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REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER

Note. Completed forms may contain personally identifiable information and require handling as set forth in AR 340-21.

For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by [REDACTED] Chief of Staff

(Appointing authority)

on 20210304 (Date) (Attach enclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - TIMELINE

1. The (investigation) commenced at Rock Island Arsenal, Illinois at 1600
(Place) (Time)
on 20210304
(Date)
2. The (investigating officer) finished gathering/hearing evidence a 0730 on 20210527 and completed
(Time) (Date)
findings and recommendations at 0730 on 20210528
(Time) (Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES		YES	NO ^{1/}	NA ^{2/}
1.	Enclosures (para 3-13, AR 15-6) Are the following enclosed and numbered consecutively with Roman numerals: (Attached in order listed)			
	a. The memorandum of appointment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b. All other written communications to or from the appointing authority?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	c. Privacy Act Statements (Certificate, if statement provided orally)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	d. Explanation by the investigating officer of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	e. Any other significant papers (other than evidence) relating to administrative aspects of the investigation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	f. An Executive Summary, Index of Exhibits, Chronology of the Investigation and lists of all persons interviewed and evidence gathered. (Complex, serious and/or high profile cases)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Exhibits (para 3-14, AR 15-6)			
	a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b. Is an index of all exhibits offered to or considered by investigating officer attached before the first exhibit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	e. Are descriptions or diagrams included of locations visited by the investigating officer (Appendix C-3, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

FOOTNOTES: ^{1/} Explain all negative answers on an attached sheet.

^{2/} Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation.

SECTION IV - FINDINGS *(para 3-10, AR 15-6)*

The *(investigating officer)*, having carefully considered the evidence, finds: *[Each paragraph should be one conclusion based on the evidence gathered during the investigation. These findings should provide answers to each question posed by the appointing authority in the appointment memorandum. The evidence that supports each finding must be cited.]*

See Findings and Recommendations memo.

SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

In view of the above findings, the *(investigating officer)* recommends: *[Each paragraph should be one recommendation based on the findings in Section IV. Address what actions, if any, should be taken with regard to the individuals involved, the unit leadership, and any steps that can be taken to prevent the occurrence in the future. Recommendations do not need to be adverse or punitive. For example, the investigation results can be used as a training tool.]*

See Findings and Recommendations Memo

SECTION VI - AUTHENTICATION (para 3-15, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE.

Investigating Officer
(Investigating Officer)

SECTION VII - ACTION BY APPROVING AUTHORITY (para 2-8, AR 15-6)

The findings and recommendations of the (investigating officer) are:

a) Approved.

b) Approved with the following modifications:

(1) The following findings of fact are added/deleted:

(2) The following findings of fact are modified as follows:

(3) The following recommendations are added/deleted:

Additionally recommend that CAAA develop an annual Process Safety Management (PSM) review program to ensure all current CAAA processes are in line with PSM requirements and 29 CFR 1910.119.

(4) The following recommendations are modified as follows:

(5) The action recommended in recommendation _____ has been accomplished by _____.

(6) Recommendation(s) _____ is not appropriate for action by this command; however, a copy of this investigation is being furnished to _____ for such action as deemed appropriate.

c) Disapproved.

d) The report is (incomplete), (ambiguous), (erroneous) and/or (specify deficiency) with respect to _____.

It is, therefore, hereby returned to the IO for corrective action as follows _____.

Chief of Staff



DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. JOINT MUNITIONS COMMAND
1 ROCK ISLAND ARSENAL
ROCK ISLAND, ILLINOIS 61299-6500

AMJM-IM

10 June 2021

MEMORANDUM FOR [REDACTED], Chief of Staff, Joint Munitions Command, Rock Island Arsenal, Illinois 61299-6500

SUBJECT: Findings and Recommendations - AR 15-6 Investigation, Office of Special Council (OSC) Allegations of Safety Program deficiencies at Crane Army Ammunition Activity (CAAA)

1. BLUF. Crane Army Ammunition Activity (CAAA) Leadership takes safety seriously. While this investigation shows that CAAA is deficient in several areas, including its application of Process Safety Management (PSM), fall protection, and conformance to classified hazardous locations for electrical protections, these deficiencies represent complex, multi-faceted, compliance programs that require detailed technical analysis, engineering/scientific involvement and dedicated, competent employee training to operate the programs effectively. During the investigation, both supervisory personnel and line employees expressed an open willingness to learn more about these efforts, and used candor and honesty in describing the current shortcomings of the various safety efforts. No employee reported that safety was under-valued—or discouraged—as they executed their duties. There was no indication that any of the current CAAA senior leaders were willingly not enforcing or negligently disregarding Federal or Army safety regulations.

a. This investigation substantiates 2 of 8 allegations (PSM and Fall Protection); partially substantiates 3 of 8 allegations (Hazardous classified locations, energy control and weight handling); and does not substantiate 3 other allegations (building inspections, pallet rack floor bolts and posted safety information) that CAAA has not properly implemented, or maintained occupational safety standards at their facility. In some cases the allegations lacked sufficient detail, and that lack of detail prevented a full understanding or substantiation of the allegation. In other cases, the overly broad / generic nature of the allegation encompassed several occupational safety standards; in these cases CAAA may be in compliance with some elements of the standard, but out of compliance with other elements of the same standard. Allegations are labeled by Investigation Officer (IO) subject area:

b. **IO #1, Hazardous classified locations.** This investigation partially substantiates the allegation that: CAAA failed to properly categorize, classify, or rate which locations or areas with powered or explosive processes are hazardous; that these locations or areas lack properly rated corresponding electrical components, fixtures, or circuitry that

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can be used safely and without posing a fire hazard; and that CAAA has failed to maintain an accurate list for these types of hazardous locations.

c. **IO #2, Process Safety Management / PSM.** This investigation finds that CAAA lacks implementation of a process safety management standard regarding the control and handling of hazardous substances, per AR 385-10 and 29 Code of Federal Regulations 1910.119. (29 CFR 1910.119).

d. **IO #3, Energy Control Program.** This investigation partially substantiates the allegation that CAAA lacks a complete, updated energy control (e.g. lockout/tagout) program to control or otherwise prevent the inadvertent release of stored energy from machinery or other mechanical systems pursuant to AR 385-10 and 29 CFR 1910.147.

e. **IO #4, Fall Protection.** This investigation substantiates the allegation that CAAA does not have an adequate fall protection program, including consistent employee training, pursuant to AR 385-10 and 29 CFR 1926.

f. **IO #5, Weight Handling Equipment / WHE.** This investigation partially substantiates an allegation that CAAA “lacked current inspection tags and/or certifications for weight bearing apparatuses, chain or web slings used over production lines) and material handling equipment including manual pallet trucks and portable ladders, per federal regulations and agency policies.

g. **IO #6, Building Inspections.** This investigation does not substantiate the allegation that CAAA lacks proper inspections and related documentation for buildings/worksites pursuant to AR 385-10.

h. **IO #7, Pallet Rack Floor Bolts.** This investigation does not substantiate the allegation that CAAA has failed to bolt pallet racks that store equipment, boxes and spare parts to the floor.

i. **IO #8, Obsolete Safety Information.** This investigation does not substantiate the allegation that CAAA posted outdated or obsolete safety information.

j. CAAA’s overall SOH system could be categorized as deficient in several areas, including its application of Process Safety Management (PSM), fall protection, and conformance to classified hazardous locations for electrical protections. However, these deficiencies represent complex, multi-faceted, compliance programs that require detailed technical analysis, engineering / scientific involvement and dedicated, competent employee training to operate the program(s) effectively. During the investigation, both supervisory personnel and line employees expressed an open willingness to learn more about these efforts, and used candor and honesty in

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describing the current shortcomings of the various safety efforts. No one reported that safety was under-valued— or discouraged—as they executed their duties. These facts do not indicate a workforce where safety is compromised by the current senior leadership.

With a possible exception to PSM, (where an earlier attempt was made by a former Safety Manager and Commander to not implement the standard, circa 2015) there simply appears to be a lack of detailed understanding by some personnel, regarding applicability and implementation of a specific OSHA standard – which should be remedied through additional workforce training and education. Given that CAAA recently received an inquiry from their regional OSHA office, there is little doubt they now understand the critical importance, and the technical nature of these safety standards and CAAA Leadership is working diligently to correct their compliance shortcomings. This was validated during closing discussions with both the CAAA Commander and Executive Director, who both expressed a common understanding of the now known defects - and how they were planning, resourcing, and implementing a corrective action plan to address each separately. There was no indication that any of the current CAAA senior leaders, including the Area Support Director, were willingly not enforcing or negligently disregarding Federal or Army safety regulations. Furthermore, I did not find any evidence that CAAA senior leadership would discourage or punish any employee for reporting safety problems within CAAA's highly hazardous work environment.

2. Background.

a. A whistleblower disclosure, forwarded to the U.S. Department of the Army, Acting Secretary, Honorable John. E. Whitley, from the U.S. Office of Special Council (OSC), dated 25 February 2021, alleged that employees of the Crane Army Ammunition Activity (CAAA), Crane, Indiana may have engaged in conduct that constitutes a violation of a law, rule, or regulation, gross mismanagement, and a substantial and specific danger to public safety.

b. These allegations were made by [REDACTED] (consent approved for name release), who is the former Safety and Occupational Health Manager at CAAA and as such, was responsible for all aspects of the safety programs at CAAA, including enforcing Federal, Department of Defense (DoD), and Department of the Army (DA) regulations related to occupational Safety. [REDACTED] asserted in his disclosures that CAAA has failed to follow Army, National Fire Prevention Association (NFPA) and Occupational Safety and Health Administration (OSHA) regulations concerning munitions, hazards, and employee safety, thereby placing CAAA employees at risk. He also alleged the safety violations and deficiencies brought to CAAA's management's attention remain unresolved.

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c. [REDACTED] specific CAAA allegations included that CAAA:

(1) *Failed to properly categorize, classify, or rate which locations or areas with powered or explosive processes are hazardous; consequently, these locations or areas lack properly rated corresponding electrical components, fixtures, or circuitry that can be used safely and without posing a fire hazard; and has not maintained an accurate list for the above;* (IO #1, Hazardous locations)

(2) *Lacks a process safety management standard regarding the controlling and handling of hazardous substances;* (IO #2, Process Safety Management / PSM)

(3) *Lacks a complete, updated energy control (e.g. lockout / tagout) program to control or otherwise prevent the inadvertent release of stored energy from machinery or other mechanical systems pursuant to AR 385-10 and 29 CFR 1910.147;* (IO #3, Energy Control)

(4) *Does not have an adequate fall protection program, including consistent employee training, pursuant to AR 3850-10 and 29 CFR 1926;* (IO #4, Fall Protection)

(5) *Lacks current inspection tags and/or certifications for weight bearing apparatuses, chain or web slings used over production lines and material handling equipment including manual pallet trucks and portable ladders, per federal regulations and agency policies* (IO #5, Weight Handling Equipment / WHE);

(6) *Lacks proper inspections and related documentation for buildings pursuant to AR 385-10;* (IO #6, Building Inspections)

(7) *Has not bolted to the floor pallet racks that store equipment, boxes, and spare parts,* (IO #7 Pallet rack floor bolts) and;

(8) *Has posted outdated or obsolete safety information that should be replaced.* (IO #8, obsolete safety information)

3. Conduct of Investigation.

a. I received initial notification of appointment (ENCLOSURE 1) as the AR 15-6 Investigating Officer from [REDACTED], Joint Munitions Command (JMC) Chief of Staff, who is also my immediate supervisor, via email on 4 March 2021. I was instructed to contact [REDACTED], my legal advisor for this investigation, for further details and the conduct of the investigation. I contacted [REDACTED] on 5 March 2021, and established

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a time to meet with him and receive Investigation Officer (IO) instructions on 8 March 2021.

b. On 9 March 2021, following legal instructions received from [REDACTED] the preceding day, I contacted [REDACTED], via email, to begin coordinating a time to conduct an interview with him. During 9 March to 12 March 2021, I conducted data collection and preparatory actions for the investigation and witness interviews, including a document review of previous CAAA Safety Command Inspection Programs; hazard reports, email communications from [REDACTED] and other CAAA Safety staff, and pertinent regulatory reviews to familiarize myself with specific requirements surrounding the allegations. I also conferred with some members of my JMC Safety staff, such as [REDACTED], former CAAA Safety Manager and current Division Chief for JMC Safety; [REDACTED], Systems Safety Team Leader overseeing Command wide efforts for PSM implementation (ENCLOSURE 2); and [REDACTED], JMC Industrial Safety Team Leader for background / historical perspectives on CAAA safety compliance issues and previous results from HQ JMC oversight inspections. I also initiated contact with COL Dondero, CAAA Commander, and his senior staff, including [REDACTED], current CAAA Safety Manager, to let them know I would be arriving at CAAA during the week of 15 March for an on-site witness interview and to conduct visual confirmation checks of safety deficiencies at the facility. I also completed travel requests and temporary duty authorizations to allow for the movement to CAAA for witness interviews and data collection tasks.

c. After traveling to the CAAA area on 14 March 2021, I conducted the first witness interview with [REDACTED], from my temporary lodging location in Bloomington, Indiana, on Monday, 15 March 2021, at approximately 0800 local time. [REDACTED] was extremely helpful and provided several potential witness names, including but not limited to, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], as well as relaying implications concerning [REDACTED], CAAA's senior civilian administrator, [REDACTED]. He also provided additional documents he believed might be helpful for substantiating several of his allegations, including email correspondence from [REDACTED] (ENCLOSURE 3), a former CAAA Safety Manager prior to [REDACTED]; a "Pleading Submission Confirmation" packet (ENCLOSURE 4a, 4b), generally consisting of a large volume of material related to [REDACTED] removal from Federal Service, detailed descriptions of the charges that were brought against him, deficiency notices for various safety deficiencies at CAAA (ENCLOSURE 5), and character references to support his MSPB pleading; and a U.S. Department of Labor response letter to a OSHA Complaint No. 1675264 (ENCLOSURE 6) in which the regional OSHA office closed a previous complaint [REDACTED] had made to them, regarding many of the same allegations he disclosed in this report.

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During the interview, I attempted to talk [REDACTED] through each of the allegations separately, mainly to derive detailed information and gain a specific 'reference number' (e.g. subpart / section / paragraph / line) related to each area, in lieu of the broad allegations contained in my appointment letter or the accompanying OSC referral letter. For example, "CAAA lacks a Process Safety standard" is a generic and/or overly broad statement, which if carefully examined by incorrect or unrelated subpart requirements or standards, may be true or untrue, and left open to interpretation by the reader. In normal compliance inspections by OSHA with regards to occupational safety inspections, the Administration will carefully cite the specific subpart and paragraph number so the exact violation of standard is known. In each allegation, his remarks could be summarized as:

(1) **IO #1, Hazardous classified locations** - [REDACTED] allegation stems from 29 CFR 1910.307 and "associated NFPA 70 rules." He believed that "every building" does not have the required analysis concerning hazardous locations, and that CAAA was not maintaining a list of hazardous locations and not conducting annual inspections. He mentioned that while some at CAAA might believe "some buildings" are rated, the bomb lines are not. He mentioned that in building 102 interlock controls were "taped down" and that building 123 slings were out of date for inspection. He also demonstrated some understanding of how hazardous locations are to be classified, e.g. Class and Division number or Zone classification.

(2) **IO #2, Process Safety Management / PSM** - While [REDACTED] acknowledged the Army's Deliberate Risk Assessment Worksheet (DRAW) might be completed for some processes, he felt that if you entered "20 buildings [at CAAA], you'd find 20 PSM problems. He discussed this was known by the regional OSHA compliance inspectors, [REDACTED] and [REDACTED] (retired) and provided phone numbers for them.

(3) **IO #3, Energy Controls** - [REDACTED] relayed several instances involving hand injuries and his effort to acquire hand protection for the employees. He suggested I talk to a [REDACTED] on the issue ([REDACTED] believes [REDACTED] works in procurement).

(4) **IO #4, Fall Protection** - [REDACTED] and I discussed the Fall Protection program in general, and possible usage, by CAAA, of the Navy's Fall Protection Program Guide, since CAAA is a tenant on a Naval Installation. He suggested I ask [REDACTED] to show me if the Army doesn't require a [personal restraint] harness while working in a man-lift device, and suggested I talk to [REDACTED] as well on annual inspections related to the Fall Protection program.

(5) **IO #5, Weight Handling Equipment / WHE** - [REDACTED] specifically mentioned that building 2748 machine shop chains were not certified for use; he stated that generally every chain on bomb lines was out of date; he felt that WHE was a 'facility wide' issue and not limited to one location. He suggested I interview [REDACTED],

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NAVFAC WHE supervisor, [REDACTED], [REDACTED] to gain more insights.

(6) **IO #6, Building inspections** - [REDACTED] stated his concerns that building inspections were not completed. We discussed the challenges of getting facilities to understand the differences with building inspections vice 'workplace' inspections as mandated by OSHA and the Department of the Army.

(7) **IO #7, Pallet Rack Floor Bolts** - [REDACTED] generally discussed this requirement as stemming from Material Handling Instruction (MHI) 16.1, and that virtually all buildings were deficient in bolting pallet floor bolts.

(8) **IO #8, Obsolete Safety Information** - [REDACTED] stated his concerns are with the posting of standard bulletin board information, in virtually all buildings, and that special assignment information, such as contact information for the safety manager, was not posted.

[REDACTED] and I concluded the interview by reviewing some of his other character witnesses and he provided me a copy of his "Sworn Declaration of [REDACTED]" (ENCLOSURE 7) when I asked him to recap each of the OSC allegations. He also offered this Sworn Declaration as an attachment to my request for him to complete a DA Form 2823, Sworn Statement (ENCLOSURE 8). Upon later review, it was determined this declaration did not specifically address each of the OSC allegations. The witness interview lasted approximately 4 hours.

d. During the afternoon on 15 March I made final preparations for visiting CAAA, including sending a requested interview list to [REDACTED], CAAA Safety Manager in order for him to coordinate with the interviewees the next day. On 16 March 2021, I proceeded to CAAA, and initially interviewed [REDACTED], followed by:

- [REDACTED], CAAA Electrical Technician
- [REDACTED], ME Directorate, CAAA
- [REDACTED], CAAA Engineering Technician
- [REDACTED], CAAA Safety Specialist
- [REDACTED], Preventive Maintenance
- [REDACTED], CAAA Safety Specialist, new WHE POC
- [REDACTED], CAAA Maintenance Supervisor
- [REDACTED], CAAA maintenance employee
- [REDACTED], NSA Crane Fire Prevention
- [REDACTED], NSA Crane Fire Chief
- [REDACTED], NSA Crane Assistant Fire Chief
- [REDACTED], NAVFAC, Weight Handling Equipment (WHE) Supervisor
- [REDACTED], NAVFAC, WHE

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- [REDACTED], NAVFAC, WHE
- [REDACTED], CAAA Area Support Division Director
- [REDACTED], CAAA Senior Civilian Executive Agent
- [REDACTED], CAAA Commander

As applicable to the OSC referred allegations, when pertinent information was derived from these witness interviews it can be found on their DA 2823 Sworn Statement form, with exception to [REDACTED], whom I did not request a DA 2823 from, since these issues were managed by his senior Directors, [REDACTED] and [REDACTED]. Additionally, I did not collect a DA 2823 from individuals that I interviewed who did not offer significant information regarding the allegations. In most cases I requested either a signed statement of confidentiality from the witness interview or a DA Form 2823, Sworn Statement.

e. While [REDACTED] (CAAA current Safety Manager) submitted a DA Form 2823 Sworn Statement (ENCLOSURE 10), a summary of our verbal witness interview discussion would be:

(1) **IO #1, Hazardous classified locations** – [REDACTED] explained that, while the ‘building’ may be classified hazardous (in line with fire control procedures), he also acknowledged that no complete inventory exists and challenges to the process would occur due to the frequency of changing production lines. He also acknowledged that he would check with the electrical / maintenance section to determine what documentation they could produce. He did not seem familiar with the Class / Division classifications found in 29 CFR 1910.307, Hazardous Classified locations.

(2) **IO #2, Process Safety Management / PSM** - [REDACTED] is fully aware of the on-going discussion with implementing PSM at CAAA and recognizes deficiencies to compliance with OSHA’s 29 CFR 1910.147 PSM standards. He believes that some Standard Operating Procedures (SOPs) may already exist that help assure PSM principles are employed, such as pre-operational checks and Deliberate Risk Assessment Worksheets (DRAWs), but these processes have not been fully evaluated against the PSM standard to determine their adequacy in reaching a state of compliance to the standard. As PSM implementation at CAAA has been an on-going challenge since 2013, we also discussed cultural and resourcing issues that will be needed if CAAA is to fully implement the standard.

(3) **IO #3, Energy Controls** - [REDACTED] mentioned the recent assignment of [REDACTED] as a new compliance specialist that would help oversee the Energy Control or lockout/tagout program at CAAA, and that [REDACTED] had helped to manage the program in the past. He also mentioned [REDACTED], [REDACTED], and [REDACTED] as assigned as the primary implementers for the program. [REDACTED] stated that he would

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check on written policy and procedures and report back to me.

(4) **IO #4, Fall Protection** - [REDACTED] and I discussed some of the training requirements surrounding fall protection, and that [REDACTED] and [REDACTED] were trained 'competent persons' or CPs within the field.

(5) **IO #5, Weight Handling Equipment / WHE** - [REDACTED] referred me to [REDACTED], as a newly assigned WHE POC for CAAA.

(6) **IO #6, Building inspections** – Following our interview, [REDACTED] provided copies of the last inspection for each building/facility/workplace (ENCLOSURE 21).

(7) **IO #7, Pallet Rack Floor Bolts** - [REDACTED] mentioned that [REDACTED] (CAAA Safety Specialist) will provide a statement concerning the correction of floor bolts.

(8) **IO #8, Obsolete Safety Information** - [REDACTED] did not seem familiar with the complaint on obsolete information on bulletin boards but indicated we could confirm [the boards] status during visual checks planned for the next day.

f. On 17 March 2021, I conducted several follow on interviews / discussions with [REDACTED], in addition to scheduling, and then conducting senior leader witness interviews with [REDACTED], CAAA Commander, [REDACTED], Senior Civilian Executive Officer, and [REDACTED], CAAA Area Support Director and senior manager with oversight of the CAAA Safety Division. [REDACTED] and I also conducted several physical inspections or building walkthroughs, including:

(1) Building [REDACTED]

(2) Building [REDACTED]

(3) Building [REDACTED]

(4) Building [REDACTED];

(5) Building [REDACTED];

(6) Building [REDACTED]

Most of these walkthroughs were conducted for the purpose of visually confirming information found in the allegations, including: whether electrical switchgear and other equipment required to be labeled under the 29 CFR 1910.307, hazardous locations

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standard, has required labels; whether any WHE is currently out of inspection date requirements and in use; whether any physical proof of the lockout/tagout program per 29 CFR 1910.147 is available; whether pre-evacuation plans, fire safety contact information, and required OSHA information is found on safety related bulletin boards and posted throughout the facilities; and whether issues related to pallet rack floor bolting as mentioned in IO #7, Pallet Floor bolts, exist. I concluded my activities at CAAA at approximately 1730 local on 17 March 2021, and departed the area.

g. During 22-26 March 2021, I conducted follow on witness data collection via email, and began drafting the investigative report.

4. Findings. I make the following findings by a preponderance of the evidence:

a. **IO) #1, Hazardous (classified) locations:** This investigation finds that while CAAA, along with building designers from the Naval Facility Engineering Command (NAVFAC) may have classified (and constructed) certain areas of CAAA facilities to hazardous classification / division levels commensurate to CAAA's explosives production mission during initial building construction or modification (ENCLOSURE 10), CAAA has failed to fully update and/or complete hazard analysis for the particular operational process occurring in each room, area or section. CAAA also could not demonstrate, through written hazard analysis or interviews during the investigation, how hazard classified location hazard analysis should be used by employees, supervisors, engineers, operational planners and maintenance personnel to ensure electrical protective controls are maintained in explosive areas, as changes to process, operations, or material usage occurs.

CAAA's deficiencies in this area are in conflict with DA Pam 385-64 *Explosives Safety Program*, Section 1, paragraph 17-2, *Electrical Service and Equipment*. (DA Pam 385-64 expounds and clarifies 29 CFR 1910.307 for Army use), where DA 385-64 requires for "each room, section, or area to be considered individually in determining classification." Additionally, and as noted in consultation with Senior Explosives Safety Engineer, [REDACTED], employed at the Defense Ammunition Center (DAC) (ENCLOSURE 11), CAAA must demonstrate, through hazard analysis and Standard Operating Procedures (SOP), that it has "*categorized, classified, and rated [the] process, not facilities.*" Specific 29 CFR 1910.307 components that may also be deficient are as follows:

(1) 29 CFR 1910.307(a)(1), Applicability, states that "*this section covers requirements for electrical equipment and wiring in locations that are classified depending on the properties of the flammable vapors, liquids or combustible dusts or fibers that may be present. Hazardous (classified) locations may be found in occupancies such as...chemical processing plants and other facilities where excessive*

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combustible dusts may be present. Each room, section, or area shall be considered individually in determining its classification. While CAAA may have designated some of its buildings as hazardous based on local fire codes or Authority Having Jurisdiction (AHJ) designations, broad characterizations based on energetic / explosive material in use at the building location is inadequate to assure proper classification and designations in accordance with the rest of 29 CFR 1910.307 requirements, including any analysis of the “room, section, or area” that may contain hazards at a different classification level.

(2) 1910.307(a)(2) Classifications. I did not find sufficient evidence that CAAA has evaluated any of its rooms, sections, or areas for hazardous locations in accordance with the following designations, by definition in 5 CFR 1910.399:

- Class 1 Division 1
- Class 2, Division 2
- Class 1, Zone 1
- Class 1, Zone 2,
- Class 2, Division 1
- Class 2, Division 2
- Class 3, Division 1
- Class 3, Division 2

(3) 1910.307(b) Documentation. I could not locate evidence that all areas designated as hazardous (classified) locations are properly documented, or if any documentation is available to those authorized to design, install, inspect, maintain, or operate electrical equipment at the location. During informal questioning with individual building supervisors, a general lack of understanding was expressed concerning this requirement.

(4) As noted earlier, perhaps CAAA facility engineers, along with NAVFAC building design engineers are analyzing, designing or equipping their facilities to a hazardous classified location protective level of this standard - in many locations that were visited, I found electrical installations and equipment that appeared to be conformant to the protection levels outlined under 1910.307(c), Electrical Installations thru 1910.307(f) Protection Techniques. However, without proper documentation, including an operational hazard analysis and associated SOPs, from a qualified source, it is impossible to know or understand if these electrical installations are appropriate for the location, operation or production process that is currently underway in that area, section or room. It's also impossible to communicate these hazards and controls to production workers and supervisory personnel, without a current hazard analysis particular to the process or operation underway.

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(5) 1910.307(g) Class 1, Zone 0, 1, and 2 locations. There was no evidence collected that CAAA has considered “scope,” and usage of the zone classification system as an alternative to the division classification system for electric and electronic equipment and wiring in Class 1, Zone 0, 1, and 2 hazardous (classified) locations where fire or explosion hazards may exist due to flammable gases, vapors or liquids.

b. IO #2, Process Safety Management / PSM: This investigation finds that CAAA lacks proper implementation of a Process Safety Management (PSM) standard regarding the control and handling of hazardous substances, per AR 385-10 and 29 Code of Federal Regulations 1910.119. (29 CFR 1910.119). However, it is important to understand the complexity associated with this compliance standard, historical perspectives— and previous misinformation— on why CAAA is not currently in compliance with this standard if this substantiation will be used to determine any current personal liabilities. PSM implementation is an on-going and continual process at CAAA and throughout the Joint Munitions Command as a corrective action from earlier events, and part of a larger programmatic challenge with implementing occupational safety standards in military industrial settings.

(1) CAAA PSM Historical Perspectives. During March 2013, CAAA experienced a Class B Army accident event (ENCLOSURE 12a, 12b), resulting from a fire event in pyrotechnic productions building 126, resulting in \$1.49 million in damages and injuries to (3) Department of the Army Civilian employees. Among (13) causal and non-causal findings, a PSM related hazard control (inconsistent cleaning procedures) was cited as a present and contributing factor in the event. Accordingly, CAAA was to develop a hazard analysis, including a frequency for cleaning, detailed cleaning procedures and related SOPs. A higher level action, directed at JMC (as the Headquarters Command over CAAA) was to “take action to develop and disseminate PSM policy down to all commands.” (will be addressed next). However, in 2016 CAAA sent the OSHA Area Director (covering CAAA location) an official letter (ENCLOSURE 13), signed by a previous CAAA Commander, and justifying, among other immaterial statements, that CAAA was essentially a “military unique” workplace, and not subject to EO12196 (rule requiring Federal Agencies to comply with OSHA standards). Secondly, it argued that CAAA, as a military weapons and explosives manufacturer, was subject to Department of Defense Explosive Safety Board (DDESB) directives and regulations and was not subject to regulatory requirements under 1910.119, Process Safety Management standards for general industry. It is my professional opinion, with over 30 years of managing military safety and health programs at all levels of Command, statements by the previous CAAA leadership are either incorrect or contain misinformation. During my witness interview with [REDACTED], the current Commander of CAAA, I confirmed that he does not ascribe to this earlier policy statement, and clearly understands what is needed to bring CAAA into full compliance with 29 CFR 1910.119, PSM standards - and is actively developing a working plan to achieve that goal.

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(2) Departmental challenges. Another outcome of the 2013 CAAA pyrotechnic accident was for JMC to develop and disseminate PSM policy. To prepare this guidance, in 2015, JMC developed with the assistance of its subordinate sites, including CAAA, a U.S. Army Joint Munitions Command Process Safety Implementation Plan for Explosives and Pyrotechnic Operations at JMC Government Owned, Government Operated (GOGO) Installations (ENCLOSURE 14). This plan was a detailed analysis or crosswalk by 1910.119 subpart / paragraph requirements, that helped establish a gap analysis for PSM implementation in the Command. Since it also identified critical requirements or policy that may be needed at AMC or higher levels, in May 2015 JMC requested official assistance from the Army Materiel Command (AMC) and the Department of the Army (DA), to address these policy "gaps" and a "lack of PSM implementation guidance for Army explosives and pyrotechnic operations" (ENCLOSURE 15). This request was signed by JMC's Commander, [REDACTED] and forwarded to the Army Materiel Command. It appears that subsequent to that effort, the request for PSM guidance and assistance was forwarded to the Director of Army Safety (then BG Farnsworth) and again subsequently forwarded to the Deputy Assistant Secretary of the Army, for Environment, Safety and Occupational Health, (DASA-ESOH) and the Director, Environment, Safety and Occupational Health, Office of the Under Secretary of Defense for Acquisition, Logistics, and Technology (USD-AT&L). The intent of these actions was to garner the help of these higher level Headquarters in clarifying PSM requirements for energetic material, and coordinate with the Department of Labor, Occupational Safety and Health Administration (OSHA) on enforcement and compliance issues related to our military energetic production environment. While there are some reports that expanded PSM guidance is contained in a draft, soon to be issued AR 385-10 revision, it is not known if any other assistance or guidance was received by JMC or its subordinates in response to this request.

