

North Carolina Department of Labor
Division of Occupational Safety and Health
Raleigh, North Carolina

Field Information System

Operational Procedure Notice 97

Subject: Level of State/Federal Enforcement

A. Purpose. This notice documents the level of federal OSHA enforcement in North Carolina.

B. Scope. This notice applies in all safety and health districts.

C. Discussion. The Occupational Safety and Health Act of North Carolina applies to all employers and employees except those excluded from coverage by North Carolina General Statute 95-128. Federal OSHA has enforcement authority for certain employers and employees who are exempt from coverage by the state Act. The Federal Register Notice of March 7, 1995, which announced the suspension of concurrent federal OSHA enforcement authority, also lists areas of federal enforcement which are not covered by the State Plan.

D. Level of Federal OSHA Enforcement. Federal OSHA will continue to exercise authority with regard to:

- a. Discrimination complaints filed with Federal OSHA;
- b. Private sector maritime activity including,
 - 1. shipyard employment, including boat building establishments in SIC 3732 located on navigable waters, and all establishments in 3731
 - 2. marine terminals
 - 3. longshoring, including all private sector and federal sector marine cargo handling establishments, or operations in SIC 4491
 - 4. gear certification
 - 5. all marinas in SIC 4493 located on navigable waters

6. enforcement of marine construction activities on the navigable waters which are not directly accessible by land;

c. Indian Reservations;

d. Contractors or subcontractors on any federal establishments where the land has been ceded to the federal government;

e. Military bases;

f. The federal government, including its departments, agencies, and instrumentalities.

E. Employees Provided Protection by Other Federal Acts. Employees subject to protection under other Federal Acts are excluded from coverage by the North Carolina Division of Occupational Safety and Health. These Acts include:

a. Atomic Energy Act of 1954;

b. Federal Coal Mine Health and Safety Act of 1969;

c. Federal Metal and Nonmetallic Mine Safety Act;

d. Railroad employees covered under the Federal Safety Appliance Act or Federal Railroad Safety Act of 1970.

F. Exclusions from Coverage Due To Funding Considerations. The Division has no coverage of employees whose employer is within that class and type of employment which does not permit federal funding, on a matching basis, to the State in return for State enforcement of all occupational safety and health issues.

G. Action. The State OSHA program shall inspect and enforce occupational safety and health standards only in those areas permitted by the Occupational Safety and Health Act of North Carolina and included in the State Plan. Referrals should be made to Federal OSHA or other governmental agencies when jurisdictional conditions dictate.

March 20, 1995

(Signed on Original)

Charles N. Jeffress
Director

