participation. As appropriate, the report will provide recommendations for improvements that might be needed.

E. Resource Analysis.

1. The DOE Operations Office, along with the contractors, will assess all costs associated with OSHA regulatory activities, including DOE and contractor personnel time to manage OSHA onsite inspection activities, employee interviews, review of simulated citations, and preparation time for abatement plans. In addition, the cost associated with the abatement of previously unidentified hazards (OSHA violations); the cost of raising the priority of previously identified hazards in the DOE ES&H Management Plan; and any other impacts on current priorities in the ES&H Management Plan will also be evaluated. The Operations Office, along with the operating contractors, and with OSHA participation will identify the benefits (both tangible and intangible) of OSHA regulation at their sites.
2. OSHA and DOE will use the knowledge and information gained from their participation in the Pilot Project in an independent but related process that they are jointly undertaking to determine the appropriate scope of external regulation in the DOE complex. In particular, the Pilot Program is expected to provide OSHA and DOE with better information

on the extent of hazards at DOE sites, a more accurate assessment of the seriousness of those hazards, and a clearer understanding of the adequacy of OSHA's present standards as they apply to conditions at DOE sites. The Pilot Program also is expected to help OSHA and DOE determine if there is a future need to perform evaluations of site safety and health programs, in light of DOE's efforts in this regard under its ongoing corporate safety and health management program.

- F. OSHA Discrimination Complaint Investigations. Investigations of DOE contractor employee complaints of discrimination will not be part of the Pilot Project, because OSHA already has this responsibility and authority under 29 CFR 24.
- G. OSHA-NRC Regulatory Interface Review.
1. In a separate pilot, the NRC is investigating external regulation issues at the Radiochemical Engineering Development Center (REDC). OSHA will work directly with the NRC to provide opportunities for interaction and discussions on overlapping interagency regulatory issues. OSHA will accompany NRC representatives during their walkthroughs of the REDC or other facility with mixed radiation and nonradiation hazards. This activity is intended for OSHA and NRC to gain insights on potential regulatory overlaps and duplications between their respective authorities and activities.
  2. In conducting the walkthrough, for each hazard identified by OSHA, OSHA and NRC will make an independent determination of whether OSHA or NRC authorities should apply. In making these determinations, OSHA and NRC will use as guidance the jurisdictional provisions included in the two existing memoranda of understanding (MOUs):
    - July 26, 1996 -- Memorandum of Understanding Between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration, With Respect to Gaseous Diffusion Plants
    - October 21, 1988 -- Memorandum of Understanding Between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration
  3. Moreover, using these same MOUs as guidance, OSIIA and NRC personnel conducting the walkthrough will use their good judgment to identify those working conditions that are presently in compliance with OSHA requirements, but which could be subject to differing

interpretations by OSHA and NRC as to which agency's enforcement authority should apply.

4. OSHA will work with the NRC to prepare a report of their findings, noting where there are agreements and disagreements regarding the agencies' determinations of jurisdiction for particular working conditions, in keeping with the existing MOUs. In addition, OSHA will work with the NRC to evaluate the current MOU's applicability to DOE sites and whether or not modifications will be necessary.
- H. OSHA Security Clearance and Access Issues. OSHA will review the DOE and Oak Ridge policy and procedures regarding security clearance, badging, training and access requirements to enter DOE sites and the Pilot Project facilities and similar DOE sites. OSHA will go through the procedures to obtain the necessary training and badging to meet their regulatory needs. This is intended to provide OSHA a better understanding of how these procedures will affect OSHA's actual regulation of DOE sites, (e.g., cost of security clearances for Compliance Safety and Health Officers [CSHOs] if necessary) and ability to meet the access required by the Occupational Safety and Health Act. The Operations Office will make available the documentation necessary for this review.
- I. Regulatory Transfer at Privatized (Reindustrialized) Facilities.
1. As a separate, parallel effort OSHA will conduct an extensive walkthrough of privatized ETP facilities to obtain information on work being performed, assess impact to OSIA, and facilitate transfer to OSHA regulatory authority. This will not include simulated inspections, accepting employee complaints (employee complaint inspections by OSHA) or simulated citations. OSHA will work through the DOE Operations Office and managing contractor in scheduling these tours.
  2. As part of this review, OSHA will determine if hazards and violations are present and whether they are facility-related or were introduced by the employer and can be abated quickly; and will note any unique hazards not typically encountered by OSHA.
  3. OSHA will also evaluate the leases/contracts/permits that DOE has provided to the private employers for relevant DOE interfaces and possible 4(b)(1) preemptions to OSHA regulation of the facilities. Physical barriers to uninhibited OSIA access will also be evaluated.

