

Memorandums of Understanding (/laws-regs/mou/publicationdate) / MOU between OSHA and EPA

- **Information Date:** 02/13/1991
 - **Agreement Agency:** Environmental Protection Agency (EPA)
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Memorandum of Understanding
between
The U.S. Department of Labor
Occupational Safety and Health Administration
and
The U.S. Environmental Protection Agency
Office of Enforcement

I. Purpose

The purpose of this interagency Memorandum of Understanding (MOU) is to establish and improve the working relationship between the Office of Enforcement of the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) of the Department of Labor. The goals of the agencies are to improve the combined efforts of the agencies to achieve protection of workers, the public, and the environment at facilities subject to EPA and OSHA jurisdiction; to delineate the general areas of responsibility of each agency; to provide guidelines for coordination of interface activities between the two agencies with the overall goal of identifying and minimizing environmental or workplace hazards.

This MOU establishes a process and framework for notification, consultation and coordination between EPA and OSHA to aid both agencies in identifying environmental and workplace health and safety problems and to more effectively implement enforcement of our national workplace and environmental statutes.

This MOU is intended to improve the information exchange relating to job-site safety and health, protection of the public health and environment thereby reducing the potential for workplace related injury, death, and environmental contamination. This MOU implements OSHA's authority under the Occupational Safety and Health Act of 1970 (OSH Act) and EPA's general and statute-specific authorities to enter into agreements with other federal agencies to further the legislative objectives of Congress and the President.

II. Background & Responsibilities

EPA and OSHA have the statutory responsibility to ensure the safety and health of the public and America's workforce through the timely and effective implementation of a number of federal laws and implementing regulations. In some areas, the responsibilities of the agencies are separate and distinct. In others, they are complementary. EPA and OSHA wish to work together to maximize the efforts of both agencies to ensure the efficient and effective protection of workers, the public, and the environment.

A. EPA Responsibilities

EPA responsibilities include the protection of public health and the environment by assuring compliance with federal environmental statutes and regulations. Agency functions are performed through standards setting and rulemaking; technical reviews; audits and studies; conduct of public hearings; issuance of permits and licenses; compliance inspections; investigations and enforcement; and evaluation of operating experience and research.

B. OSHA Responsibilities

OSHA is responsible for enforcing the OSH Act, 29 U.S.C. 651 et. seq. The goal of the OSH Act is to assure so far as possible every working man and woman in the nation safe and healthful working conditions. To achieve that purpose, the Act provides broad authority for a variety of activities and programs designed to reduce the number of occupational safety and health hazards at places of employment. Among these is the authority to promulgate mandatory safety and health standards for private sector workplaces, and to conduct inspections of such workplaces to determine compliance with the Act and with OSHA standards. When violations are found, OSHA is authorized to issue citations to employers, propose penalties, and require abatement of hazards. In cases involving imminent dangers, OSHA is authorized to seek injunctive relief in U.S. District Court. In states which have elected to administer State occupational safety and health programs, or "State plans," the Act requires OSHA to conduct a continuing evaluation of State operations and, in certain circumstances, to provide a program of concurrent federal OSHA enforcement.

C. Applicable Statutes

Under the OSH Act, 29 U.S.C. 651, every employer has a general duty, under section 5(a)(1), to furnish employment and a place of employment which is free from recognized hazards that are causing, or likely to cause, serious physical harm. Every employer is also required, under section 5(a)(2), to comply with occupational safety and health standards promulgated by OSHA. In addition, employers must comply with regulations prescribed by OSHA under section 8 of the Act, which pertains to the conduct of workplace inspections among other things, and must furnish such records and other information as may be requested under section 24 of the Act.

Principal EPA laws include but are not limited to:

The Asbestos Hazard Emergency Response Act:

15 U.S.C. 2641; governing the removal of asbestos.

The Clean Air Act:

42 U.S.C. Sections 7401 to 7642; governing the release of air pollutants.

The Clean Water Act:

33 U.S.C. 1251 to 1387; governing the pre-treatment and release of pollutants to water.

The Comprehensive Environmental Response, Compensation and Liability Act:

42 U.S.C. Sections 9601 to 9675; governing the release of hazardous substances and the abatement of toxic and hazardous waste sites.

