

lands from surface entry and mining for a period of 20 years for the Chief Joseph Dam Additional Units Project.

**EFFECTIVE DATE:** August 9, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Claire K. Wilson, Seattle District, COE, 206-764-6088, or Charles R. Roy, BLM Oregon/Washington State Office, 503-808-6189.

**SUPPLEMENTARY INFORMATION:**

Management of grazing, wildlife habitat and mitigation areas, recreation, fire protection, public access, cultural resources, and realty actions on the withdrawn lands will be under terms and conditions that have been agreed upon between the Corps of Engineers and the Bureau of Land Management and which may be revised by consent of both parties.

**Order**

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (2000)), and jurisdiction is transferred to the United States Department of Army, Corps of Engineers, and reserved for uses in support of the Chief Joseph Dam Additional Units Project:

**Willamette Meridian**

- T. 29 N., R. 26 E.,  
 Sec. 9, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 30, lot 2.  
 T. 30 N., R. 26 E.,  
 Sec. 25, NW $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 35, SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
 T. 30 N., R. 27 E.,  
 Sec. 28, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 29, NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 34, SW $\frac{1}{4}$ NW $\frac{1}{4}$  and NE $\frac{1}{4}$ SW $\frac{1}{4}$ .  
 T. 30 N., R. 28 E.,  
 Sec. 9, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 14, NE $\frac{1}{4}$ SW $\frac{1}{4}$ .

The areas described aggregate 400.27 acres in Douglas County.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (2000), the Secretary determines that the withdrawal shall be extended.

Dated: July 7, 2004.

**Rebecca W. Watson,**

*Assistant Secretary—Land and Minerals Management.*

[FR Doc. 04-18136 Filed 8-6-04; 8:45 am]

**BILLING CODE 4310-33-P**

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**Oregon State Plan: Request for Public Comment on Oregon State Standards**

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

**ACTION:** Request for comment on Oregon State standards for Fall Protection, Forest Activities and Steel Erection.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) invites public comment on three standards promulgated by the Oregon Occupational Safety and Health Division (OR-OSHA) of the Department of Consumer and Business Services pursuant to its OSHA-approved State plan: Fall Protection, Forest Activities, and Steel Erection. Oregon's Fall Protection standard for construction is comparable to the Federal OSHA Fall Protection standard, as published in the **Federal Register** on August 9, 1994, and amended through January 18, 2001. The State's Forest Activities standard is comparable to the Federal Logging Operations standard as published in the **Federal Register** on October 12, 1994, and amended through March 7, 1996. Oregon's Steel Erection standard for construction is comparable to the Federal Steel Erection standard as published in the **Federal Register** on January 18, 2001, and amended through July 17, 2001.

Where a State standard adopted pursuant to an OSHA-approved State plan differs significantly from a comparable Federal standard or is a State-initiated standard that contains significant differences, the Occupational Safety and Health Act of 1970 (the Act) requires that the State standard be "at least as effective" in providing safe and healthful employment and places of employment. In addition, if the standard is applicable to a product distributed or used in interstate commerce, it must be required by compelling local conditions and not pose any undue burden on interstate commerce. OSHA, therefore, seeks public comment as to whether these Oregon State standards meet the above requirements.

**DATES:** Written comments should be submitted by September 8, 2004.

**ADDRESSES:** Written comments should be submitted to the Regional Administrator, Region X, Occupational Safety and Health Administration, 1111 Third Avenue, Suite 715, Seattle, Washington 98101-3212, by mail, telefax (206-553-6499), or e-mail ([terry.richard@dol.gov](mailto:terry.richard@dol.gov)).

**FOR FURTHER INFORMATION CONTACT:** For general information and press inquiries, contact Mike Shimizu, Director, Office of Public Affairs, U.S. Department of Labor, 1111 Third Avenue, Suite 930, Seattle, Washington 98101-3212, Telephone: (206) 553-7620. For technical inquiries, contact the Region X Office of Technical Support, OSHA, U.S. Department of Labor, 1111 Third Avenue, Suite 715, Seattle, Washington 98101-3212, Telephone: (206) 553-5930. Oregon's referenced standards and program directives may be accessed on the State's Web page at <http://www.cbs.state.or.us/external/osha/rules>. Electronic copies of this **Federal Register** notice, as well as referenced Federal OSHA standards and directives, are available on OSHA's Web page at <http://www.osha.gov>.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

*A. Background*

The requirements for adoption and enforcement of safety and health standards by a State with a State plan approved under section 18(b) of the Act (29 U.S.C. 667) are set forth in section 18(c)(2) of the Act and in 29 CFR 1902, 1952.7, 1953.4, 1953.5 and 1953.6. OSHA regulations require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register** (29 CFR 1953.5(a)). Independent State standards must be submitted for OSHA review and approval. Newly adopted State standards must be submitted for OSHA review and approval under procedures set forth in 29 CFR Part 1953, but, as they are adopted under authority of State law, they are enforceable by the State upon adoption and prior to Federal review and approval.