## VI. SCHEDULE OF ACTIVITIES

- May 21 -- Briefed international union representatives.
- May 26 -- OSHA and DOE held informational meetings with local unions
- May 27-28 -- Initial onsite planning meeting, including high-level agency and site managers and union officials.
- June 2-4 -- OSHA participation with NRC in their pilot project. (Objective 3; Pilot Activity V.G)
- June 15-16 -- Scoping visit by the OSHA core team. Review site organization and documentation, meet with key local participants and facilitators, tour the facility, and attend General Employee Training (GET) and related access training.
- June 17 -- OSHA-DOE briefings for Oak Ridge management and employees
- July 7-10 -- Onsite Phase I of Pilot Project
- July 10 -- Final date for submitting employee complaints
- August 3-14 -- Onsite Phase II of Pilot Project
- August 11 -- Pilot Progress Review
- September 25 -- Issue final Core Group Pilot Project report.

## VII. FUNDING

Nothing in this Work Plan shall be construed to obligate DOE funds to any signatory to this Work Plan or any other entity associated with or affected by the scope of this Work Plan, except for travel funds for OSHA Federal employee as the Interagency Agreement DE-A101-96EH899745.001 and Modification 4 (and subsequent modifications) between DOE and OSHA expressly provides. DOE's responsibilities under this Work Plan are subject to the availability of appropriated funding.

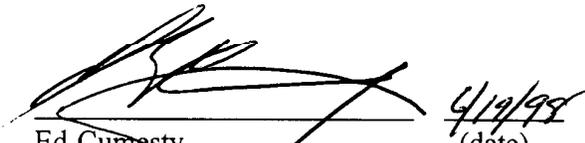
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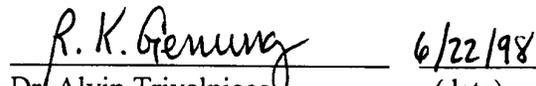
  
Peter N. Brush (date) 8/11/98  
Acting Assistant Secretary  
Office of Worker Health and Safety  
Environment, Safety and Health  
U.S. Department of Energy

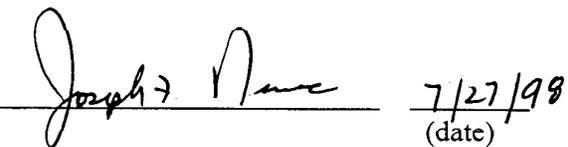
  
Charles N. Jeffress (date) 8/21/98  
Assistant Secretary  
Occupational Safety and Health  
Administration  
U.S. Department of Labor

  
Robert Poe (date) 7/17/98  
Assistant Manager  
Environment, Safety and Health  
Oak Ridge Operations Office

  
Bill Seay (date) 6/22/98  
DOE Site Manager  
East Tennessee Technology Park

  
Ed Cumesy (date) 4/19/98  
DOE Site Manager  
Oak Ridge National Laboratory

  
for Dr. Alvin Trivelpiece (date) 6/22/98  
LMER  
Oak Ridge National Laboratory

  
Joseph A. Nave (date) 7/27/98

Bechtel-Jacobs LLC, Inc.  
East Tennessee Technology Park

## ATTACHMENT 1

## ROLES AND GUIDELINES

This Attachment contains a list of organizations and their assigned roles and responsibilities for the pilot, and operational guidelines for conduct of the pilot. This list is not intended to preclude any additional roles and responsibilities that may be needed to complete the pilot.

### A. Roles and Responsibilities

#### 1. OSHA Directorate of Technical Support, National Office

- a. Will coordinate overall OSHA activity to support this Work Plan, including scheduling of OSHA personnel from various offices in OSHA, including area and regional offices.
- b. Brief international unions of Pilot Project activities.
- c. Coordinate OSHA's participation in at least two information presentations on the Pilot Project and external regulation in general to DOE and contractor management and employees.