The Emergency Planning & Community-Right-To-Know Act:

42 U.S.C. Sections 11001 to 11050; governing the storage, use and disposal of toxic and hazardous chemicals, including the reporting of accidental releases.

The Resource Conservation and Recovery Act:

42 U.S.C. Sections 6901 to 6992k; governing the storage and disposal of hazardous wastes.

The Safe Drinking Water Act:

42 U.S.C. Sections 300f to 300j-26; governing the treatment and distribution of portable water.

The Federal Insecticide, Fungicide & Rodenticide Act:

7 U.S.C. Sections 136 to 136y; governing the manufacture and use of toxic and hazardous chemicals used for pest control.

The Toxic Substances Control Act:

15 U.S.C. Sections 2601 to 2671; governing the manufacture, use, distribution in commerce and disposal of commercial chemicals.

The Underground Injection Control Act: governing the disposal of toxic and hazardous waste products.

The Organotin Paint Act: governing the use and disposal of marine paints having toxic constituents.

III. General Operating Procedures For Interagency Activity

In recognition of the agencies' statutory authorities and responsibilities enumerated above, the following procedures will be followed:

A. COORDINATION

1. There will be the fullest possible cooperation and coordination between EPA and OSHA, at all organizational levels, in developing and carrying out training, data and information exchange, technical and professional assistance, referrals of alleged violations, and related matters concerning compliance and law enforcement activity to ensure the health and well-being of the Nation's workforce, the general public, and the environment.
2. By January 1, 1991, and by the beginning of each succeeding fiscal year, EPA and OSHA will develop an annual workplan to identify and define the priorities to be addressed during the year. This workplan will include an identification of specific types of facilities to be jointly addressed during the year.
3. EPA and OSHA will exchange names and phone numbers of appropriate agency headquarters, regional and field personnel, including personnel in OSHA area offices, and in state program offices. All information will be kept up to date by both agencies. Each EPA and OSHA Regional Office will designate a point of contact for carrying out interface activities. Each agency agrees to prepare and distribute to all field personnel a suitable directive outlining a policy concerning the effective implementation of this MOU, and to identify appropriate points of contact. In order to aid in the enforcement and issue-referral process, the agencies will update this information as the need arises and will ensure that managers and field personnel are provided with a copy of this MOU and the relevant directive.
4. Resolution of interagency policy issues concerning this MOU and specific areas of implementation will be coordinated between EPA's Office of Enforcement and OSHA's Directorate of Policy. Resolution of issues concerning inspection and enforcement activity involving both EPA and OSHA jurisdiction also will be coordinated by EPA's Office of Enforcement and OSHA's Directorate of Policy.

B. INSPECTIONS

1. EPA and OSHA may conduct joint inspections as necessary to carry out the legislative purposes of the respective statutory authorities. Such inspections may be in accordance with an annual workplan which is developed by the two agencies and identifies areas for joint initiatives. Such inspections may also be scheduled on an ad hoc basis such as in investigations following accidents or fatalities or injuries to workers resulting from reported activities or situations subject to either EPA OR OSHA jurisdiction.
2. EPA and OSHA inspectors, in the course of conducting separate inspections, may discover situations involving potential violations of the other agency's laws or regulations. In those instances, referrals to the appropriate office will be undertaken as described below.

C. REFERRALS

1. For law enforcement purposes, OSHA and EPA shall develop a regular system to track and manage referrals of potential violations, allegations of violations, or situations requiring inspection, evaluation or followup by either Agency, as appropriate.
2. Although EPA does not conduct inspections for occupational safety, in the course of an EPA inspection, EPA personnel may identify safety concerns within the area of OSHA responsibility or may receive complaints about the safety or health of employees related to their working conditions. In such instances, EPA will bring the matter

to the attention of OSHA designated contacts in the Regional Office. EPA inspectors are not to perform the role of OSHA inspectors; however, they will refer worker health and safety issues to OSHA pursuant to the procedures set forth in the MOU and implementing agency directives. In the case of worker complaints, EPA will disclose the name of individuals to OSHA but will not further disclose the name and the identity of the employee. When such instances occur within OSHA State-plan States' jurisdiction, the OSHA Regional Office will refer the matter to the State for appropriate action.