(3) Current CAAA PSM efforts. Current CAAA management understands the need to implement PSM and is actively pursuing compliance to the standard. The Command has recently responded to a late 2020 OSHA Area Office inquiry (ENCLOSURE 16) regarding its PSM compliance and OSHA has accepted their action plan response (ENCLOSURE 17) as adequate. Additionally, the Command has authorized the hiring of a PSM Manager to lead the implementation plan and is reviewing associated analysis, such as pre-operational, in-operations, and design reviews to determine their adequacy for meeting some of the PSM analysis. They are also reviewing standard Army Deliberate Risk Assessment Worksheets or DRAW, to determine if that risk analysis methodology can be used to assure a process safety management effort. For JMC's part, the systems safety engineering team is conducting / updating a PSM survey of all JMC sites, regarding PSM implementation, and will utilize those results to develop a path forward across the military energetics production base.

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c. **IO #3, Energy Control Program:** This investigation partially substantiates the allegation that CAAA lacks a complete, updated energy control (e.g. lockout/tagout or LOTO) program to control or otherwise prevent the inadvertent release of stored energy from machinery or other mechanical systems pursuant to AR 385-10 and 29 CFR 1910.147. While a LOTO regulatory program is established within CAAA, the execution of basic tasks and responsibilities under the regulation need improved implementation.

(1) CAAA Regulation (CAAAR) 385-14, Control of Hazardous Energy Program (Lockout and Tagout) establishes minimum requirements for the lockout / tagout (LOTO) of energy isolating devices (ENCLOSURE 18). According to the regulation, all equipment that has a potential to store hazardous energy (normally mechanical or electrical) must be rendered secure, and 'locked out / tagged out' from the inadvertent release of that energy during maintenance, servicing, and repair. CAAA enacted (or updated) CAAAR 385-14 on 18 June 2019, with applicability to all CAAA employees.

(2) I found insufficient evidence to indicate CAAA is in full compliance with its LOTO program. Some specific documentation elements of CAAAR 385-14 that were not evident included:

(A) Specific energy control procedures per CAAAR 385-14 paragraph 4d(1).

(B) Posting of procedures using CAAA Form 385-14, per CAAAR 385-14 paragraph 4d(2)

(C) Copies of completed CAAA Form 385-13, per CAAAR 385-14 paragraph 4d(3)

(D) Previous equipment labels indicating it as a "single point lockout" per CAAAR 385-14 paragraph 4d(4) and 29 CFR 1910, part 147(c)(4)(i)

(E) Records of periodic inspections of active energy control, required annually and documented on CAAA Form 385-44 per CAAAR 385-14 paragraph 4d(5).

(F) Recording of lockout devices on DA Form 3161 per CAAAR 385-14 paragraph 4d (6).

(G) Records, including CAAA Form 385-46 which indicates all equipment left in a LOTO status overnight or longer.

(H) Any Energy Control Procedures (ECPs) per CAAAR 385-14 paragraph 6.

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(3) Other areas of concern within CAAA's LOTO program include a perceived lack of direct supervisory control per Paragraph 4e of CAAAR 385-14, in which supervisors expressed some challenges with equipment procurement and program resourcing, and employee training that ensures the purpose and function of energy control procedures are understood by employees, and they possess the knowledge and skills required for the safe application, usage, and removal of energy controls, per paragraph 5. The overall perception of CAAA's energy control program could be summarized as that while a LOTO regulatory program is established within CAAA, the execution of basic tasks and responsibilities under the regulation need improved implementation.

d. **IO#4, Fall Protection:** This investigation finds that CAAA does not have an adequate fall protection program, including consistent employee training, pursuant to AR 385-10 and 29 CFR 1926. CAAA has not complied with AR 385-10, paragraph 16-2d(9), which states, *"All Army leaders at each echelon will develop and implement functions and written procedures as part of the Army Safety Program and the Army Occupational Health Program to fulfill the following Army and OSHA requirements: (9) Fall Protection."*

(1) There were indicators found during the investigation, mainly in verbal comments from interviewees, that some safety, maintenance, and supervisory personnel possessed a fundamental knowledge of fall protection measures, including prohibitions on working from unprotected heights, and anchorage procedures for mobile man-lift platforms. However, this knowledge alone does not properly constitute a "written procedures" process required by both OSHA and HQ, Department of the Army.

(2) It should be noted that CAAA resides as a tenant on a U.S. Navy operated installation (Crane Naval Support Activity (NSA)) and as such may be subject to the operating procedures of that US. Navy Installation. If Crane NSA procedures do apply to CAAA, a case could be established supporting the U.S. Navy's Fall Protection Guide (ENCLOSURE 19), which is a detailed document of written procedures and assigns responsibilities for fall protection, could be easily adopted by CAAA as their fall protection program.

e. **IO #5, Weight Handling Equipment / WHE:** This investigation partially substantiates that CAAA "lacked current inspection tags and/or certifications for weight bearing apparatuses, chain or web slings used over production lines) and material handling equipment including manual pallet trucks and portable ladders, per federal regulations and agency policies.

(1) The unspecific language of this allegation (e.g. current inspection tags without location data), along with statements made by [REDACTED] during his interview, highlight

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more of a specific equipment deficiency, at a point in time, than an overall program failure. In the interview, [REDACTED] mentioned the 'chains within the machine shop' and 'nearly every bomb line chain', as out of date for inspection; however during several site visits to these facilities during the investigation no lifting chain or sling was found without a current inspection tag or certification – while the lifting devices were in use. It may be important to note, as [REDACTED], NAVFAC WHE Supervisor did in her sworn statement, that *"CAAA rigging gear is commonly out of certification; due to CAAA's operating environment various rigging gear items may not be needed (so is not brought for inspection). CAAA has thousands of pieces of rigging gear so it isn't efficient or cost effective to have unused gear inspected and certified"* (ENCLOSURE 20). However, CAAA also employs an associated process to preclude using any equipment that could be "out of inspection" as they have a detailed safety inspection requirement, including weight handling gear checks, as part of their Manufacturing and Engineering (ME) SOP 740-03, Pre-Production, Operational Line Checks and Production Line Shutdown procedures (ENCLOSURE 23).

(2) As noted earlier CAAA is a tenant on U.S. Navy's NSA Crane, and receives base support functions, including WHE support and training services, from Naval Facilities Engineering or NAVFAC. During an interview with [REDACTED], NAVFAC WHE Program Manager (ENCLOSURE 20), she explained some of the issues with CAAA's WHE Program as:

(A) The "WHE Umbrella" is broad, and generally includes equipment lifting suspended loads, including rigging gear and equipment that qualifies under ASME (American Standards Mechanical Equipment) B30 series standard. However, CAAA has production line equipment that does, and does not, fall under a "WHE umbrella". It is believed this fact leads to some confusion on what equipment must be inspected when, and by whom.

(B) CAAA 'rigging' gear is commonly out of certification, likely due to the infrequent nature of the use of this gear, but it is uneconomical to certify this gear when it is not in use. This could lead to a perception that CAAA is using equipment that is out of certification dates.

(3) CAAA recently appointed a "WHE Point of Contact, or POC" to alleviate any programmatic deficiencies with their material handling program. The initial impressions by the NAVFAC certification authority was this appointment has already had a positive effect in coordinating WHE inspections between CAAA and NAVFAC, and should improve the program overall. Additionally, about 6 months ago, NAVFAC began providing a monthly reconciliation report to CAAA regarding rigging gear status, including a reminder to remove any equipment to an 'inactive status' for gear not in use.

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(3) While my appointment orders directed me to look into possible safety hazards associated with portable ladders and manual hand trucks, [REDACTED] did not provide specific information, such as a building location, room or process line where I could confirm any deficiency with portable ladders and or hand trucks when I asked him about these items. Also contrary to the allegation, portable ladders do not require a certification or inspection tag, and pallet trucks do not require certification, only inspection based on usage, in accordance with 29 CFR 1910 General Industry Standards. Regardless, I did not identify any safety deficiencies related to portable ladders or manual hand trucks during spot checks of CAAA facilities. Furthermore, recent safety inspections at CAAA did not note any deficiencies with the portable ladders or manual pallet trucks (ENCL 21).

f. **IO#6, Building Inspections:** This investigation finds that CAAA does not lack proper inspections and related documentation for buildings pursuant to AR 385-10.

(1) As a core element of any Safety and Occupational Health (SOH) program, workplace inspections are normally well-documented and managed – as such, CAAA’s internal workplace inspection program is monitored by its higher headquarters, the U.S. Army Joint Munitions Command, who in turn verifies the local inspection program’s adequacy during external Organizational Inspection Program (OIP) visits, (generally scheduled every two or 3 years), and the program’s progression to completion during monthly reporting requirements. HQ JMC also monitored CAAA’s inspections as input to the annual Secretary of Labor SOH Report. During interviews with both CAAA Safety personnel, and HQ, JMC Safety Division personnel, no significant issues were reported leading to an investigative conclusion that CAAA is not performing or maintaining proper workplace inspections.¹

g. **IO #7, Pallet Rack Floor Bolts:** The allegation that CAAA has failed to bolt pallet racks that store equipment, boxes and spare parts to the floor and whether that action is required by regulation or law is vague and lacks sufficient detail to thoroughly and properly investigate. Therefore, this allegation is not substantiated.

(1) Normal or routine occupational safety process for investigating and recording deficiencies such as inadequate pallet rack bolting call for the inspector (supervisory or safety personnel) to record the deficiency including the specific location, e.g. building #, facility; process line location; and or work area to enable prompt corrective action by

¹ OSC’s allegations specifically mentioned CAAA lacks “proper inspections and related documentation for buildings”. However, SOH personnel do NOT perform “building inspections.” In accordance with 29 CFR 1960, Federal Agency SOH Programs, and associated DoD and U.S. Army guidance, CAAA must complete “annual workplace inspections”. “Building inspections” can be categorized as engineering assessments of the building’s structural integrity and should not be confused with occupational safety workplace inspections.

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maintenance or supervisory personnel. This allegation did not contain any specific information concerning the building or worksite where [REDACTED] made this observation.

(2) During the interview with [REDACTED], he indicated a lack of pallet rack bolting was a “problem in general” but these conditions were not noticed during the investigation, while visiting several CAAA buildings and do not seem to be indicated by previous facility inspection records (ENCLOSURE 21). Additionally, [REDACTED], CAAA Safety Specialist noted during his interview (ENCLOSURE 22), that one set of racks within building 160 were found without floor bolts but that a repair ticket was initiated by supervisor #5013 and corrective actions would be complete by the end of the week (early March 2021 timeframe). While [REDACTED] also provided a deficiency notice relative to pallet rack bolting in building 3373, (which was noted as compliant on [REDACTED] MFR (ENCLOSURE 22), I cannot find that any additional set of racks without floor bolting as indicative of a broader non-compliance finding.

(3) Additionally, this allegation lacks sufficient reference to a specific rule, standard or law that requires pallet rack bolting. During [REDACTED] interview, he indicated a possible applicable standard as ANSI MH:16, SPECIFICATION FOR THE DESIGN, TESTING AND UTILIZATION OF INDUSTRIAL STEEL STORAGE RACKS. ANSI (American National Standards Institute) MH:16.1 2012 is commonly referred to as a “national consensus body standard” within the DoD Safety and Occupational Health Program, and as such, “must first be considered” prior to developing supplementary standards that apply to their workplace, in accordance with Department of Defense Instruction 6055.01, Enclosure 4, paragraph 1.c. (ENCLOSURE 24) Therefore, CAAA should consider if they have properly adopted and implemented this standard. If CAAA has incorporated ANSI MH 16.1 as a reference in their safety program, they should also confirm if compliance to the standard exists during routine safety inspections.

h. IO#8, Obsolete Safety Information: The allegation that CAAA posted outdated or obsolete safety information is not substantiated.

(1) Posting of “safety information” on bulletin boards is not a well-regulated or broadly standardized activity, and wide variation exists between commands, units, and facilities with regards to information that must be posted for public knowledge – especially in various workplaces across a large industrial complex. In a few cases, it could be stated that ‘required information’ for posting consists of the “Annual Summary of Work-Related Injury and Illness” required by 29 CFR 1904 from 1 February to 30 April of each year, or the core text described in 29 CFR 1960.12(c) – that indicates “personnel must be provided access to and informed of the location, availability, and procedures to obtain SOH information.” However, organizations may choose to interpret these requirements in different ways, such as the use of a standardized form (previously DD Form 2272) or a simple poster as allowed by the current version of

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DODI 6055.01, DoD Safety and Occupational Health Program. Regardless of any local preferences, the intent remains the same – to inform both supervisory personnel and employees on their rights and responsibilities under the OSH Act of 1970, and who they can contact to report occupational safety issues.

(2) In CAAA's case, several bulletin boards were visually checked for the adequacy of this information. In a few cases prior to this AR 15-6 investigation, the CAAA Safety staff noted the fire bill and evacuation plans for 'some buildings' were out of date but were quickly and easily corrected. During the AR 15-6 investigation (response to OSC's whistleblower disclosure) all public information boards were found with updated and current safety information, including phone numbers and a person's name or office.

5. Recommendations. Based upon my findings, I recommend the Crane Army Ammunition Activity Commander:

a. **IO #1, Hazardous (classified) locations:** Take immediate action to fully comply with 29 CFR 1910.307, Hazardous classified location requirements, and DA Pam 385-64, which could include but are not limited to:

(1) A qualified, engineering / industrial safety / industrial hygiene hazard analysis or risk assessment of all workplaces involved in energetic production, storage or demilitarization activities is completed, to determine the scope / applicability of the Command's workspaces to be classified under 29 CFR 1910.307(a)(2). For the purposes of 29 CFR 1910.307 compliance, workplace should be defined as "*each room, section, or area shall be considered individually* in determining its classification, as required by 29 CFR 1910.307(a)(2), *Locations and General Requirements*.

(2) Properly document the results of the hazardous classified location assessment, including the designation of either the classification and zone system or the classification and division system in areas as required by 29 CFR 1910(b).

(3) Assure electrical installations required by the area's classified hazardous location is intrinsically safe, approved for the hazardous classified location or safe for the location, as described by standards under 29 CFR 1910(c).

(4) Standards described in 29 CFR 1910.307(d) *Conduit*, 29 CFR 1910.307(e), *Equipment in Division 2*, and 29 CFR 1910.307(f) *Protection Techniques, including any marking and labeling* are implemented as required.

(5) Communicate and train to any associated risk or hazard controls found as part of a classified hazardous location analysis to production / operational employees,

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supervisory personnel, maintenance persons, and emergency responders as appropriate.

b. **IO #2, Process Safety Management (PSM):** Take immediate action to fully comply with 29 CFR 1910.119, Process Safety Management requirements, including but not necessarily limited to:

(1) Determining locations affected by the application of 29 CFR 1910.119, as defined by 29 CFR 1910.119(a), *Application*.

(2) Determining the proper level of employee participation in the PSM process as defined by 29 CFR 1910.119(c), *Employee Participation*, including a written plan of action that defines this participation, and a compilation of PSM information that enables the employer and employees to understand the hazards involved with the operation.

(3) Performing an initial process hazard analysis (hazard evaluation) on processes covered by this standard. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process. Employers shall determine and document the priority order for conducting process hazard analyses based on a rationale which includes such considerations as extent of the process hazards, number of potentially affected employees, age of the process, and operating history of the process, in accordance with 29 CFR 1910.119 (e).

(4) Developing and implementing written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address at least the following elements, per 29 CFR 1910.119 (f).

(5) Provide training and or refresher training for each employee presently involved in operating a process, and each employee before being involved in operating a newly assigned process, as defined in 29 CFR 1910.119(g). The training shall include emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.

(6) Implementing other 29 CFR 1910.119 standards as required

c. **IO #3, Energy Control Program:** Take action to assure CAAA is maintaining a complete, updated energy control (e.g. lockout/tagout) program to control or otherwise prevent the inadvertent release of stored energy from machinery or other mechanical systems pursuant to AR 385-10 and 29CFR1910.147, including:

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(1) Establishing a program and utilizing procedures for affixing lockout devices to energy isolating devices. While CAAAR 385-14 is a 'good start', thorough implementation and training will assure procedures are developed and utilized. And while not a requirement, a best practice would be for CAAA to appoint a program manager, or at least clearly assign primary responsibility to an individual point of contact (POC) to implement an energy control or LOTO program.

(2) Demonstrating full employee protection is achieved per 29 CFR 1910.147(c)(3)(i). This includes 'documentation' that energy control procedures are used when employees are engaged in the activities covered by this section.

(3) Protective materials and hardware (1910.147(c)(5)) are identified, available and utilized in energy control protections.

(4) Training and communication per 1910.147(c)(7). Employees and supervisory personnel must understand the LOTO program and the recognition of applicable energy sources in their workplace. Any training provided should be documented, and available for review.

d. **IO#4, Fall Protection.** Take action to assure CAAA is providing a compliant fall protection effort pursuant to AR 385-10; 29 CFR 1926, Subpart M Fall Protection (construction worksites only); 29 CFR 1910.21, Subpart D, Walking-Working Surfaces; and 29 CFR 1910 Subpart F, Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms, including:

(1) Written (Fall Protection) procedures per AR 385-10.

(2) Documentation, training, and inspection records related to fall protection.

(3) Fall protection equipment procurement related to personal fall-arrest equipment, and inspection/use records related to the operation and use of powered platforms, manlifts and vehicle-mounted work platforms.

(4) While not a specific OSHA requirement, CAAA should consider adopting and implementing, the U.S. Navy's Fall Protection Guide as their written procedures and denoting assigned responsibilities concerning fall protection, including the appointment of a Fall Protection Program Manager to properly oversee and manage the effort.

e. **IO #5, Weight Handling Equipment / WHE.** As noted earlier, no specific deficiencies were found with regards to lifting or weight handling equipment, in use, during this investigation. Anecdotal comments by NAVFAC and several employee

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however indicate some inactive equipment may periodically be outside of an inspection and certification cycle. The CAAA Commander should:

(1) Conduct an internal review to assure no weight handling or lifting equipment is used if out of an inspection or certification cycle, including placement and tagging of the item in an inactive status to prevent any inadvertent use.

(2) Assuring adequate written procedures are clear and available (trained) for employee use, including the adoption or incorporation of related consensus body standards or U.S. Navy WHE program requirements (as a tenant on a Naval Installation).

(3) Continue efforts / evaluate the effectiveness of the appointment of a WHE POC or program manager to coordinate and communicate WHE requirements between supervisors, NAVFAC and CAAA personnel.

f. **IO#6, Building Inspections.** No recommendations noted.

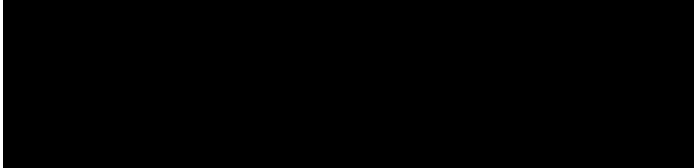
g. **IO #7, Pallet Rack Floor Bolts.** While no specific deficiency was noted during the investigation, the Commander CAAA should consider conducting an internal inspection of all facilities and operating areas to confirm the presence of proper pallet rack floor bolts where required by ANSI MH:16 or other applicable/incorporated reference.

h. **IO#8, Obsolete Safety Information:** No specific recommendations are suggested, however Commander CAAA should consider continued monitoring of public communication boards and develop improvements as needed.

6. POC is the undersigned at 309-782-8430.

Encls

As stated in Table of Contents

A large black rectangular redaction box covering the signature of the Investigating Officer.

Investigating Officer



DEPARTMENT OF THE ARMY
HEADQUARTERS, JOINT MUNITIONS COMMAND
1 ROCK ISLAND ARSENAL
ROCK ISLAND, ILLINOIS 61299

AMJM-CS

4 March 2021

MEMORANDUM FOR Mr. [REDACTED], Headquarters, Joint Munitions Command,
Rock Island Arsenal, Rock Island, Illinois 61299

SUBJECT: Appointment as an AR 15-6 Investigating Officer into allegations of safety violations and deficiencies by Crane Army Ammunition Activity (CAAA)

1. Appointment. You are hereby appointed as an Investigating Officer (IO) pursuant to Army Regulation (AR) 15-6, Procedures for Investigating Officers and Boards of Officers, to conduct an administrative investigation into allegations of safety violations and deficiencies. **You will complete this investigation no later than 8 April 2021.** This investigation is your primary mission until you submit your completed findings and recommendations to me. Unless I release you sooner, your appointment remains in effect until you complete the investigation and I determine that no further investigation is required. If you require additional time to complete your investigation, you must submit a request to me, in writing, in coordination with your legal advisor. The request must include a justification and projected completion date. **Your duties as an IO take priority over all other duties.**

2. General Instructions.

a. The purpose of an AR 15-6 investigation is to elicit facts. You are directed to conduct an investigation into the matters set forth in paragraph 3, below. Your investigation should explore any issues or deficiencies with policy, procedures, resources, doctrine, training, and leadership that might have contributed to this incident. Upon completion of this investigation, you will complete a report that includes findings and recommendations.

b. If, at any time in the conduct of your investigation, something happens that could cause me to consider enlarging, restricting, or terminating your investigation, or otherwise modifying any instruction in this memorandum of appointment, immediately report this situation to me through your legal advisor, together with your recommendation(s) as to the action(s) I should take in response.

3. Scope of Investigation/Specific Instructions.

a. You are hereby directed to conduct an investigation into the facts and circumstances underlying a complaint received by U.S. Office of Special Counsel (Encl). Your investigation should include a thorough analysis of whether the allegations are accurate and merit correction. Your investigation should also determine whether any personnel should be held accountable for any shortcomings or failures.

AMJM-CS

SUBJECT: Appointment as an AR 15-6 Investigating Officer into allegations of safety violations and deficiencies by Crane Army Ammunition Activity (CAAA)

b. During your investigation, you will, at a minimum, determine:

(1) Whether CAAA failed to properly categorize, classify, or rate which locations or areas with powered or explosive processes are hazardous; whether these locations or areas lack properly rated corresponding electrical components, fixtures, or circuitry that can be used safely and without posing a fire hazard¹, and whether CAAA has failed to maintain an accurate list for these types of hazardous locations;

(2) Whether CAAA lacks a process safety management standard regarding the controlling and handling of hazardous substances²;

(3) Whether CAAA lacks a complete, updated hazardous energy control (i.e., lockout/tagout) program to control or otherwise prevent the inadvertent release of stored energy from machinery or other mechanical systems pursuant to AR 385-10 and 29 C.F.R § 1910.147;

(4) Whether CAAA has an adequate fall protection program, including consistent employee training, pursuant to AR 385-10 and 29 C.F.R § 1926;

(5) Whether CAAA lacks current inspection tags and/or certifications for weight bearing apparatuses³ (i.e., chain or web slings used over production lines) and material handling equipment including manual pallet trucks and portable ladders, per federal regulations and agency policies⁴;

(6) Whether CAAA lacks proper inspections and related documentation for buildings pursuant to AR 385-10;

(7) Whether CAAA has failed to bolt pallet racks that store equipment, boxes, and spare parts to the floor, and whether this action is required by regulation or law; and

(8) Whether CAAA has posted outdated or obsolete safety information that should be replaced.

¹ AR 385-10 states that an electrical safety program will integrate applicable federal, national, and worldwide electrical safety standards into Army electrical related operations, using the most stringent standards, which includes NFPA Section 70 (i.e., the National Electrical Code) (NFPA 70), and applicable OSHA regulations.

² See AR 385-10; 29 C.F.R. § 1910 (requires a process safety management standard for highly hazardous chemicals to prevent or minimize the consequences of catastrophic releases of substances that may result in fire/explosion hazards).

³ See 29 C.F.R. §§ 1910.184 (requires inspection and testing of weight-bearing and movement equipment including slings); see also Army Technical Bulletin, TB-43-0142 Safety Inspection and Testing of Lifting Devices, which implements applicable OSHA regulations and requires inspecting/testing all lifting devices; AR 385-10 at 18-13.

⁴ See AR 385-10; 29 C.F.R. §§ 1910.23, 1910.178, 1910.244 (regarding ladders, powered trucks, and other portable tools and equipment, respectively)

AMJM-CS

SUBJECT: Appointment as an AR 15-6 Investigating Officer into allegations of safety violations and deficiencies by Crane Army Ammunition Activity (CAAA)

c. You may include additional findings regarding any other matters that are intrinsically related to the matters listed above, if you deem them relevant to this investigation. Discuss these other matters with your legal advisor prior to including such matters in your report.

4. Conduct of the Investigation.

a. **You must consult with an attorney prior to beginning your investigation.**

██████████ will be your legal advisor for this investigation. He can be contacted at ██████████ or ██████████ to schedule your briefing. You will consult with your legal advisor before making substantive efforts regarding your investigation, and you will consult with your legal advisor throughout your investigation. He can assist you in preparing an investigative strategy, identifying witnesses to interview, determining which order to interview them, and drafting witness questions. You may request that additional individuals or subject matter experts be appointed, in writing, to accompany you and assist you in your investigation. Coordinate such requests with your legal advisor.

b. Evidence Collection. You are to conduct this investigation using the procedures outlined in AR 15-6, Chapters 3 and 5.

(1) All witnesses will be sworn prior to their interview. You are to thoroughly document all witness interviews in writing, preferably on a DA Form 2823. However, do not collect or record Social Security Numbers on the DA Form 2823. You will interview all witnesses in person, if practical. Reduce any oral statements to Memoranda for Record (MFR). Attach Privacy Act Statements, as needed, after consultation with your legal advisor. If telephonic interviews are necessary, prepare an MFR to document the witness testimony from the interview. Make every effort to collect electronic evidence directly from the originating source.

(2) If, in the course of your investigation, you come to suspect a person may have engaged in criminal conduct, you will consult with your legal advisor and inform me. Under no circumstances should you attempt to elicit any information from a suspect without first advising that person of his/her rights under Article 31, UCMJ, or the Fifth Amendment of the U.S. Constitution, as appropriate. Document your rights advisement and witness waivers of their Article 31 or Fifth Amendment rights on a DA Form 3881 (Rights Warning Procedure/Waiver Certificate). Coordinate with your legal advisor prior to interviewing individuals suspected of misconduct. Consult your legal advisor to ensure you proceed according to the requirements of AR 15-6, para. 3-7.

(3) When you interview DOD civilian employees, be advised that, pursuant to *NLRB v. J. Weingarten, Inc.*, 420 U.S. 251 (1975), a non-management employee has

AMJM-CS

SUBJECT: Appointment as an AR 15-6 Investigating Officer into allegations of safety violations and deficiencies by Crane Army Ammunition Activity (CAAA)

the right to request union representation before or during an investigatory interview when the employee has a reasonable belief that the interview may result in the discipline of the employee. When an employee asks for representation under such circumstances, you must choose from among three options: (a) Grant the request and delay questioning until the union representative arrives; (b) Deny the request and end the interview immediately; or (c) Give the employee a choice of: (1) having the interview without representation, or (2) ending the interview. It is the responsibility of the employee to be aware of this right and to request representation.

5. Report of Investigation.

a. General. Your report of investigation will be written. Use a DA Form 1574-1, Report of Proceedings by Investigating Officer, and attach all required enclosures and exhibits.

b. Assembly. Your completed AR 15-6 investigation will include:

- (1) This memorandum of appointment;
- (2) A completed DA Form 1574-1, Report of Proceedings
- (3) A detailed chronology of the daily actions you took during the investigation;
- (4) An index of all attached exhibits;
- (5) All exhibits, labeled and numbered;
- (6) A list of witnesses you interviewed;
- (7) A memorandum with your findings and recommendations.

c. Findings. You will develop specific findings and cite the evidence that supports those findings. You will reach your findings by a preponderance of the evidence that you gather. A finding is a clear and concise statement of facts that can be readily deduced from evidence in the record. In your report, develop specific findings and cite the evidence that supports your findings. If evidence conflicts (e.g., conflicting witness statements), make a finding as to which evidence is more credible and why you believe it to be more credible.

d. Recommendations. Based on your findings, make recommendations as to what changes, if any, are needed in terms of policy, procedures, resources, doctrine, training, and leadership to avoid incidents of this nature in the future, as well as

AMJM-CS

SUBJECT: Appointment as an AR 15-6 Investigating Officer into allegations of safety violations and deficiencies by Crane Army Ammunition Activity (CAAA)

recommendations consistent with your findings concerning other items your investigation revealed. If applicable, you may recommend whether judicial proceedings, non-judicial proceedings, administrative actions, or further investigation is warranted. Each recommendation will cite to the finding that supports it, and should comport with the guidance in AR 15-6.

6. Submission. Upon completion, submit your completed investigation and all documentation to the Administrative Law Division, Office of the Staff Judge Advocate (OSJA), ASC, for a legal review. You may not release any information related to this investigation to anyone, other than your legal advisor, without my prior approval.

7. The point of contact for this memorandum is [REDACTED].

Encl

[REDACTED]
Chief of Staff

**NON-DISCLOSURE
STATEMENT OF CONFIDENTIALITY
INTERVIEWEE**

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2. I understand that maintaining the confidentiality of this investigation is necessary to enable the Investigating Officer to obtain the clearest and most unbiased factual account of the events to be investigated.
3. I agree that I will not discuss this interview session and investigation with anyone other the Investigating Officer, his/her legal advisor, the appointing authority or his/her designee, or my attorney or union steward, should I feel compelled to obtain representation.