Section 18(c)(2) of the Act provides that if State standards which are not identical to Federal standards are applicable to products which are distributed or used in interstate commerce, such standards must be required by compelling local conditions and must not unduly burden interstate commerce. (This latter requirement is commonly referred to as the "product clause").

On December 28, 1972, notice was published in the **Federal Register** (37 FR 286228) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision and a description of the State's plan. The Oregon plan provides for the adoption of State standards that are "at least as effective" as comparable Federal standards promulgated under section 6 of the Act. The Administrator of the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services is empowered to create, adopt, modify, and repeal rules and regulations governing occupational safety and health standards following public notice and a hearing in conformance with the State's Administrative Procedures Act. Public notice describing the subject matter of the proposed rule, and where and when the hearing will occur must be published in the State newspapers at least 30 days in advance of the hearing. The Administrator considers all recommendations by any member of the public in the promulgation process. Whenever the Administrator adopts a standard, the effective date is usually 30 days after signing.

#### 1. Fall Protection

In response to the promulgation of the Federal Fall Protection standard for construction at 29 CFR 1926.500-503 and appendices (1926 Subpart M) as published in the **Federal Register** (59 FR 40732) on August 9, 1994, with amendments on January 26, 1995 (60 FR 5131), August 2, 1995 (60 FR 39255) and January 18, 2001 (66 FR 5265), Oregon adopted a comparable standard at OAR-003-1926.400 (Division 3/M) under Administrative Order 6-1995, on April 18, 1995, with amendments made on September 15, 1997; February 8, 2000; February 5, 2001; April 15, 2002; and July 19, 2002, under Administrative Orders 7-1997, 3-2000, 3-2001, 3-2002 and 6-2002. Oregon's current standard contains these differences from the Federal standard:

a. The Oregon standard does not contain all of the Federal provisions at 1926.501(b)(1) through (b)(15) that require employees to be protected from falling more than six feet to a lower level for 15 construction surfaces/activities. The Oregon standard requires employees to be protected from falling more than 10 feet to a lower level, but retains the six-foot requirement for holes, wall openings, established floors, mezzanines, balconies, walkways and excavations. Oregon has also retained the Federal standard for protecting employees from falling into or onto dangerous equipment from heights

below six feet. The surfaces/activities where the fall protection has been raised to 10 feet are leading edges, overhand bricklaying and related work, roofing work, precast concrete erection, residential construction, and formwork and reinforcing steel. In effect, the State has raised the height at which fall protection is required from six to ten feet for those working surfaces and activities where guardrail systems are normally impractical and personal fall arrest systems are most often the only reasonable alternative. The higher 10 foot trigger height is deemed by the State to be necessary for these six surfaces/activities because personal fall arrest systems require at least 10 feet of height to be effective in preventing an employee from striking a lower level in a fall situation. To increase overall safety, the State has removed several compliance alternatives allowed by the Federal standards where fall arrest systems can be used effectively. OSHA has experienced similar difficulty in requiring conventional fall protection for these six surfaces/activities and as a result, its standard and policy allow alternatives to be used in lieu of conventional fall protection. These alternatives may be used at all heights, not just between six and ten feet.

The Federal standard addressing leading edges, precast concrete erection, overhand bricklaying and related work, and residential construction, allows employees to work in controlled access zones without fall protection regardless of height. The other areas that are affected by this difference are roofing work, and formwork and reinforced steel work. On rebar walls, OSHA policy allows employees to move from point to point without fall protection up to 20 feet in height. The Federal standard addressing roofs allows a safety monitor system to be used on roofs with slopes up to and including 4 in 12. The Oregon standard limits the use of the safety monitor system to slopes of 2 in 12 and less. Oregon is consistent with other OSHA policy in these areas with one exception. OSHA Directive STD 3-00-001 (STD 3-0.1A), Plain Language Revision of OSHA Instruction 3.2, Interim Fall Protection Compliance Guidelines for Residential Construction, June 18, 1999, exempts employees working on the top of residential concrete and block foundation walls and related formwork from using fall protection. Oregon did not adopt this policy and requires fall protection for employees working above 10 feet.