3. OSHA will inform the EPA Regional Administrator or appropriate EPA office of matters which appear to be subject to EPA jurisdiction when these come to their attention during Federal or State safety and health inspections or through worker complaints. Although not exhaustive, the following are examples of matters that would be reported to the EPA:

- a. Worker allegations of significant adverse reactions to a chemical or chemical substance which poses a potential hazard to public health or the environment.
- b. Accidental, unpermitted, or deliberate releases of chemicals or chemical substances beyond the workplace.
- c. Unsafe handling, storage, or use practices involving chemicals, chemical substances, or waste materials in apparent violation of EPA-administered laws.
- d. Other readily detectible potential violations of EPA-administered laws, such as by-passing treatment systems.
- e. Asbestos dispersal or contamination affecting the public or the environment.

4. EPA shall respond to referrals from OSHA, and OSHA shall respond to referrals from EPA, concerning potential violations of the other agency's requirements, when appropriate, by conducting investigations in a timely manner. Referrals shall be evaluated and appropriate action will be taken.

5. OSHA will work to facilitate referrals of potential violations of EPA regulations to EPA and will encourage the relevant State agencies in those States which operate their own occupational safety and health programs (under a plan approved by OSHA under Section 18 of the OSH Act) also to make such referrals. EPA will work to facilitate referrals to OSHA or OSHA State-plan States of potential violations of occupational health and safety standards or regulations discovered by federal or state environmental inspection activities.

6. EPA and OSHA will conduct periodic meetings, as necessary, to report on the progress of actions taken on the other agency's referrals and to evaluate the effectiveness of the referral system and operating procedures. Both agencies agree to establish a system to monitor the progress of actions taken on referrals.

7. OSHA will encourage State-plan States to respond to referrals from EPA and State agencies concerning potential violations of the States' occupational safety and health standards or regulations by conducting investigations in a timely manner. OSHA will further encourage State-plan States to participate in all training and information-sharing activities established under this MOU.

D. DATA EXCHANGE

EPA and OSHA agree to exchange information relating to complaints, inspections of investigations, violations discovered, imposition of civil monetary penalties, or other legal actions taken to enforce pertinent laws and regulations, and all other information necessary to ensure effective and coordinated law enforcement. This MOU contemplates data exchange through both hard copy and computer data bases, in accordance with procedures to be established in a separate agreement.

E. TRAINING

EPA and OSHA will cooperate in developing and conducting periodic training programs for each other's personnel in the respective laws, regulations, and compliance requirements of each agency, as appropriate, to ensure that valid referrals are made when potential violations are found and to support joint enforcement and

inspection initiatives. This MOU contemplates exchanges of appropriate training materials and information and development of specialized training activities in accordance with procedures to be established in a separate agreement.

IV. Period of Agreement

This MOU shall continue in effect unless modified in writing by mutual consent of both parties or terminated by either party upon 30 days advance written notice to the other.

This MOU does not preclude either Agency from entering into separate agreements setting forth procedures for other special programs which can be addressed more efficiently and expeditiously by special agreement.

V. Implementation

Nothing in this Agreement is intended to diminish or other-wise effect the authority of either agency to implement its respective statutory function. This Agreement is effective upon signature by both parties.

U.S. Department of Labor

Occupational Safety and Health Administration

Gerard F. Scannell

Assistant Secretary

Elizabeth Dole

Secretary of Labor

NOV 23 1990

Dated

U.S. EPA

Office of Enforcement

James M. Strock

Assistant Administrator

William K. Reilly

Administrator

NOV 23 1990

Dated

FY 1991 WORKPLAN, AGREEMENT ON TRAINING
& AGREEMENT ON DATA EXCHANGE

IMPLEMENTING THE MEMORANDUM OF UNDERSTANDING
Between the
UNITED STATES DEPARTMENT OF LABOR
Occupational Safety and Health Administration
and the
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Enforcement