Interviewee's Signature

11 Mar 21
Date

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

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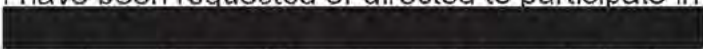
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17 MAR 2021
Date


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Interviewee's Signature

3/16/21
Date

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 03/15/2021
Date

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[REDACTED]
Interviewee's Signature

3-16-21
Date

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[REDACTED]
Interviewee's Signature

3-16-21
Date

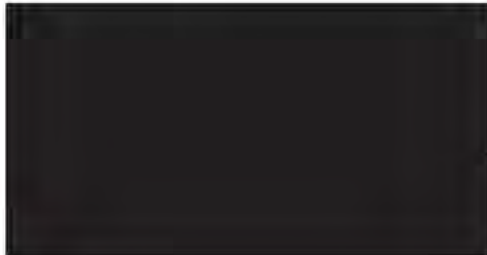
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FW: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

From: [REDACTED]

To: [REDACTED]

Date: Thursday, November 12, 2020, 04:13 PM CST

[REDACTED] I found the below email on the hazardous locations and risk-based vs. compliance-based safety. I hope it helps. Take care and good luck.

vr

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Connect with Crane

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-----Original Message-----

From: [REDACTED]

Sent: Wednesday, August 5, 2020 4:02 PM

To: [REDACTED]

Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

No. NFPA has something for paint booths, like 10' or 15' maybe as I recall, but that is just for paint as a flammable liquid. Back to my point that the NFPA code does not fit DOD explosives operations. However, their most stringent requirements (e.g. Class I, Div 1 and Class II, Div 2) go a long way towards that. You simply have to apply common sense. I had never found a proper answer. That leads back to risk and risk mitigation/acceptance that DOD does rather than OSHA's strict compliance-based system.

vr

[REDACTED]

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[REDACTED]

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-----Original Message-----

From: [REDACTED]

Sent: Wednesday, August 5, 2020 11:56 AM

To: [REDACTED]

Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Is there a set distance from non-rated equipment that is considered acceptable across the board? I.e. 50 ft or whatever?

-----Original Message-----

From: [REDACTED]

Sent: Wednesday, August 5, 2020 7:41 AM

To: [REDACTED]

Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

Correct. CAAA Facilities and NAVFAC would have a responsibility to build the building to code for CAAA leadership's intended use of the facility. But, reality may be that CAAA may need to use a building "decked out" with stringent code capability for a lesser hazard job, simply because there is that type of work that needs to be done and not enough facilities to do the mission in. So, engineering may need to have maintenance set up certain equipment that do not meet certain code at times, certainly not to the standard the facility was built to, and the SOP and our pre-op/line check of the operation would assess that to account for that risk, assist with mitigating it, then document that residual risk, which should already be accounted for in the SOP and hazard analysis though. Example would include the use of heat sealers that are not fully rated (because they simply can never be), the B-104 luting pot, etc. Such operations within the given SOP and overall operations, needs to be spaced out from the rest of the


operations that may have open explosives, etc., either by distance or by actual walls which will vary between each location/situation. Both type of "declarations" of what the space is rated as, either for NAFVACs intent overall or for CAAA's situation-specific intent, provide CAAA maximum flexibility to conduct its mission, while meeting DODs mandate to mitigate risk to acceptable levels.

vr



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-----Original Message-----

From: 

Sent: Wednesday, August 5, 2020 5:49 AM

To: 


Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

By permanent rating do you mean the building structure itself? i.e. the stuff NAVFAC would do not Army Maint?

And then the current rating would be the actual specific job area rating? i.e. including process equipment? I.E. the lines CAAA set up?

Thanks,



-----Original Message-----

From: 

Sent: Tuesday, August 4, 2020 4:37 PM

To: 

Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

I had forgotten about the SharePoint sub-site. I built that and barely started to use it and going to buildings to assess work spaces to capture both permanent rating and current rating (because they could be different), when I became the Safety Manager. I may have input data for B-200 as I recall; that was the building I started at. After a long while, we hired [REDACTED], he worked on it just a little bit, because there were other high priority things to do, then he left. So, the sub-site should still be there I would think (because most people hate SharePoint, so why would they touch it to delete it, right?), but I doubt it has much at all.

vr

[REDACTED]

"Harnessing the Power of Technology for the Warfighter"

Connect with Crane

[REDACTED]

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-----Original Message-----

From: [REDACTED]
Sent: Tuesday, August 4, 2020 4:31 PM
To: [REDACTED]
Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

[REDACTED] a brief time and had worked on a list I had started. It was a SharePoint sub-site actually and may still exist on the Safety site. [REDACTED] did not get far with it at all and then he was gone.

vr

[REDACTED]

[REDACTED]

"Harnessing the Power of Technology for the Warfighter"
Connect with Crane

[REDACTED]

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-----Original Message-----

From: [REDACTED]
Sent: Tuesday, August 4, 2020 1:04 PM
To: [REDACTED]
Subject: FW: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Any recollection of this? If so can you provide more detail?

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, August 4, 2020 12:59 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

I thought it was an electronic list. I only remember because I was working on an electrical rating and [REDACTED] had me ask [REDACTED]. [REDACTED] pulled up a spreadsheet with a ton of colors and gave me a rating. I don't know if he [REDACTED] has a courtesy folder somewhere or he deleted it when he left. I'm honestly just not sure. It makes me wonder because [REDACTED] said it does not exist so maybe it was something [REDACTED] was working on his own? I'm sorry I cannot help you more.

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, August 4, 2020 12:54 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Thanks [REDACTED]

So there used to be a list on paper that no one has electronically and no one knows where the hard copy is right? Unless you have an idea or where we should start looking? I am sure it would need to be redone at this point anyway. Thanks [REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: Tuesday, August 4, 2020 12:49 PM

To: [REDACTED]

Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

[REDACTED],

I see what [REDACTED] provided back to you and I understand what he says. But for some reason, I'm pretty confident I've seen a spreadsheet with this information. It was color coded excel book and I thought [REDACTED] was working on it when he was our [REDACTED]. I don't think it was saved anywhere, I think it was just something he was working and saved it on his desk top. I know that isn't helpful, but that's all I've got.

-----Original Message-----

From: [REDACTED]

Sent: Monday, August 3, 2020 4:02 PM

To: [REDACTED]

Subject: FW: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

[REDACTED] said to check with you also. Do you know anything about this?
Thanks, [REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: Monday, August 3, 2020 3:55 PM

To: [REDACTED]

Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Thanks [REDACTED]. So, there is no list to your knowledge? [REDACTED] what say you?

-----Original Message-----

From: [REDACTED]

Sent: Monday, August 3, 2020 3:49 PM

To: [REDACTED]

Subject: RE: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

Hello [REDACTED], That is information I have ask for many times. As well as putting up signs and or painting the floor in buildings as according to classification rating. The last person who I was told has that list of buildings with their classification is [REDACTED] who, as you know, is no

longer with CAAA.

-----Original Message-----

From: [REDACTED]

Sent: Monday, August 3, 2020 2:31 PM

To: [REDACTED]

Subject: Electrical Hazard Ratings and Areas (UNCLASSIFIED)

Importance: High

CLASSIFICATION: UNCLASSIFIED

[REDACTED], I am told you are the person to talk to. Apparently there is a list somewhere of all the explosive rated areas somewhere i.e. Class 2 Div 1 is the default from what I am told. It is driving me crazy when I go in buildings and there is hazard rated stuff right next to unrated stuff. As I am sure you know a space or process is either explosive proof rated or it is not, you can't mix 50% rated and 50% not and call it rated or safe if the area really does require explosion proof. Let me know if you have any questions.

Thanks,

[REDACTED]

CLASSIFICATION: UNCLASSIFIED

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CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED



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Pleading Submission Confirmation

Filer's Logon Name: [REDACTED]

Filer's Name: [REDACTED]

Date Submitted: 2/7/2021 12:46 PM

Confirmation Number: 1811765208

Pleading Number: 2021004937

MSPB Office: Central Regional Office

Package #1

A handwritten signature or scribble, possibly a name, written in dark ink. It is located at the bottom left of the page and consists of several overlapping loops and lines.

[REDACTED] v. DEPARTMENT OF THE ARMY

[REDACTED]
Affidavit
Summary Page

Case Title : [REDACTED] v. DEPARTMENT OF THE ARMY

Docket Number : [REDACTED]

Pleading Title : [REDACTED] Affidavit

Filer's Name : [REDACTED]

Filer's Pleading Role : Appellant

Details about the supporting documentation

#	Title/ Description	Mode of Delivery
1	[REDACTED] Response to Proposed Removal	Uploaded
2	Supporting Documents [REDACTED] Removal Response	Uploaded
3	[REDACTED] Affidavit	Uploaded

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[REDACTED] v. DEPARTMENT OF THE ARMY
Docket [REDACTED]
Affidavit
Online Interview

1. Would you like to enter the text online or upload a file containing the pleading?

See attached pleading text document

2. Does your pleading assert facts that you know from your personal knowledge?

Yes

3. Do you declare, under penalty of perjury, that the facts stated in this pleading are true and correct?

Yes

[REDACTED]

[REDACTED]

[REDACTED]

Via email to: [REDACTED]

November 30, 2020

[REDACTED]
Department of the Army
Crane Army Ammunition Activity
[REDACTED]
[REDACTED]

Pursuant to 5 U.S.C. § 7513 and 5 C.F.R. § 752, this letter constitutes the timely reply of [REDACTED] Crane Army Ammunition Activity ("the Agency") with regard to the Agency's November 6, 2020 Notice of Proposed Removal ("the Proposal") received by [REDACTED] on November 9, 2020. See Enclosure A, Power of Attorney. As you are aware, neither the firm nor [REDACTED] received the Evidence File until November 16, 2020 when it was provided to the undersigned by [REDACTED] via email at 12:19 pm. You provided an extension until this date upon our request in the Interim Reply dated November 10, 2020, although it was not the amount of time requested. As you are aware, the undersigned objected to the short extension provided, give the absence of an evidence file for one week after the proposed removal was received by [REDACTED]. My understanding is that you felt constrained by an Executive Order requiring a decision in 30 days. The Executive Order does not override [REDACTED] right to a meaningful reply nor his constitutional and statutory right to the evidence against him. This is a serious and multiple charge proposal letter which deserves a meaningful response. We continue to object to the declination to provide additional time to reply following the Agency's provision of the Evidence Relied Upon File and will raise this issue upon appeal to the Merit Systems Protection Board should that become necessary. We thank you for the oral reply made this date.

INTRODUCTION

On November 9, 2020, [REDACTED] received a Notice proposing him for removal from the federal service dated November 6, 2020 which was issued to him by his [REDACTED]. See Enclosure B [REDACTED] proposal to terminate.pdf with no attachments). The proposal charged [REDACTED] with a variety of alleged offenses, which to a large degree appear to be performance related allegations and not misconduct which are best left to a performance review,

includes charges based on his exercise of his First Amendment rights, and in total, is in reprisal for his whistleblowing activity of which the Agency is fully aware and dismayed by. The proposal constitutes a prohibited personnel practice in violation of 5 U.S.C. § 2302(b)(8)(whistleblower reprisal). [REDACTED] disclosed serious safety issues to the Command, higher headquarters and OSHA, all of which disclosures involve safety violations which constitute a substantial and specific danger to public health and safety – many of which the Command refuses to address and instead have ignored for years. He has also disclosed gross mismanagement of these safety violations in that the Command has predominantly ignored them and for the hiring of [REDACTED] who lacks the qualifications to be a safety professional in the position for which he was hired. As a consequence of his dedication to his job, his country and the safety mission, the Agency has decided to remove him for overblown, erroneous and duplicative charges. Because the evidence does not support the charges as written, as discussed below, and because this proposal constitutes reprisal for whistleblowing and other protected activity, you as the Deciding Official should not bow to the pressure to remove [REDACTED]. Doing so implicates the deciding official in these acts of reprisal.

[REDACTED] DEDICATED MILITARY AND CIVILIAN SERVICE TO HIS COUNTRY AND THE SAFETY COMMUNITY

[REDACTED] has been in the Army/Air Force Guard/Reserves/Active Duty for 20 years in various capacities as both an enlisted member and as an Officer. *See* Enclosure C (2019 Resume) and Enclosure D (Education and Select Certificates). He is currently an [REDACTED] serving as an [REDACTED]

He has been an [REDACTED]

[REDACTED] He has been a civilian employee for the Department of Defense in a variety of Commands in safety/industrial hygiene positions for 17 years, in both the Army and Navy. He has been getting paid as a [REDACTED] (bonus) since 2006 when he was 29 years old working in [REDACTED]. He was also offered a 10% retention bonus and early promotion to [REDACTED] when he left the Army working at Aberdeen Proving Grounds as an [REDACTED] in 2002. He was offered a [REDACTED] in 2008, however, the Agency lowballed the offer for less than what he was making in Indiana, so he turned it down. He has a master's degree in occupational safety, a bachelor's degree in environmental health and a minor in industrial hygiene. He completed the Navy sponsored graduate certification in public management through Indiana University Purdue University, Indianapolis. *See* Declaration of [REDACTED] paragraph 1, attached as Exhibit E.

He is a Certified [REDACTED] a [REDACTED] and a [REDACTED]. He has the U.S. Army CP-12 safety certification, in addition to the Army Level 1 and Level 2 explosive safety certifications. *See* Enclosure F [REDACTED] Safety Certifications.pdf). He is master level certified in consequence management by the Defense Threat Reduction Agency (DTRA). He also has the advanced nuclear operations certification from DTRA. He used to help teach consequence management advisory teams (CMAT) for DTRA. He has been to many other safety/IH conferences and additional

trainings too numerous to mention by name (asbestos, laser, mold, fall protection, etc). He has an active TS SCI clearance with polygraph. He has been an adjunct professor of health & safety at Indiana University (IU, Bloomington, IN) for 3 years. See Enclosure G [REDACTED]. IU recruited him to teach classes. He did not apply for the job until they approached him for help. He has also served on the American National Standards Institute laser safety committee for non-beam hazards and the American Industrial Hygiene Association (AIHA) emergency response committee. From 2008 to 2011, he served on active duty with the Army Reserve Consequence Management Unit supporting the 415 Chemical BDE and the 20th SUPCOM. In this position, he advised 1-3 star Army generals on how to respond (in training) to chemical and nuclear attacks on our homeland, and to interdict our adversary's chemical and nuclear weapons programs. He has received many awards and commendations for his service, including Army Commendation Medals, Army Achievement Medals, Air Force Commendation Medal, etc. He has also received various bonuses, time off awards, letters of appreciation from Commanders, Commander's coins, during his many years of service. He was #1/18 Officers and an honors graduate of the Air Force Bioenvironmental Engineering Officers qualifying class in 2014. See Enclosure H [REDACTED] USAF BEO School Top Officer Record 2014). He had never had an unsatisfactory civilian performance rating until working for Crane Army Ammunition Activity since October of 2019. He was removed from his position during a 12-month supervisory probation status in March 2020 while struggling with sleep apnea/sleep deprivation. See Enclosure I (Failure to Complete Supervisory Probationary Period). It is against this backdrop of distinguished military and civilian service you must consider this reply – not only its content, but with respect to the Douglas factors discussed *infra*.

CHARGES AND SPECIFICATIONS

The Agency has charged [REDACTED] with 7 Charges as generally follows:

1) Failure to observe written regulations, orders, rules, or procedures where safety to persons is endangered; 2) Failure to observe written regulations, orders, rules, or procedures where safety to persons is not endangered; 3) Delay in carrying out or failure to carry out instructions within the time required; 4) Knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization; 5) Conduct Unbecoming a Federal Employee; 6) Insubordination; and 7) Insolence. In these charges, there are two (2) specifications in Charge 1; five (5) specifications on Charge 3; three (3) specifications in charge 6; and two (2) specifications in Charge 6. All other charges contain one specification of alleged misconduct. These charges and specifications overlap, are duplicative, are based on no evidence, and/or are actually allegations better left for a performance review. As set forth below, they should not be sustained, and [REDACTED] should be returned to his position of record. There are overwhelming factual and legal issues that prevent his removal.

BURDEN OF PROOF

As this is a proposed adverse action, 5 U.S.C. Chapter 75 requires that the Agency bear the burden of proving that the action is being taken "only for such cause as will promote the efficiency

of the service.” See 5 U.S.C. § 7513(a). In issuing a decision in this proposed adverse action, the precedent of the Supreme Court of the United States, the United States Court of Appeals for the Federal Circuit (“Federal Circuit”), and of the U.S. Merit System Protection Board (MSPB or “the Board”), as well as the adverse action regulations promulgated by the U.S. Office of Personnel Management (“OPM”), constitute mandatory authority that must be followed by the Agency.

In order to meet its burden of proof in this case, the Agency must prove three relevant and independent elements by a preponderance of the evidence. See 5 U.S.C. §§ 7513(a), 7701(c)(1)(B).¹ In that regard, the Agency must first prove that the conduct allegedly engaged in as specifically alleged in the Proposed Suspension occurred. See *Fitzgerald v. Dep’t of the Army*, 61 M.S.P.R. 426, 428 (1994).

Second, the agency must also prove that the disciplinary action, based on the proven misconduct, promotes the efficiency of the service. See 5 U.S.C. §§ 7513(a) and 7701(c)(1)(B). The efficiency of the service requirement includes a showing that some disciplinary action is warranted (the “nexus” requirement) and that the particular penalty is within the tolerable limits of reasonableness—i.e., the Agency must then prove the third element, that the proposed penalty of removal suspension is reasonable under the circumstances of the case. See 5 U.S.C. § 7513(b); 5 C.F.R. § 752.301. See, e.g., *Pope v. U.S. Postal Service*, 114 F.3d 1144, 1147 (Fed. Cir. 1997). The Agency cannot sustain the elements of its burden of proof and the proposed removal may not be sustained.

This burden of providing a nexus, especially under the circumstances described herein for some allegations of off duty conduct, is even higher. In cases involving off-duty conduct, under *Moten v. USPS*, 42 MSPR 282, 287 (1989), there are three general ways of establishing nexus between an agency’s action and an employee’s off-duty conduct: “(1) A rebuttable presumption of nexus may arise in certain egregious circumstances; (2) the agency may show, by a preponderance of evidence, that the misconduct at issue has adversely affected the employee’s or coworkers’ job performance or the agency trust and confidence in the employee’s job performance; and (3) it may show, by a preponderance of the evidence, that the misconduct interfered with or adversely affected the agency’s mission.” See *Beasley v. DOD*, 52 MSPR 272, 274 (1992) (restating the three tests); *Graham v. USPS*, 49 MSPR 364, 366 (1991) (reciting the three means of proof; the off-duty sexual abuse of a minor raised a rebuttable presumption of nexus). Here, the situation, once reviewed from an objective standpoint, and in light of all of the evidence, it is clear there is no nexus—the conduct alleged is not “egregious” as in *Beasley* and other such serious criminal cases; there is no impact on [REDACTED] work performance or any of his colleagues’ work performance, and even if true (which it is not), the behavior cannot have impacted the supervisor’s confidence in his performance as he was performing his job in order to secure the safety of the facility. Here, the off duty conduct certainly does not impact and did not impact the Agency’s mission in any negative manner. Finally, even if some elements of the Charges are sustained, in

¹ Preponderance of the evidence is defined as the degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue. See 5 C.F.R. § 1201.56(c)(2).

light of the totality of the situation, the removal penalty is excessive and must be mitigated to something more reasonable.

ARGUMENT

As set forth herein, the Army cannot sustain its burden of proof on these charges.

Charge 1: Failure to observe written regulations, orders, rules, or procedures where safety to persons is endangered.

The Proposal letter states that "the specific circumstances relating to failure to observe written regulations, orders, rules, or procedures where safety to persons is endangered are as follows:

- a. On or about 21 September 2020, you failed to observe written regulations, orders, rules, or procedures where safety to persons is endangered when you mailed waste samples to the CECOM Radiological Analysis and Calibration Laboratory without taking preliminary radiation readings to ensure it was safe to do so. On 21 September, you sent an email to [REDACTED] inquiring if the trash wipes should be mailed. At approximately 1642, she informed you that all trash wipes shall be read locally and that you are required to send in 10% of the samples of trash taken daily. You failed to observe this procedure per [REDACTED] direction in accordance with the U.S. Nuclear Regulatory Commission (NRC) License No. SUC-1380, Supplement 5, Radiation Safety Program.
- b. On 29 September 2020 between approximately 0830 and 0900, you arrived at Building 66 to assist with conducting a Depleted Uranium (DU) shipment. You arrived without wearing an optically stimulated dosimeter (OSD). When you were challenged about why you were not wearing the proper safety equipment, your reply was "I accept the risk." You proceeded with operations without wearing an OSD. In accordance with CAAAR 385-17, Section 12.e and 12.e(1), Wipe Procedures/Laboratory Analysis states "Dosimeter is required for all personnel involved in wipe procedures." On 21 September, you sent me an email confirming you read the GAAR 385-17, therefore acknowledging you understood the requirements contained therein. You failed to observe this requirement in accordance with the Regulation, and endangered yourself in the process."

Neither of these specifications can be sustained based on the actual facts underlying the specifications as the Agency cannot show that anyone's health was in danger. With respect to specification (a), the Incident of 21 September 2020, [REDACTED] did not deliberately fail to perform the procedure noted, as he was unaware of the procedure at the time. On the date in question, trash (waste) samples from B102 were placed in a plastic bag and given to him by [REDACTED]. He did not receive the email from [REDACTED] that is noted in the specification with further direction until after the wipe samples and trash samples were already in the mail. He had no on the job training (OJT) with [REDACTED].

² [REDACTED] last name is unknown to [REDACTED]. She is however, known to the Command.

██████████ regarding trash samples before ██████████ left CAAA in September of 2020. ██████████ is supposed to be receiving more on the job training with ██████████ the ██████████, however, to date, the OJT has been very minimal and if he has any questions, they all must go through ██████████ first. The wipe samples were read by him locally and known to be contaminated with DU. The trash samples were not read locally prior to shipment. No one's safety of anyone was endangered because of his failure to follow this administrative procedure (that was new to him) to the letter. He did not at any time deliberately place anyone in danger and he did not deliberately fail to follow instructions of which he was unaware.

Further, even if he had been aware of the requirements/instructions, it is demonstrably provable that there was no one in danger. The results of the trash samples have now been analyzed at CECOM and the analysis proves that there were no trash/waste samples mailed that exceeded any NRC License No. SUC-1380 requirements. ██████████ and NRC SUC-1380 license holder can confirm this information and has a copy of the results from CECOM.³ This specification cannot be upheld based on the facts available and must be dismissed.

In order to prove that ██████████ failed to follow the regulations stated (or ██████████ instructions regarding same), the Agency must prove ██████████ was aware of the instructions and regulations and the license in questions. This issue appears to be one where ██████████ was wholly unaware of this local rule or the license and received ██████████ direction only after he had completed the task at hand. Indeed, in the email itself, she appears to be more in a teaching mode as well, not criticizing him for this mistake, but educating him. See Emails pages 1-13 Evidence file. As ██████████ was clearly not aware of the regulation and license cited, he cannot be held to have committed the charged misconduct. Indeed, if the Command thought anyone was endangered by this mistake, ██████████ or some other relevant more senior official would have called him on it at that very instant. That is not how the emails read and will not read that way to any neutral arbiter.

The MSPB case law on failure to follow policy or procedures is instructive. MSPB case law states that failure to follow a policy or regulation may be the result of neglect or intent. The failing is actionable, although intent aggravates the situation and *lack of knowledge of the policy or regulation negates the charge or mitigates the situation*. Under *Tucker v. Dept. of Navy*, SF-0752-13-0483-I-1 (NP 7/24/2015), to prove a charge of failure to follow policy or procedure, an agency must show that a proper policy or procedure existed and that the employee failed to follow it, without regard to whether the failure was intentional or unintentional. See, e.g., *Hamilton v. U.S. Postal Service*, 71 M.S.P.R. 547, 555-57 (1996) (finding that an agency may establish a charge of failure to follow supervisory instructions by showing that proper instructions were given to an employee and that he failed to follow them, notwithstanding whether the failure was intentional or unintentional).

³ Although it is not clear how it could possibly be, should this specification be upheld, we will obtain these results and the testimony of ██████████ at MSPB. The Agency should not simply make claims it cannot prove and should instead fail to sustain this specifications for one or both reasons – ██████████ did not know about the instruction and there was never any danger. Thus both factually and legally, this specification will not be ultimately sustained at MSPB.

Generally, in an adverse action appeal, the agency must prove its charge by a preponderance of the evidence. 5 U.S.C. § 7701(c)(1)(B). Here, where a policy or procedure may exist, the Agency will not be able to show [REDACTED] was aware of it, and it has not provided any proof or even an allegation that he was so aware. In that circumstance, the lack of knowledge of this particular policy negates this specification of this specification entirely.

Unlike Specification B, where the Agency has claimed that [REDACTED] acknowledged reading or receiving a policy or training, the Agency makes no such allegation here. Nor can it. The evidence file is devoid of evidence [REDACTED] was made aware of this Army policy issue or was trained on it. It is also devoid of any evidence the Agency made him aware contemporaneously that the mistake he made put anyone in jeopardy. [REDACTED] certainly made no big deal about this issue as shown in the evidence file. Under the full set of circumstances, the Agency may not sustain this specification.

Obviously as well, this specification cannot be upheld by a preponderance of evidence because the evidence is irrefutable that no one was in any danger. The Agency not only has to show [REDACTED] was aware of the instruction, because it has charged him with failing to follow a policy where the safety of persons was endangered, it has to show safety of persons was endangered. Since the results have come back as negative, and no one was endangered, the preponderance of evidence standard cannot possibly be met. There are two reasons for the Deciding Official not to sustain this specification. It cannot be sustained in the face of the law and the facts.⁴

With respect to specification (b), the incident of 20 September 2020, [REDACTED] did not place himself in danger in the situation alleged of 20 September 2020. That day was his very first day providing ARSO support at B66 regarding Depleted Uranium shipments via rail car. Prior to that date, he had not been issued an optically stimulated dosimeter (OSD) by [REDACTED] before he left nor was he issued one by the [REDACTED]. As the new [REDACTED] he did not feel comfortable issuing an OSD to himself nor did he think that was necessarily appropriate. That is what he ultimately had to do, though, a few days after being reminded by [REDACTED] at B66 on September 29, 2020 that he should have one. On September 20, 2020, he did not have an Army-issued OSD. It would have been, therefore, impossible for him to wear one. Further, it is also the responsibility of supervisors to ensure their employees have the right personal protective equipment (PPE) and that employees follow all applicable procedures and rules at all times. Moreover, he was not at B66 doing wipe procedures, he was scanning the bags of 30mm DU prior to shipment with a handheld radiation instrument, the wipe samples had been done by [REDACTED] 20 September 2020. The very small dose of radiation he may have received that day did not endanger his safety. Going to the doctor to get an x-ray would have provided him with a significantly higher dose. Further, others with Dosimeters were in the vicinity and there is no evidence in the file to suggest they received unacceptably high or unsafe doses.

The Agency has misstated facts in order to charge [REDACTED] with basically endangering himself and not others. First, he was not doing swipes as alleged – thus the Agency cannot prove

⁴ [REDACTED] also mentioned at the oral reply that the paper envelope would stop anyone from being exposed to the sample and that the concern about safety is overblown and misplaced.

that part of the specification. Second, the radiation level if any, is lower than an X ray. Third, he was never issued OSD by the Command before that date and he had to procure it himself. Putting the burden on a new employee to obtain PPE when it is the Command's burden and then blaming him for not having it, where there was no danger whatsoever to him (as shown by other dosimeters) does not constitute proof by a preponderance of the evidence that he failed to follow a process or policy that endangered someone – namely him.

Charge 2: Failure to observe written regulations, orders, rules, or procedures where safety to persons [sic] is not endangered.

The specific circumstances relating to failure to observe written regulations, orders, rules, or procedures where safety to persons [sic] is not endangered are as follows:

On or about 20 October 2020, you failed to observe written regulations, orders, rules, or procedures where safety to persons is not endangered when you inappropriately sent a copy of the ANSI 105-2016, a licensed document, electronically to an unlicensed recipient. Upon being informed that you are not authorized to send a document as such, you responded inquiring if there was a disclaimer. The following was located at the bottom of the document: "Copyright International Safety Equipment Association Provided under IHS under license with ISEA. No reproduction or networking permitted without license from HIS. Sold to: NSWC Crane, 895007. Not for Resale, 07/12/20 16 07:55:49 MDT." Therefore, you failed to observe written regulations, orders, rules, or procedures.

██████████ states that on or about 20 October 2020, he did indeed send a copy of the ANSI Hand Protection Standard to ██████████ to whom he was required to send OSHA Log statistics every month. He sent her this information on this date as part of an email explaining what CAAA was doing about the three (3) OSHA recordable hand injuries CAAA had in the last 6 months where employees were cut through their "safety approved" leather gloves. He thought that perhaps other commands under JMC might benefit from obtaining cut resistant gloves, so he was providing details that may have been beneficial to her in making that decision. He brought the idea of cut resistant gloves up to his chain of command 6-10 months prior, but no one really felt like it was necessary at that time, since CAAA did not have a history of it being a problem and cut rated gloves are more expensive. He had literally recommended cut resistant gloves during a pre-operation inspection involving a razor knife and then came back a few weeks later to do the accident investigation when an employee cut their hand through their leather non-cut rated gloves. He told the team that CAAA had an issue with employees not using the right gloves approximately 5 years ago with the Navy but nobody at CAAA really appeared to care. He thereafter worked with ██████████ in Supply, so that CAAA now has ANSI cut-rated A3 gloves in stock and Standard Operating Procedures are being updated to include this as a requirement for sharp operations involving metal banding, de-banding, sheet metal, and razor knife cutting.

██████████ told him that the ANSI document he sent her was controlled by the Army and that he should not have sent it. He responded that he did not think so, as he had the document in his old Navy files or something to that effect. Regardless, the document did have a document control stamp from NSWC on it, of which he was not aware and he thanked her for bringing it to

his attention. He did not realize this document was licensed to the Navy when he sent it to [REDACTED] at JMC. Nonetheless, this error was inadvertent, was done without knowledge of the markings in question and does not justify a misconduct charge. Unknowing action without intent cannot form the basis of a misconduct charge. Lack of knowledge of the policy or regulation negates the charge or mitigates the situation.

As stated before, under *Tucker v. Dept. of Navy*, SF-0752-13-0483-I-1 (NP 7/24/2015), to prove a charge of failure to follow policy or procedure, an agency must show that a proper policy or procedure existed and that the employee failed to follow it, without regard to whether the failure was intentional or unintentional. Again, lack of knowledge of the marking and a mistaken belief as to the ownership of the information in question, mitigates this specification.

Charge 3: Delay in carrying out or failure to carry out instructions within the time required.