#### 1. OSHA Onsite Pilot Team

Under the direction and guidance of the OSHA Pilot Core Group, the OSHA Onsite Pilot Team, composed of representatives from various OSHA locations, will undertake all onsite activities under this Pilot Project, including:

- a. Perform a safety and health program evaluation of ORNL and ETTP, using the general approach that would be employed by OSHA in conducting a VPP evaluation. The evaluations will be accomplished utilizing records reviews, discussions with management and employee representatives, actual on-site observations, and reviews of job (task) standard operating procedures and hazard analyses, and other procedures. Any "problem" locations regarding employee injuries or illness, either actual or potential, which are identified by ORNL/ETTP Safety and Health Professionals, workers, or worker representatives may involve a more in-depth evaluation.
- b. As part of the safety and health program evaluation, prepare a report of findings, that will include a description of strengths and weaknesses noted in the program, relative to the VPP criteria, which may include recommendations for resolving deficiencies. The evaluation is not expected to involve a close review for safety and health hazards. However, if the Onsite Pilot Team observes apparent hazard violations of

OSHA standards as part of the evaluation, it will point out these hazards for corrective action.

- a. Conduct simulated inspections, including opening and closing conferences, the issuance of simulated citations, and subsequent informal conferences with DOE and appropriate contractor(s) related to the Team's findings.
  - d. Assess complaints received while on-site to determine if they should be referred to the NAO for handling through the phone/fax process or if the conditions described in the complaint need to be addressed immediately during the visit (e.g., alleged imminent danger). OSHA will inform both DOE and the contractor regarding the substance of each complaint without revealing the complainant's identity.
  - e. Observe any accident/incident investigations conducted by site contractors and/or emergency response activities, if these situations arise, as an additional means of evaluating the safety and health program. Primary response will be handled by the contractor and DOE in accordance with their existing procedures.
  - f. Review security, clearance, training, and access requirements to assist OSHA to understand the logistical needs associated with this issue.
  - g. Conduct walkthroughs of privatized ETPP facilities, review associated leases, permits, and contracts to assist OSHA resolve transfer protocol issues and facilitate actual transfer of regulatory authority for this facilities to OSHA.
  - h. Accompany NRC inspectors to identify regulatory interface issues.
  - i. Prepare a report and analysis of the Pilot Project.
2. The OSHA Nashville Area Office (NAO) will handle the paperwork concerning phone/fax responses to complaints alleging safety and health hazards. All other paperwork, including the issuance of simulated citations will be handled onsite by the OSHA Onsite Pilot Team.
  3. Department of Energy (DOE)

The primary function of the DOE Oak Ridge Operations Office (ORO) and Site Offices will be to maintain its responsibility to oversee occupational safety and health requirements at the ORNL/ETTP sites, to use OSHA citations for the purposes set forth in paragraph V.C.1 of this plan, and to facilitate the Pilot by obtaining cooperation of

affected site contractors. This ORO function includes the following:

- a. Participate in any OSHA/contractor conferences (initial, subsequent, and closing).
- b. Maintain communication with OSHA regarding complaints OSHA receives during the pilot.
- c. Coordinate briefings, conferences, walkthroughs, and interviews and provide logistical support for pilot activities (including offices and meeting space).
- d. Work with contractors to risk-rank hazards identified in simulated citations.
- e. Assist contractors in identifying existence of any variances, exemptions, or interpretations that DOE has issued for relevant OSHA standards.
- f. Contribute to the resource analysis by assessing the costs associated with OSHA regulatory activities and identifying the benefits (tangible and intangible) of OSHA regulation.
- g. Assist OSHA in obtaining access to medical records needed to fulfill pilot activities.

