

Agreement
Between
Occupational Safety and Health Administration, Lansing, Michigan Area Office
And
The National Park Service, Sleeping Bear Dunes National Lakeshore

I. Background

In the past, the National Park Service (NSP) has experienced the highest employee injury and illness rates of all Department of Interior (DOI) bureaus. Recognizing this problem, the NPS approached the Occupational Safety and Health Administration (OSHA) asking for help in improving the employee safety and health programs at establishments with high lost time case rate (LTCR).

As a result, the NPS and OSHA enter into this Agreement pursuant to the authority of the NPS Organic Act of 1916, 16 U.S.C. 1-4, and sections 19 and 24 of the Occupational Safety and Health Act of 1970 and Executive order 12196 that allows OSHA to give help to specific sites categorized as National Parks, National Recreation Areas, and National Seashores. This agreement describes the scope of assistance that will be provided by a specific area office to a specific park unit that has been collaboratively selected by NPS and OSHA.

II. Objectives

- A. Develop and implement an effective comprehensive safety and health program in accordance with 29 CFR Part 60 – *Basic Program Elements for Federal Employee Occupational Safety and Health Programs*.
- B. Reduce the total employee lost work day cases for **Sleeping Bear Dunes National Lakeshore** by one (1) per year based on the 5 year average of total cases reported between 1992 and 1996.
- C. Reduce the LTCR for **Sleeping Bear Dunes National Lakeshore** to the national federal employee average or below by the year 2003.
- D. Identify and correct the primary causal factors in employee injuries and illnesses, in particular those behind the three top causes of injuries and illnesses.
- E. Improve the safety and health program to become qualified and eligible to participate in a Federal Agency Voluntary protection Program (FA VPP).

III. Statement of Agreement

- A. The **Lansing Area Office** agrees to:
 1. Help identify programmatic needs at this site by reviewing the Documented Safety Program (DSP) and provide practical help in implementing the program.
 2. Help identify the primary causal factors in injuries and illnesses, in particular the three top hazards at this site and develop countermeasures for correcting those hazard.
 3. Provide access to training resources including:

- a. A safety management training session for division chiefs.
 - b. Access to OSHA Training Institute Courses (OTI).
 - c. Guidance to other available sources to training.
4. Help mentor NPS safety and health representatives and offer technical assistance at this park by arranging an Agency Technical Assistance Request (ATAR) so the NPS safety and health representatives could accompany OSHA compliance officers in inspections for training purposes. Technical assistance may include:
- a. Practical abatement assistance.
 - b. Technical equipment loans.
 - c. Air monitoring assistance.
5. Accept the findings, if satisfactory, of NPS investigations and inspections of formal complaints and referrals that would normally be handled by OSHA. These will be conducted in accordance with OSHA policy except as modified by this agreement as follows:
- a. Complaints. (See Appendix I for the description of the types of complaints.)
 - 1) Complaint Inspections. If the complainant agrees, the NPS safety and health representative may inspect those complaints, which would normally result in an OSHA complaint inspection except for:
 - a) Complaints evaluated as imminent danger or high gravity serious;
 - b) Complaint investigations which the employer fails to provide adequate response to; or
 - c) Complaints where the complainant provides evidence that the employer's response to a complaint investigation is false or does not adequately address the hazard(s).
 - 2) Complaint Investigations.
 - a) When OSHA asks the NPS to inspect a complaint, the NPS safety and health representatives will give a response to the OSHA area office which has been signed off by the established parties. (See Appendix I for definition of establishment parties.)

NOTE: If either establishment party chooses not to sign off on the response, that party can provide a written explanation documenting why. The explanation will be an attachment to the response to OSHA, or in the case where no explanation is given, the response will advise that no explanation was provided.

b) If a response satisfactory to OSHA is not received by the due date, OSHA may conduct an inspection.

b. Referrals

1) For referrals handled by letter, the NPS safety and health representative will prepare a written response to OSHA which will be signed off by the establishment parties. (See Appendix I for definition of establishment parties.)

NOTE: If either establishment party chooses not to sign on the response, that party can provide a written explanation documenting why. The explanation will be attached to the response to OSHA, or, in the case where no explanation is given; the response will advise that no explanation was provided.

2) If a response satisfactory to OSHA is not received by the due date, OSHA may conduct an inspection.

B. The Superintendent agrees to:

1. Provide a written policy from the Superintendent as a part of the introduction to the DSP that identifies safety as the **first** priority for every job.
2. Post copies of this signed agreement and the written safety policy at key locations.
3. Have park management officials attend a program presented by OSHA on basic safety management.
4. Support a comprehensive training program designed to achieve the goal of educating all employees on the current safety record and need for improvement.
5. Commit to implementing the DSP and achieving the objectives of this agreement.
6. Encourage park employees to participate in developing and managing the safety and health program by soliciting participation of all workers in:
 - a) Hazard identification and abatement;
 - b) Employee training;
 - c) Participating in implementing a comprehensive safety and health program at the establishment;
 - d) Employee attendance at all related meetings;

- e) Employee access to all documents pertinent to the safety and health program and this agreement;
 - f) Support of existing safety and health committees; and
 - g) Employee access to safety and health records.
7. Make sure that employees are not subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in the DSP or this agreement.
 8. Utilize a system of accountability for safety that includes rewards, consequences, behavior modification, and inclusion of safety in all performance standards.
 9. Improve safety-related communications within the park and with other NPS areas, including sharing safety programs, accident investigation results, risk management information, and methods of abatement.
 10. Provide resources to effectively implement the safety and health program. However, nothing contained in this Agreement will be construed as obligating either OSHA or the park unit to expend in any one fiscal year any sum in excess of appropriations made by Congress.
 11. Utilize a system of internal safety and health self audits including action items and follow-up.