OSHA standards and policy allow employers to utilize alternatives to conventional fall protection that the Oregon standards and policy do not.

This difference results in the State standard providing protection for more workers at heights above 10 feet than the Federal standard. The Oregon 10-foot rule for residential construction has been in effect since June 1, 1995, and the 10-foot rule for general construction has been in effect since July 19, 2002. During that time, OSHA has received no indication of significant objection to the State's different standard as to its effectiveness in comparison to the Federal standard.

b. The Oregon standard contains criteria for personal fall restraint systems. OSHA allows fall restraint systems, but the Federal standard does not address them. The Oregon policy is consistent with Federal policy on restraint systems.

c. Oregon does not allow the use of controlled access zones and, therefore, has removed 29 CFR 1926.502(g), criteria for controlled access zones.

d. The Oregon standard allows the use of slide guards consistent with OSHA Directive STD 3-00-001 (STD 3-0.1A). The Federal standard does not address slide guards.

e. The Oregon standard adds definitions for Fall Protection Systems, Personal Fall Restraint Systems, Rake Edge and Slide Guard System and removes the definitions for Controlled Access Zones, Low-slope Roof and Steep Roof.

#### 2. Forest Activities

In response to the promulgation of the Federal Logging Operations standard, 29 CFR 1910.266, as published in the **Federal Register** (59 FR 51672) on October 12, 1994, with amendments on September 8, 1995 (60 FR 47022) and March 7, 1996 (61 FR 9241), Oregon determined that its existing Logging standard in OAR, Chapter 437, Division 6, was as effective and asked that the standard be approved. This standard was adopted on September 27, 1991, under OR-OSHA Administrative Order 12-1991. After discussion with OSHA, however, the standard was repealed on June 2, 2003, and a new OAR Chapter 437, Division 7 Forest Activities standard (OAR 437-007-0001 through 1405) was adopted under OR-OSHA Administrative Order 5-2003, and amended on June 7, 2004, under OR-OSHA Administrative Order 3-2004.

Oregon's current standard contains many requirements that are different from or supplemental to the Federal standard. The significant differences are as follows:

a. The scope of the Oregon standard is broader and covers many more activities. The OSHA standard defines logging operations associated with

falling and moving trees and logs from the stump to the point of delivery, such as, but not limited to, marking danger trees and trees/logs to be cut to length, felling, limbing, bucking, debarking, chipping, yarding, loading, unloading, storing, and transporting machines, equipment and personnel to, from and between logging sites. The Oregon standard applies to all forest activity operations including but not limited to: chemical application; chipping; clearing and slash disposal; fire fighting; forest road construction, maintenance and decommissioning; log dumps, ponds, plantsite log yards and independent sort yards; log hauling; marking; pulpwood and non-pulpwood logging; reforestation/vegetation management; stream restoration; timber cutting and thinning operations; timber cruising.

b. Both standards require the use of head protection when there is a potential for head injury, but the Oregon standard lists specific work areas where head protection is not necessary.

c. The OSHA standard requires employees to work within visual or audible contact with another employee. The Oregon standard requires teams with a minimum of two employees for some jobs and lists other jobs where employees can work alone as long as certain conditions are met.

d. The OSHA and Oregon requirements for falling objects protective structures (FOPS) and roll-over protective structures (ROPS) do not apply to machines that are capable of 360 degree rotation. After July 1, 2009, the Oregon standard will require machines that are capable of 360 degree rotation to have ROPS unless they are used on surfaces of less than 20 percent slope, or on slopes of less than 40 percent when used as anchors for cable yarding systems.

e. The OSHA and Oregon standards require protective structures for machines to be of a size that does not impede the operator's normal movements. The Oregon standard also requires the cab of machines manufactured after July 1, 2004, to comply with the International Organization for Standards (ISO) 3411:1995.

f. The OSHA and Oregon standards for machine cabs have construction requirements to prevent materials from entering the cab and to allow for maximum visibility. The Oregon standard also requires cabs to meet the requirements of the Society of Automotive Engineers (SAE) J1084 April 80 or ISO 8084:1993.

g. The OSHA and Oregon standards for egress and access to machines require compliance with SAE J185-

1988. The Oregon standard also allows compliance with ISO 2867:1994.

h. The OSHA and Oregon standards for ROPS require that they comply with the Society of Automotive Engineering (SAE) requirements. The Oregon standard also allows ROPS to meet the ISO 8082:1994 requirements.