The specific circumstances relating to your delay in carrying out or failure to carry out instructions within the time required are as follows:

a. You failed to complete the Radiation Survey at Building 102 within the time required. You are required as part of your assigned duties to conduct bi-weekly Radiation Surveys at Building 102. You were tasked to complete the survey by 1700 on 15 October 2020. On 15 October, at approximately 1615, I discovered you did not complete the task and followed up with you because you previously informed me this task typically takes a minimum of two (2) hours to complete. You then insisted you could get the task completed by 1700. At approximately 1713, I received a text from you stating you completed the survey. At approximately 1733, I stopped by your cubicle and asked what you were doing because it was past your scheduled tour of duty and were not authorized compensatory time. You responded you completed the survey. However, I learned you had not finished the survey, as you still hadn't documented the results on the survey form, which is a requirement of the task. I left the office at approximately 1745 and you still had not finished. You failed to carry out instructions within the time required. You were put on notice of the requirement to conduct bi-weekly surveys on three (3) occasions. This requirement was outlined in the procedures you read and acknowledged on 25 September 2020, the procedures were included in the turn over duties from [REDACTED] which you acknowledged on 3 September 2020, and I reminded you of this requirement during our discussion on 1 October 2020 as a result of you nearly missing your last suspense regarding this very same duty. This survey is a requirement to continue to operate two mission critical radiography machines.

[REDACTED] acknowledges that it is part of his new assigned duties as [REDACTED] to conduct bi-weekly radiation surveys at B102. On 15 OCT 2020, [REDACTED] were at B66 in the afternoon doing wipe samples of DU bags that were placed on a railcar before the required wipes were done. When this was done, [REDACTED] asked [REDACTED] if she was ready to go to B102 to do the wipes, because it had popped up on his calendar and they were due that day. She said: "we just did the wipe samples at B102 last week". [REDACTED] responded "ok," and advised her that he would go back to the office and check his calendar and previous forms, because maybe he set his calendar invite incorrectly. [REDACTED]

returned to the office and was looking into the issue. At that time, he then realized before [REDACTED] said anything to him that the inspection needed to get done by close of business. He has text messages to [REDACTED] on this date to prove this timeline. See Enclosure K (texts between [REDACTED] Oct 15 2020). He went into the office of [REDACTED] his supervisor, around 3pm and told him that he made a mistake, "the B102 wipes need to be done by COB". He requested an hour of comp time to ensure he would have enough time to complete this mission. [REDACTED] said something to the effect of: "I am not approving comp time for your screw up, this is your fault and your responsibility, stop throwing [REDACTED] under the bus".

First, he was not throwing [REDACTED] under the bus. She was simply mistaken and had been on site the week before for a different task. [REDACTED] told [REDACTED] that he understood that it was his responsibility and that he was going to stay until the job got done. [REDACTED] replied: "you are going to be held accountable whether you do the job or not". At this point [REDACTED] stood up, he gently shut his door and went to his desk. He called B102 and [REDACTED] the supervisor, said the line would be shut down again at 4:15pm. He went back to [REDACTED] to tell him he was taking two radiation meters and he was going to go as fast as he could to try and complete the work by 5pm. He added however, that if he needed some time to complete it off the clock that was ok with him, it was his screw up. He was at B102 when the line was shut down and completed the job and sent a text to [REDACTED] around 5:12 pm saying the job was done and he was headed back to the office. When [REDACTED] stopped by his cubical a little later, he was simply packing up to leave for the day. The job was done by [REDACTED] and the mission was complete. There is no regulation of which he is aware that requires results to be logged the same day and he knows [REDACTED] had done it this way previously, when [REDACTED] was with him. In essence, [REDACTED] would rather be held accountable for working 30-45 min off the clock, than for not getting the job done and have that held against him.⁵ He is aware that his supervisors were just hoping that he did not meet that day's deadlines, so as to build a dismissal case against him for failure to complete assigned tasks in the required timelines.

Further, this DU wipe requirement at B102 has nothing to do with two mission critical radiography machines as mentioned in the specification, as they are not even located in the building at issue – thus the impact of the 12 minute delay is unknown and likely non-existent as this specification is simply wrong on the facts. Indeed, this specification is not really a misconduct charge at all. It is a performance issue. Where an Agency brings a performance issue masquerading as a conduct one, it is required to show the program run by the employee could have been improved through the employee's efforts. See *e.g., Trueheart v. Dept. of Army*, 15 MSPR 191, 193 (1983). Here, it is incontrovertible that the work got done. It is hard to see how any 12 minute delay or deficiency meets that standard set by case law.

⁵ In fact the Agency is trying to hold him accountable for wrongdoing for doing his job. This Charge and the insubordination charge hereafter are taking the same set of events and saying first, he did not do his job on time, then saying he was insubordinate for in fact doing his job. This set of facts cannot support both charges as discussed herein. No Judge in the country is going to find someone accountable for misconduct for actually doing his job with a 15 minute delay in doing so. This command is the only one where someone can be disciplined for trying to accomplish the mission. It is unheard of elsewhere in government. It is this sort of management that led [REDACTED] to disclose the safety violations as CAAA to begin with – no one cares about the actual safe execution of the mission.

That said, the Agency is in fact quibbling with a 12 minute delay. There is no failure to perform the mission on the date due, and [REDACTED] did what any normal, dedicated employee would do – when he realized [REDACTED] was mistaken, he went back and did the job. It is rather remarkable that the Agency would rather have him not do a required task at all, than to spend a little under a quarter hour extra to actually do the task. This specification is petty, overblown and contrary to what dedicated civil servants do. He accomplished the task without comp time and without complaining. The impact of him doing so is a positive for the Command, not a negative and there is absolutely no nexus to the efficiency of the service for him completing the task “off duty.” Any neutral arbiter of this specification will see it for what it is, ridiculous and duplicative of the charge of insubordination, *infra*.

b. You failed to complete required readings in support of your RSO duties within the time required. On 2 September 2020, I instructed you to read the following materials: NRC SUC 1380, Promethium license, GAAR 385-15, GAAR 385-17, ARA for cabinet x-ray at 104, ARA for cabinet x-ray at 2728, and Public Health Center report for our other cabinet X-ray systems. Additionally, I instructed you to familiarize yourself with the CAAA SharePoint site on Radiation. Due to your workload, I extended your suspense to 17 September. On 21 September, I followed up to see if you read the required readings. You responded requesting another extension. I granted an additional extension and instructed you to complete the reading assignment by COB 24 September. You emailed me on 25 September stating you had not completed all of the required reading. Therefore, you failed to carry out instructions within the time required. You needed to read and understand these documents to support of the duties of your position.

Again, this appears to not be a conduct charge, but instead a performance allegation and another *de minimus* one at that. On 02 SEPT 2020, [REDACTED] was instructed to read the documents at issue and he did so as time allowed in his duty day. As background, he had assumed all of [REDACTED] duties after he left. This included respirator fit testing, ARSO duties, OSHA statistics and reporting. He also had two days of leave without pay for military duty the week the reading assignment was due. He asked his supervisor [REDACTED] to approve 4 hours of compensatory time for one of his leave without pay days and it was denied. He did complete the reading assignment on 25SEPT2020 on his own time. No one thereafter complained about this short 24 hour lag, until the proposed removal. Again, the Agency will have to show some consequence of this performance issue, and it cannot. See *e.g., Trueheart v. Dept. of Army*, 15 MSPR 191, 193 (1983). Here, it is incontrovertible that the reading got done. It is hard to see how any 24 hour delay or deficiency meets that standard.

[REDACTED] completed this reading assignment 24 hours late at the most. There is no impact to the service noted, and there is no nexus to the efficiency of the service. [REDACTED] does not allege that failing to meet the deadline by 24 hours had any impact on CAAA or the service [REDACTED] rendered to the command in that 24 hour period as is required by case law. There was no failure by [REDACTED] on account of this 24 hour delay. What is apparent, just like with the first specification, is that the Agency is nitpicking minor misunderstandings and alleged performance issues into overblown misconduct allegations having no nexus to the efficiency of the service. Because [REDACTED] has finished the readings, his minor delay in doing so cannot sustain this specification.

c. You delayed in conducting a radiation survey. On 15 October 2020, you were asked to support a DU load out of Manifest 38 at Building 66 scheduled for 22 October 2020 at 0730. This task required you to read every contamination swipe prior to the scheduled load out. On 19 October 2020, you acknowledged this task and indicated you would be present for the load out. On 21 October 2020 at approximately 1040, I was prompted to follow up with you to obtain a status update because the radiation survey had not been populated onto the spreadsheet demonstrating the task had been completed. In response to my inquiry, you stated you had forgot [sic] and immediately shifted your workload to complete the task. However, your deferment in conducting the mandatory radiation survey required two individuals to step-in to avert a crisis for the critical shipment.

The factual circumstances surrounding this specification are not as alleged and the specification cannot be sustained. On 21 OCT 2020 in the morning, [REDACTED] was literally doing the wipe sample readings in the office to support the manifest 38 loadout. [REDACTED] and [REDACTED] told him at that time, however, to stop everything he was working on in order to complete the required OSHA investigations of B102 and B105, based on a complaint that was received by the Command. The wipe samples and spreadsheet would have been loaded prior to shipment if he had not been instructed to drop what he was doing and allow [REDACTED] and [REDACTED] to finish it up for him. In essence, the Command itself, including the proposing official set him up so that he could not complete the task in the time allotted. He was diverted to an OSHA complaint investigation that he had to do on account of being ordered to do so.⁶

The Command made it impossible for [REDACTED] to complete this task. It cannot now blame him for them shifting his work to another task and others completing it for him. This is not misconduct, it is following the intervening direction of his supervisors to another task. This intervention by his supervisor made it impossible for him to win in this situation. Had he ignored the direction to investigate B102 and B105, he would have been disciplined for that. Instead, he did as directed, and is being ultimately disciplined for doing what he was ordered to do.

d. On an unknown date in August, I informed you that an employee, [REDACTED] was leaving and you needed to assume responsibility of some of his job duties. I advised you to make this task a priority to ensure you were fully trained and equipped to assume his duties prior to his departure. On 2 Sep, you were provided a "Turn Over Record" documenting each program/duty with which you needed to become proficient. I instructed you to coordinate with [REDACTED] to complete the document and execute this task by 1200 on 9 September. I informed you to notify me of any other deadlines that needed to be postponed due to the urgency of this request. You did not request an extension of any of the other tasks assigned to you and you failed to meet this suspense. [REDACTED] has now left CAAA employment for other federal employment opportunities and the checklist you needed to document your proficiency at his duties is still incomplete. Therefore, you failed to carry out my instructions within the time required.

⁶ It is ironic the Command asked him to investigate his own OSHA complaint. The Command later took the position that OSHA has no jurisdiction over the Army, so his investigation was all for not. As noted in the oral reply, he had to resort to OSHA as no one in the chain of command would do anything about his issues.

Again this appears to be a performance issue hiding behind a misconduct allegation. And, indeed, there is no impact to the service by this alleged misconduct. [REDACTED] did instruct [REDACTED] to work with [REDACTED] to assume most of his intern duties. Together they completed most of the handover tasks as instructed and he signed the "Turn Over" forms that [REDACTED] had provided which were duplicates of the forms [REDACTED] had; therefore, he thought this was sufficient. The fact is, the tasks were completed, and the form in the evidence file is not complete. A few missing forms, where the work was done, does not constitute misconduct. Indeed, he had completed the turnover, but the forms were not completely filled in. See e.g., *Trueheart v. Dept. of Army*, 15 MSPR 191, 193 (1983). Here, it is difficult to understand how not filling in a form rises to the level of misconduct. See e.g., *Trueheart v. Dept. of Army*, 15 MSPR 191, 193 (1983) (Agency must show harm).

The exception was that [REDACTED] had planned to come in on a comp time status for a DU load out when he was performing military duty. The dates in question can be found on his GOV computer that was confiscated even though he is not terminated and that confiscation was premature. [REDACTED] did not check his work calendar at home on his phone since [REDACTED] has told him to try and stay off his work phone while at home. He does not have to be at work by 6-7am to perform Military duty and he is not supposed to be in Army buildings in USAF uniform. He lives over an hour away with an hour time change. Needless to say, he forgot he was supposed to meet [REDACTED] until approximately 7am ET after he helped get the kids ready for daycare. Around 6am CT, he called [REDACTED] and did not get an answer. By the time he got to Crane around 8:30ET, he was already gone to do the load out. At this point, he just went about his day performing USAF duties and he did not charge any comp time to the Army. To be clear, there was no charge to the Army for this.

e. On 15 September 2020, you were informed a survey needing completion, to include wipe samples in support of an operation. On 29 September, I followed up with you to determine if the survey had been completed. You responded, "I will verify in my notes, but I do not believe so." I informed you to contact [REDACTED] to determine if the survey was still required. On 30 September, she responded "You needed to do a survey of the area after inspection. The wipes will serve as the closeout survey." On 1 October, [REDACTED] followed up again stating you needed to do a survey of the area. Due to your lack of response, [REDACTED] was prompted to follow up to determine if this task had been completed. She sent you an email on 19 October asking if it had been completed. You responded, "I have not done this yet." Close out surveys must be complete prior to a new job being started, CAAAR 385-17, Section 12b(3)(a), states, "Baseline Survey: The Depot Operations Directorate must notify the [REDACTED] when a new magazine will be loaded with radioactive material. A baseline survey must be conducted and results must be received prior to loading the magazine." Your delay imposed a significant safety risk to the agency.

The extra survey mentioned in Specification e is referring to an extra step to perform a contamination survey, in addition to [REDACTED] original inspection and assessment of the potentially radioactive material. He was not made aware of the needed extra wipes until after the inspection was performed. The potentially radioactive portable shoulder fired rockets were sealed in plastic bags and no radiation above background was detected at time of survey

at the surveillance workshop building. He did wipes inside the boxes, outside the boxes, inside the plastic bag and directly on the launch tube of one item. Why extra wipes were needed for a contamination survey did not make sense to him at the time. However, he told [REDACTED] that it was not a problem, and that he would get back out there and get it done eventually. To his knowledge, the items were returned to a magazine already approved for DU storage. His delay in doing this extra survey did not pose any extra risk to the agency or anyone. He has also never received any training on how to perform this type of survey, so this would have been a good opportunity for OJT with [REDACTED]. Instead it was turned into another performance "gotcha" that is not misconduct. The Agency additionally can show no harm to the Agency or the mission for this performance issue. See e.g., *Trueheart v. Dept. of Army*, 15 MSPR 191, 193 (1983).

Charge 4: Knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization

The specific circumstances relating to you knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization are as follows:

On 15 October 2020, between approximately 1300 and 1400, you communicated to another Crane Army Ammunition Activity (CAAA) employee, [REDACTED] who is outside your division, you knew there were buildings that were not compliant with OSHA regulations and you were tempted to self-report several violations to OSHA to prove a point to the agency. You suggested there were electrical issues at multiple production buildings that were not up to code. You also mentioned that various types of Weight Handling Equipment (WHE) were not being handled properly. [REDACTED] is not an authorized recipient for safety complaints and has no ability or authority to address such concerns. Your sole purpose in bringing up non-relevant safety issues (as perceived by you) was to demean how the Safety Division was being managed. You knowingly made false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization.

This specification cannot be upheld for several reasons. First, [REDACTED] did not at any time knowingly make false or malicious statements. His statements (constituting his reasoned opinions based on his knowledge and education) were true and based on factually accurate information available to him and are protected by the First Amendment to the U.S. Constitution. First, the accuracy of the statements make them not false nor malicious. The fact that he made the statements to a colleague, irrelevant – it was a personal conversation not demeaning to any one person. The charge as stated cannot be sustained, as there is no proof of the falsity nor his intent to harm. His speech is protected from Federal action in this proposal by the First Amendment which restricts the government's ability to take action based on his protected speech – even speech

it does not like. This charge is not supportable.

First, [REDACTED] never gave any false information to [REDACTED]. Everything he told him in that conversation is a fact. What happened that day was that he stopped by to see [REDACTED] to get another pair of the cut resistant gloves he was stocking at supply. [REDACTED] observes and opines that after a 20 year career in health and safety, CAAA is the most unsafe command/industry he has ever seen. For instance, there is electrical and weight handling equipment in most buildings that is not up to code. He has made this known to the CAAA command all the way up to the [REDACTED]. He has the email from October 15, 2020. See Enclosure J. He also made the deficiencies in ESAMS as documentation of these violations and has copies to prove it. Potentially dropping ordnance or setting off an explosion due to electrical not being up to code is pretty relevant and factually based information that he was sharing. He has personally seen dozens of chain slings, web slings, etc that are expired by as much as 8 years. He also has emails from several people proving certain facts, i.e., the machine shop supervisor who had over 40 slings that were expired just a month or so ago; that Army required annual building inspections had not been conducted for 8 years; that the safety group has been short-staffed for many years; that the outside independent ISO 45001 inspection conducted by Department of Defense contractors in late 2019- early 2020 had CAAA as 80% noncompliant; that Navy NSWC also inspected in 2019-2020 was found to be 80% compliant; that there are bomb lines in B155 and B2748 that have no documentation of inspection or load tests ever being performed; that an OSHA required list of hazardous (classified) electrical locations at CAAA is not maintained and there is also no required annual inspections being performed as required. He has emails with the previous [REDACTED] [REDACTED] in which they confirmed this is true. Simply put, he did not make any false statements in his conversation with [REDACTED]. It is his right to make true statements and utter opinion statements in a personal conversation about matters of public concern.⁷

The First Amendment to the U.S. Constitution states in relevant part:

“Congress shall make no law . . . abridging the freedom of speech . . .”

The Army is a US government institution covered by the First Amendment. [REDACTED] did not check his rights as an American citizen at the door when he became a federal employee. During the conversation at issue, he is not disclosing classified or protected information, and is expressing his opinion as a public servant to another public servant in a personal discussion, which was not official, with documentable facts to back up his opinion. Courts have routinely found such free expression to be protected. First, [REDACTED] is not a political appointee or high level employee expressing opinions to outside groups or the media (who would likely be very interested in his story). This was a personal discussion between colleagues. Second, he is not seeking to nor did he release or discuss classified or other protected information in this conversation. Third, he is

⁷ To the extent these emails are on [REDACTED] government computer, we previously sent a litigation hold letter to the Command, such that any destruction of his emails would constitute a deliberate act of destruction of government records and spoliation of evidence in this case which may be further reportable to an IG or OSC. We know for a certainty his government phone was prematurely wiped and given to another CAAA employee.

speaking about a matter of public concern, *i.e.*, the safety of employees at CAAA and the surrounding community should an accident arise that causes death or bodily injury due to the named and accurate and provable safety violations at Crane. Fourth, he is using his personal knowledge of the Crane space in an unofficial way, and as a private citizen. He is not speaking outside the Command and not seeking formal government action or speaking on behalf of Crane. Finally, the speech itself is not what is claimed. It did not in any way disrupt the Command, and disciplinary action for such free exercise of an opinion based on factual information known to him cannot warrant disciplinary action. Indeed it was not malicious or false, and is protected as an expression of concern about a matter that is of public concern. *See e.g., Garcetti v. Ceballos*, 547 U.S. 410 (2006); *Connick v. Myers*, 461 U.S. 138 (1983); *Pickering v. Board of Education*, 391 U.S. 563 (1968). The Agency cannot sustain this charge.

Charge 5: Conduct Unbecoming

The specific circumstances relating to conduct unbecoming a Federal employee are as follows:

On 15 October 2020, between approximately 1300 and 1400, you communicated to another CAAA employee, [REDACTED] who is outside your division, you were going to make the agency fire you so you could be paid a cash settlement. You stated something to the effect of seeing [REDACTED] former CAAA employee, at a mutual friend's party and she informed you she was awarded money after she was terminated. Similarly, on an unknown date between approximately February and October 2020, [REDACTED] asked you why you didn't want to quit rather than get fired since you were so unhappy at work. You replied that the same [REDACTED] informed you CAAA paid her \$30,000 when they fired her. You further declared CAAA could not give you a bad reference or you would sue them. The clear implication of your statements is you were not going to try to succeed in your job, but rather force your Federal employer into a litigation posture where taxpayer money would need to be spent to address your performance and conduct issues. Gaming the Federal merit system for employee performance and statements to other employees that this is an acceptable way to deal with performance problems constitutes conduct unbecoming a Federal employee.⁸

The Agency cannot sustain this charge for several reasons. First, this was a conversation that was clearly personal in nature and not directed at any one or the Command. Both individuals discussed the same information and the other employee has not been charged with talking about these topics at all. It was an expression, to the extent even accurately portrayed, of a frustrated employee. It is protected by the First Amendment as was the rest of the conversation discussed in the prior charge. Second, this charge comes from the same nucleus of fact as does the Charge above. It is therefore, duplicative and constitutes impermissible charge stacking. The government cannot pick and choose topics from the same protected conversation and make two different charges from it. This charge will be merged into the prior charge (4) and both must be dismissed.

⁸ The proposing official's reference to performance issues in this specification proves [REDACTED] point about the other charges being about his performance and not misconduct. The Army cannot keep having it both ways in this action.

█████ states that █████ and he both discussed the fact that both of them had heard that █████ had just won a settlement against CAAA for wrongful termination during her probationary period. Together they also talked about how sad it was that it took 3 OSHA hand injuries to get CAAA to spend an extra \$ 3 on a pair of gloves. █████ may have mentioned he was not going to give CAAA the satisfaction of quitting, and that the Command was going to have to fire him. This was a private conversation protected by the 1st Amendment. █████ also mentioned that CAAA had a way with trying to turn good people into bad ones to fit its own narrative. █████ does not recall specific conversation with █████ mentioned in this specification at all. After 18 years of successful civilian government service in safety and industrial hygiene for various commands within the Department of the Army and the Department of the Navy, 6 years as an enlisted soldier in the Army (Guard), 6 years as an Officer in the Army (Guard/Reserves/Active), and 8 years as an Officer in the U.S. Air Force (Guard/Reserves), he has had no discipline until joining CAAA. Additionally, he has never received a bad performance review until his year at CAAA (other than for failing a fitness test years ago). CAAA has transformed him from getting many awards, retention bonuses, cash spot bonuses, medals, and letters of appreciation from commanders all for his exceptional knowledge and service to getting letters of reprimand, removed from his supervisor job during probation period, and now this action with CAAA. The Command is validating █████ opinion that CAAA turns a good employee into an allegedly bad one to fit its own narrative. To boot, █████ is not being disciplined for expressing his personal opinion on this matter too.

Charge stacking occurs when the Agency bases its charges and specifications on one nucleus of facts. The MSPB has long held that such "charge stacking" practices are improper, constitute harmful procedural error, and where it has found such stacking, the Board has "merged" extraneous, duplicative charges.

In this case, Charge 4 (Knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization) and Charge 5 (Conduct unbecoming), emanate from the same set of operative facts: the short conversation between █████ and █████ on October 15, 2020. The two charges should be merged into one. The conversation of October 15, 2020 is the focus of and basis for both charges. See *Walton v. Department of Defense*, 2008 MSPB Lexis 6260 (MSPB 2008); *Shiflett v. Department of Justice*, 98 MSPR 289 (2005); see also *Killila v. Department of Veteran's Affairs*, 2014 MSPB Lexis 472 (MSPB 2014)("[c]harges such as here should be merged when they are improperly duplicative in nature"); *Walton*, 2008 MSPB Lexis 6260 (citing *Southers v. Veterans' Administration*, 813 F.2d 1223, 1225 (Fed. Cir. 1987)). Due to the flaws in the case, legally and factually, merged or not merged, the disciplinary action may not be sustained based on a conversation both covered by the First Amendment, in which the content was accurate, and during which █████ did not act in an unbecoming way.

When analyzing a conduct unbecoming charge, no firm elemental standard exists. *Raco v. Social Security Administration*, 117 M.S.P.R. 1, 4-5 (2011). The Agency, however, is required to demonstrate that appellant "committed conduct alleged in support of the broad label." *Id.* The Agency should have a legitimate reason to expect that the appellant not engage in the conduct as

charged. *Chambers v. Dep't of Army*, CH-0752-12-0312-I-1 (Nonprecedential 2013). To sustain a Charge of Conduct Unbecoming, the Agency need not show that appellant intentionally committed the charged conduct. *Fernandez v. Dep't of Agriculture*, 95 MSPR 63, 69 (2003) (intent is not an element of the charge). However, intent is relevant with respect to a mitigation analysis.

Here, in addition to being truthful conversation and a duplication of the Fourth Charge, simply having a discussion with a coworker about safety issues and other colleagues in that context is not conduct unbecoming. Does the Agency expect that [REDACTED] and others won't discuss safety, or complain about management in general? If every employee who was concerned about how their management behaved was punished for complaining to a colleague about management actions was disciplined, there would be no one left to do any work. The Agency is essentially punishing [REDACTED] for gossiping about a former employee who was maltreated and settled a case and telling documentable truths about the safety culture without similarly disciplining the other parties to these conversations. His discussions are not misconduct, and if it is, the Agency has a lot of personnel actions to take in the near future.

Charge 6: Insubordination

The specific circumstances relating to insubordination are as follows:

- a. On 25 August 2020, you were insubordinate after I directed, "do not do Army work on your own time." Despite my direction, you continued to communicate regarding work-related topics after I directed you to stop. You defied my direct order and sent emails to me following the conclusion of the end of your tour of duty regarding Army work.
- b. On 15 October 2020, you were insubordinate when you deliberately violated supervisory orders. You were tasked to complete the survey by 1700 on 15 October 2020. You are required as a part of your assigned duties to conduct bi-weekly Radiation Surveys at Building 102. On 15 Oct 2020, at approximately 1615, I discovered that you had not completed the task and followed up with you because you had previously informed me this task typically takes a minimum of two (2) hours to complete. I informed you that you would not be authorized compensatory time and reminded you that you are not authorized to conduct Army work on your personal time. However, you insisted you could get the task completed by 1700. At 1713, I received a text from you stating you completed the survey. At approximately 1733, I stopped by your cubicle and asked what you were doing since it was past your scheduled tour of duty and you were not authorized compensatory time. You responded you completed the survey. I left the office at approximately 1745 and you were still in the office. You were insubordinate when you deliberately violated my order to not do Army work on your own time.
- c. On 15 October 2020, you were insubordinate when I reminded you that you are not authorized to conduct army work on your personal time and you deliberately disobeyed my direction. On 15 October, your scheduled tour of duty was 0630 to 1700. You disregarded my direct order and performed work follow the conclusion of your tour of duty.

These specifications cannot be sustained as the actions are not insubordination as the case

law defines it and they are duplicative of Charge 3, specifications a and c. Thus, these charges are impermissible charge stacking. The same nucleus of fact on October 15, 2020 has lead the Army to charge [REDACTED] with insubordination for finishing tasks off duty (by mere minutes) and also failing to finish those same tasks. It cannot have it both ways. Indeed, the Army appears to be stacking the same events on October 15 to make more than one charge from the same events, and as discussed it is impermissible to do so. It is also incredulous that it is actually charging him with doing his job. No credible commander would ask an employee to not finish his job or to simply not do it. This reeks of a set up to get him one way or another, and will not be sustained. There is certainly no nexus to the efficiency of the service where an employee is actually doing his job and this charge cannot be sustained for that reason as well.

With respect to Specification (a), [REDACTED] states that on August 25, 2020, he responded to an email on his own time. He did not charge the government overtime or comp time. There is simply no harm to the government and only gain to by his completion of tasks assigned. What is not mentioned in the proposal is the response sent was from his GOV issued phone as the response was mission related. And, it was a response to an email sent to him. As with all competent and responsive government employees, from time to time, he would check GOV email and respond from his phone when he felt it was appropriate so that he was not bombarded with hundreds of emails over a few days when returning to work. The government never objected to that activity at that time and only now brings it up. It objects to this activity in an effort to find him responsible for some failing. It is hard to see how responding to one work related email that he did not initiate has any nexus to the efficiency of the service.

Insubordination is defined as "a willful and intentional refusal to obey an authorized order of a superior, which the superior is entitled to have obeyed." *Redfearn v. Dept. of Labor*, 58 MSPR 307, 311 (1993) (quoting *Phillips v. GSA*, 878 F.2d 370, 373 (Fed. Cir. 1989)), followed in *Bishopp v. Dept. of Air Force*, 75 MSPR 33, 38 (1997); see *Farrier v. VA*, 60 MSPR 71, 73-74 (1993) (citing *Ford v. Dept. of Navy*, 43 MSPR 495, 500 (1990) (an employee's refusal to obey must be intentional and willfully disobedient). "Insubordination is a serious offense that disrupts the work place and interferes with and threatens the ability of the work force to perform its duties." *Mazares v. Dept. of Navy*, 302 F.3d 1382, 1386 (Fed. Cir. 2002).

On 21 AUG 2020, [REDACTED] forwarded to [REDACTED] and [REDACTED] an email from [REDACTED] confirming that CAAA stated that the Command follows NAVSUP PUB 538 in SOP CN-000-004-Rev 6 Chg 3. On 25 AUG 2020, he responded to an email from [REDACTED] where he asked "is there an issue here" on [REDACTED] own time. What is not mentioned in the proposal is the response was from his GOV issued phone – not his personal phone. From time to time, he, like other normal dedicated Agency and government personnel would check GOV email and respond from his phone when he felt it was appropriate, so that he was not bombarded with hundreds of emails over a few days when returning to work from any kind of break.⁹ This is dedicated professionalism that most federal managers seek to

⁹ There is also an issue with this email chain as CAAA says they follow NAVSUP PUB 538 in Army SOP's and they do not. Specifically, weight testing and stenciling of pallet jacks that handle

encourage and expect. Apparently, not [REDACTED]. Typically, it is those federal employees who go to all lengths to do their jobs completely are the ones who succeed in the government. Apparently not at CAAA.

Here all three specifications turn the idea of insubordination on its head. How in fact does answering email disrupt the work place and interfere with and/or threaten the ability of the work force to perform its duties? It does not. How is [REDACTED] dedication to his job harmful at all? Responding to an email, off duty, has no nexus to the efficiency of the service in the manner that results in an upheld charge of misconduct, even if he deliberately ignored [REDACTED] unorthodox order. The Agency still has to show deliberateness, harm to the service and the efficiency nexus. In bringing this specification, the Agency is basically showing its hand that it will use any little thing to discipline [REDACTED] even if in doing so it harms its own mission as a consequence. Any third party neutral will see this for what it is: a fishing expedition by the Agency with no rational reason for the order in the first place except to place a dedicated safety official in harm's way deliberately.

As to specifications b and c, his response to these accusations are explained in response to Charge 3. This is because these two accusations and specifications are duplicative of Charge 3. [REDACTED] has text messages to [REDACTED] at 1410 on his personal phone to prove the timeline/story is not accurate regarding how [REDACTED] discovered it and brought to his attention at 1615. See Enclosure K (texts between [REDACTED] and [REDACTED] Oct 15 2020).