#### 4. Contractor

- a. Coordinate briefings, conferences, walkthroughs, and interviews and provide logistical support for pilot activities (including offices and meeting space).
- b. During the period between June 17 and August 14, within 8 hours after the death of any employee or subcontractor employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, the contractor shall orally report the fatality/multiple hospitalization by telephone or in person to OSHA's Nashville Area Office. In addition, the DOE reporting requirements will remain in effect throughout the course of the pilot.
- c. Ensure that contractor employees and employees of the affected site subcontractors are informed of the Pilot Project, including the process for submitting safety and health complaints directly to OSHA, for those complaints employees elect not to resolve utilizing in-house procedures. The contractor will post simulated "citations" received from the NAO.
- d. Ensure OSHA's ready access to all facilities and records regarding safety and

## ATTACHMENT 1

## ROLES AND GUIDELINES

- health as necessary to conduct the Pilot Project (e.g., monitoring, sampling, injury, illness, employee medical, internal audit, and contractor selection). The contractor will advise OSHA of the existence of any variances, exemptions, or interpretations that DOE has issued for relevant OSHA standards.
- e. Contribute to the resource analysis by assessing the costs associated with OSHA regulatory activities and identifying the benefits (tangible and intangible) of OSHA regulation.
  - f. The contractor may elect to include in the final pilot report an independent section regarding contractor concerns and issues on external regulation issues.
5. DOE Office of Environment, Safety and Health
    - a. Draft and coordinate Pilot Project Work Plan.
    - b. Facilitate planning and implementation of the pilot activities.
    - c. Participate in Pilot briefings.
  7. Tennessee Department of Labor
    - a. Observe pilot activities and provide input regarding the State's role in external regulation of DOE and regulation of privatized facilities.
    - b. Will represent the Occupational Safety and Health State Plans Association (OSHPA).

### B. Operational Guidelines

1. Enforcement procedures will generally be based on OSHA's Field Inspection Reference Manual (FIRM) except for non-applicable sections, such as the collection of fines and appeals to the Review Commission. In addition, the "specific enforcement procedures" discussed below will establish certain operational guidelines unique to the Pilot Project. Where these two sets of simulated enforcement procedures are inconsistent, the following specific procedures will take precedence over the FIRM.
2. Specific Regulatory Procedures
  - a. All alleged violations of OSHA standards will be reviewed by the OSHA Pilot Core Group. Copies of all citations will be sent to DOE and the contractor. The contractor will be responsible for providing copies of all applicable simulated

## ATTACHMENT 1

## ROLES AND GUIDELINES

"citations" to the affected subcontractor(s). The citations shall be posted at the work location where the hazards are located (for 3 days or until the hazard is corrected or until the Core Group report is issued) to inform affected employees as to the hazards to which OSHA believes they are exposed.

- b. There will be no enforcement processes beyond the issuing of simulated "citations" after an informal conference (i.e., there will be no fine collection, formal conferences, settlement agreements, Review Commission appeals, etc.). In lieu of these processes, DOE ORO will oversee resolution of the alleged "violations."
- c. A Closing Conference to discuss alleged OSHA standard violations will be held with the affected parties (i.e., employer and employee representatives) to allow responses regarding the validity of the allegations and to discuss abatement. DOE officials will participate in the conferences as observers and will facilitate implementation of abatement, if necessary.
- d. Any citations concerning DOE Federal employees or their activities will be issued pursuant to guidelines stipulated in 29 CFR Part 1960, "Basic Program Elements for Federal Employee Occupational Safety and Health Programs," and the OSHA FIRM.
- e. The final alleged violations will be issued as simulated OSHA citations with monetary penalties and abatement dates specified. The simulated citations for violations resulting from a complaint or an accident investigation will be issued at the completion of each inspection. Similarly, notices of safety and health program deficiencies will be presented at the end of each onsite evaluation. Any abatement actions not accomplished in accordance with the citations will be discussed in the closing conference, and noted in the Pilot Project report with an analysis of the barriers that prevented timely abatement.
- c. OSHA will perform an inspection of worksites involving serious accidents (i.e., fatality and/or involving 3 or more hospitalizations) which may occur during the Pilot Project from June 7 to August 14.
- g. Simulated citations will be issued directly to the applicable DOE prime contractor for its subcontractor activities at the site that are alleged to be violations of any OSHA regulations.

**Objective 1 -- Hazard Identification, Correction and Abatement**

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**Statement of Objective:** To assess the nature and severity of the hazards present at the pilot site; determine the effectiveness of OSHA's regulations, enforcement, training and expertise to ensure worker protection by the employer; identify regulatory gaps; and examine the cost-effectiveness and other implications of OSHA's abatement requirements compared with those currently used by DOE.