FEBRUARY 1991

FY 1991 WORKPLAN
IMPLEMENTING THE MEMORANDUM OF UNDERSTANDING
Between the
UNITED STATES DEPARTMENT OF LABOR
Occupational Safety and Health Administration
and the
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Enforcement

FEBRUARY 1991

OSHA-EPA WORKPLAN for FY 1991

1. OSHA-EPA Memorandum of Understanding

The Secretary of the Department of Labor and Administrator of the Environmental Protection Agency (EPA) signed a Memorandum of Understanding (MOU) on November 23, 1990 with the goal of establishing a program for improved environmental and workplace health and safety. Implementation of the program is to be coordinated primarily by the Occupational Safety and Health Administration (OSHA) and EPA Office of Enforcement. Although the two agencies have worked cooperatively together in the past on a number of issues and investigation, no comprehensive structure existed to focus that cooperative effort nationally. Having such a comprehensive structure is particularly critical given the potential overlapping of EPA-OSHA responsibilities and the need to assure the most effective use of limited Federal resources.

The Memorandum of Understanding provides for coordination of the two agencies' general enforcement activities as well as joint inspections of facilities believed to be in violation of federal workplace or environmental standards; facilitates the exchange of technical information, computer data bases and other information to allow for better targeting of inspections; and provides for cross-training programs.

The MOU requires that a number of specific actions be taken, including the development of a workplan for 1991 with subsequent annual workplans to be developed by the beginning of each succeeding fiscal year. Separate agreements to implement training and data exchange have been developed to supplement this workplan.

2. Specific Initiatives Identified For Implementation in FY 1991

Initial implementation will focus on two major initiatives beginning immediately. These are OSHA's petrochemical "special emphasis" inspection program (PetroSEP) and EPA's lead pollution reduction strategy. Although each project was developed independently by each Agency, it is apparent that OSHA and EPA have a direct and independent regulatory and enforcement interest in the successful combined implementation of these programs. Prior experience suggests that facilities with EPA violations have probable OSHA violations as well. In addition, basic procedures for training and data exchange will be developed and implemented during FY 1991.

A. OSHA Special Emphasis Program in Petrochemical Industries, Standard Industrial Classification (SIC) Codes 2821, 2869 and 2911; "PetroSEP"

Increased concern about petrochemical plant operations comes as the result of recent explosions in the chemical industry. Explosions at the Phillips Houston Chemical Complex in Texas, ARCO in Channelview, Texas, and BASF Corporation in Cincinnati, Ohio, have left more than 40 workers dead. OSHA and EPA are committed to strengthening efforts in the chemical industry to prevent and mitigate the effects on workers, the public, and the environment of chemical accidents.

This workplan for the initial year of the MOU builds upon high priority enforcement initiatives already under way in each agency. OSHA has committed extensive compliance resources to a special emphasis inspection program in 28 major petrochemical facilities. PetroSEP is designed to focus primarily on management systems governing the health and safety procedures for maintenance activities, contractor activities, and general operations including compliance with regulations to control risk and prevent disaster.

Areas for special review include the following standard industrial classification (SIC):

1. Plastic Materials; Synthetic Resins and Nonvulcanizable Elastomers; SIC Code: 2821
2. Industrial Organic Chemicals; not elsewhere classified; SIC Code 2869
3. Petroleum Refining; SIC Code 2911

This review is limited to facilities in OSHA Regions II, III, V, and VI. EPA Regions II, III, V and VI correspond to OSHA regions for this initiative. EPA has designated contacts at the EPA Regional Division Director level to coordinate joint inspection activity with OSHA. OSHA has prepared and distributed a Notice describing the PetroSEP program to affected OSHA regional offices. This notice includes applicable policy directives and procedures to be followed in implementing the special emphasis program. EPA has distributed the OSHA Notice to EPA regional offices participating in the PetroSEP program.

