



VOSH PROGRAM DIRECTIVE: 06-005 (e-version)

ISSUED: July 21, 1986

SUBJECT: Radford Arsenal and Radford Army Ammunition Plant: VOSH Cession of Enforcement Jurisdiction to Federal OSHA

A. Purpose.

This directive relinquishes VOSH enforcement jurisdiction over the Radford Arsenal and Radford Army Ammunition Plant to Region III of the Federal Occupational Safety and Health Administration (OSHA) in accordance with Section 4(d) of the Agreement Under Section 18(e) of the Occupational Safety and Health Act of 1970 (October 1, 1981, Occupational Agreement) and OSHA Instruction STP 2.14.

B. Scope.

This directive applies VOSH-wide.

C. Action.

The Commissioner of Labor and Industry by this directive and a letter to the Regional Administrator for Region III of Federal OSHA is relinquishing enforcement jurisdiction over the Radford Arsenal and Radford Army Ammunition Plant, Radford, Virginia to Federal OSHA effective on the issuance date of this directive. This action is taken in accordance with Section 4(d) of VOSH's 1981 Operational Agreement with Region III and STP 2.14.

D. Background.

The question of State occupational safety and health jurisdiction over private employers operating government property has been a recurrent one. The Virginia Attorney General's Master List of the Jurisdictional Status of Federal Enclaves in Virginia (p. 40) states that the Radford Arsenal is an "exclusive" Federal enclave and that the Radford Army Ammunition Plant is a combination of "exclusive" and "proprietary" Federal Jurisdiction.

In a decision by the U. S. District Court in Minnesota, Minnesota v. Federal Cartridge Corp., 6 OSHC 1287 (D. Minn. 1977), it was noted that the state's occupational safety and health statute did not extend jurisdictional coverage to a private contractor on a Department of Defense installation which was designated as an "exclusive" Federal enclave. (Note: Case law indicates that on "proprietary" Federal enclaves, VOSH can exercise jurisdiction when not preempted by Federal law or in conflict with Federal purposes).

In response to the Federal Cartridge Corp. case, Federal OSHA issued STP 2.14 which provides that a state plan can relinquish jurisdiction over an "exclusive" Federal Enclave to Federal OSHA by notifying the Regional Administrator and filing a State Plan Change. In addition, VOSH's 1981 Operational Agreement with Region III provides in Section 4(d) that Federal OSHA's responsibility under the OSH Act of 1970 continues to be retained for "enforcement on any Federal enclave where the State cannot

obtain entry, including National Parks and Department of Defense Installations.” (VOSH cannot effectively “gain entry” to the Radford Arsenal and those portions of the Radford Ammunition Plant that are “exclusive” since VOSH does not have any jurisdiction in “exclusive” Federal enclaves).

Case law and Operational Agreement clearly dictate that VOSH must relinquish jurisdiction over the Radford Arsenal and those portions of the Radford Army Ammunition Plant that are “exclusive.” VOSH has also chosen to relinquish jurisdiction to the “proprietary” portions of the Ammunition Plant, since a detailed examination of the acquisition records (deed, comprehensive land plat, etc.) for the portion of the federal reservation to be inspected would have to be conducted before each inspection. The potential for confusion and loss of valuable time in responding to the complaint would only be to the detriment of the safety and health of the Plant workers and conflict with the purposes of the OSH Act of 1970.

ATTACHMENT: Virginia Attorney General’s Master
List of the Jurisdictional Status of
Federal Enclaves in Virginia (p. 40)

DISTRIBUTION: Commissioner of Labor and Industry
Assistant Commissioner of VOSH
VOSH Technical Services Director
Directors and Supervisors
Compliance Safety and Health Staff
Voluntary Compliance and Training Staff
OSHA Regional Administrator, Region III

MEMORANDUM

TO: Clayton Deane, Director
Construction Safety
Department of Labor and Industry

FROM: Robert D. Perrow *RP*
Assistant Attorney General

SUBJECT: OSHA - Federal Jurisdiction

DATE: February 16, 1978

Attached is a copy of the Attorney General's Master List of the jurisdictional status of federal enclaves in Virginia. The list was compiled in 1975 or 1976. Subsequent land transfers may have occurred which will affect the accuracy of this list. Accordingly, the list should be used as a guide and this Office should be consulted should the jurisdictional status of a particular federal enclave come into question.

RDP:plh

cc: Leonard Vance
Assistant Attorney General

<u>U. S. Postal Service</u> Post Office (Manassas)	1919	.4	Exclusive
<u>Dept. of Health, Education & Welfare</u> -Office of Education Marine Corps Schools (Quantico)	1954	--	Proprietary
<u>Dept. of Defense</u> -Navy Quantico Marine Base	1917-1943	52,054	Exclusive, Partial & Proprietary
Naval Hospital	1941-1942	50.6	Exclusive
-Army Woodbridge Research Facility	1970	6.42	Proprietary
Quantico Microwave Site	1958	.6	Exclusive
Woodbridge Housing Site	1970	7	Proprietary
-Air Force Manassas Air Force Station	1955	50	Proprietary
<u>PULASKI COUNTY</u>			
<u>Dept. of Transportation</u> -Federal Aviation Admin. Buildings	1948-1958	--	Proprietary
<u>U. S. Postal Service</u> Post Office (Pulaski)	1911	.4	Exclusive
<u>Dept. of Agriculture</u> -Forest Service Jefferson National Forest	1913-1974	19,258	Proprietary
<u>Dept. of Defense</u> -Army Radford Army Ammunition Plant	1942	2,436.44	Exclusive & Proprietary
Radford Arsenal - New River	1941-1942	2,923.18	Exclusive
Army Reserve Training	1942	96.7	Exclusive