The Agency has basically taken the events of October 15, 2020 and made two charges out of the actions on that date – a failure to complete his work and then, when he completes it shortly thereafter, he is insubordinate. Not only can the Army not have it both ways, these two specifications are again stacked impermissibly against [REDACTED] and cannot withstand independent scrutiny. In essence he was damned if he did or damned if he did not.

Charges 3 and 6 (specifications b and c) are the same and come from the same nucleus of fact. As such they are duplicative and must be merged into one. See *Walton v. Department of Defense*, 2008 MSPB Lexis 6260 (MSPB 2008); *Shiflett v. Department of Justice*, 98 MSPR 289 (2005); see also *Killila v. Department of Veteran's Affairs*, 2014 MSPB Lexis 472 (MSPB 2014)("[c]harges such as here should be merged when they are improperly duplicative in nature"); *Walton*, 2008 MSPB Lexis 6260 (citing *Southers v. Veterans' Administration*, 813 F.2d 1223, 1225 (Fed. Cir. 1987)).

Due to the flaws in the case, legally and factually, merged or not merged, the disciplinary action may not be sustained based on the same set of work completed as required in a time frame that is only slightly delayed. See *Walton v. Department of Defense*, 2008 MSPB Lexis 6260 (MSPB 2008); *Shiflett v. Department of Justice*, 98 MSPR 289 (2005); see also *Killila v. Department of Veteran's Affairs*, 2014 MSPB Lexis 472 (MSPB 2014)("[c]harges such as here should be merged when they are improperly duplicative in nature"); *Walton*, 2008 MSPB Lexis 6260 (citing *Southers v. Veterans' Administration*, 813 F.2d 1223, 1225 (Fed. Cir. 1987)).

ordnance requirements are not followed. [REDACTED] has an email from [REDACTED] that confirms this on his government computer.

Charge 7: Insolence

The specific circumstances relating to insolence are as follows:

a. On 25 August 2020, you conducted your own informal fact-finding investigation regarding a Material Handling Equipment (MHE) matter and forwarded me an email of your findings. You were questioning whether an SOP was being followed for a specific MHE operation. I reminded you that I had specifically asked you to not do inspections and find deficiencies because you had higher priorities to complete. I further stated I did not see this as a priority for me to specifically handle because there was no confirmed issue. I then inquired whether you were conducting this fact-finding during Army time or Air Force time. You stated, "I am responding to an email on my own time." I instructed you to not do Army work on your own time and advised you to direct your attention to the tasks you are assigned to support the Command. You responded, "This kind of stuff? Oh you mean pointing out something else to my boss that CAAA says they are doing but they are not (to my knowledge)?" You further stated, "Seriously, I forwarded you an email where I finally got an answer to my questions, is it really that big of a deal?" You challenged my efforts to make sure you did not work unapproved overtime and your combative tone are a hallmark of an insolent response.

b. On 16 September, you were insolent in your response to my inquiry regarding the Respirator Program. After I discovered you were asking questions of another CAAA employee who was no longer involved in this program, I directed you to conduct your own research or to come to me with questions. When I asked you if you could run the program by yourself, you responded, "I can run this program blind folded in my sleep. I explained to you my side of this in person. Come to you if I have any CAAA specific questions so you can go ask the same questions of your staff, got it. It was my first day doing fit testing for CAAA. You would think that would cut me some slack. I realize I am under a microscope right now but wow. On a positive note, the day went really fast and I actually somewhat enjoyed doing an easy task." Again, your combative tone when I tried to remind you about a long-standing requirement is an example of insolence.

Not only was [REDACTED] was not insolent on the days in question the proposing official has again deliberately taken one set of emails from one day and made third set of charges from them. This is legally impermissible.

Insolence is generally defined as rude and disrespectful conduct. The charged misconduct is not rude or disrespectful, but expresses the frustration of a competent safety professional expressing his opinion on his own knowledge skills and abilities. He was not being disrespectful of [REDACTED] With respect to the specific allegations of this charge, [REDACTED] provides the following.

With respect to specification a, on August 21, 2020, [REDACTED] forwarded to [REDACTED] an email from his government phone that was from [REDACTED]

██████████ He believes that it confirmed that CAAA stated that it will follow the local Naval Facilities and Engineering Command (NAVFAC) P-538 Material Handling Equipment (MHE) Instruction in CAAA local Standard Operating Procedures (SOPs). This email was in regards to manual pallet trucks used to handle ordnance which was not being weight tested, inspected, and stenciled as safe to use with ordnance as required per this instruction. ██████████ noticed this was not being accomplished the first few months of his employment at CAAA when he was still allowed to do building inspections. He also confirmed with ██████████ ██████████ that this was not being done for CAAA manual pallet trucks and there are emails to prove it in his government email account.

██████████ email is not an insolent one. He was, however, discussing a truth: that he was banned from doing building inspections because he found too many safety problems and ██████████ simply does not want to deal with all of the phone calls. ██████████ has stated this to ██████████ directly. Now, ██████████ wants to charge him for repeating back to him what he told ██████████ himself. This is nonsensical. If ██████████ is sensitive, it is because he gave him a ridiculous order to not do a major part of his job in order to save himself from some phone calls. He is embarrassed; as well he should be. He simply does not want to see in writing what he told ██████████ in person. This is not insolent behavior, it is ██████████ covering himself for an unwarranted order not to survey buildings.

With respect to Specification B, on September 16, 2020, ██████████ asked ██████████ if he knew where any extra P100 respirator cartridges were hidden, because ██████████ was running out of them during fit testing. He was not reusing any as they normally would because of COVID-19 and the first several employees being fit tested did not bring their own PPE. In ██████████ response about being able to do fit testing blind folded in his sleep, he did not mean to be insolent. He was just a little sarcastic which was born of frustration with the situation. The fact is that he has in fact, performed thousands of fit tests in his career, mostly as an E4 in the Army or in entry level safety jobs. He used to do fit testing for entire Army units when they would deploy, because he was the only certified fit tester in a several county radius in the Army National Guard in Maryland. He used to do oversight inspections of Respirator Programs for the Navy as an Industrial Hygienist. He is certified by OSHA to be a respiratory protection program manager. He was a Respiratory Protection Program Manager alternate for approximately 8 years in Safety for the Navy. He believes he is the only GS-13 in the Army assigned to be a respirator fit tester, as this is normally done by an intern or an entry level person. , Instead of insolence, he was expressing an opinion of his abilities, which his background and experience bears out. Whether it was an over the top or frustrated response, maybe. Insolent as defined as rude or disrespectful, it was not.

An agency is entitled to expect its employees to conform to certain accepted standards of civil behavior and decorum, *Redfearn v. Dept. of Labor*, 58 MSPR 307, 316 (1993), and to respect the authority of supervisors as well as rules and regulations. *See Bassett v. Dept. of Navy*, 34 MSPR 66, 69 (1987). There is nothing in either specification that is uncivil or disrespectful of the rules, regulations, or indeed, even ██████████. Again, it was expressions of opinion and fact by a frustrated employee told to not do his job by a supervisor who admits to telling him not to do his job.

Acts of insolence usually have some element of abusive language. This is not that. The case law speaks to this. "Abusive language and behavior are not acceptable or conducive to a stable working atmosphere." *Hubble v. DOJ*, 6 MSPR 659, 661, 6 MSPB 553 (1981); see *Gill v. DOD*, 92 MSPR 23, 29 ¶ 15 (2002) (based on mitigating factors and provocation, a reprimand was justified when the appellant raised her voice to a supervisor). In this situation, the language is not abusive, nor is there any inference of raised voices or abusive language as none is charged. Given the actual allegations, the behavior does not rise to the level of insolence as the MSPB case law interprets the behavior and the two specifications cannot be sustained.

AFFIRMATIVE DEFENSES

██████ asserts, and can establish, that this action is being taken on account of his protected disclosures to his chain of command, to higher headquarters and to OSHA concerning serious and repeated safety violations at CAAA that command has no interest in rectifying. Indeed, the intent is transparently obvious by the duplicative nature of the charges, the ridiculous refusal to allow ██████ to do his job, and the nonsensical, antithetical nature of some of the specifications, which are contrary to good government. The fact that he was put on leave after a meeting in which the OSHA violations were discussed, and in light of the email stating that the Command knows who the OSHA whistleblower is, supports more than a mere inference that this proposal is directly related to his whistleblowing. The action cannot be sustained and the Deciding Official should not play into this effort to squelch his valid and fact based concerns. We are confident that the MSPB will see this action for what it is – reprisal.

5 U.S.C. § 2302(b)(8) makes it unlawful for an Agency to take, threaten to take or fail to take any personnel action on account of the employee's whistleblowing activities, including disclosures he reasonably believes disclose, *inter alia*, gross mismanagement and/or specific and substantial dangers to public health and safety. Here, ██████ has made credible and factual allegations that are wholly supportable and which were made in good faith within and outside the chain of command when his chain ignored his pleas for assistance with safety issues he has found.

Indeed, by way of example only, he disclosed the following:¹⁰

██████ has been raising the alarm internally at Crane Army Ammunition Activity (CAAA) about safety issues since he started in October of 2019. These complaints have been made to ██████ and ██████. See Enclosure J (client email to ██████). He has reported many safety issues on many separate occasions to the host Naval Support Activity (NSA) Command between October 2019-October 2020. This includes the ██████ and the ██████. He

¹⁰ ██████ has many communications and other documents on his government computer system and on his government phone, which we understand has been wiped. Previously the undersigned sent a litigation hold letter to you, as deciding official, to preserve this evidence. We have reason to believe the phone has been wiped clean, despite ██████ current employment. Not only was this destruction of evidence, it shows a predetermination by the Command that he is not coming back to work. Both are improper.

also usually copied these safety findings and/or the ridiculous responses from his chain of command to the [REDACTED] who is a personal friend whom he highly regards and the [REDACTED] whom he also highly regard and who is also a retired Marine Officer. See Enclosure J. The issues disclosed include weight handling equipment not inspected or certified, lack of compliance with hazardous classified electrical in explosives areas, lack of documentation and training for explosive safety training, failure to inspect and stencil pallet jacks handling ordnance, and lack of cut resistant gloves for cut hazard operations, pallet racks not bolted to the floor command wide, Lock Out Tag Out issues, fall protection issues, lack of ladder inspections, and lack of process safety management in explosives pressing operations. He has a copy of an email with deficiencies that he put in the ESAMS database and a copy of these deficiencies were sent to [REDACTED] on 15OCT2020. See Enclosure J. He also forwarded this email with deficiencies to [REDACTED] on 18OCT2020. See Enclosure J. He talked to [REDACTED] on the respirator lab phone also on or around 19OCT2020. He also asked to be put on [REDACTED] calendar for 5 minutes on 15OCT2020 and his secretaries never got back with him. On or around October 8, he called [REDACTED] to discuss all of the safety issues at CAAA. The exact date for this call is on his GOV cell phone which was confiscated and wiped before being reissued to another member on the CAAA safety team. There were also many pictures of deficiencies from his OSHA complaint investigation on this cell phone. See Enclosure L [REDACTED] (Deficiency Notices).

On 19OCT2020, he filed an official safety complaint with the U.S. Department of Labor Occupational Safety and Health Administration (OSHA). See Enclosure M ([REDACTED] OSHA heads up texts). On 20OCT2020, he sent a copy of this complaint to [REDACTED]. On 18OCT2020, he sent an email to [REDACTED] and [REDACTED]. See Enclosure J. This email contained his displeasure with CAAA's hiring of a non-CP-12 accredited person and a non-Certified Safety Professional (CSP) as [REDACTED] and CAAA's totally ignoring the requirement listed in JMCR 385-10 that the Command get approval from JMC to hire anyone who is not properly educated or documented. This email had also been sent to [REDACTED] and [REDACTED] several weeks before this email with no response. On 19OCT2020, he also spoke with [REDACTED] and [REDACTED] on the phone regarding CAAA's safety issues and the fact that [REDACTED] was not qualified for his job and asking whether he should file an Inspector General (IG) complaint. [REDACTED] responded in an email confirming JMC was not consulted on this hire (See Enclosure J). On 18OCT2020, he sent a text to [REDACTED] showing the OSHA complaint number and making him aware he had filed it since he is supposed to escort inspectors on base if they come to the base. OSHA recorded it as 19OCT2020, a Monday. [REDACTED] also works as a supervisor at CAAA. On 21OCT2020, [REDACTED] sent an email to [REDACTED] and [REDACTED] saying that CAAA has received an OSHA complaint, notifying them of the details and that CAAA is pretty sure they know who filed it. [REDACTED] has tried to get a copy of this email which he was specifically advised exists, but no one will share it with him without a freedom of information act (FOIA) request. [REDACTED] told him about it at a lunch with him one day or in casual conversation.

On 28OCT2020, he was called into [REDACTED] office with [REDACTED] and was told he was being put on admin leave indefinitely pending legal review. When he asked for what, they said "your performance over the last few months." He turned in his CAC, his GOV phone, and his GOV computer. He was then escorted out by [REDACTED] and [REDACTED] like a criminal. In early November, he briefed in person the [REDACTED] regarding the CAAA safety issues and that he would probably file an Inspector General (IG) complaint eventually, so he wanted to give him a heads up. He forwarded him a copy of the ESAMS deficiencies that he had created. On 18NOV2020, [REDACTED] called him and said the [REDACTED] wanted him to get involved and have him inspect [REDACTED] allegations. He reminded [REDACTED] this was the same information he had sent him months ago and that he didn't do anything with the information. He responded that he was sorry and that he didn't want to get in the middle of what is going on at CAAA, but now that his Commander wants him involved, he would be.

The Command has known about these disclosures for months and has proposed his removal as a consequence, turning his "performance over the last several months" into a bogus misconduct removal.¹¹ This is a transparent effort to squelch a known whistleblower and will not be sustained by the MSPB. Moreover, removing [REDACTED] now will not stop the impending investigations about to begin. These investigations will demonstrate that [REDACTED] concerns about public health and safety and the gross mismanagement at CAAA are valid. The Deciding Official should take a stand against reprisal and not sustain the proposed removal.

DOUGLAS FACTORS

Douglas requires the deciding official to make a separate finding on the appropriateness of the penalty imposed in connection with an adverse action, and presents a list of factors which might be considered in reaching such a determination. As discussed below, in the instant case, the following *Douglas* factors are relevant and support the conclusion that the proposed penalty of removal should not be sustained and should be mitigated to a more reasonable penalty:

1. **The nature and seriousness of the offense(s), and its/their relation to [REDACTED] duties, position, and responsibilities, including whether the offense(s) was/were intentional or technical or inadvertent, or was/were committed maliciously or for gain, or was/were frequently repeated.**

In evaluating the penalty, the Board will consider, first and foremost, the nature and seriousness of the misconduct and its relation to the employee's duties, position and responsibilities. See *Rackers v. Department of Justice*, 79 M.S.P.R. 262, 282 (*aff'd*, 194 F.3d 1336 (Fed. Cir. 1999)(Table)); see also *Gaines v. Department of the Air Force*, 94 M.S.P.R. 527 (2003); *Batts v. Department of the Interior*, 102 M.S.P.R.27 (2006).

¹¹ Administrative Leave for performance issues is not appropriate. A performance improvement period would be. See generally Chapter 43, Title V of the United States Code and 5 U.S.C. § 6329a (the Administrative Leave Act of 2016).

The Board has consistently held that when a penalty is grossly disproportionate to the offense, it is an abuse of agency discretion. *See Howard v. USPS*, 72 M.S.P.R. 422, 425 (1996). As this penalty is a gross abuse of agency discretion, this *Douglas* factor does not support this onerous penalty.

See e.g., Robertson v. Department of Justice, 81 M.S.P.R. 658 (1999)(finding that the misconduct was much less serious than it would have been if the appellant truly did not have the authority to initiate the actions he took, but only misstated the timing of the approval, and mitigating the penalty despite upholding the charge); *see also Tackett v. Air Force*, 80 MSPR 624 (1999)(removed employee did not violate last chance agreement by lying, any error was construed as miscommunication with the supervisor; employee was reinstated).

In this case, the allegations appear to be for the most part allegations that are not intentional, and are performance driven. None of the allegations assert any maliciousness or were for gain. The time period involved is one of short duration, and were not frequently repeated. [REDACTED] position is to assure safety of the facilities and know safety. He does. This *Douglas* factor is not aggravating.

2. [REDACTED] job level and type of employment, including any supervisory or fiduciary role, contacts with the public, and prominence of his position.

This position is not a fiduciary nor supervisory. He has no contact with the public and the position is not prominent. This *Douglas* factor is mitigating.

3. [REDACTED] past disciplinary record.

In his prior 18 year Civilian DOD Career, he had no discipline whatsoever. Also, he has none as an Air Force Reservist except for a failed fitness test which clearly was later overcome. The only discipline he has received is while at Crane Army Ammunition Activity since October 2019. That disciplinary action at Crane, was undeserved due to his health condition which is documented and includes the following.

Excessively tardy. [REDACTED] suffered one (1) week while dealing with severe sleep deprivation and sleep apnea. Even so, he always called in prior to 7am and took leave as appropriate. He lives 1:10 hours away with an hour time change from CT to ET. AWOL: Although he followed procedures electronically like he always had, [REDACTED] was a new supervisor, and he didn't approve or disprove the request same day. [REDACTED] took off 4 hours in the pm to mow his yard and get ready for kid's birthday party. His request was submitted in ATAAPS prior to mowing yard. Annual leave was included on daily excel tracking report. When he put in the request, he was at home teleworking, and had no reason to believe the request would be denied. In fact, the leave request was disapproved after the fact and he was counted AWOL. He did appeal, but it was denied the same day he was placed on admin leave 28OCT2020. This is his only action taken against him, and the Command did not take into consideration the mitigating circumstances surrounding the tardiness and the leave request denial.

4. [REDACTED] past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.

[REDACTED] has 18 years of previous DOD civilian experience and over 20 years of military reserve experience. He gets along well with everyone everywhere he has served, except for the Crane Army Ammunition Activity. He is known as fiercely loyal to fellow employees and the safety mission. He has a history of documented success for many years including many bonuses, awards, and letters of appreciation from Commanders, etc. This is the first Command where there have been any issue whatsoever. He has never had a bad performance report until his arrival at CAAA since October 2019. The letters from his many supporters and character references are attached as Exhibit N.

5. The effect of the offense(s) upon [REDACTED] ability to perform at a satisfactory level and its effect upon his supervisors' confidence in his ability to perform assigned duties.

The offenses have no impact on his ability to do the work required. The issue here, as discussed above, is one of his supervisors' retaliation for his protected activity in reporting a variety of safety issues to OSHA and the chain of command as he is required to do. The supervisor is reacting to that, not to any real wrongdoing.

6. The consistency of the proposed penalty with those imposed upon other similarly situated employees for the same or similar offenses.

We have not been provided with this information in order to provide an informed reply.

7. The consistency with Agency's Table of Penalties.

While apparently in range on the Table, the penalty is excessive considering he has never been written up or given a suspension for any of the reasons listed in the proposed removal. The charges were drafted in such a way to make more offenses in order to reach removal. We believe a lesser penalty will suffice and is more in line with the allegations, should any be upheld.

8. The public notoriety of [REDACTED] alleged offense(s) or its/their impact upon the reputation of the agency.

There is no public notoriety as the information about his alleged offenses is closely held in the command. On the other hand, CAAA has had a bad reputation amongst all the tenant commands on base for the many years [REDACTED] has been at Crane. Public notoriety may occur should the allegations of rampant safety violations are made known to non-Army government Agencies or if there is a large incident that becomes known outside Crane and/or which impacts the public. This is what he is trying to avoid.

9. The clarity with which [REDACTED] was on notice of any rules that were violated in committing the offense(s), or had been warned about the conduct in question.

[REDACTED] was never provided anything in writing that addressed any of the charged misconduct. Instead he was verbally told not to talk to anyone on base; he was verbally told he was banned from doing building inspections because he would find too many Safety problems; he was verbally told not to ask any questions of the Safety team, and to run any questions through [REDACTED] he was verbally told not to talk to or communicate with any directors; he was verbally told not to go into Army buildings in USAF uniform; and he was verbally told not to check email on his phone in order to do his job. None of these verbal orders make any sense unless the Army does not want safety issues properly and promptly addressed.

10. The potential for [REDACTED] rehabilitation as an agency employee.

[REDACTED] has decades of safety experience and should be considered an asset to the team. He exhibits high potential for rehabilitation on account of his history of positive performance and longstanding expertise. He could be invaluable to the Commander or the Chief of Staff in addressing safety issues if his current supervision team does not wish to work with him.

The MSPB has stated that "the potential for rehabilitation may be demonstrated by the appellant with no prior disciplinary record, good prior performance and job dedication, and continued satisfactory, dependable job performance." *Lewis v. Dept. of Air Force*, 28 MSPR 483, 487 (1985). Here, [REDACTED] track record of proven dedication to the US government and the safety mission is being completely overlooked and it is an important part of the Douglas analysis to not disregard it.

11. Any mitigating circumstances surrounding the offense(s) such as unusual job tensions, personality problems, mental impairments, harassment, or bad faith, malice or provocation on the part of others involved in the matter.

As set forth more extensively above, [REDACTED] is a known whistleblower on safety issues the command needs to address. This action is a result of that whistleblowing activity. The Command has never respected his expertise, instead [REDACTED] stated: "you just have to be right don't you." When it comes to safety, no one wants to be wrong. When it comes to safety matters, [REDACTED] is right about 95% of the time; and that is what his education and experience in the field provides him and the Command. Other issues at play are the tense relationship with [REDACTED] on account of his management style; [REDACTED] constantly belittling of him and his constant reminders to him that he is going to be held accountable if he does not meet deadlines; [REDACTED] resentment on account of [REDACTED] directly telling him to his face that he does not meet the criteria listed in JMCR 385-10 to be [REDACTED] that the Command has only provide [REDACTED] with internship work; that he is constantly belittled, threatened and cussed at; and his expertise and education has gone to waste as no one actually listens to his advice and guidance.

12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by [REDACTED] or others similarly situated agency employees.

Given all of the issues set forth in this reply, there are most certainly other ways of dealing with this situation. The charges cannot nor will not all be sustained, the affirmative defense of reprisal does change the dynamic of the situation. Moving forward an alternative sanction of a suspension would serve to deter the alleged misconduct in the future.

Indeed, given the trumped up nature of how the proposal is written, we believe that not all charges are sustainable and it is written in such a way to exaggerate the behavior itself. Given that situation and the obvious nature of how the proposal is drafted to look more serious than it is, the MSPB will look behind the charges to determine if the Agency viewed the conduct more seriously than it should and will mitigate on that basis. *See Shelly v. Dept of Treasury*, 75 M.S.P.R. 677, 683 (1997) (the Board may mitigate a penalty if the agency "viewed the appellant's misconduct supporting the charge and the charge itself to be more serious than the actual circumstances surrounding the charge and the charge itself").

The driving purpose of disciplinary action is to prevent a recurrence of misconduct. *Jacobs v. Dep't of the Army*, 62 M.S.P.R. 688, 695 (1994) ("The basis of progressive discipline is that an employee who has engaged in repeated misconduct will be likely to do so again in the future."). "An underlying tenet of progressive discipline is that by disciplining an employee with increasing degrees of punishment, the employee is given the opportunity to learn from his mistakes." *Fowler v. USPS*, 77 MSPR 8, 14 (1997). In its severity, it is punitive rather than corrective, and as such, is contrary to the goal of any disciplinary action. There are several other sanctions that can be imposed in lieu of this proposed removal.

CONCLUSION

For the reasons more fully set forth above, the Proposed Removal cannot be sustained. [REDACTED] should be immediately returned to duty and the removal not sustained, or a more reasonable penalty selected for any sustained actual misconduct.

Sincerely,

[REDACTED]

[REDACTED]

Attorneys for [REDACTED]

[REDACTED]
Enclosures as Stated

Enclosure A

[REDACTED]

[REDACTED]

[REDACTED]

POWER OF ATTORNEY

I,

[REDACTED]

[REDACTED]

hereby designate the law firm of [REDACTED] to serve as my attorneys in all matters relating to and/or arising out of my employment by the federal government of the United States of America. I authorize all branches, agencies, appointees, officials, and employees of the federal government of the United States of America, as well as of the governments of any State, County, or Municipality in the United States, to fully communicate with and release to my herein designated attorneys any and all information related to me and my employment by the federal government as deemed necessary, as a waiver of my rights under the Privacy Act, 5 U.S.C. § 552a. This Power of Attorney will remain in effect until withdrawn by me and/or my designated attorneys.

11/06/2020

Date

[REDACTED]

Signature

Enclosure B



DEPARTMENT OF THE ARMY
CRANE ARMY AMMUNITION ACTIVITY
[REDACTED]

REPLY TO
ATTENTION OF:

JMCN-ASF

6 November 2020

MEMORANDUM FOR [REDACTED]
[REDACTED]

SUBJECT: Proposal to Remove From Federal Service

1. This memorandum is to notify you I am proposing your removal from federal service as a [REDACTED] with Crane Army Ammunition Activity (CAAA) for the following: 1) Failure to observe written regulations, orders, rules, or procedures where safety to persons is endangered; 2) Failure to observe written regulations, orders, rules, or procedures where safety to persons is not endangered; 3) Delay in carrying out or failure to carry out instructions within the time required; 4) Knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization; 5) Conduct Unbecoming a Federal Employee; 6) Insubordination; and 7) Insolence. You will be given sufficient time and opportunity to reply to this notice. If a decision is made to effectuate this removal, the effective date would be no earlier than thirty (30) calendar days from the day you receive this notice. You will be placed in administrative (Notice) leave status until a decision is made on this action.

2. The specific circumstances relating to failure to observe written regulations, orders, rules, or procedures where safety to persons is endangered are as follows:

a. On or about 21 September 2020, you failed to observe written regulations, orders, rules, or procedures where safety to persons is endangered when you mailed waste samples to the CECOM Radiological Analysis and Calibration Laboratory without taking preliminary radiation readings to ensure it was safe to do so. On 21 September, you sent an email to [REDACTED] inquiring if the trash wipes should be mailed. At approximately 1642, she informed you that all trash wipes shall be read locally and that you are required to send in 10% of the samples of trash taken daily. You failed to observe this procedure per [REDACTED] direction in accordance with the U.S. Nuclear Regulatory Commission (NRC) License No. SUC-1380, Supplement 5, Radiation Safety Program.

JMCN-ASF

SUBJECT: Proposal to Remove From Federal Service

b. On 29 September 2020 between approximately 0830 and 0900, you arrived at Building 66 to assist with conducting a Depleted Uranium (DU) shipment. You arrived without wearing an optically stimulated dosimeter (OSD). When you were challenged about why you were not wearing the proper safety equipment, your reply was "I accept the risk." You proceeded with operations without wearing an OSD. In accordance with CAAAR 385-17, Section 12.e and 12.e(1), Wipe Procedures/Laboratory Analysis states "Dosimeter is required for all personnel involved in wipe procedures." On 21 September, you sent me an email confirming you read the CAAR 385-17, therefore acknowledging you understood the requirements contained therein. You failed to observe this requirement in accordance with the Regulation, and endangered yourself in the process.

3. The specific circumstances relating to failure to observe written regulations, orders, rules, or procedures where safety to persons is not endangered are as follows:

On or about 20 October 2020, you failed to observe written regulations, orders, rules, or procedures where safety to persons is not endangered when you inappropriately sent a copy of the ANSI 105-2016, a licensed document, electronically to an unlicensed recipient. Upon being informed that you are not authorized to send a document as such, you responded inquiring if there was a disclaimer. The following was located at the bottom of the document: "Copyright International Safety Equipment Association Provided under IHS under license with ISEA. No reproduction or networking permitted without license from HIS. Sold to: NSWV Crane, 895007. Not for Resale, 07/12/20 16 07:55:49 MDT." Therefore, you failed to observe written regulations, orders, rules, or procedures.

4. The specific circumstances relating to your delay in carrying out or failure to carry out instructions within the time required are as follows:

a. You failed to complete the Radiation Survey at Building 102 within the time required. You are required as part of your assigned duties to conduct bi-weekly Radiation Surveys at Building 102. You were tasked to complete the survey by 1700 on 15 October 2020. On 15 October, at approximately 1615, I discovered you did not completed the task and followed up with you because you previously informed me this task typically takes a minimum of two (2) hours to complete. You then insisted you could get the task completed by 1700. At approximately 1713, I received a text from you stating you completed the survey. At approximately 1733, I stopped by your cubicle and asked what you were doing because it was past your scheduled tour of duty and were not authorized compensatory time. You responded you completed the survey. However, I learned you had not finished the survey, as you still hadn't documented the results on the survey form, which is a requirement of the task. I left

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the office at approximately 1745 and you still had not finished. You failed to carry out instructions within the time required. You were put on notice of the requirement to conduct bi-weekly surveys on three (3) occasions. This requirement was outlined in the procedures you read and acknowledged on 25 September 2020, the procedures were included in the turn over duties from [REDACTED] which you acknowledged on 3 September 2020, and I reminded you of this requirement during our discussion on 1 October 2020 as a result of you nearly missing your last suspense regarding this very same duty. This survey is a requirement to continue to operate two mission critical radiography machines.

b. You failed to complete required readings in support of your RSO duties within the time required. On 2 September 2020, I instructed you to read the following materials: NRC SUC 1380, Promethium license, CAAR 385-15, CAAR 385-17, ARA for cabinet x-ray at 104, ARA for cabinet x-ray at 2728, and Public Health Center report for our other cabinet X-ray systems. Additionally, I instructed you to familiarize yourself with the CAAA SharePoint site on Radiation. Due to your workload, I extended your suspense to 17 September. On 21 September, I followed up to see if you read the required readings. You responded requesting another extension. I granted an additional extension and instructed you to complete the reading assignment by COB 24 September. You emailed me on 25 September stating you had not completed all of the required reading. Therefore, you failed to carry out instructions within the time required. You needed to read and understand these documents to support of the duties of your position.

c. You delayed in conducting a radiation survey. On 15 October 2020, you were asked to support a DU load out of Manifest 38 at Building 66 scheduled for 22 October 2020 at 0730. This task required you to read every contamination swipe prior to the scheduled load out. On 19 October 2020, you acknowledged this task and indicated you would be present for the load out. On 21 October 2020 at approximately 1040, I was prompted to follow up with you to obtain a status update because the radiation survey had not been populated onto the spreadsheet demonstrating the task had been completed. In response to my inquiry, you stated you had forgot and immediately shifted your workload to complete the task. However, your deferment in conducting the mandatory radiation survey required two individuals to step-in to avert a crisis for the critical shipment.

d. On an unknown date in August, I informed you that an employee, [REDACTED] was leaving and you needed to assume responsibility of some of his job duties. I advised you to make this task a priority to ensure you were fully trained and equipped to assume his duties prior to his departure. On 2 Sep, you were provided a "Turn Over Record" documenting each program/duty with which you needed to become proficient. I instructed you to coordinate with [REDACTED] to complete the document and

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execute this task by 1200 on 9 September. I informed you to notify me of any other deadlines that needed to be postponed due to the urgency of this request. You did not request an extension of any of the other tasks assigned to you and you failed to meet this suspense. [REDACTED] has now left CAAA employment for other federal employment opportunities and the checklist you needed to document your proficiency at his duties is still incomplete. Therefore, you failed to carry out my instructions within the time required.

e. On 15 September 2020, you were informed a survey needing completion, to include wipe samples in support of an operation. On 29 September, I followed up with you to determine if the survey had been completed. You responded, "I will verify in my notes, but I do not believe so." I informed you to contact [REDACTED] to determine if the survey was still required. On 30 September, she responded "You needed to do a survey of the area after inspection. The wipes will serve as the closeout survey." On 1 October, [REDACTED] followed up again stating you needed to do a survey of the area. Due to your lack of response, [REDACTED] was prompted to follow up to determine if this task had been completed. She sent you an email on 19 October asking if it had been completed. You responded, "I have not done this yet." Close out surveys must be complete prior to a new job being started. CAAAR 385-17, Section 12b(3)(a), states, "Baseline Survey: The Depot Operations Directorate must notify the RSO or ARSO when a new magazine will be loaded with radioactive material. A baseline survey must be conducted and results must be received prior to loading the magazine." Your delay imposed a significant safety risk to the agency.