In addition, EPA is providing OSHA with an inventory of the chemicals used in significant quantities at each facility and data on accidental releases that have occurred. EPA will provide technical assistance when requested by OSHA during chemical process safety reviews. Further, in the coming months, EPA inspectors will join the OSHA teams in at least six of the OSHA-targeted facilities to conduct "multi-media" inspections -- that is, inspections which encompass the gamut of EPA-administered programs, including clean air, clean water, toxic substances, and hazardous waste.

A major purpose of this inspection program is to identify and correct industry practices that are potential contributing causes of accidental explosions. EPA also has a direct role and interest in this activity. Serious accidents not only represent an imminent threat to the health and safety of the plant's employees but also have a potential to release large quantities of toxic materials into the environment.

At this time, EPA has provided OSHA with all submitted toxics release inventory data for the 28 facilities that are subject to the OSHA special inspection program. These data provide OSHA inspection teams with valuable information, such as a list of chemicals that are used in significant quantities by each facility. EPA is also providing OSHA with information concerning accidental releases.

ACTION NEEDED	TIMETABLE
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ACTION NEEDED	TIMETABLE
OSHA Target Identification & Selection of 28 Facilities	Done
EPA Generation & Delivery of EPGRA Toxic Release Inventory Reports	Done
EPA Identification of Subset of Facilities For Federal Inspections	Done
Joint OSHA-EPA PetroSEP Regional Coordination Meeting	April 4, 1991
OSHA-EPA PetroSEP Conference Calls; generally every three weeks	Ongoing; generally every three weeks
EPA Inspection of Six Facilities	To begin April 30, 1991
Target Date For Completion of PetroSEP	September 1992

B. Lead Pollution Reduction Strategy For Smelters, Incinerators and Hazardous Waste Sites.

EPA has established an inter-agency workgroup, in which OSHA participates, to address the risks posed by exposure to lead. EPA has been coordinating its activities with HUD and the Centers for Disease Control to ensure that lead reduction activities do not run at cross-purposes with the programs and goals of other agencies. The Office of Enforcement is supporting this Agency effort by ensuring that current regulatory standards are being met by lead-emitting facilities. OSHA is developing additional regulatory and enforcement approaches to reduce worker exposure to lead. OSHA has an existing permissible exposure limit (PEL) and worker protection requirements that address lead exposures in general industry, and a PEL for lead exposure in the construction industry. OSHA has also inspected and issued "egregious" penalty actions against nine lead smelters.

OSHA has given top priority to updating its lead standard for the construction industry. This rulemaking has been put on a fast track, and a Notice of Proposed Rulemaking is expected in the current fiscal year. At the same time, OSHA will be lowering the permissible exposure limit for lead in construction, as part of its update of its Air Contaminants Standard for that industry. Until the new rule for the construction industry is in place, OSHA will issue a Hazard Information Bulletin for employers and workers in that industry, alerting them to the hazards of lead, particularly of lead-based paint removal operations, and suggesting work practices and personal protective equipment to minimize harmful exposures.

EPA has briefed OSHA staff on EPA's Lead Pollution Reduction and Enforcement Strategies. While OSHA is unable to target these same facilities for full-scale inspections in FY 1991, OSHA will inform the EPA of reports of accidents or worker complaints which would trigger an OSHA inspection. In this way, EPA and OSHA may be able to undertake a limited amount of joint enforcement activity in these facilities this year. Finally, OSHA has provided EPA with files of egregious cases resulting from inspections at four of the targeted smelters and the results of OSHA's FY 1990 inspections in general industry where there were cited violations of the lead standard associated with overexposure.

ACTION NEEDED	TIMETABLE
EPA Development of Lead Strategy	Done
EPA Identification of Lead Smelter Enforcement Targets	Done
OSHA Submission of Lead Health Data	Done
OSHA Submission of Worker Complaints To EPA on Selected Target Facilities	Ongoing

ACTION NEEDED	TIMETABLE
OSHA Issuance of Lead Hazard Information Bulletin	March 1991
EPA Issuance of Enforcement Actions	July 1991

C. Inter-Agency Complaint Referral and Tracking

OSHA will ensure that referrals from EPA are properly recorded, acknowledged and followed-up on, in accordance with procedures outlined in the OSHA Filed Operations Manual (FOM). EPA will establish a written system for tracking referrals of potential violations discovered and reported by OSHA personnel to ensure that they are properly recorded, acknowledged, and followed-up on.