IV. Term of Agreement

This agreement will start 90 days from the date (or last date) signed by both parties and run for a term of five (5) years beginning from the last date the agreement is signed. The agreement will be reviewed at the end of the five-year term by the signatories and may be renewed by simple letter of renewal signed by the respective signatories. The agreement may be updated at the time before renewal by mutual agreement of the signatories.

V. Key Officials

The primary key officials in this agreement include the Superintendent of Sleeping Bear Dunes National Lakeshore and the OSHA Area Director at the Lansing Area Office. Other key officials include the Assistant Superintendent, the division chiefs, the Park Safety Officer, and designated officials of OSHA.

VI. Funds

It is not anticipated that any funding will be transferred between OSHA and the NPS. However, should there be a need for transfer of funds to accomplish the objectives of this agreement it will be done according to the policies of the agencies and the respective departments of which these agencies are a part.

VII Termination

Any problems that arise that cannot be resolved satisfactorily under the terms of the agreement will be addressed in writing. A letter outlining the problems will be sent to all participants and may constitute grounds for discontinuing the agreement if these concerns cannot ultimately be resolved.

Signatures

Ivan D. Miller	Superintendent, National Park Service
Kenneth Gilbert	Acting Area Director, OSHA

Appendix I Frequently used OSHA terms

Agency: The highest operational level of an organization. For example, the Department of Labor is an agency.

Agency safety and health official: The agency or subagency safety and health manager (not the Designated Agency Safety and Health Officer).

Agency Technical Assistance request (ATAR): A request by a Federal agency for onsite assistance, which may include hazard abatement advice, training, a partial or comprehensive inspection, and program assistance.

Baseline Questionnaire: A comprehensive questionnaire prepared to assess an agency/subagency compliance with 29 CFR 1960, Basic Program Elements for Federal Employees Occupational Safety and Health Programs and Related Matters.

Catastrophe: the hospitalization of three or more employees resulting from a work-related incident.

Complaint: Notice of an alleged hazard over which OSHA has jurisdiction, a violation of the Act or 29 CFR part 1960, Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters, reported by a part or present employee, employee representative, or any other individual knowledgeable of the alleged hazardous condition.

Complaint Inspection: A complaint inspection is an inspection that is initiated primarily as a result of a complaint, is conducted by an OSHA compliance officer at the agency's worksite, and meets at least one of the criteria listed below:

1. The complaint was reduced to writing, is signed by a current employee or employee representative, and states the reason for the inspection request with reasonable particularity. In addition, there are reasonable grounds to believe that a violation of a safety and health standard or danger exists.
2. The complaint alleges that physical harm, such as disabling injuries or illnesses, has occurred as a result of the complained of hazard(s) and there is reason to believe that the hazard or related hazards still exist.
3. The complaint is based on an allegation of an imminent danger situation.
4. The complaint identifies an establishment or an alleged hazard covered by a local or national emphasis program.

5. The employer fails to provide an adequate response to a complaint investigation, or the complainant provides evidence that the agency's response is false or does not adequately address the hazard(s).

6. The establishment that is the subject of the complaint has a history of egregious, willful, or failure to abate notices, within area office jurisdiction and within the last three years. The Area Director may determine not to inspect a facility when good quality abatement evidence has been provided and programs have been implemented to prevent a recurrence of hazards.

Complaint Investigation: a complaint investigation is conducted for the other complaints that do not meet one of the above complaint inspection criteria. It does not include an on-site inspection of the workplace.

Establishment: A single physical location where business is conducted or where services or operations are performed. Typically, an establishment refers to a field activity, regional office, area office, installation, or facility.

Establishment parties: The senior local union official(s) and the superintendent or his/her designee at the establishment level.

Fatality: An employee death resulting from a work-related incident or exposure in general from an accident or illness caused by or related to a workplace.

Follow-up Inspection: An inspection conducted primary to determine if the previously cited violations have been corrected.

High gravity serious: A greater probability of death of injury involving permanent disability or chronic, irreversible illness.

Monitoring Inspection: An inspection conducted to ensure that hazards are being corrected and employees are being protected, whenever a long period of time is needed for an establishment to come into compliance, or to verify compliance with the terms of granted alternate standards.

OSHA Policy: Guidance given by OSHA Instruction CPL 2.103, dated September 26, 1994, "Field Inspection Reference Manual"; OSHA Instruction FAP 1.3, May 17, 1996, "Federal Agency Safety and Health program"; or information in these documents as superseded by more current guidance given in OSHA Notices, memos, etc.

Referral: Notice to OSHA of an alleged hazard, a violation of the Act, or a violation of 29 CFR 1960, Basic Program Elements for Federal Employees Occupational Safety and Health Programs and Related Matters; given by any source not listed for complaints. Referrals include media reports and cross

referrals between an OSHA safety compliance officer to a health compliance officer or vice versa.

Signing Ceremony: A ceremony held by the Assistant Secretary of OSHA or his representative attended by the signatories to the agreement.

Subagency: The operational level below the agency level. For example, the Occupational Safety and Health Administration is a subagency of the Department of Labor.

Subagency parties: The senior local union official(s) and top level management at the subagency level.

Three top causes: The three top injuries and illnesses at the subagency level will be identified by OSHA's Office of Federal Agency Programs and their causes will be identified by working cooperatively with top agency/subagency safety and health officials and through workers' compensation (OWCP) data.