5. The specific circumstances relating to you knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization are as follows:

On 15 October 2020, between approximately 1300 and 1400, you communicated to another Crane Army Ammunition Activity (CAAA) employee, [REDACTED] who is outside your division, you knew there were buildings that were not compliant with OSHA regulations and you were tempted to self-report several violations to OSHA to prove a point to the agency. You suggested there were electrical issues at multiple production buildings that were not up to code. You also mentioned that various types of Weight Handling Equipment (WHE) were not being handled properly. [REDACTED] is not an authorized recipient for safety

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complaints and has no ability or authority to address such concerns. Your sole purpose in bringing up non-relevant safety issues (as perceived by you) was to demean how the Safety Division was being managed. You knowingly made false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization.

6. The specific circumstances relating to conduct unbecoming a Federal employee are as follows:

On 15 October 2020, between approximately 1300 and 1400, you communicated to another CAAA employee, [REDACTED] who is outside your division, you were going to make the agency fire you so you could be paid a cash settlement. You stated something to the effect of seeing [REDACTED] former CAAA employee, at a mutual friend's party and she informed you she was awarded money after she was terminated. Similarly, on an unknown date between approximately February and October 2020, [REDACTED] asked you why you didn't want to quit rather than get fired since you were so unhappy at work. You replied that the same [REDACTED] informed you CAAA paid her \$30,000 when they fired her. You further declared CAAA could not give you a bad reference or you would sue them. The clear implication of your statements is you were not going to try to succeed in your job, but rather force your Federal employer into a litigation posture where taxpayer money would need to be spent to address your performance and conduct issues. Gaming the Federal merit system for employee performance and statements to other employees that this is an acceptable way to deal with performance problems constitutes conduct unbecoming a Federal employee.

7. The specific circumstances relating to insubordination are as follows:

a. On 25 August 2020, you were insubordinate after I directed, "do not do Army work on your own time." Despite my direction, you continued to communicate regarding work-related topics after I directed you to stop. You defied my direct order and sent emails to me following the conclusion of the end of your tour of duty regarding Army work.

b. On 15 October 2020, you were insubordinate when you deliberately violated supervisory orders. You were tasked to complete the survey by 1700 on 15 October 2020. You are required as a part of your assigned duties to conduct bi-weekly Radiation Surveys at Building 102. On 15 Oct 2020, at approximately 1615, I discovered that you had not completed the task and followed up with you because you

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had previously informed me this task typically takes a minimum of two (2) hours to complete. I informed you that you would not be authorized compensatory time and reminded you that you are not authorized to conduct Army work on your personal time. However, you insisted you could get the task completed by 1700. At 1713, I received a text from you stating you completed the survey. At approximately 1733, I stopped by your cubicle and asked what you were doing since it was past your scheduled tour of duty and you were not authorized compensatory time. You responded you completed the survey. I left the office at approximately 1745 and you were still in the office. You were insubordinate when you deliberately violated my order to not do Army work on your own time.

c. On 15 October 2020, you were insubordinate when I reminded you that you are not authorized to conduct army work on your personal time and you deliberately disobeyed my direction. On 15 October, your scheduled tour of duty was 0630 to 1700. You disregarded my direct order and performed work following the conclusion of your tour of duty.

8. The specific circumstances relating to insolence are as follows:

a. On 25 August 2020, you conducted your own informal fact-finding investigation regarding a Material Handling Equipment (MHE) matter and forwarded me an email of your findings. You were questioning whether an SOP was being followed for a specific MHE operation. I reminded you that I had specifically asked you to not do inspections and find deficiencies because you had higher priorities to complete. I further stated I did not see this as a priority for me to specifically handle because there was no confirmed issue. I then inquired whether you were conducting this fact-finding during Army time or Air Force time. You stated, "I am responding to an email on my own time." I instructed you to not do Army work on your own time and advised you to direct your attention to the tasks you are assigned to support the Command. You responded, "This kind of stuff? Oh you mean pointing out something else to my boss that CAAA says they are doing but they are not (to my knowledge)?" You further stated, "Seriously, I forwarded you an email where I finally got an answer to my questions, is it really that big of a deal?" You challenged my efforts to make sure you did not work unapproved overtime and your combative tone are a hallmark of an insolent response.

b. On 16 September, you were insolent in your response to my inquiry regarding the Respirator Program. After I discovered you were asking questions of another CAAA employee who was no longer involved in this program, I directed you to conduct your own research or to come to me with questions. When I asked you if you could run the program by yourself, you responded, "I can run this program blind folded in my

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sleep. I explained to you my side of this in person. Come to you if I have any CAAA specific questions so you can go ask the same questions of your staff, got it. It was my first day doing fit testing for CAAA. You would think that would cut me some slack. I realize I am under a microscope right now but wow. On a positive note, the day went really fast and I actually somewhat enjoyed doing an easy task." Again, your combative tone when I tried to remind you about a long-standing requirement is an example of insolence.

9. The following was considered in determining the appropriate penalty for this action:

a. This is your second offense to warrant formal discipline. On 19 August 2020, you were issued a Letter of Reprimand for being absent without leave (AWOL). The Department of Army Regulation 690-700, Chapter 751, Table of Penalties for Various Offenses, recommends the following for a second offense:

1. 30 day suspension to removal for failure to observe written regulations, orders, rules, or procedures where safety to persons is endangered (offense 14b);

2. 1 to 14 day suspension for failure to observe written regulations, orders, rules, or procedures where safety to persons is not endangered (offense 14a);

3. 1 to 5 day suspension for delay in carrying out or failure to carry out instructions within the time required (offense 4b);

4. Removal for knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization (offense 10c);

5. Removal for conduct unbecoming a Federal employee (offense 18);

6. 5 day suspension to removal for insubordination (offense 1); and

7. Insolence is not listed in the table of penalties; however, the closed analogous offense to your misconduct is described in Offense 1, insubordination. The recommended penalty range for a second offense is a 5 day suspension to removal.

Due to the seriousness and volume of your offenses, I am fully justified in proposing your removal from the Federal service and determined it is the necessary and appropriate course of action.

b. Your position of a [REDACTED] requires strict

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adherence to all written regulations, orders, rules, or procedures. Failure to adhere to such requirements could be detrimental to the agency, the mission, and endanger the safety of CAAA personnel and/or property. Particularly, your failure to follow the radiation protection procedures not only violated the law, but also imposed a severe risk to the public. There is a high probability the wipes contained Depleted Uranium (DU); and therefore, your disregard of the procedures could have exposed the public to radiation causing long-term effects. On 21 September 2020, in an email to [REDACTED] you stated you were uncertain of the requirements and inquired if you should mail the "trash samples." At approximately 1642, she stated "all trash wipes are required to be read locally. We are required to send in 10% of the samples of trash taken daily." Therefore, you were conversant of the requirement per [REDACTED] direction. Furthermore, this indicates despite your uncertainty of the requirements, you proceeded to ship the samples contrary to her instruction. If you had any uncertainty of the requirements, you should have postponed shipment until you received a response. Your failure to adhere to the appropriate radiation protection procedures per [REDACTED] instruction endangered the safety of personnel and/or property. By shipping the wipes, you jeopardized the safety of others, to include the public. In addition, in accordance with U.S. Nuclear Regulatory Commission (NRC) License No. SUC-1380, Supplement 5, Radiation Safety Program, "Installation personnel will check radiological wipes with a beta/gramma detection instrument before sending the wipes to the laboratory." Failure to comply with NRC Requirements, to include the procedure above, could result in vigorous enforcement actions such as, issuance of a notice of violation, imposition of a civil penalty, or an order suspending, modifying or revoking CAAAs license as specified in the General Statement of Policy and Procedure for NRC Enforcement Actions.

c. It is your responsibility as a Federal employee to carry out your assigned duties and instructions within the time required and meet deliverables as assigned. Your failure to carry out tasks within the time required negatively impacts the CAAA mission. Specifically, your failure complete the required Radiation Survey at Building 102 in a timely manner could have resulted in the agency facing financial repercussions, revocation of their NRC License, and regulatory consequences.

d. I consider making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization a very serious offense. Your proclaiming to another CAAA employee you were considering self-reporting CAAA to OSHA for allegedly violating OSHA standards in attempt to "prove a point" and sabotage the agency is egregious and malicious. If you had substantial safety concerns, those concerns should have been elevated using your chain of command or other authorized complaint mechanisms like Congress, the IG, or

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safety enforcement organizations. Your safety allegations to a coworker with no ability to address your concerns in combination with your grievances against your leadership chains makes it clear your only intent with your communications was to bring down the reputation of your leadership. This type of behavior is intolerable and negatively impacts the inherent trust required of you in your position.

e. Your insolent behavior in the form of mocking language, and your insubordination is unacceptable behavior and undermines management's respect and ability to effectively manage the workforce. You are expected to demonstrate professionalism and respect towards authority, and appropriately respond to directives. In response to your supervisor's direction, you were unprofessional and disrespectful. As a Federal Employee, you are expected to respect authority, and conduct yourself professionally at all times. Your lack of respect negatively impacts working relationships and ultimately the CAAA mission and efficiency of the service. Your lack of professionalism gives me serious doubt about your ability to remain a productive member of the Federal workforce.

f. As a [REDACTED] at CAAA, you are responsible for safeguarding CAAA employees and assets. The duties of your position and your decisions influence and impact the safety of the organization. Therefore, I must be able to trust you to follow supervisory direction, adhere to and enforce applicable laws, rules, procedures, and regulations, carry out the duties and tasks required of your position in a timely manner, and uphold the integrity and ethical standards required of a Federal employee; however, your recent behavior impedes my ability to do so. The specific misconduct cited in this action is improper and unsuitable for the federal workplace. It causes disruption within the organization, stresses working relationships with your co-workers and management, and impacts the CAAA mission. I have determined removal is an appropriate penalty after considering the following: the nature and seriousness of the offense, and its relations to your duties; your past disciplinary record; consistency with the table of penalties; clarity for which you were put on notice; your potential for rehabilitation; and the availability for alternate sanctions. I also considered that your position is not supervisory in nature; however, this mitigating factors does not overcome or negate the aggravating factors in this case. I have no confidence in your ability to perform the duties of your position on the basis of the seriousness of your misconduct and have no confidence in your potential for rehabilitation. Your misconduct goes to the heart of your duties as a Federal employee and the safety of the Federal workplace. For the efficiency of the service, I have no other recourse but to propose your removal from Federal service.

10. You have the right to reply to this proposed action, personally and in writing; to furnish affidavits in support of your reply; to submit any or all reasons why this action

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should not be effected; to examine all supporting evidence that is the basis for proposing this action, and to review appropriate regulations. If you wish to see the supporting evidence upon which this action is based and/or appropriate regulations, you may contact [REDACTED]

11. If in a duty status, you will be permitted a reasonable amount of official duty time to review the regulations, review the supporting evidence on which this proposed action is based, prepare a written reply, make a personal/oral reply, and secure affidavits. You must contact me at [REDACTED] to make arrangements for the use of official time.

12. Any reply should be made no later than 7 calendar days upon receipt of this notice. Consideration will be given to extending this reply period if you submit a written request stating your reasons for desiring more time. If you want to request an extension, or if you make a written reply, your correspondence should be addressed to [REDACTED]. If you wish to reply personally, you should make arrangements with [REDACTED] to be available to hear your reply. [REDACTED] may be reached at [REDACTED]. You may represent yourself or you may be accompanied by a representative of your choice.

13. Once a decision is made on this proposed removal, if you wish to obtain further review, you may choose from the options outlined below. **You may choose only one method, and the one you choose first is considered your binding election.**

Option 1. Direct appeal to the U.S. Merit Systems Protection Board ("MSPB" or "Board")

Filing Deadline: You must file an appeal with the MSPB within **30 calendar days** of the effective date of this action, or the date you received this decision, whichever is later. If the 30th day falls on a Saturday, Sunday, or Federal holiday, the filing deadline is extended to the next working day.

How to File an Appeal: You can file by mail or facsimile or by using the electronic filing option on the MSPB website.



Although an MSPB appeal may be in any format, it must be in writing and contain all of the information specified in the Board's regulations, found in Title 5, Code of Federal Regulations (CFR), Part 1201. A copy of this regulation can be found on the MSPB's website, [REDACTED]. An appeal form that meets all of the Board's requirements is available at [REDACTED].

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You may file a hard-copy appeal by personal delivery, facsimile, mail or commercial overnight delivery service to the MSPB Central Regional Office at the following address:



If you prefer to file your appeal electronically, please visit the Board's e-Appeal Online:  In addition, more information about the adjudication of appeals before the MSPB may be found at the Board's website: 

Agency Contact Information for the MSPB: In the event you elect to file an MSPB appeal, the Board should send the Acknowledgment Order and a copy of your appeal to the following Department of the Army ("Agency") representative:



In addition, please provide a copy of any appeal you may file to the Agency representative identified above at the time you file it with the Board.

Scope of the Board's Review: In a direct appeal to the MSPB, the agency is required to prove the basis for the action and to establish that the action was taken "only for such cause as will promote the efficiency of the service." You may raise claims that the agency made errors in applying required procedures (harmful error), that the action was the result of a prohibited personnel practice, prohibited discrimination, and/or reprisal for whistleblowing.

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Note that if you raise a claim of prohibited discrimination with the MSPB, the appeal will become what is known as a "mixed-case" appeal. You will have the right to seek review of any MSPB rulings on discrimination claims by the Equal Employment Opportunity Commission, Office of Federal Operations.

Option 2. Mixed-Case Equal Employment Opportunity (EEO) Complaint

In the alternative, you may choose to file an EEO complaint if you believe the decision in this matter was based on your race, color, religion, sex, national origin, age, physical or mental disability, genetic information and/or reprisal for prior protected EEO activity.

Filing Deadline: You must initiate contact with an Army EEO Office **within 45 days** of the effective date of your removal. Your contact can be in person, by telephone, or in writing. Your servicing EEO Office is identified as:



Procedures: Should you elect this option, your complaint will be processed in accordance with Equal Employment Opportunity Commission Regulations found at Title 29, Code of Federal Regulations, Part 1614, and, specifically Section 1614.302. A copy of this section can be found at the EEOC's website at [REDACTED]. Because the complaint will involve a personnel action that also can be appealed to the MSPB, the complaint is called a "mixed-case" EEO complaint and has some different procedural requirements than a "non-mixed" EEO complaint. Your procedural rights under this option include an agency investigation of your complaint, an agency decision and then the right to appeal to the MSPB.

Option 3. Whistleblowing reprisal complaint with the U.S. Office of Special Counsel and option of a subsequent Individual Right of Action ("IRA") appeal to the MSPB

In the alternative, if you believe this action is related to your prior whistleblowing activity (making protected disclosures), you have the option to file a complaint with the U.S. Office of Special Counsel (OSC). "Whistleblowing" is the disclosure of information

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that an individual reasonably believes shows a violation of law, rule, or regulation, gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety.

Filing Deadline: There is no specific time limit for filing a complaint with the OSC.

How to file a complaint: You can file by mail or facsimile using the required OSC Form 11 or by using the electronic filing option on the OSC website at www.osc.gov.

For mail or facsimile, you may send OSC Form 11 to the following address/number:



To electronically file a complaint with OSC, follow the instructions provided on the OSC website at [REDACTED]

Procedures: Should you elect the option to file an OSC complaint, it will be processed in accordance with the regulations found at Title 5, Code of Federal Regulations, Part 1209 (2012), a copy of which can be found on the OSC's website at [REDACTED]. If OSC fails to complete its review of your whistleblower reprisal allegation within 120 days after it receives your complaint, or if it closes your complaint at any time without seeking corrective action on your behalf, you will have the right to file an Individual Right of Action (IRA) appeal with the MSPB.

Important information: The scope of MSPB's review of this action in an IRA appeal is more restricted than in a direct appeal to the Board, as outlined in Option 1, above. In an IRA appeal, the Board is limited to determining if you demonstrate that one or more whistleblowing disclosures were a contributing factor in the agency taking this action and, if so, whether the agency has demonstrated by clear and convincing evidence that it would have taken the same action in the absence of your protected disclosure(s). The Board will not consider allegations of harmful procedural error or prohibited discrimination. Furthermore, the agency is not required to prove the basis of the action or establish that it was taken "only for such cause as will promote the efficiency of the service." However, the Board may consider the strength of the

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agency's evidence supporting the action in determining whether the agency has demonstrated by clear and convincing evidence that it would have taken the same personnel action in the absence of the protected disclosures.



CF:



Enclosure C

[REDACTED] **M.S., CIH, CSP, CHMM**

OBJECTIVE

Attain a professional Environmental Health, Safety, CBRN, or Industrial Hygiene career where I can excel and make a real difference.

EDUCATION

August 2012-May 2014 IUPUI, Indianapolis, Indiana

Graduate Certificate in Public Management (NAVSEA Sponsored Program).

August 2000-May 2004 Indiana State University, Terre Haute, Indiana

MS, Health and Safety, Occupational Safety Specialization GPA: 3.88/4.0

August 1995-December 2000 Indiana State University, Terre Haute, Indiana

BS, Environmental Health-Industrial Hygiene Minor

Major GPA: 3.92/4.0

CERTIFICATIONS/TRAINING/OTHER

- Top Secret (SCI) Security Clearance with Polygraph
- Master CBRN Consequence Management Specialist (DTRA/SCC-WMD)
- Certified Industrial Hygienist (CIH)
- Certified Safety Professional (CSP)
- Certified Hazardous Materials Manager (CHMM)
- Advance Nuclear Weapons – Operations Certification (DTRA)
- Emergency Medical Services First Responder & CPR/AED
- DOT Hazardous Materials Management Certificate/RCRA Hazardous Waste
- OSHA 40hr HAZWOPER Training
- Environmental Permitting Course
- OSHA Respiratory Protection Course (40 hr)
- OSHA Industrial Ventilation Course (40 hr)
- OSHA Toxicology Course (40 hr)
- Navy Mishap Investigation, Technical Laser Safety Officer, & Confined Space
- Asbestos Project Designer & NFPA 101 Life Safety Code Training
- CompTIA Network Security + & U.S. Army Physical Security Certified
- Navy Fall Protection Competent Person Training (40hr) – August 2016
- Dale Carnegie Course Graduate – March 2016
- Adjunct Professor at Indiana University Bloomington – S231 Safety Engineering

PROFESSIONAL EXPERIENCE

September 2011-Present Department of the Navy, Crane NSWC

[REDACTED] (40hr/wk)

- Responsibility for conducting safety studies concerned with design, production, integration, operation, & maintenance of complex weapon systems with respect to personnel safety. Performs qualitative & quantitative Probability Risk Assessments & System Hazard Analyses
- Subject Matter Expert (SME) for programs/concerns relating to Health, Safety, and Industrial Hygiene. Conducts comprehensive Industrial Hygiene and Safety evaluations of various Navy/Marine Corps work sites

- Program Manager for multiple safety programs including lead, cadmium, hearing conservation, safety data sheet reviews, asbestos POC, Laser Safety Officer, indoor air quality, fall protection, etc

May 2009-September 2011 U.S. Army Active Duty Operational Support

(CAPTAIN)(40hr/wk)

- Army Reserve Officer called to active duty to support the CBRNE Consequence Management Response Force
- Serve as Operations Officer and CBRN Subject Matter Expert in support of ARNORTH Consequence Management and 20th SUPCOM Joint Task Force Elimination
- Supported multiple Joint Service National Level Exercises
- Multiple additional duties to include: Safety Officer, Assistant Supply/Logistics Officer, Assistant Physical Security Officer, Assistant Information Management Officer, and Alternate Unit Prevention Leader
- A more detailed description of duties will be described at time of interview. I have extensive experience working with ARNORTH, 20th SUPCOM, DTRA, and multiple Other Government Agencies

September 2008-September 2011 BAE Systems, Rockville, MD

(Deployed May-Sept 2011 with USAR)

- Conduct safety studies concerned with the design, production, integration, operation, and maintenance of complex weapons systems with respect to personnel safety
- Perform technical evaluations of complex systems to include changes to system interface coordination with respect to personnel safety
- Perform qualitative and quantitative Probability Risk Assessments and System Hazard Analysis
- Conduct independent review of hazard assessments for impacts to systems and personnel safety
- Review technical documentation/drawings for impact to personnel safety
- Provide independent recommendations to the customer for contractor originated changes

July 2004-September 2008 Department of the Navy, Crane NSWC, IN

(40hr/wk)

- Conduct comprehensive Industrial Hygiene evaluations at various worksites
- Sample for air contaminants in work areas and confined spaces
- Perform comprehensive noise surveys and evaluate respirator use areas
- Other assignments including: ergonomics surveys, chemical exposure monitoring, indoor air quality surveys, occupational medicine consultations, computerized health hazard information management, hazardous chemical inventory, PPE selection, provide health & safety training when required, and construction design review

August 2003-July 2004 MasterBrand Cabinets, Jasper, IN

(40hr/wk)

- Provide safety management, oversight, and training for 20 manufacturing facilities and 13 distribution centers

- Perform comprehensive workplace evaluations for health and safety hazards
- Responsible for corporate industrial hygiene implementation program and direct oversight of all industrial hygiene issues

July 2002-August 2003 Department of the Army, Aberdeen Proving Grounds, MD
 [REDACTED] (40hr/wk)

- Same as Department of the Navy Industrial Hygienist

September 2001-July 2002 CSN, LLC (Steel Mill), Terre Haute, IN
 [REDACTED] (50hr/week)

- Responsible for OSHA training, compliance, & written program management
- Member of the plant safety committee and emergency response team
- Manage hazardous and non-hazardous waste & perform accident investigations
- Environmental reporting including but not limited to: IDEM hazardous waste reports, EPA Tier II, Sara Title III, and Title V
- Design and perform internal safety and environmental audits
- Industrial Hygiene planning and monitoring (noise, air, water, chemical)

May 1999-February 2001 Great Dane Trailers, Brazil, IN
 [REDACTED] (20-40hr/wk)

- Industrial Hygiene duties including noise monitoring, air sampling for polymetric MDI, water sampling, air sampling for weld fume and airborne solvents
- Participate as a member of plant safety committee and emergency response team
- Assist in designing and performing several internal audits including, hazardous waste audits, hazardous waste accumulation areas, and accident investigation
- Research and design improvements for scrap operations and universal waste
{As result of superior performance, internship was extended into ongoing position.}

MILITARY

- Top Graduate of USAF Bioenvironmental Engineering Officer School May 2014
- Currently a Major/04 Environmental Health Intelligence Analyst with the Air Force Reserves – Assigned to the National Center for Medical Intelligence (Defense Intelligence Agency).
- Former Bioenvironmental Engineering Officer (MAJOR/04) with the Indiana Air National Guard 181st IW. Bioenvironmental Engineering is the section responsible for Industrial Hygiene, CBRN/HAZMAT Response, and various other preventive medicine related duties in the Air Force. I supervised 4 Airman in this position
- Former 72D Environmental Science Officer/FA52 Nuclear and Counterproliferation Officer /CBRN Medical Support Officer, CBRN Technical Advisory Cell (CTAC), US Army Reserve - Consequence Management Unit – Maryland
- NBC NCO 54B/74D Chemical Operations Specialist, Graduate of U.S. Army Chemical School (February 2001-July 2001)
- Completed live toxic agent training (VX & Sarin Nerve Agent) at the U.S. Army Chemical Defense Training Facility
- Chemical Biological Radiological & Nuclear Equipment Training Certificate
- Combat Life Saver – U.S. Army
- Intermediate Industrial Hygiene Topics [REDACTED] USA CHHPM
- Army Officer Basic Course

- 6H-F20 Fundamentals of Occupational Medicine Course
- 6A-F6 Preventive Medicine Senior Leaders Course
- Navy Strategic Weapon Systems Course
- Navy SSBN Orientation Course
- Medical Effects of Ionizing Radiation Course (MEIR)
- Radiation Safety Officer Course
- CBRNE Consequence Management Advisory Team Certification
- Advanced Radiological Dispersion Device Training (SNL)
- Defense Threat Reduction Agency Master Consequence Management Certificate
- NCTC CBRN Terrorism Course
- Security Plus Network Security Certification
- H3 Physical Security Course (80hr) FLW, MO
- Defense Support of Civil Authorities Course (DSCA I-II 40 hr)
- NCP 52 Nuclear & Counterproliferation Officer Course (192 hr) & Theater Nuclear Operations Course (40 hr)

LEADERSHIP

- Currently an Officer (MAJOR) in the Air Force Reserves. Former Officer in the Army/Air National Guard and Army Reserves
- Assorted Executive offices for Theta Chi Fraternity including: President, Treasurer, Risk Manager, and Alumni Board Member

COMPUTER SKILLS

- Security Plus Certified, Former Computer/Network Administrator for U.S. Army Reserves, Microsoft Windows, Office, Word Perfect, Excel, Word, Publisher, Power Point, Internet Explorer, Access, and Microsoft Works
(References available upon request.)

Enclosure D

Indiana State University

School of Graduate Studies

has conferred upon



the degree of

Master of Science

with all the rights and privileges appertaining thereto.

In Witness Whereof, this diploma duly signed has been issued and the

seal of the University herewith affixed.

Awarded by the Board of Trustees upon recommendation of the Faculty, at Terre Haute, Indiana,
on this eighth day of May, A.D. two thousand and four.



Indiana State University

has conferred upon



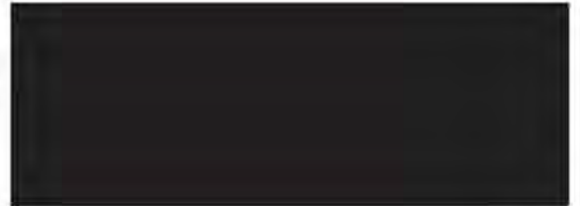
the degree of

Bachelor of Science

with all the rights and privileges appertaining thereto.

In Witness Whereof, this diploma duly signed has been issued and the
seal of the University hereunto affixed.

Awarded by the Board of Trustees upon recommendation of the Faculty, at Terre Haute, Indiana,
on this fifteenth day of December, A.D. two thousand.





american board of industrial hygiene®

organized to improve the practice of industrial hygiene
proclaims that



having met all requirements through
education, experience and examination,
is hereby certified in the

**COMPREHENSIVE PRACTICE
of
INDUSTRIAL HYGIENE**

and has the right to use the designations

CERTIFIED INDUSTRIAL HYGIENIST

CIH

Certificate Number: 9569 CP

Awarded: April 10, 2009

Expiration Date: June 1, 2015



BOARD OF CERTIFIED SAFETY PROFESSIONALS



Institute of Hazardous Materials Management



Certifies that



has successfully met all requirements of education, experience and examination, and is hereby designated a

Certified Hazardous Materials Manager
Master Level

number 2007

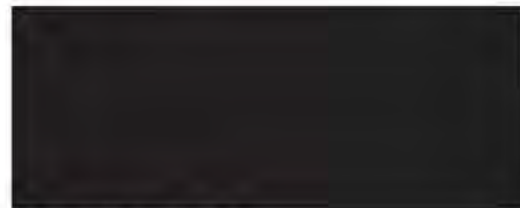
14538

December 19, 2012

certified

Number

Expiration Date



So long as this credential is renewed according to schedule and is not otherwise revoked.



Certificate of Achievement

This is to acknowledge that



is officially certified as a

Master CBRN Consequence Management Specialist member successfully demonstrated capability to provide doctrinal and technical subject-matter expertise, advice, planning guidance, training, and hazard prediction modeling assistance in support of Combatant Commanders, Joint Task Forces, or Coordinating Officials during all phases of chemical, biological, radiological, and nuclear (CBRN) events or exercises.

Signed the 30th day of June, two thousand eleven by the CBRN Consequence Management Certification Board.



DTRA/SCC-WMD



Defense Threat Reduction University

Defense Nuclear Weapons School



8/5/2011

Date



Defense Threat Reduction University

Defense Nuclear Weapons School



Presented to



for completion of the

**Advance Nuclear Weapons-Operations
(Adv NW-OPS)
Certification Program (Inter NW Cert,
TNOC or TNOSC)**



WPAFB AFB NM 87117

10/5/2011

Date

8-7-11

[Print Certificate](#)

10/5/2011

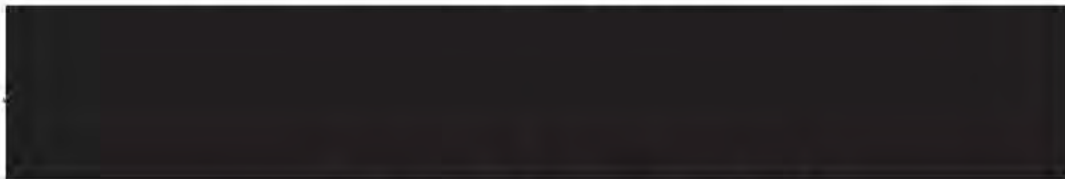
Enclosure E

Enclosure F



american board of industrial hygiene®

**organized to improve the practice of industrial hygiene
proclaims that**



**having met all requirements of
education, experience and examination, and
ongoing maintenance,
is hereby certified in the**

**COMPREHENSIVE PRACTICE
of
INDUSTRIAL HYGIENE**

and has the right to use the designations

CERTIFIED INDUSTRIAL HYGIENIST

CIH

Certificate Number 9569 CP

Awarded: April 10, 2009

Expiration Date: December 1, 2024





BOARD OF CERTIFIED SAFETY PROFESSIONALS

Member No.