At a minimum, each system will include:

- A. a system for tracking reports;
- B. identification of responsibilities and accountability;
- C. a process for at least quarterly review of the referrals to ensure that proper review has been given to each significant item.

Action Needed	Timetable
Development of Tracking Systems	April 30, 1991
Implementation of Tracking Systems	June 30, 1991
Review of Tracking Systems and Followup on Referrals	September 30, 1991

D. Development of Specialized Training For Inspectors and Case Development Officers of Respective Agency Statutes and Programs

Discussions are underway concerning training for EPA and OSHA inspectors. To be effective "eyes and ears" for each other's respective programs, it is essential that OSHA field personnel and EPA field personnel clearly understand the most serious concerns of each other's statutory and regulatory authorities. To this end, the agencies have agreed to provide the following training programs:

- a. For senior managers and policy planners. Each agency will present an overview of how each agency conducts its enforcement program, including a summary of statutory requirements, authorities and priority areas. It is anticipated that this specialized training will be offered annually. The training will also be available to OSHA State Plan Designees and Consultation Project Directors.
- b. For inspectors. During the first year of this MOU, the primary focus will be on developing basic materials for incorporation into each other's inspector training programs. EPA and OSHA will establish and present training to aid in the identification of workplace or environmental hazards for the purpose of making referrals. Such training will focus on providing a general understanding of issues which are subject to the other agency's jurisdiction and the process for notifying, through a complaint and referral system, the other agency when potential violations come to the inspectors attention. Special emphasis will be made on identifying cases or situations that suggest apparent hazards which could pose a significant danger to workers, the public or environment, requiring prompt remediation.

Action Needed	Timetable
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Action Needed	Timetable
Exchange of Existing EPA & OSHA Training Calendars	Done
Training Developed For Senior Managers	February 28, 1991
Development of Training Materials	September 30, 1991

E. Enforcement and Compliance Monitoring Data Exchange Program

Each agency will identify key personnel to establish a Data Exchange Committee (DEC). The DEC will have overall responsibility for implementing the data exchange section of the MOU. Data may be requested for general targeting purposes, determining compliance histories or background information on specific facilities, industrial segments or categories or related reasons. The exchange of Agency computer data bases on chemical management, permits and compliance is a major focus of this workplan and the supplemental Agreement on Data Exchange.

The initial task will be to identify the client community within each agency and the type of data of interest. The DEC will identify data managers and their systems to help identify specific data of interest. The DEC will facilitate understanding of each agency's data and data systems by exchanging data and system descriptions and by providing presentations about data and data systems. Each Agency agrees to provide materials and assistance in order to understand the other agency's data.

The DEC will develop a framework within their respective client communities to identify and implement the most efficient methodology to exchange data. This framework may include but is not limited to the exchange of hardcopy data reports, or exchange through electronic means and direct database access. Each agency agrees to provide training, when required, to directly access identified databases.

The DEC will identify key individuals in each agency that will initiate, receive and coordinate data requests. These individuals will be responsible for the data exchange. The DEC will agree on a process for each agency to follow when requesting data from the other agency.

Action Needed	Timetable
Identify OSHA & EPA Personnel for Data Exchange Committee	February 28, 1991
DEC identifies client offices & data needs	March 30, 1991
Develop framework to identify methods for effective data exchange	April 30, 1991
Establish process for data exchange	April 30, 1991

3. Planning Activities for FY 1992

The main intent of the first annual workplan is to identify major enforcement initiatives that can readily be supported by each agency. It is anticipated that information gathered in the course of implementing PetroSEP and the Lead Initiative will generate a number of ideas and initiative areas for FY 1992. Understanding the fundamentals of how each agency operates and the extent of statutory duties and policy initiatives will allow the agencies to better target and implement initiatives for FY 1992.

A planning meeting will be held during the first two weeks of June at which representatives of each Agency will recommend areas for concentration based upon experiences in the first half of FY 1991. Areas of focus will include initiatives, training opportunities and needs, and improved use of data bases. A final workplan will be

developed by October 1, 1991.