i. The Federal standard for First Aid and CPR training requires all employees to be trained prior to initial assignment to work. The Oregon standard requires all supervisors and cutters to be first aid and CPR trained prior to their initial assignment; all other new employees must be briefed on first aid and CPR before their initial assignment, if they are not first aid or CPR trained, and must receive first aid and CPR training within 6 months of being hired. OR-OSHA's enforcement policy for forest activities first aid training, Program Directive A-254 issued on May 24, 2004, provides guidelines for determining if the number and location of first aid and CPR trained individuals are adequate at forest activity operations to provide emergency medical care in a timely manner.

j. The Oregon forest activities standard contains the following additional requirements not present in the OSHA logging standard: requires employers to develop and implement a written safety and health program; requires that accident scenes not be disturbed until allowed by the Oregon Program Administrator or designee or by a recognized law enforcement agency; requires the employer to conduct accident investigations with employee involvement and a written report, and monthly safety meetings with written notes; has requirements for nighttime logging; requires employers to conduct and document a pre-work safety survey; specifically addresses the design and construction of haul roads and has warning sign requirements; has cable logging requirements; addresses the use of wedges and felling methods such as tree pulling and tree jacking; has requirements for the design of log landings and work practices that must be followed; addresses the loading, transportation, unloading and decking of logs and wood fiber; contains requirements for prescribed burns and fire suppression; and has signaling system requirements.

### 3. Steel Erection

In response to the promulgation of the Federal Steel Erection standard, 29 CFR 1926.750-761 and appendices (Subpart R), as published in the **Federal Register** (66 FR 5196) on January 18, 2001, with a delay in the effective date published on July 17, 2001 (66 FR 37137), Oregon

adopted its standard at OAR 437-003-1926.750 through 761 and appendices (OAR 437 Division 3/R) on April 5, 2002, effective April 18, 2002, under Administrative Order 3-2002. Changes to the State's standards at Subdivisions R (steel erection) and M (fall protection) were adopted and effective on July 19, 2002, under Administrative Order 6-2002. These amendments required a 10 foot fall protection trigger height for all construction trades in Oregon (including steel erection) except for 6 feet for holes, wall openings, established floors, mezzanines, balconies, walkways, excavations, and working over dangerous equipment. The 2003 Oregon State Legislature's House Bill 3010 directed OR-OSHA to revise the Steel Erection standard to parallel the Federal requirements and not require the use of fall protection by workers engaged in steel erection at heights lower than the heights at which fall protection relating to steel erection is required by Federal regulations. The Federal steel erection standard requires fall protection at 15 feet in general, and at 30 feet for connectors and employees working in controlled decking zones. Accordingly, the State adopted amendments to its Steel Erection standard on December 30, 2003, effective January 1, 2004, under Administrative Order 8-2003. The State standard is now almost identical to the comparable Federal standard with the following additions:

a. The Oregon rule defines an "opening" as a gap or void 12 inches or more in any direction. The Federal rule defines "opening" as a gap or void 12 inches or more in its least dimension.

b. The Oregon rule requires that a copy of the written notifications to the controlling contractor (as required by 1926.752(a) & (b)) be maintained at the jobsite. The Federal rule does not require such written notifications to be maintained at the jobsite.

c. The Oregon rule requires that the steel erection contractor develop a written site-specific erection plan. The Federal rule allows employers the option of developing alternate employee protection means and methods in a site-specific erection plan for any of the three activities relating to hoisting and rigging and open web steel joists that are specified in the standard at 1926.752(e).

d. The Oregon rule requires that tag lines be used to control loads except when it is determined, by a qualified rigger, that they create a hazard. The Federal rule does not require tag lines.

e. The Oregon rule requires that large roof and floor openings that cannot be decked over, be protected by covers or guardrails as soon as the openings are

created. The Federal rule requires these openings to be protected in accordance with 1926.760(a)(1).

f. The Oregon rule requires a written certification of training record. The Federal rule does not.

g. The Oregon rule requires employees to be retrained in certain conditions. The Federal rule does not address retraining.

#### B. Issues for Determination

The Oregon standards in question are now under review by the Regional Administrator to determine whether they meet the requirements of section 18(c)(2) of the Act and 29 CFR Parts 1902 and 1953. Public comment is being sought by OSHA on the following issues.