Exp. Date

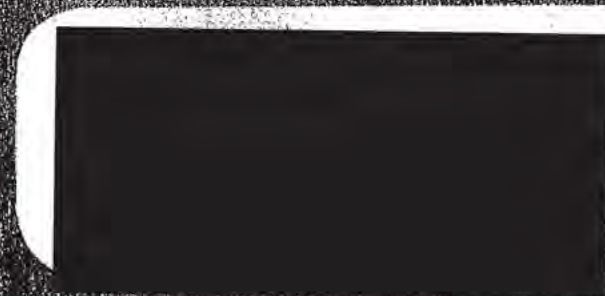
Authorized for use by the Association

Certified Safety Professional

Professional Seal

This seal is the property of the Board of Certified Safety Professionals and may only be used by the holder of the seal for the purpose of identifying themselves as a Certified Safety Professional.

For more information, please visit the BCSP website at www.bcspp.org.



Pre
Sec
CSI



THIS CERTIFIES THAT



WHO HAS SUCCESSFULLY MET ALL THE REQUIREMENTS OF EDUCATION, EXPERIENCE AND EXAMINATION, AND IS HEREBY DESIGNATED A

CERTIFIED HAZARDOUS MATERIALS MANAGER CHMM



December 19, 2007

DATE OF CERTIFICATION

14538

CREDENTIAL NUMBER



December 31, 2022

CERTIFICATION EXPIRES

IF THIS CREDENTIAL IS RENEWED ACCORDING
TO THE RULES, IT IS NOT OTHERWISE REVOKED.



Accredited by the American National Standards Institute and
the Council of Engineering and Scientific Specialty Boards



12 (SAFETY AND OCCUPATIONAL HEALTH PROFESSIONAL CERTIFICATE

**for successfully meeting the
accredited program requirements and
those set forth in ASTM E2659-09, Standard Practice
for Certificate Programs.**

Issued on 6 August 2020 with no expiration date.



2020

CP-12 EXPLOSIVES SAFETY PROFESSIONAL CERTIFICATE

— LEVEL 1 —

For information only, this certificate is not valid for the requirements of AFM 7-21.1 and the requirements and tasks set forth in the Standard Training for Explosives. It is issued on 5 August 2020 with the signature of the authorized official.



U.S. ARMY



ANSI



CP-12 EXPLOSIVES SAFETY PROFESSIONAL CERTIFICATE

— LEVEL 2 —



U.S. ARMY



ANSI



Enclosure G

October 26, 2020

To: [REDACTED]

From: [REDACTED]

This memo constitutes our offer to you of an appointment for spring semester, 2021. [REDACTED]

Your salary will be \$5,000.

This assignment is contingent upon approval for this appointment from the Dean of Faculties Office, and sufficient enrollment in the class.

If you have any specific questions regarding your responsibilities, please contact me.

To accept this appointment, please sign the attached copy and return to [REDACTED] no later than Thursday, October 29, 2020.

____ I accept the appointment described above

[REDACTED]
Date

10-28-2020

Enclosure H

I. IDENTIFICATION DATA (Read AFI 36-2403 carefully before filling in any item)			
1. NAME (Last, First, Middle Initial)	2. SSN	3. GRADE	4. DUTY AFSC
		Capt	43E1A
5. ORGANIZATION, COMMAND, AND LOCATION			
6. PERIOD OF REPORT		7. LENGTH OF COURSE	8. REASON FOR REPORT
FROM: 03 Mar 2014 THRU: 22 May 2014		13 WEEK(S)	<input type="checkbox"/> ANNUAL <input checked="" type="checkbox"/> FINAL <input type="checkbox"/> DIRECTED
9. NAME AND LOCATION OF SCHOOL OR INSTITUTION			
10. NAME OR TITLE OF COURSE			
Bioenvironmental Engineering Officer (BEO) Course (B3OBY43E1 0A1A)			
II. REPORT DATA (Complete as applicable for final report)			
1. AFSC/AERO RATING/DEGREE AWARDED		2. <input type="checkbox"/> COURSE NOT COMPLETED (List reason in item 4 below)	
43E1A - Bioenvironmental Engineer (BE)			
3. DISTINGUISHED GRADUATE		<input checked="" type="checkbox"/> YES (List criteria in item 4 below) <input type="checkbox"/> NO DG PROGRAM	
4. DG AWARD CRITERIA/COURSE NONCOMPLETION REASON			
- DG Criteria: Minimum 90% Academic Average, Positive Attitude, Professional Dress and Appearance, Effective Leadership Qualities, Uncommon Officership, Spotless Character			
III. COMMENTS (Mandatory)			
ACADEMIC/TRAINING ACCOMPLISHMENTS			
<p>-The AFSC-awarding BE officer program covered the following three main overarching mission support areas</p> <p>-Health Risk Management-150 hours, Health Risk Assessment-289 hours, Emergency Management-86 hours</p> <p>-The course curriculum included emphasis in the following areas required in support of BE primary capabilities</p> <p>-Bioenvironmental Eng Capabilities, CBRN-P Health Risk assessment, Envr Health Risk assessment, OEHSA</p> <p>-Risk Communication, Hazardous Waste Operations, BE Management Principles, Emergency Response Mngt</p> <p>-Successfully completed the following imbedded program; raised critical knowledge/skill; 100% mission ready</p> <p>-Radiation Safety Officer Course (B6QZW43EXA 0A1A); Laser Safety Officer Course (B3OZY43EX 0A1A)</p> <p>-Occupational Safety & Health Administration (29 CFR 1910.120) Hazardous Materials Awareness Course</p> <p>-Occupational Safety & Health Administration (29 CFR 1910.120) Hazardous Materials Operations Course</p> <p>-Bioenvironmental Engineering Emergency Management Response I; Distance Course (B6ANY4B0X1 0A0A)</p> <p>-Bioenvironmental Engineering Emergency Management Response II; In-residence Crse (B3OZY43E1 0A2A)</p> <p>-Federal Emergency Management Agency (FEMA) IS-800.B National Response Framework (NRF) course</p> <p>-Federal Emergency Management Agency (FEMA) IS-700.a National Incident Mgmt System (NIMS) course</p>			
PROFESSIONAL QUALITIES (Bearing, appearance, conduct, fitness)			
<p>- #1/18 Officers for class 140303! Highest score on 3 of 12 exams & 93% overall GPA--graduated with honors</p> <p>- Expert Industrial Hygienist--always willing to share skills and experiences--led study session--100% pass rate</p> <p>- A positive role model--demonstrated excellent military bearing and appearance throughout technical training</p> <p>- Dedicated to improving technical training--added to overall success by providing timely and diligent feedback</p> <p>- Outstanding officer, scholar, and leader--chosen by instructors as Top Graduate--limitless future in the USAF</p>			
OTHER COMMENTS (Optional)			
IV. EVALUATOR			
NAME, GRADE, BR OF SVC, ORGN, COMD, LOCATION		DUTY TITLE	DATE
			30 Jun 2014
		SSN	SIGNATURE

AF IMT 475, 20000601, V1

PREVIOUS EDITION IS OBSOLETE
FOR OFFICIAL USE ONLY (when filled in)

ING REPORT

Enclosure I



DEPARTMENT OF THE ARMY
CRANE ARMY AMMUNITION ACTIVITY

REPLY TO
ATTENTION OF:

JMCN-AS

5 March 2020

MEMORANDUM FOR [REDACTED]

SUBJECT: Failure to Complete the Supervisory Probationary Period

1. On 13 October 2019, you were appointed to the [REDACTED] subject to a successful completion of a one-year supervisory probationary period. This memorandum serves as notification of your failure to satisfactorily complete the one-year supervisory probation period required for permanent placement in the position of [REDACTED].
2. Title 5, United States Code (USC), §3321 provides for a period of probation before initial appointment as a supervisor or manager becomes final. Under the requirements of 5 Code of Federal Regulations (CFR) 315.907, a supervisor who does not satisfactorily complete the probationary period, shall be returned to a position of no lower grade than the position from which they were transferred, reassigned or promoted. You will, therefore, be reassigned from your current position of [REDACTED] to [REDACTED] pending a qualification review. Although the job title, series, and grade read the same, the new Position Description [REDACTED] is a non-supervisory position. Effective immediately, you will be temporarily detailed until you have been deemed qualified for the position. Your effective date of your permanent reassignment will be set upon successful completion of a qualification review. You must submit your resume to me by 11 March 2020.
3. The supervisory probationary period is used to assess the performance of a new supervisor or manager. Only those individuals who demonstrate satisfactory performance of supervisory duties will be retained in a supervisory position beyond the end of the supervisor probationary period. I have determined that you have demonstrated performance and conduct deficiencies that make it unacceptable for you to continue in the supervisory position. On 14 January 2020, I counseled you on specific performance and conduct deficiencies during your formal Progress Review, which alone could have warranted a determination you failed your supervisory probationary period. On 21 January 2019, you signed the DD Form 2906, Department of Defense Civilian Performance Plan, Progress Review and Appraisal Form, acknowledging you understood the expectations required of you. During the counseling, I established several tasks with specific deadlines for you to meet. However, you failed to complete any of these tasks.

JMCN-AS

SUBJECT: FAILURE TO COMPLETE SUPERVISORY PROBATIONARY PERIOD

Since that counseling, your performance and conduct have not improved. The following are examples of your supervisory performance and conduct deficiencies since the 14 January 2020 counseling, that led to my determination:

a. On 14 January 2020, you were given several tasks with specific deadlines to meet. You failed to meet any of these deadlines. On 26 February 2020, after almost all of the deadlines passed, we met face-to-face and you admitted to missing the suspense dates, and provided no valid reason as to why you neglected to meet them. The missed deadlines are listed, as follows:

i. I instructed you to complete the Army Skillport course, "Effectively Directing and Delegating as a Manager," by 7 February 2020. You failed to complete the course and did not request an extension.

ii. I instructed you to develop an effective plan with five things you will do to improve delegation within the safety office by 21 February 2020. You failed to meet this suspense and did not request an extension.

iii. I instructed you to complete the Army Skillport course, "Providing Effective Internal Customer Service," to improve your abilities to anticipate and meet the needs of both internal and external customers by 7 February 2020. You failed to complete the course and did not request an extension.

iv. I instructed you to develop an effective plan with five things you will do to improve internal customer service by 21 February 2020. You failed to meet this suspense and did not request an extension.

v. I instructed you to complete the Army Skillport courses, "Trust Building through Effective Communication," "Communicating Effectively with Customers" and "How Culture Impacts Communication," by 14 February 2020. You failed to complete the course and did not request an extension.

vi. I instructed you to develop an effective plan with five things you will do to improve communications by 28 February 2020. You failed to meet this suspense and did not request an extension.

vii. I instructed you to complete Army Skillport courses, "Influence Others with Political Savvy," "Plan and Acquire Resources (PMBOK® Guide Sixth Edition)" and "Developing Your Business Acumen," by 21 February 2020. You failed to complete these courses or request an extension.

viii. I instructed you to complete the Supervisory Development Course by 28 February 2020. You failed to complete the course and did not request an extension.

JMCN-AS

SUBJECT: FAILURE TO COMPLETE SUPERVISORY PROBATIONARY PERIOD

b. On 16 January 2020, you failed to certify your employees' timecard in the Department of Defense Automated Time Attendance and Production System (ATAAPS). You had ample time to make prior arrangements to ensure your subordinate's timecard was certified, but you neglected to do so. One of the first priorities of a supervisor is to make sure their people are adequately rewarded for hard work and your neglect of your subordinate's pay status is a telling clue about the value you place on your team's pay.

c. On 9 December 2019, I verbally instructed you to provide input for the Crane Weekly by 0900 on 21 January 2020. On 16 January 2020, I emailed you to follow-up and remind you of this tasking, which you acknowledged via email. By 1020 on 21 January 2020, I still had not received your input and I had to stop what I was doing and quickly generate the input myself. It is clear to me you did not recognize or appreciate the urgency of the matter, and I had to step in to perform your job for you.

d. As part of your duties as the [REDACTED] you were tasked with briefing the senior CAAA leaders for the monthly safety meetings, for which you failed to effectively prepare. During the meeting held on 30 January 2020, you deflected your responses to one of your absent safety professionals stating your employee knew more about the subject. It was very evident you did not effectively prepare for the meeting. You displayed an overall lack of situational awareness and leadership resulting in a poor product for our higher headquarters.

e. On 3 February 2020, I sent you an email requesting the status of your employees' OGE 450 form submission and supervisory approval. You responded you submitted your form, but you failed to provide me with the status of your two subordinates who I also inquired about. I later learned, neither of your employees even started the form. Your actions showed your inability to appropriately monitor your employees to ensure they met deadlines. Fortunately, the CAAA Ethics Advisor built in a deadline buffer to account for discrepancies like this, or your dereliction would have caused us to miss an important federal ethics deadline and caused your subordinates' names to be briefed to senior Army leadership.

f. On 3 February 2020, I was contacted by an engineering technician to locate someone from the safety office to assist them in their demilitarization processes. I attempted to reach you, but you did not respond. I also tried contacting one of your employees, and he did not respond either. I then contacted you on your cell phone only to learn you were off-site for lunch and could not immediately assist them. I informed you our manufacturing efforts needed safety support and no one was able to assist them. Later that afternoon, an engineer visited me in my office and requested a status on when someone from safety could assist them. As a supervisor, it was your responsibility to

JMCN-AS

SUBJECT: FAILURE TO COMPLETE SUPERVISORY PROBATIONARY PERIOD

ensure adequate coverage over the safety help line and be available to assist with all safety matters regarding manufacturing needs, particularly during the normal working hours. You demonstrated a complete lack of leadership by the way you abandoned your safety post and seemed to give no thought about how CAAA teammates would get critical safety assistance during urgent and evolving situations.

g. On 12 February 2020, I provided you a suspense of 24 February 2020 to prepare and provide me with slides to brief the [REDACTED] deputy and directors at the monthly safety meeting. You failed to draft the slides, resulting in us having to reschedule the meeting for 10 March 2020. To meet this rescheduled meeting date, I provided you a suspense of 4 March to prepare and provide me with these slides. Again, you failed to draft the slides, this time resulting in us having to cancel the meeting. Your actions shed doubt on your ability to prioritize competing demands and communicate effectively with your subordinates and the chain of command.

4. I have carefully considered your performance and your actions during this probationary period and have decided you have not satisfactorily fulfilled your supervisory duties and have not demonstrated you can effectively fulfill your responsibilities as a supervisor. It is not in the best interest of Crane Army Ammunition Activity to continue you in your supervisory position. Due to your inability to satisfactorily complete the supervisory probationary period, you will be placed into the non-supervisory [REDACTED]

[REDACTED] This action's effective date will be set upon successful completion of a qualification review. The Standard Form 50, Notification of Personnel Action, will be filed in your Electronic Official Personnel Folder (e-OPF).

5. APPEAL RIGHTS NOTICE: You do not have a right to reply to this action or to file a grievance. However, you have the right to request a review of this determination by initiating an appeal to the Merit Systems Protection Board (MSPB) or by filing a discrimination complaint with the Equal Employment Opportunity Office, Crane Army Ammunition Activity, Crane, IN. You may not use both methods.

a. Equal Employment Opportunity Complaint. You have the right to file an EEO complaint if you believe this decision was based on your race, color, religion, sex, national origin, age, physical or mental disability, genetic information and/or reprisal for prior protected EEO activity. You must initiate contact with an Army EEO Office within 45 days of the effective date of your reassignment. Your contact can be in person, by telephone, or in writing [REDACTED] Your servicing EEO Office is identified as:

JMCN-AS

SUBJECT: FAILURE TO COMPLETE SUPERVISORY PROBATIONARY PERIOD

[REDACTED]

b. U.S. Merit Systems Protection Board (MSPB). You have the right to file an appeal with the MSPB if you believe this action was taken due to your marital status or based upon partisan political reasons. You must file an appeal with the MSPB within 30 calendar days of the effective date of your reassignment. You may also initiate an appeal online at [REDACTED]

[REDACTED] An appeal to the MSPB should be addressed to:

[REDACTED]

c. You may seek corrective action before the U.S. Office of Special Counsel (OSC) if you believe your termination was taken in retaliation for making protected whistleblowing disclosures. To electronically file a complaint with OSC, follow the instructions provided on the OSC website at [REDACTED]

a. Should you have any questions concerning your rights relative to this action, you may contact [REDACTED]

[REDACTED]

[REDACTED]

105 MAR 2020
DATE

Enclosure J

From: [REDACTED]
Date: Sunday, October 18, 2020 at 6:26:30 AM
To: [REDACTED]
Subject: Fwd: CAAA Safety (UNCLASSIFIED)

FYSA, one of the things I wanted to talk to you about last week.

From: [REDACTED]
Date: Thursday, October 15, 2020 at 8:33:35 AM
To: [REDACTED]
Subject: CAAA Safety (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Sir, at personal risk of being disciplined for going to the Commander and skipping my "chain of command" I am sending you this email because I believe you have the right to be informed. As I am no longer the [REDACTED] I no longer have a "dotted line" to you and I understand that. I have brought up these issues before with my COC and I honestly think this is part of the reason why I was removed from my supervisor position. As I am sure you have heard before, the closer you get to the flagpole the less ground truth you receive.

A few of these things are starting to be taken seriously i.e. CR gloves we now have in stock at supply and SOP's will be updated and SOP writers have been informed of an official policy coming soon for medium-high cut hazard operations. Never mind the fact it took three CAAA employee's hand injuries though their safety approved leather gloves in the past 6 months for anyone to take me seriously. I also saw a memo you signed recently naming NAVFAC as being responsible for helping certify weight handling equipment that has not historically been evaluated as required so that is also progress.

I created these attached deficiencies in ESAMS, many long after I brought the issues up with my COC just to document as CYA for myself.

To me, the higher hazard ones are:

1. the 2 NFPA Electrical Hazard Class deficiencies. The fix here is to get NAVFAC to hire an electrical contractor to determine which areas need to be Class 2 Div 1 areas then upgrade those spaces to meet the requirements. After that then someone, either CAAA or NAVFAC/contractor needs to do an annual inspection on those required areas to determine all that the gaskets and fitting are tight, etc. The way it is now, no one is doing the required electrical inspections, CAAA tells the Navy that all production areas are Class II Division I by default, the truth is, I have yet to see a space that really is. We have a hodgepodge of rated vs non rated junction boxes, conduit, motors, etc in every production space I have ever been in. RISK: if we have non-rated fixtures in a space where they should be rated and powder builds up on or in that appliance or fixture, something gets hot, or a wire connection sparks; it could explode.
2. PSM; we have received OSHA violations in the past for lack of PSM as a command. Risk: it is an OSHA requirement for a reason, to keep people safe working with highly hazardous processes/chemicals. 2. If re-inspected lack of compliance will lead to repeat willful OSHA violations. Safety has tried to BS this by saying we are military unique, we are not and this requirement for PSM is also black and white in the JMCR 385-10.
3. WHE; CAAA cannot safely handle ordnance with WHE that has not been inspected and certified. As you know, dropping bombs is a bad thing. There is also documented history at CAAA of this happening in the past.
4. CR Gloves: appropriate procedures and progress is being made on fixing this issue.

My intent is not to "throw [REDACTED] under the bus". In time, I think [REDACTED] is putting troops to task and more of these items will be looked at for solutions to the problems.

My intent is to advise you and the command to help improve safety and keep people safe.

Have a great day and let me know if you have any questions.



CLASSIFICATION: UNCLASSIFIED



Enclosure K

6:54



Yep, they told
me 10 am at
66.... what
are we doing
at 102?

1:03 PM

It is due
also right? I
planned on
both

1:27 PM

Thursday, October 15, 2020

On my way

8:51 AM



6:54



8:52 AM

Here

8:58 AM

U sure we did
wipes last
week?

2:10 PM

We did on the
1st according
to my records

2:23 PM



Hmmm....
that's



6:54



probably
right....
damn!!! You
just came
and picked
up the
swipes last
week!!!!!! I'm
so sorry!!!!!!!!!!

5:00 PM

I went and did
on my own

5:02 PM



Awesome!!!!

5:03 PM



Enclosure L

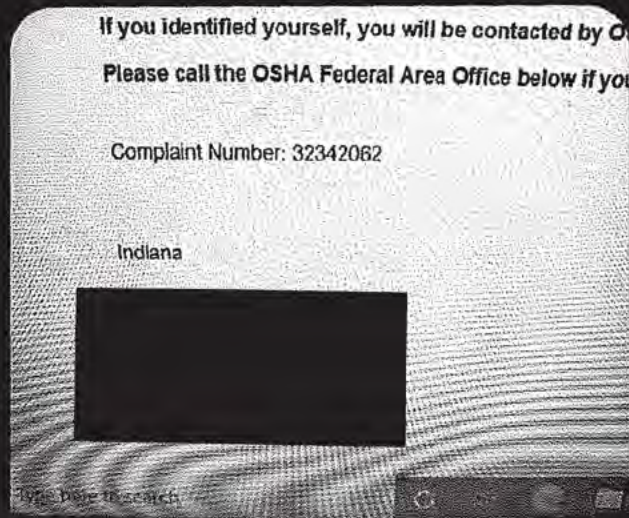


Enclosure M

4:13



Sunday, October 18, 2020



MMS
6:31 AM

FYSA

8:27 AM

So you are not
blind sided in
a week or two

I gave osha



4:15      7:00 7:00 •   



Just got
put on paid
admin leave
indefinitely

4:10 PM

Tuesday, November 24, 2020

Would you
be willing
to write me
a character
reference?

6:12 PM

Sunday, November 29, 2020

Do u get texts



4:15



I gave osha
permission to
use my name
if they want
also

8:28 AM

This is [REDACTED]
[REDACTED] if I am
not in your
phone

8:38 AM

Wednesday, October 28, 2020

Just got
put on hold



Enclosure N

25 November 2020

TO WHOM IT MAY CONCERN:

I have known [REDACTED] since September 2011. At that time, I was the [REDACTED] [REDACTED] at NSWCC Crane and [REDACTED] worked for me as a journeyman level Scientist and performed OSH duties. I was [REDACTED] supervisor until I left that position in May 2015.

[REDACTED] was extremely knowledgeable of OSHA and Navy safety regulations, and I never questioned his desire to ensure the safety and well-being of our workforce. He is one of the most knowledgeable safety professionals I have known, and there were many times I would go to him for advice or guidance on a specific issue or question and would rely on his expertise when rendering a recommendation or decision.

[REDACTED] had specific programs assigned to him and I always trusted him to use his knowledge, experience, and judgment as he managed his assigned programs. During the years I was his supervisor, I do not recall a time where I ever questioned his judgment, his character, his professionalism, or his dedication to ensuring the safety of our workforce.

[REDACTED]

27 November 2020

Dear [REDACTED]

I am writing to help establish the character of [REDACTED]

I have known [REDACTED] since February 2009. We served together for more than four year in the US Army Reserve Consequence Management Unit (CMU), focusing on our Army's most sacred missions – training to respond to chemical and nuclear attacks on our homeland, and some of our Army's most sensitive missions – training to interdict our adversary's chemical and nuclear weapons programs. I worked with [REDACTED] in a variety of capacities; sometimes as a peer, sometimes as his supervisor/team leader, and finally as his commander during dozens of exercises around the globe. After leaving the CMU, [REDACTED] and I have stayed in periodic contact in our civilian capacities, exchanging technical information on various DoD programs and efforts related to safety and soldier exposure to various hazards. Our relationship has always been professional, rather than personal, in nature.

From my experience, [REDACTED] is a thorough, hard worker and has always conducted himself in a superlative manner. His actions have always been beyond reproach. [REDACTED] defining characteristic is to always stand up for what he believes is right, even when it is inconvenient. This is exactly the trait that's most desired in a true safety professional. Additionally, [REDACTED] has always strived for excellence in his field, always going above and beyond to ensure both soldier safety and technical correctness.

While I myself am not a safety expert, I have been a fellow Certified Hazardous Materials Manager (CHMM) for more than two decades. CHMMs ensure the safe and legal handling, storage, packaging and shipment of hazardous materials – key and essential to the work we were performing in the Army Reserve. I have checked and validated [REDACTED] work on this topic many times during Army exercises and I have never found any flaws in his recommendations or actions.

One example of [REDACTED] character is when he was coordinating the CMU's participation in Ulchi Freedom Guardian 11 (UFG 11). [REDACTED] went above and beyond expectations and worked long hours attending countless In Progress Review (IPR) meetings, flawlessly representing our unit to the active duty Army organizations participating in the exercise. Further, he obtained copies of the latest Sensitive Site Exploitation Handbook for participating members of our unit as well as coordinating equipment draws for our soldiers. Many of these tasks were well outside [REDACTED] job description and responsibility, but he did them anyway because the organization needed them done and it helped our team.

Based on our experience together, I can confidently state that [REDACTED] has a sterling character and would have my full confidence today for any mission or assignment.

If you need additional information, I can be reached at my official email [REDACTED] or personal email at [REDACTED]

Sincerely,

[REDACTED]



DEPARTMENT OF THE NAVY



IN REPLY REFER TO:

12400

Ser 102/333

21 AUG 2019

From:

To:

Via:



Subj: LETTER OF APPRECIATION

1. I would like to express my appreciation for all your hard work and contributions made in support of the command Inspectors General (IG) inspection that took place from July 15-19, 2019. Your mission readiness and subject matter expertise in support of the overall management of the Naval Surface Warfare Center, Crane Division Occupational Safety and Health programs was evident during the inspection and I commend you for your efforts. I am proud to have you as a member of TEAM Crane and thank you for your exceptional support.

2. Again, my personal thanks for a job Well Done!

Thank You



Copy to:



(1024)

Great Work  *Thank you for all that you do to help keep our employees safe.*



29 November 2020

[REDACTED]

Character Reference for [REDACTED]

To Whom It May Concern,

I have known [REDACTED] for approximately 6 years. When we first became acquainted, [REDACTED] was the fall protection safety expert for the Navy at NSWC Crane. Being the technical POC for fall protection and shipboard installations, [REDACTED] and I would maintain regular communication. He came to B3168 to inspect/re-certify all our fall protection gear on an annual basis.

[REDACTED] was always a pleasure to work with and took his job very seriously. He would generally schedule a date/time for his fall protection gear inspections. This gave me ample time to locate, organize, and have all of our gear inspection-ready. No matter how good we thought our equipment was, [REDACTED] would always find at least one piece that was flawed. Whether it was a slight amount of corrosion on a carabiner or a loose stitch in a lanyard, [REDACTED] would always reveal a deficiency. I was confident that after his inspection, our branch was safe and more capable to complete our task at hand.

Approximately three years ago, my wife and I moved into our new home and I realized that [REDACTED] was a close neighbor. Upon learning that we were new-found neighbors, [REDACTED] immediately offered his assistance. He offered his time, expertise, and equipment during our home renovation. He even offered to give me a ride to work when my car broke down.

To summarize, [REDACTED] is an all-around genuine individual. Whether it's personal or professional nature, you can always count on [REDACTED] to have the knowledge, experience, and compassion to accomplish any given task. I am extremely thankful to have people like [REDACTED] in my life.

Sincerely,

[REDACTED]

To Whom it May Concern,

I have known [REDACTED] for more than 14 years. He and I met at a social gathering with other NSWCC Crane employees and quickly became friends due to our many common interests, both personally and professionally.

[REDACTED] is one of the most dedicated, hardworking, and well-trained Safety professionals that I have encountered in my career. I had the pleasure of working with him to re-write procedures to reduce the likelihood of dangerous mishaps and equipment failures. The customer ordered a work stoppage until they were satisfied with the results and even under the stress of impacting the mission schedule, [REDACTED] ensured that the documentation was thorough and complete – even working late to get the job done.

[REDACTED] is the type of person you can count on to keep a cool head in a stressful situation and his positive attitude is contagious. He often organizes lunches or outside activities with his co-workers to maintain a cohesive and innovative teamwork environment. He also serves in the Air Force reserves and I have no doubt in his loyalty to his country and pride in his service.

For these reasons, I vouch for the character and integrity of [REDACTED]. If you have any questions or concerns, please feel free to call me.

Sincerely,

[REDACTED]

Character Reference

From: [REDACTED]

To: [REDACTED]

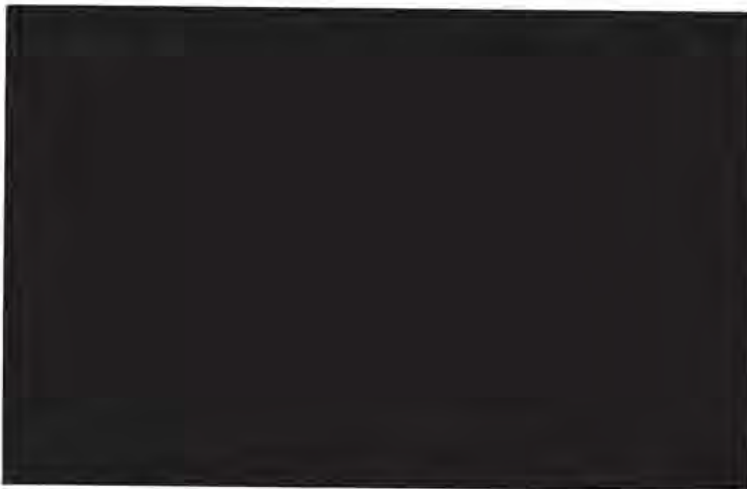
Date: Wednesday, November 25, 2020, 07:15 AM CST

I arrived at NSW Crane in 2014 and was assigned to the Safety Office. [REDACTED] was a fellow employee in the office at the time.

It takes a while to become acquainted with some people, but I quickly focused on [REDACTED] as one of the office's leaders. [REDACTED] is very organized in his work and it was apparent that he is highly educated and experienced in the subject field and holds high standards for the benefit of employee safety and hygiene. I accompanied [REDACTED] on many workplace inspections at Crane and was very impressed with his knowledge, concern for the safety of those for whom he conducted the inspections, and his friendly and open form of communication with the customers. Once inspections are completed, I have personally seen [REDACTED] support his customers with professional follow up and availability to answer any questions or issues the customer might have. As I transitioned into the Safety Office, [REDACTED] quickly became a reference source for me and an example of how to professionally interact fellow employees, customers, and upper management. I appreciated the opportunity to work with [REDACTED] and value the lessons and experiences I gained while working with him.

