



**BILLING CODE: 4510-26-P**

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**[Docket No. OSHA-2013-0027]**

**Addendum to the Memorandum of Understanding with the Department of Energy  
(August 28, 1992); Oak Ridge, Tennessee Properties**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an addendum to the interagency Memorandum of Understanding (MOU) between the U.S. Department of Labor (DOL), Occupational Safety and Health Administration (OSHA) and the U.S. Department of Energy (DOE). The MOU establishes specific interagency procedures for the transfer of occupational safety and health coverage for privatized facilities, properties, and operations from DOE to OSHA and state agencies acting under state plans approved by OSHA.

**DATES:** The expansion of the scope of recognition becomes effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Information regarding this notice is available from the following sources:

*Press inquiries:* Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693-1999; email: [meilinger.francis2@dol.gov](mailto:meilinger.francis2@dol.gov).

*General and technical information:* Contact Ms. Mikki Holmes, Acting Director, OSHA Office of Federal Agency Programs, Directorate of Enforcement Programs, U.S. Department of Labor, telephone: (202) 693-2110; email: [holmes.mikki@dol.gov](mailto:holmes.mikki@dol.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

DOE and OSHA have entered into two MOUs to address both current and former DOE government-owned or leased, contractor-operated (GOCO) facilities. The first MOU, entered into on August 10, 1992, delineates regulatory authority over the occupational safety and health of contractor employees at DOE GOCO facilities by recognizing that DOE exercises statutory authority under section 161(f) of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2201(f)), relating to the occupational safety and health of private-sector employees at these facilities.

Section 4(b)(1) of the Occupational Safety Health Act of 1970 (OSH Act) (29 U.S.C. 653(b)(1)) exempts from OSHA authority working conditions to which other federal agencies have exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health. The 1992 MOU acknowledges DOE's extensive program for the regulation of contractor health and safety, which requires contractor compliance with all OSHA standards along with additional DOE-prescribed requirements. The MOU sets forth an agreement that the provisions of the OSH Act do not apply to GOCO sites for which DOE has exercised authority to regulate occupational safety and health under the Atomic Energy Act.

As a result of DOE's policy emphasis on privatization activities, OSHA and DOE entered into a second MOU on July 25, 2000, to establish interagency procedures

addressing regulatory authority for occupational safety and health at specified privatized facilities and operations on sites formerly controlled by DOE. The July 25, 2000, MOU covers facilities and operations on lands no longer controlled by DOE, which are not conducting activities for, or on behalf of, DOE; and where there is no likelihood that any employee exposure to radiation from DOE sources would be 25 millirems per year (mrem/yr) or more.

## **II. Notice of Transfer**

In an email dated May 1, 2020, DOE requested that OSHA or, as appropriate, the Tennessee Occupational Safety and Health Administration (TOSHA) accept occupational safety and health regulatory authority over employees at the East Tennessee Technology Park in Oak Ridge, Tennessee, one parcel of land pursuant to the MOU on Safety and Health Enforcement at Privatized Facilities and Operations dated July 25, 2000. Other facilities and properties at the East Tennessee Technology Park were transferred to TOSHA jurisdiction under this MOU by *Federal Register* notices 74 FR 120 (January 2, 2009); 74 FR 39977 (August 10, 2009); 76 FR 80408 (December 23, 2011); and 79 FR 29456 (May 22, 2014).

The parcel of land, located at the East Tennessee Technology Park in Oak Ridge, Tennessee, and transferred by deed to the Community Reuse Organization of East Tennessee (CROET), is the Land Parcel Powerhouse Area, Duct Island, K-1007-P1 Pond Area at the East Tennessee Technology Park (ETTP).

OSHA's Regional Office in Atlanta, Georgia, working with the OSHA Nashville Area Office and TOSHA, determined that TOSHA is willing to accept authority over the occupational safety and health of public-sector and private-sector employees at the parcel

of land at the East Tennessee Technology Park in Oak Ridge, Tennessee, that was transferred by deed to CROET. In a letter from OSHA to DOE dated June 26, 2020, OSHA stated that TOSHA is satisfied with DOE's assurances that (1) there is no likelihood that any employee at facilities in the vicinity of the land parcel will be exposed to radiation levels that will be 25 millirems per year (mrem/yr) or more, and; (2) transfer of authority to TOSHA is free from regulatory gaps and does not diminish the safety and health protection of the employees.

Accordingly, TOSHA accepts and maintains health and safety regulatory authority over employees in the vicinity of the Land Parcel Powerhouse Area, Duct Island, K-1007-P1 Pond Area at the East Tennessee Technology Park (ETTP).

### **III. Authority and Signature**

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. This *Federal Register* notice provides public notice and serves as an addendum to the 1992 OSHA/DOE MOU. Accordingly, the agency is issuing this notice pursuant to Section 8(g)(2) of the Occupational Health and Safety Act of 1970 (29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012).

Signed at Washington, DC, on June 30, 2020.

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**Loren Sweatt,**  
*Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.*