Action Needed	Timetable
Each agency identifies initial target areas for enforcement investigations in FY 1992	April 30, 1991
Communicate priority areas to regional/field offices for review/comment	April 30, 1991
OSHA-EPA meeting to discuss potential joint initiatives	June 30, 1991
Finalize MOU Workplan based on agency workplans	July 30, 1991
Develop press strategy to highlight achievements in FY 1991 and to announce goals for FY 1992	September 30, 1991

4. Regional Administrator Briefings

To ensure the fullest coordination and a full appreciation of the MOU at the national and regional levels, it is anticipated that a meeting of EPA and OSHA Regional Administrators will be held in 1991.

5. Implementation of Workplan

Nothing in this Workplan is intended to diminish or otherwise affect the authority of either agency to implement its respective statutory function. The terms of this Workplan are effective upon signature by both parties.

United States Department of Labor

Occupational Safety and Health Administration

Gerard F. Scannell

Assistant Secretary

2/13/91

United States Environmental Protection Administration

Office of Enforcement

James M. Strock

Assistant Administrator

2/12/91

Dated

AGREEMENT ON TRAINING
IMPLEMENTING THE MEMORANDUM OF UNDERSTANDING
Between the

UNITED STATES DEPARTMENT OF LABOR
Occupational Safety and Health Administration
and the
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Enforcement

FEBRUARY 1991

I. Background

On November 23, 1990, a Memorandum of Understanding (MOU) was signed by the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor and the Office of Enforcement of the United States Environmental Protection Agency. The Purpose of this MOU is to improve the working relationship between the agencies in the enforcement of their respective statutes and to maximize their efforts to ensure the efficient and effective protection of workers, the public, and the environment at facilities subject to EPA and OSHA jurisdiction. The MOU provides for additional agreements to carry out training and data exchange between the agencies. This document establishes the terms of an Agreement on Training (Agreement) to support OSHA and EPA enforcement activities.

II. Purpose

The purpose of this Agreement is to provide the fullest possible cooperation and coordination between EPA and OSHA in developing and carrying out training in support of the MOU. OSHA and EPA will cooperate in developing and conducting periodic training programs for each other's personnel in the respective laws, regulations, and compliance requirements of each agency, as appropriate, to ensure that valid referrals are made when potential violations are found, and to support joint enforcement and inspection initiatives.

III. Target Group

The target group for this Agreement includes all present and future EPA and OSHA inspectors, who investigate workplaces where hazards regulated by either OSHA, or EPA are likely to exist, and other appropriate personnel.

IV. Training Focus

EPA will support training of OSHA inspectors in recognizing environmental hazards for the purpose of making referrals. Conversely, OSHA will support training of EPA inspectors in identifying workplace hazards so that they can make referrals. Therefore, training of EPA and OSHA inspectors will focus on providing a general understanding of issues which are subject to the other agency's jurisdiction, significant hazards regulated by the other agency, especially those requiring immediate remediation, and the procedures for notifying officials when potential violations come to the inspector's attention. After receiving instruction in the appropriate EPA and OSHA regulations, OSHA and EPA inspectors will be able to recognize and refer to the respective authorities those cases where apparent hazards could pose a significant danger to the workplace, public, or environment.

V. Implementation

A. Basic Training OSHA and EPA inspectors will receive training in the basic concepts of recognizing, evaluating, and controlling occupational and environmental hazards commonly found in the workplace. Each agency will develop appropriate materials on these matters for inclusion in the other agency's training program. The materials may be based on training materials which already are part of each agency's inspector training program and will consist of written materials as well as audio-visual modules. After both agencies have developed training materials, the materials will be exchanged and then delivered, as soon as possible, to present EPA and OSHA inspectors. The training materials will also be included in the basic inspector training programs required to be taken by all new OSHA and EPA inspectors.