**Possible Method(s):**

- Simulated comprehensive inspection, including opening conference, walkaround, closing conference, mock citations, and informal conference
- Simulated focused inspection, including opening conference, etc.
- Simulated investigation of employee complaints made to OSHA about working conditions

**Questions Answered:** What are the number and type of OSHA defined safety and health hazards at the DOE facility?

Are they serious? Other than serious? De Minimis?

Are identified hazards covered by OSHA standards? If not, what additional standards are needed? What is the applicability of 5(a)(1) to hazards that are not covered by OSHA standards? Are there any hazards that are unique to DOE worksites?

Are the OSHA standards as protective as present DOE requirements, including those DOE Orders which have an indirect impact on safety and health? If not, what would OSHA need to do to ensure the same level of protection? Does OSHA need to be concerned about these differences, given DOE's continuing corporate role for safety and health at the site?

What is the impact on OSHA enforcement of DOE's system of variances, exemptions and interpretations?

What is the comparative effectiveness of DOE's radiation standard (10 CFR 835) and the OSHA regulation and is the DOE regulation adoptable by OSHA ?

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**ATTACHMENT 2****OAK RIDGE PILOT OBJECTIVES**

What special OSHA expertise and/or training would be needed to address hazards at DOE sites?

Are OSHA's present enforcement procedures and methods appropriate for application to DOE facilities? Are modifications needed to address unique situations?

What is the optimal OSHA intervention program (mix of enforcement and cooperative programs) to adequately address hazards at the site?

What is the accuracy of OSHA's current model envisioned for DOE-site enforcement?

What changes in abatement practices can site personnel anticipate under OSHA's external regulation compared with the current situation?

What is the potential impact of these changes on budgeting and planning related to legacy hazards?

**OSHA Resources:**

Depends on the scope of the visit. It is envisioned that there will be a core team of two to three persons onsite for a total of three weeks -- a two-week initial visit and a one-week final visit approximately one month later. In addition, the OSHA Pilot team would be joined for several days at a time by up to three to four persons with particular technical or other expertise, such as: occupational medicine, occupational health nursing, process safety management, construction and training.

**Comments:**

Given that limited resources will be available for the pilot, the scope of the simulated inspection would need to be carefully circumscribed. This will make it difficult to extrapolate the pilot findings to the rest of the site or other DOE facilities.

It would be useful for the scope of the simulated inspection to include a major construction or demolition effort if one is underway.

The State of Tennessee may want to participate as part of the onsite inspection team.

**Objective 2 -- Safety and Health Program Evaluation**

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**Statement of Objective:** To assess the effectiveness of DOE safety and health programs, including contractors and subcontractors, and the impact these programs would have on OSHA enforcement activities at DOE sites.

**Possible Method(s):**

- Simulated VPP Evaluation

Note: The safety and health program evaluation would cover management leadership, employee involvement, worksite analysis and hazard prevention and control, and would include a thorough records-review.

Note: To ensure that the pilot is an integrated approach, the safety and health program evaluation would be conducted in tandem with the activities under Objective 1, Hazard Identification and Correction.

**Questions Answered:** Has site management made a clear commitment to safety and health? What resources have they devoted to safety and health efforts?

What is the level of employee involvement in the worksite safety and health program (compared with other large establishments)?

Are subcontractors an integral part of the site safety and health program?

Are there effective systems in place to identify hazards? Prevent and control hazards?

Are injury and illness records accurate and thorough? Is equal emphasis given to accidents and injuries of sub-contractors? Are records used to focus safety and health activities? Make decisions about abatement priorities?

Is training adequate for employees? For managers?

In general, is DOE's Integrated Safety Management System (ISMS)

## ATTACHMENT 2

## OAK RIDGE PILOT OBJECTIVES

compatible with OSHA's views on an effective workplace safety and health program?

Are the pilot sites ready to participate in any of OSHA's partnership programs such as VPP?

Would OSHA need to perform resource intensive program evaluations at all sites if OSHA were to regulate DOE with DOE corporate safety and health requirements in place?