##### “At Least as Effective” Requirement

Oregon’s Fall Protection standard for construction in OAR Chapter 437, Division 3, Subpart M is comparable to OSHA’s standard 29 CFR 1926, Subpart M; Oregon’s Forest Activities (Logging) standard at OAR Chapter 437, Division 7 is comparable to OSHA’s standard, 29 CFR 1910.266; and the State’s Steel Erection standard in OAR Chapter 437, Subpart R is comparable to OSHA’s 29 CFR 1926, Subpart R. OSHA has evaluated the State’s standards in comparison to the respective OSHA standards requirements and enforcement policies and has preliminarily determined that the State’s standards in question meet the “at least as effective” criterion on section 18(c)(2) of the Occupational Safety and Health Act. However, public comment on the equivalent effectiveness of these standards is solicited for OSHA’s consideration in its final decision on whether or not to approve these Oregon State standards.

##### Product Clause Requirement

OSHA is also seeking through this notice public comment as to whether the Oregon standards:

(a) Are applicable to products which are distributed or used in interstate commerce;

(b) If so, whether they are required by compelling local conditions; and

(c) Unduly burden interstate commerce.

#### C. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to the State standards and the issues described above. These comments must be postmarked on or before September 8, 2004 and submitted to the Regional Administrator, Region X, U.S.

Department of Labor-OSHA, 1111 Third Avenue, Suite 715, Seattle, WA 98101–3212, fax: (206) 553–6499, e-mail:

[terry.richard@dol.gov](mailto:terry.richard@dol.gov). Written submissions must clearly identify the issues which are addressed and the position taken with respect to each issue. The Occupational Safety and Health Administration will consider all relevant comments, arguments and requests submitted concerning these standards and will publish notice of the decision approving or disapproving the standards.

#### D. Location of Supplement for Inspection and Copying

Copies of basic State plan documentation are maintained at the following locations; specific documents are available upon request, including a copy of these State standards and the submitted comparisons to the equivalent Federal standards. Oregon’s standards, program directives and other documents may be accessed on the State’s Web page at <http://www.cbs.state.or.us/external/osharules>. Contact the Office of the Regional Administrator, U.S. Department of Labor-OSHA, 1111 Third Avenue, Suite 715, Seattle, Washington 98101–3212, (206) 553–5930, fax (206) 553–6499; Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter Street NE., Room 430, Salem OR, 97310, (503) 378–3272, fax (503) 947–7461; and the Office of State Programs, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 693–2244, fax (202) 693–1671. Electronic copies of this **Federal Register** notice, as well as referenced Federal OSHA standards and directives, are available on OSHA’s Web page at <http://www.osha.gov>.

This notice is issued pursuant to section 19 of the Occupational Safety and Health Act of 1970, Pub.L. 91–596, 84 STAT 6108 (29 U.S.C. 667).

Signed at Seattle, Washington, this 13th day of July, 2004.

**Richard S. Terrill,**

*Regional Administrator.*

[FR Doc. 04–18081 Filed 8–6–04; 8:45 am]

**BILLING CODE 4510–26–P**

## NATIONAL SCIENCE FOUNDATION

### Conservation Act of 1978; Notice of Waste Permit Application Received

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit application received under the Antarctic

Conservation Act and request for comments.

**SUMMARY:** Notice is hereby given that the National Science Foundation (NSF) has received a waste management permit application for the United States Antarctic Program (USAP), submitted to NSF pursuant to regulations issued under the Antarctic Conservation Act of 1978.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application on or before September 8, 2004. The permit application may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, 22230.

**FOR FURTHER INFORMATION CONTACT:**

Susanne M. LaFratta at the above address or at (703) 292–7445.

**SUPPLEMENTARY INFORMATION:** Antarctic Waste Regulations in 45 CFR Part 671 require U.S. citizens, corporations, or other entities to obtain a permit for the use or release of designated pollutants in Antarctica and for the release of any waste in the Antarctic. NSF has received a permit application under this regulation for USAP activities in Antarctica. The permit applicant is: Raytheon Polar Services Company, 7400 South Tucson Way, Centennial, CO 80112.

The permit application applies to USAP activities conducted by all supporting organizations at all USAP facilities and operations in Antarctica. The proposed duration of the permit is from October 1, 2004 through September 30, 2009.

Raytheon Polar Services Company (RPSC) and other supporting organizations provide broad-based logistical support, technical support, and transportation services to the USAP. This includes the transport of both hazardous and non-hazardous waste from Antarctica to the United States.

RPSC operations include procuring, transporting to Antarctica, and tracking materials containing designated pollutants that are required for USAP operations, and for NSF and NSF grantees. RPSC is also responsible for fuel operations including fuel storage, distribution, and resupply; and record-keeping of fuel use. RPSC collects, stores, and ships both hazardous and non-hazardous waste materials and is responsible for the final disposition of these materials once they are returned to the United States. RPSC also provides