B. Specialized Training

1. Cross Training When appropriate and to the extent possible, EPA and OSHA will provide for attendance at existing agency training courses for inspectors of the other agency.
2. Joint Training As OSHA and EPA identify joint enforcement and inspection initiatives under the Annual Workplan called for in the MOU, EPA and OSHA will develop training materials and as appropriate conduct joint training for the inspectors who will be carrying out those initiatives.
3. Location Specialized training will be conducted at, but is not limited to, EPA's National Enforcement Training Institute, EPA's National Enforcement Investigations Center, and the OSHA Training Institute.

C. Coordination

OSHA's responsibilities under the Agreement will be coordinated by the Director, OSHA Training Institute. EPA's responsibilities under the Agreement will be coordinated by the Chief of the Program Development and Training Branch of the Office of Enforcement.

VI. Period of Agreement

This Agreement is effective upon the signature of both parties and shall continue in effect unless modified in writing by the mutual consent of both parties or terminated by either party upon 30 days advance written notice to the other.

United States Department of Labor

Occupational Safety and Health Administration

Gerard F. Scannell

Assistant Secretary

United States EPA

Office of Enforcement

James M. Strock

Assistant Administrator

Dated

AGREEMENT ON DATA EXCHANGE
ADDENDUM TO THE MEMORANDUM OF UNDERSTANDING
Between the
UNITED STATES DEPARTMENT OF LABOR
Occupational Safety and Health Administration
and the
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Enforcement

Data Exchange for Compliance and Enforcement Activities

For Cooperation in Developing and Implementing a Data Exchange Program for OSHA and EPA to be Mutually Beneficial to Each Agency as they Discharge their Respective Responsibilities

I. Background

On November 23, 1990, a Memorandum of Understanding (MOU) was signed by the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor and the Office of Enforcement of the United States Environmental Protection Agency (EPA). The purpose of this MOU is to improve the working relationship between the agencies in the enforcement of their respective statutes and to maximize their efforts to ensure the efficient and effective protection of workers, the public, and the environment at facilities subject to EPA and OSHA jurisdiction. The MOU provides for additional agreements to carry out training and data exchange between the agencies. This document establishes the terms of an Agreement on Data Exchange (Agreement) to support OSHA and EPA enforcement activities.

II. Purpose

The purpose of this Agreement is to establish the foundation of a data exchange program between EPA and OSHA that will be mutually beneficial to each Agency as it discharges its respective responsibilities.

III. Implementation

Each agency will identify key personnel to establish a Data Exchange Committee (DEC). The DEC will have overall responsibility for implementing the data exchange section of the MOU. The DEC will identify key individuals in each Agency who will initiate, receive and coordinate data requests, including key OSHA personnel who will be responsible for notifying OSHA State Plan States when their data is provided to EPA.

The initial task for each agency is the identification of the client community within OSHA and EPA. This includes identifying and describing mutually beneficial data. The DEC will identify data managers and their systems in each agency to help describe specific data of interest. The DEC will facilitate the understanding of each Agency's data and systems by exchanging data and system descriptions and providing presentations about the data and systems. Each agency agrees to provide materials and assistance in order to facilitate understanding of its data. In addition, OSHA will provide materials and assistance concerning data in its data systems provided by OSHA State plan States.

The members of the DEC will develop a framework within their respective client communities for the purpose of identifying and implementing the most efficient method of exchanging data. This framework will include format, content, and frequency of data exchange. The data exchange may include but is not limited to hard copy reports, electronic media, and direct database access.

The DEC will develop specific procedures to assess the confidentiality of data, including but not be limited to Confidential Business Information, trade secrets, and confidential informant information. The DEC will also develop procedures to assure that Confidential Business Information, trade secrets, and confidential informant information will not be disclosed in an unauthorized manner.

EPA agrees to provide training to OSHA personnel, when requested, on how to directly access identified EPA databases and to make independent queries and retrievals.

IV. Period of Agreement

This Agreement is effective upon the signature of both parties and shall continue in effect unless modified in writing by the mutual consent of both parties or terminated by either party upon 30 days advance written notice to the other.

United States Department of Labor

Occupational Safety and Health Administration

Gerard F. Scannell

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2/13/91

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James M. Strock

Assistant Administrator

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Dated

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