### **OSHA Resources:**

Under the guidance and coordination of the two- to three-person core onsite team, the safety and health program evaluation would be conducted by two to three persons team with expertise in this specialty area, for a total of 1 ½ weeks. The team would focus on systems: reviewing injury and illness records, evaluating the safety and health systems, and interviewing employers and managers. The team would work closely with or overlap with team members who are conducting an onsite investigation of working conditions to identify hazards (Objective 1).

### **Comments:**

OSHA may be criticized for using its resources to evaluate the effectiveness of DOE's safety and health program. It must be made clear that the reason for doing so is for OSHA and DOE purposes -- to better gauge the resources required for OSHA's eventual assumption of authority, not to pass judgement on ISMS or other DOE efforts, although findings will be shared as appropriate. This will also help validate effectiveness of DOE corporate safety and health programs and oversight.

**Objective 3 -- Evaluate OSHA-NRC Interface**

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**Statement of Objective:** To provide a forum for OSHA and NRC to evaluate regulatory interface issues at DOE facilities.

**Possible Method(s):** Conduct a walkaround with NRC during its pilot visit to the Radiochemical Engineering Development Center.

**Questions Answered:** What are NRC's expectations regarding external regulation of DOE sites and what do they see as their role, if any, for employee safety and health issues that are non-nuclear.

How cleanly can worker non-nuclear safety and health protection issues be separated from nuclear safety issues, including radiological protection of workers?

What are the areas of agreement and conflict with NRC over the agency's expected enforcement coverage at DOE sites?

Can OSHA and the NRC use existing relationship outlined in the current MOUs between OSHA and the NRC for public utilities or the U.S. Enrichment Corporation facilities to outline regulatory authorities at DOE sites?

Does NRC's radiation protection regulation (10 CFR 20) work in the DOE environment and can it serve as a model for OSHA's revised radiation regulation?

**OSHA Resources:** Two to three persons would probably be able to complete this phase of the pilot in two or three days. These individuals would need to have expertise in safety and health, a good understanding of radiation protection issues, and be familiar with the workings of OSHA-NRC jurisdiction.

To the extent that schedules will permit, the evaluation of NRC-OSHA interface will be done as part of the hazard identification activities under Objective 1.

**Comments:** NRC and OSHA would need to coordinate pilot schedules to allow joint presence at the site.

**Objective 4 -- Inspection Procedures and Protocols**

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**Statement of Objective:** To assess potential concerns related to OSHA inspections, including security clearance issues, site access training, and the need to protect compliance safety and health officer (CSHOs) from unique and unfamiliar hazards at DOE sites.

- Possible Method(s):**
- Evaluate the site's written operating procedures for security clearances and then conduct an onsite simulated walkthrough of these procedures.
  - Perform pre- and post physical examinations of pilot participants and subsequently, based on these results, develop recommendations for modified physical examinations for CSHOs who will conduct DOE onsite interventions.

**Questions Answered:** What is the probable impact of DOE's security clearance procedures on OSHA?

How much extra time would be required for training and clearance procedures?

Would clearance issues prevent OSHA's ready access to the site in response to accidents, fatalities and catastrophes?

Are there restrictions concerning the use of cameras, videos, laptops and other equipment and how would this impact OSHA's ability to investigate?

Are there restrictions on the removal of sampling equipment and how could this problem be addressed?

Is there a need to conduct pre- and post-visit CSHO physicals?

**OSHA Resources:** To be determined by OSHA.

**Comments:**

**Objective 5 -- Engage and Inform Site Personnel About OSHA External Regulation**

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**Statement of Objective:** To engage and inform site management and employees about external regulation in general, and OSHA enforcement in particular.

**Possible Method(s):** Provide general briefings to site management and employees on the history and future prospects of external regulation, focusing in particular on the general enforcement practices of OSHA.

Note: Representatives of management and employees will be participating in the development and conduct of the pilot. This objective is intended to provide information about OSHA external regulation and the goals of the pilot to a wider audience.

**Questions Answered:** What level of outreach are OSHA and DOE likely to need to conduct in the event that external regulation is implemented?

**OSHA Resources:** Two to three persons for one to three days to conduct a series of briefings.

**Comments:**

**Objective - - Transfer Regulatory Authority for Privatized Facilities**

This objective is a separate effort, conducted in parallel with the pilot and therefore draws information as appropriate from the pilot project.

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**Statement of Objective:** To evaluate the impact of current and expected DOE privatization activities on OSHA and affected State Plan States.

**Possible Method(s):** Walkaround visit to get a first-hand look at sites that have been or soon will be privatized.

**Questions Answered:** How are employee safety and health issues presently being handled?  
Have OSHA-free Zone in fact been created by OSHA and DOE's present views on currently privatized worksites?

Are DOE's characterizations of the sites accurate in accordance with OSHA's proposed privatization "execution" plan? Are these truly privatized activities or are they DOE-related operations being performed under different contractual arrangements?

Are there security clearance issues at privatized worksites?

Are there unexpected hazards at the sites or other problems that would make transfer to OSHA unwise at this time? Does OSHA's draft privatization "execution" plan need to be modified to address these concerns?

Are there special problems that would affect the ability of State Plans to assume authority for privatized worksites?

How has ORO responded to issues raised in the report: "Safety Management Evaluation of Facility Disposition Programs at the East Tennessee Technology Park" September, 1997.

**OSHA Resources:** Up to three persons onsite for no more than one week to gain a familiarity with privatized operations. The activities under this review are being conducted independently but in parallel to the pilot.

**Comments:** The State of Tennessee should be involved in this activity.

## **ATTACHMENT 3**

## **SELECTED FACILITIES**

NOTE: Based on OSHA's review of records, and other information such as employee complaint, DOE and OSHA may, through the Pilot Core Group, modify the following list of facilities to better target their inspection efforts.

### **Chemical Processing with Radiation Issues:**

- Toxic Substances Control Act (TSCA) Incinerator
- Central Neutralization Facility (CNF)

### **Chemical Processing with No Radiation Issues:**

- Nonrad Liquid Chemical Processing System

### **Laboratory Operations with No Radiation Issues:**

- Analytical Services Inorganic Lab
- Robotics Facility

### **General Construction:**

- Melton Valley Tanks
- Bridge Replacement Project
- Other construction to be determined

### **Environmental Cleanup Deconstruction Projects with Radiation Issues:**

- BNFL Three-Building D&D
- ETP Remedial Action/D&D (K-1131)

### **General Industry (machine shops, maintenance, or utilities):**

- ETP Guard Headquarters (K-1652)
- ETP General Industry Maintenance (high-voltage, paint shop, etc.)
- ETP Infrastructure (medical, emergency response, etc.)
- ORNL Shipping/receiving (Building 7001)
- ORNL Steam Plant
- ETP Vaults
- ORNL Lead Shop (Building 7005)
- ORNL Machine Shop (Building 7012)

**ATTACHMENT 4****ACRONYMS**

AFL-CIO	American Federation of Labor-Congress of Industrial Organizations
ANL-E	Argonne National Laboratories-East
ATLC	Atomic Trades and Labor Council
BJC	Bechtel Jacobs Company
BNFL	British Nuclear Fuels, Ltd.
CFR	Code of Federal Regulations
CSHO	Compliance Safety and Health Officer
DOE	Department of Energy
EH	DOE Office of Environment, Safety and Health
EM	DOE Office of Environmental Management
ES&H	Environment, Safety, and Health
ETTP	East Tennessee Technology Park
FIRM	Field Inspection Reference Manual
IGUA	International Guard Union of America
ISMS	Integrated Safety Management System
KBCTC	Knoxville Building and Construction Trades Council
LMER	Lockheed Martin Energy Research Corporation
LMES	Lockheed Martin Energy Systems, Inc.
MOU	Memorandum of Understanding
NAO	Nashville Area Office
NRC	Nuclear Regulatory Commission
OCAW	Oil, Chemical, and Atomic Workers
ORNL	Oak Ridge National Laboratory
ORO	Oak Ridge Operations
OSHA	Occupational Safety and Health Administration
REDC	Radiochemical Engineering Development Center
SLTC	Salt Lake City Technical Center
UPGWA	United Plant Guard Workers of America
VPP	Voluntary Protection Programs