Personally, [REDACTED] has become a close friend. He and I share several similar interests in hobbies or activities and we often rely on each other for advice or support in those interests. [REDACTED] clearly adopts the adage in his life, "Put others above yourself." Several times, I have had a need for a tool or other implement, and [REDACTED] has generously offered to share his belongings with me. One of my first priorities in life is my family. I have seen the same love and support of family from [REDACTED] and admire his dedication to his wife and children. He and his wife have two children and, like me, [REDACTED] has an clear exuberance and love for his family that is evident in the way he talks and shares information about his family.

I value [REDACTED] as a good friend in my life and appreciate his love of life, family, and generosity.



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prohibited. If you have received this communication in error, please notify me immediately by email and delete the original message.



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27 November 2020

MEMORANDUM

From: [REDACTED]

Subject: Character Statement for [REDACTED]

I [REDACTED] serve as the Site [REDACTED] PWD Crane Indiana. I have been working in a [REDACTED] position at Crane since I retired from active duty on August 2009 after 23 years 9 Months of Naval Service. I retired at the rank of Senior Chief Builder.

I have known [REDACTED] for the last ten years and are relationship has been on a professional basis. He has always conducted business with me in a respectful and professional manner.

[REDACTED] has always has been willing to share his knowledge of safety with me and other safety professionals especially if he learns of a change in a regulation, keeping us all up to date.

I really appreciated his wiliness to communicate and to do the right thing when it comes to protecting the people on board NSA Crane whether it being military, civilian or contractors.



[REDACTED]

[REDACTED]

29 November 2020

RE: Letter of Character Reference

To Whom It May Concern:

I am writing this letter on behalf of [REDACTED] in his professional capacity as [REDACTED] Crane Army Ammunition Activity, and Major (O4), US Air Force Environmental Health Intelligence Analyst/Bioenvironmental Engineering Officer, NCMI.


I served as [REDACTED] from March 2011 through May 2013. The mission of the USAR CMU is to provide technical subject matter expertise to Joint military forces responding to Chemical, Biological, Radiological, Nuclear and Explosive (CBRN-E) mass events, both domestically and globally. Unit members must maintain personal and professional readiness for deployment within 96-hours of alert, and be prepared to be task-organized across functional areas in response to rapidly evolving situations. The needs of the USAR CMU demand an exceptionally high caliber of Soldier, both in the professional readiness and in their personal character. [REDACTED] was an outstanding member of the USAR CMU.

During my command tenure, then-Captain [REDACTED] served as Consequence Management Medical Support Officer and Environmental Science Officer (72D Career Field). I had multiple opportunities to observe his performance during periods of routine training, as well as during periods of higher operational tempo in response to mission alert and potential mission deployments. Without hesitation, I can attest that [REDACTED] demonstrated the highest degree of commitment and willingness to make the sacrifices necessary to achieve mission success. He never hesitated to present hard truths when the situation required it. His character and integrity were unimpeachable.

It was an honor to serve with [REDACTED] and I would not hesitate to have him on my team were I to be recalled to active service.


Very respectfully,

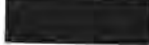
[REDACTED]





28, November 2020


To Whom it May Concern,

 has been a professional and personal acquaintance since 1998. I have recruited and hired him on two occasions as an Environmental, Health and Safety Professional with two different organizations.


 has always performed in a professional manner. He is a consummate professional of strong character, integrity, honesty, humility and is highly capable of functioning independently and autonomously without a great deal of management or supervision.

Further,  is emotionally intelligent and is highly valuable as a seasoned tactical and technical EH&S Professional.

I hold  in high regard and would not hesitate to employ him in the future should the opportunity arise.

I am happy to discuss  professional qualifications and personal characteristics at your convenience.

Respectfully yours,





November 30, 2020

To Whom it May Concern,

I have known [REDACTED] for 18 years. I worked with him in the Kirk U.S. Army Health Clinic's Industrial Hygiene Section for approximately one year starting in 2002, and have been friends with him ever since.

During this time, I have known [REDACTED] as loyal friend, a consummate professional, a dedicated father and husband, and proud member of the U.S. military. On a professional level, I have personally witnessed [REDACTED] commitment and concern for employees' safety and health in the workplace.

As a colleague and a friend for many years, I can vouch for [REDACTED] character and integrity. Please feel free to contact me with any questions.

Very Respectfully,



November 28, 2020

Subject: Letter of Reference for [REDACTED]

To Whom It May Concern,

I, [REDACTED] am writing this letter on behalf of [REDACTED]

I have known Rick for nearly 15 years and had worked with him for about 10 years in the Safety Office of NSWC Crane. I have always known [REDACTED] to be highly competent in the fields of Industrial Hygiene and Occupational Safety and Health. [REDACTED] is highly qualified and has years of safety experience. He has always been willing to assist and provide his knowledge and expertise in support of the Safety team. [REDACTED] is a team player and I have known him to do what is expected of him when challenged with unique situations that require solutions.

Thank you for your time and consideration.

Respectfully,

I would like to make the following statement with regards to my current knowledge and understanding of occupational safety issues and the employment / career situation of [REDACTED] at the Crane Army Ammunition Activity (CAAA), located on the Crane Naval Surface Warfare Center, Indiana.

I received an email reply from the [REDACTED] (one of my assigned supervisors) on 19 October 2020, indicating to [REDACTED] to contact me regarding an issue involving CP-12. CP-12 is an acronym for the U.S. Army's Career Program-12, a broad career field grouping of Industrial Hygienists, Safety and Occupational Health Professionals, Safety Engineers and Fire Prevention Specialists. As the new Joint Munitions Command [REDACTED] I am assigned duties as the [REDACTED] and responsible for the professional development of the occupational series within the field, for our Command. After reviewing the email, it was somewhat apparent that [REDACTED] was concerned about a [REDACTED] hiring action at CAAA, where he believed the proper procedure was not followed with regards to properly vetting the CAAA hiring selection through the CP-12 Functional Chief Representative, or FCR/ACPM. I asked [REDACTED] to contact me for more information.

I believe I initially spoke with [REDACTED] on the phone, later on the 19th or the 20th of October. In that call or one that followed, [REDACTED] attempted to relay to me not only the situation described above, where he felt that a supervisory Safety hiring selection made at CAAA was improper, since the selectee was not vetted through the CP-12 FCR or ACPM, but that he had experienced a removal from his supervisory position as the [REDACTED] and was placed in a non-supervisory [REDACTED] there. He expressed his belief that he was removed from his supervisory safety position at CAAA due to his reporting of safety related hazards found during the performance of his duties, and disagreements with a [REDACTED] who I believe is the [REDACTED] and oversees the functioning of the [REDACTED]. Concerned with his comment of 'unresolved safety hazards', I asked him to send me additional background on those situations, and late on 19 October he emailed me a recorded safety deficiencies found within the facility, generally focused on weight handling equipment issues, fall protection, electrical hazards, and a lack of process safety management (PSM) application in accordance with 29 CFR 1910.119. After these conversations with [REDACTED] I contacted the [REDACTED] since I was concerned with employee allegations of reprisal for reporting safety hazards, the possibility that Army processes were not followed during the hiring process, and to gather any available background on previous investigations at CAAA.

The following day, 20 October 2020, [REDACTED] contacted me by email, inquiring if I was in possession of an OSHA letter indicating CAAA was "military unique". "Military Unique" is a term often referenced in Army Safety channels to describe an exception to OSHA General Industry Standards, as defined by 29CFR1960. I replied that I had not seen any sort of letter, but expressed a doubt the entire facility would be military unique, since similar energetics work exists in private industry, and the only exceptions I have seen approved in my career were for a specific process, not an entire production activity. [REDACTED] replied he was asked to check with the Chicago Region OSHA office. I later asked my safety Staff on their knowledge of a broad 'military unique' exception for CAAA – their response was that they were aware CAAA had in the past sought a military unique exception for their production activities, but were not aware of any reply letter, from OSHA approving of an exception request from CAAA. I was later provided a 9 page legal opinion memorandum, signed by the former CAAA Commander requesting work activities at CAAA be considered military unique. I believe many of the

reported facts stated in the 2016 CAAA letter (to OSHA) to be inaccurate or misleading, and accordingly made a note to discuss with the current CAAA [REDACTED] and/or the CAAA [REDACTED]

Later that day, I was informed by my safety staff, CAAA received a letter of alleged violation notice from the Area OSHA office, dated 19 October 2020. That letter expressed the Area OSHA office's intent to not inspect the facility in light of some received allegations of safety hazards, but requested the activity conduct their own inspection, and provide their corrections to the alleged safety hazards, or a written abatement response to OSHA within 30 days. OSHA's received alleged safety hazards / violations centered on:

1. In building 105 and 102, the chains, hooks, and slings used on cranes under the hook have not been inspected.
2. In building 102, 105, and the pyro buildings, there is explosive material in use and the electrical present in the buildings is not Class 2 and Division 1.
3. In the pyro building, flares are being produced with explosive materials and the inspection and procedures have not been put in place for process safety management.

Also on 20 October, I received an email from [REDACTED] the current [REDACTED] requesting JMC Safety's assistance with receiving guidance on the Army's policy regarding PSM – since one of the OSHA allegations he received focused heavily on implementing PSM in the CAAA work processes. Inquiring with my staff on more background, I learned that CAAA had experienced a 2013 mishap that OSHA investigated; it was subsequently recommended CAAA fully comply with 29CFR1910.119, Process Safety Management. Following that event, CAAA, along with JMC and AMC Safety requested additional guidance from HQDA re: PCM. I've been told that improved Army level PSM policy / guidance is forthcoming when the new Army Regulation 385-10 is released.

Between 21-26 October, I received a few more communications from [REDACTED] concerning specific reports of on-going safety hazards at CAAA, and possible responses to their OSHA letter of alleged violations. I was also engaged in discussions with the JMC and AMC Safety Staffs regarding earlier (prior to my arrival) efforts on implementing PSM in our ammunition production facilities. In CAAA's case, it became apparent, during 2016, they requested the military unique exception, noted earlier, as a means to halt any implementation of the OSHA PSM standard. This appeared in contradiction to [REDACTED] recent request for more guidance on PSM Army / JMC policy, and so on 26 October I reached out to [REDACTED] for a phone conversation to discuss CAAA's pending response to OSHA and their current intent with implementing PSM.

On about 28 October, I spoke with [REDACTED] and [REDACTED] via phonecon. I would describe that conversation as a brief discussion on what inspection actions they were taking in response to their recent OSHA letter of alleged violations, a general description of how they intended to formally respond, and their understanding / intent to implement OSHA's PSM standards. [REDACTED] expressed his opinion that he maintained an in-depth understanding and professional knowledge of PSM criteria, and the new leadership at CAAA was seeking PSM implementation as soon as possible. I believe I also had a follow on discussion with [REDACTED] shortly after that call, and he expressed the same belief – that CAAA current leadership, perhaps unlike some former safety or managers at that location, understood the PSM standard, and were actively working to ensure compliance with the standard. I expressed my

belief that fact should be included in CAAA response to OSHA. I also indicated I would like to review their response, prior to OSHA submittal, to assure alignment with Army policy on reporting OSHA violations up to HQDA level. [REDACTED] concurred. Following this discussion, I had no reason to doubt CAAA's leadership or current Safety's intent to comply with OSHA standards.

As this is an on-going discussion, I don't wish to draw any conclusions, but would offer:

1. I have advised and encouraged [REDACTED] to seek the proper venue or counsel concerning his personal employment situation, either through MER, EEO, merit systems promotions, IG or otherwise, as appropriate. I can't engage in personal employment matters at another JMC installation, in which I do not have all the facts surrounding his performance or conduct, or the ability to evaluate any claim of reprisal for reporting safety issues.
2. I have no reason to question [REDACTED] reported violations of safety standards. His logic and workplace observations concerning electrical, weight handling and other safety hazards seems factual and within standards expressed in 29 CFR 1910 (General Industry Standards) and USN and U.S. Army Safety policies.
3. I remain concerned wrt CAAA's 2016 memorandum seeking a military unique exception to OSH standards under authorities contained in 29 CFR 1960 and Army policies. However, current indications are that CAAA leadership understands they are not military unique and will work proactively to fully comply with OSHA standards. I am continuing to seek a formal written OSHA response to their request.
4. I am awaiting CAAA draft response to their recent OSHA letter of alleged violations, their inspection and correction results to the alleged hazards, and any reply they are considering to their area OSHA office.

[REDACTED]

To Whom It May Concern,

My name is [REDACTED] and I am the [REDACTED]
[REDACTED] I have been an employee of NSW Crane since 2004 and a
[REDACTED] since 2013. This letter is in reference to [REDACTED] who I first met at
NSW Crane in approximately 2005.

[REDACTED] and I met at the gym at NSW Crane where we played basketball. We played basketball
together several times per week for several years, up until [REDACTED] went on active duty from 2008-
2011. We became friends and talked numerous times per week at the gym. We conversed
several times per month in other venues around Crane and electronically.

After [REDACTED] return to Crane from active duty in 2011 we resumed contact both at the gym and
elsewhere. By that time I had been promoted to a [REDACTED] and then to [REDACTED]
in 2013. Based on the strength of our relationship, I contacted [REDACTED] on several occasions in a
professional capacity in his role with the NSW Crane Safety office.

In every capacity that I have interacted with [REDACTED] both personally and professionally, I
have found him to be a man of integrity and strength of character. He is a man who exhibits
leadership in both his personal and professional life. He was a strong example of the NSW
Crane notion of 'finding a way to get to yes' in professional interactions. I had nothing but
positive interactions with [REDACTED] and he was very helpful in guiding our branch through a number
of tricky office and electrical safety issues.

I never hesitated to contact [REDACTED] with questions or concerns and he was always quick to provide
help and follow issues and projects through to completion. I am proud of the things we
accomplished together professionally, and happy to consider [REDACTED] a friend. He is the most
knowledgeable person I know in the areas of Industrial Hygiene and Safety. He is a strong,
thoughtful leader. During my time working with [REDACTED] he was a glowing example of the
Navy's Core Values of Honor, Courage, and Commitment.

Respectfully,

[REDACTED]

[REDACTED]

November 28, 2020

To Whom May Concern,

I supervised [REDACTED] for over four years (6/04 – 9/08) in his capacity as an [REDACTED] with the Great Lakes Naval Health Clinic Crane Annex. During this time, I found him to be both technically competent and a person of high moral character. Based on my experiences I can without question provide this character reference for [REDACTED]


If you have any questions, please do not hesitate to contact me.

Sincerely,

[REDACTED]

DEPARTMENT OF THE NAVY
NAVAL HEALTH CLINIC
GREAT LAKES, ILLINOIS 6-88-5230

The Commanding Officer, Naval Health Clinic, Great Lakes
takes great pleasure in presenting to


INDUSTRIAL HYGIENIST
OCCUPATIONAL HEALTH MEDICINE DEPARTMENT

A Letter Of Appreciation

It is with great pleasure that I commend you for your superior performance of 4 ½ years of service as an Industrial Hygienist for the Naval Health Clinic Great Lakes, Industrial Hygiene Annex, Naval Surface Warfare Center, Crane, Indiana from June 2004 to September 2008.

As a senior Industrial Hygienist, you expertly applied your extensive knowledge and experience to reduce the potential for occupational illness and disease for Navy, Marine Corps, and civilian personnel throughout the NSWC Crane community. Your mastery of the technical aspects of Industrial Hygiene, acquired over years of dedicated and steadfast service to your profession, enabled you to work independently with great skill and success. You were very gracious in providing valuable insight with other staff members and newly hired employees.

You have been diligent in your work and have performed extremely well with minimal supervision. I speak for all those in the Industrial Hygiene Division when I say that your commitment to your profession and service to duty are greatly admired. Your embodiment of the Navy's Total Quality Leadership philosophy is truly noteworthy, and serves as an example for all of your fellow staff to emulate.

Your exceptional professionalism, initiative, and loyal devotion to duty reflect great credit upon yourself, and are in keeping with the highest traditions of the United States Naval Service. I commend you for a job "Well Done".



Enclosure O

I would like to make the following statement with regards to my current knowledge and understanding of occupational safety issues and the employment / career situation of [REDACTED] a [REDACTED] [REDACTED] at the Crane Army Ammunition Activity (CAAA), located on the Crane Naval Surface Warfare Center, Indiana.

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As this is an on-going discussion, I don't wish to draw any conclusions, but would offer:

1. I have advised and encouraged [REDACTED] to seek the proper venue or counsel concerning his personal employment situation, either through MER, EEO, merit systems promotions, IG or otherwise, as appropriate. I can't engage in personal employment matters at another JMC installation, in which I do not have all the facts surrounding his performance or conduct, or the ability to evaluate any claim of reprisal for reporting safety issues.
2. I have no reason to question [REDACTED] reported violations of safety standards. His logic and workplace observations concerning electrical, weight handling and other safety hazards seems factual and within standards expressed in 29 CFR 1910 (General Industry Standards) and USN and U.S. Army Safety policies.
3. I remain concerned wrt CAAA's 2016 memorandum seeking a military unique exception to OSH standards under authorities contained in 29 CFR 1960 and Army policies. However, current indications are that CAAA leadership understands they are not military unique and will work proactively to fully comply with OSHA standards. I am continuing to seek a formal written OSHA response to their request.
4. I am awaiting CAAA draft response to their recent OSHA letter of alleged violations, their inspection and correction results to the alleged hazards, and any reply they are considering to their area OSHA office.

SWORN DECLARATION OF [REDACTED]

Pursuant to 28 U.S.C. § 1746, I, [REDACTED], hereby swear or affirm under penalty of perjury under the laws of the United States of America, that the following statements are true and correct to the best of my personal knowledge, information, and belief.

I [REDACTED] Department of the Army, Crane Army Ammunition Activity, provide this Sworn Declaration in support of my pending case: Proposal to Remove from Federal Service

1. I have been in the Army/Air Force Guard/Reserves/Active Duty for 20 years in various capacities as both an enlisted member and as an Officer. I am currently an Air Force Reserve Major (will be a LTC in June of 2021) serving as an environmental health intelligence analyst (Bioenvironmental Engineering Officer) for the National Center for Medical Intelligence at Ft. Detrick, MD. I have been an Environmental Science Officer, Nuclear Counter Proliferation Officer, a Consequence Management Medical Support Officer, and a Chemical Biological Radiological Nuclear specialist in my military career. I have been a Civilian employee for the Department of Defense in a variety of Commands in safety/industrial hygiene positions for 17 years both with the Army and the Navy. I have been getting paid as a GS13 (GS11 with 25% retention bonus) since 2006 when I was 29 years old working in Industrial Hygiene for the Navy. I was also offered a 10% retention bonus and early promotion to GS11 when I left the Army working at Aberdeen Proving Grounds as an Industrial Hygienist in 2002. I was offered a GS14 safety job with the Central Intelligence Agency in 2008, however they lowballed the offer less than what I was making in Indiana, so I turned it down. I have a master's degree in occupational safety, a bachelor's degree in environmental health and a minor in industrial hygiene. I completed the Navy sponsored graduate certification in public management through Indiana University Purdue University, Indianapolis.

I am a Certified Industrial Hygienist (CIH), a Certified Safety Professional (CSP), and a Certified Hazardous Materials Manager (CHMM). I have the U.S. Army CP-12 safety certification in addition to the Army Level 1 and Level 2 explosive safety certifications. I am master level certified in consequence management by the Defense Threat Reduction Agency (DTRA). I also have the advanced nuclear operations certification from DTRA. I used to help teach consequence management advisory teams (CMAT) for DTRA. I have been to many other safety/IH conferences and additional training too numerous to mention by name (asbestos, laser, mold, fall protection, etc). I have an active TS SCI clearance with polygraph. I have been an adjunct professor of health & safety at Indiana University (IU, Bloomington, IN) for 3 years. IU recruited me to teach classes. I did not apply to the job until they came to asking me for help. I have also served on the American National Standards Institute laser safety committee for non-beam hazards and the American Industrial Hygiene Association (AIHA) emergency response committee. From 2008 to 2011 I served on active duty with the Army Reserve Consequence Management Unit supporting the 415 Chemical BDE and the 20th SUPCOM. In this position, I advised 1-3 star Army generals on how to respond (in training) to chemical and nuclear attacks on our homeland, and to interdict our adversary's chemical and nuclear weapons programs. I have received many awards and commendations for my service including Army Commendation Medals, Army Achievement Medals, Air Force Commendation Medal, etc. I have also received various bonuses, time off

awards, letters of appreciation from Commanders, and Commander's coins, during my many years of service. I was #1/18 Officers and honor graduate of the Air Force Bioenvironmental Engineering Officers qualifying class in 2014. I have never had an unsatisfactory civilian performance rating until working for Crane Army Ammunition Activity since October of 2019. I was removed from my position during a 12-month supervisor probation status in March 2020 while struggling with sleep apnea/sleep deprivation.

2: WHISTLEBLOWER DISCLOSURES:

I have been raising the alarm internally at Crane Army Ammunition Activity (CAAA) about safety issues since I started in October of 2019. These complaints have been made to [REDACTED] and [REDACTED]

[REDACTED] I had reported many safety issues on many separate occasions to the host Naval Support Activity (NSA) Command between October 2019-October 2020. This includes the [REDACTED] and the [REDACTED]

[REDACTED] I also usually copied these safety findings and/or the ridiculous responses from my chain of command to the [REDACTED] who is a personal friend whom I highly regard and the [REDACTED] whom I also highly regard and who is a retired Marine Officer. The issues disclosed include weight handling equipment not inspected or certified, lack of compliance with hazardous classified electrical in explosives areas, lack of documentation and training for explosive safety training, failure to inspect and stencil pallet jacks handling ordnance, and lack of cut resistant gloves for cut hazard operations, pallet racks not bolted to the floor command wide, Lock Out Tag Out issues, fall protection issues, lack of ladder inspections, and lack of process safety management in explosives pressing operations. I have a copy of an email with deficiencies that I put in the ESAMS database and a copy of these deficiencies were sent to [REDACTED] on 15OCT2020 (copy included). I also forwarded this email with deficiencies to [REDACTED] on 18OCT2020 (copy included). I talked to [REDACTED] on the respirator lab phone also on or around 19OCT2020 I asked to be put on [REDACTED] calendar for 5 minutes on 15OCT2020 and his secretaries never got back with me. On or around October 8 I called [REDACTED] to discuss all of the safety issues as mentioned above at CAAA. The exact date for this call is on my GOV cell phone which was confiscated and wiped before being reissued to another member on the CAAA safety team. There were also many pictures of deficiencies from my OSHA complaint investigation on this cell phone.

On 19OCT2020, I filed an official safety complaint with the U.S. Department of Labor Occupational Safety and Health Administration (OSHA). On 20OCT2020, I sent a copy of this complaint to [REDACTED] at Joint Munitions Command. On 18OCT2020 I sent an email (copy attached) to [REDACTED] and [REDACTED] the JMC CP-12 [REDACTED]. This email contains my displeasure with CAAA's hiring of a non-CP-12 accredited person and a non-Certified Safety Professional (CSP) as [REDACTED] and totally ignoring the requirement listed in JMCR 385-10 that the Command get approval from JMC to hire anyone who is not properly educated or documented. This email had also been sent to [REDACTED] and [REDACTED] (CEA) several weeks before this with no response. On 19OCT2020, I also spoke with [REDACTED] and [REDACTED] on the phone regarding CAAA's safety issues and the fact that [REDACTED] is [REDACTED]

not qualified for his job and asking whether I would file an Inspector General (IG) complaint. [REDACTED] responded in an email confirming JMC was not consulted on this hire (copy attached). On 18OCT2020, I sent a text to [REDACTED] showing the OSHA complaint number and making him aware I had filed it since he is supposed to escort inspectors on base if they come to the base. OSHA recorded it as 19OCT2020, a Monday. [REDACTED] also works as a supervisor at CAAA. On 21OCT2020, [REDACTED] sent an email to [REDACTED] and [REDACTED] saying that CAAA has received an OSHA complaint, here are the details and CAAA is pretty sure they know who did it. I have tried to get a copy of this email which I was specifically advised exists, but no one will share it with me without a freedom of information act (FOIA) request. [REDACTED] told me about it at lunch with him one day or in casual conversation. On 28OCT2020, I was called into [REDACTED] office with [REDACTED] and was told I was being put on admin leave indefinitely pending legal review. When I asked for what, they said "my performance over the last few months." I turned in my CAC, my GOV phone, and my GOV computer, then I was escorted out by [REDACTED] and [REDACTED] in [REDACTED] like a criminal. In early November, I briefed in person the [REDACTED] of the CAAA safety issues and that I would probably file an Inspector General (IG) complaint eventually, so I wanted to give him a heads up, I forwarded him a copy of the ESAMS deficiencies I had created. On 18NOV2020, [REDACTED] called me and said the [REDACTED] want him to get involved and have him inspect my allegations. I reminded [REDACTED] this was the same information I sent him months ago and that he didn't do anything. He responded that he was sorry and that he didn't want to get in the middle of what is going on at CAAA, but now that his Commander wants him involved, he would be .

I have been charged with the following alleged offenses:

1. **Failure to observe written regulations, orders, rules, or procedures where safety to persons is endangered.**
 - a) On or about 21 September 2020, trash (waste) samples from B102 were placed in a plastic bag and given to me by CAAA [REDACTED] (last name unknown, cell [REDACTED]). I placed them in an envelope and mailed them to the CECOM Radiological Analysis and Calibration Laboratory with the other depleted uranium (DU) contaminated samples from this 30mm DU demilitarization (demil) operation at B102 for analysis per the local standard operating procedure (SOP). I did not receive the email from the RSO [REDACTED] with further direction until after the wipe samples and trash samples were in the mail. I had no on the job training (OJT) with [REDACTED] the [REDACTED] regarding trash, before he left CAAA in September of 2020. I am supposed to be receiving more on the job training with the [REDACTED] the [REDACTED] however, to date, the on the OJT has been very minimal and if I have any questions, they all must go through my supervisor [REDACTED] first. The wipe samples were read by me locally and known to be contaminated with DU. The trash samples were not read locally prior to shipment. I do not believe the safety of anyone was endangered because of my failure to follow this administrative procedure to the letter. I did not at any time deliberately place anyone in danger and I did not deliberately fail to follow instructions. The results of the trash samples have now been analyzed at CECOM and the analysis proves that there were no trash/waste samples mailed that exceeded and NRC

License No. SUC-1380 requirements. [REDACTED]

[REDACTED] and [REDACTED] license holder can confirm this information and has a copy of the results from CECOM. Besides the envelope would have shielded the alpha radiation if there were any, and there would be no inhalation potential to the public since the samples were in a ziplock bag. This specification cannot be upheld based on the facts available and must be dismissed.

- b) 29 September 2020 was my first day providing ARSO support at B66 regarding Depleted Uranium (DU) shipments via railcar. I was not issued an optically stimulated dosimeter (OSD) by [REDACTED] before he left nor was I issued one by the CAAA [REDACTED]. As the new [REDACTED] in training, I did not feel comfortable issuing an OSD to myself nor do I think that is necessarily appropriate. That is what I had to do though a few days after being reminded by [REDACTED] at B66 on 29 September 2020 that I should have one. It is also the responsibility of supervisors to ensure their employees have the right personal protective equipment (PPE) and that employees follow all applicable procedures and rules at all times. Note: I was not at B66 doing wipe procedures, I was scanning the bags of 30mm DU prior to shipment with a handheld radiation instrument, the wipe samples had been done by [REDACTED] or [REDACTED] prior to 29 September 2020. The very small dose of radiation I received that day did not endanger my safety, going to the doctor to get an x-ray would have provided me with a significantly higher dose. If this was a big deal then why did the RSO not give me a badge then or tell me to leave the area?

2. Failure to observe written regulations, orders, rules, or procedures where safety to persons is not endangered.

- a) On or about 20 October 2020, I did indeed send a copy of the ANSI Hand Protection Standard to [REDACTED] a [REDACTED] at the CAAA higher headquarters Joint Munitions Command (JMC) to whom I am required to send OSHA Log statistics every month. I sent her this information on this date as part of an email explaining what CAAA was doing about the three (3) OSHA recordable hand injuries we have had in the last 6 months where employees were cut through their "safety approved" leather gloves. I thought that perhaps other commands under JMC might benefit from obtaining cut resistant gloves, so I was providing details that may have been beneficial to her in making that decision. I brought the idea of cut resistant gloves up to my chain of command 6-10 months ago, but no one really felt like it was necessary at that time, since we did not have a history of it being a problem at CAAA and cut rated gloves are more expensive. I had literally recommended cut resistant gloves during a pre-operation inspection in or around April involving a razor knife and then came back a few weeks later to do the accident investigation when an employee cut their hand through their leather non-cut rated gloves. I told the team we had a similar issue with the Navy approximately 5 years ago with the employees not using the right gloves and nobody at CAAA really appeared to care. "We are the Army, not the Navy" is a popular response from peers in the CAAA Safety Office when I mention my Navy experiences. I worked with [REDACTED] in Supply so that CAAA now has ANSI cut-rated A3 gloves in stock and Standard Operating Procedures are being updated to include this as a requirement for sharp operations involving metal banding, de-banding, sheet metal, and razor knife cutting. [REDACTED] told me the ANSI

document I sent her was controlled by the Army and I should not have sent it. I responded that I did not think so, as I had the document in my old Navy files or something to that effect. Regardless, the document did have a document control stamp from NSWC on it, of which I was not aware, and I thanked her for bringing it to my attention. I did not realize this document was licensed to the Navy when I sent it to [REDACTED] at JMC. Nonetheless, this action was inadvertent and does not justify a misconduct charge.

3. Delay in carrying out or failure to carry out instructions within the time required.

a) It is part of my newly assigned duties as the ARSO in training to conduct bi-weekly radiation surveys at B102. On 15OCT2020, [REDACTED] (last name unknown) CAAA [REDACTED] and I were at B66 in the afternoon doing wipe samples of DU bags that were placed on a railcar from B102 to transport to B66 before the required wipes were done. After doing the wipes at B66, I asked [REDACTED] if she was ready to go to B102 to do the wipes, because it had popped up on my calendar and they were due that day. She said: "we just did the wipe samples at B102 last week". I said ok, I will go back to the office and check my calendar and previous forms, maybe I set my calendar invite incorrectly. I got back to the office and was looking into this issue. I then realized myself before [REDACTED] or [REDACTED] said anything to me that the inspection needed to be completed by close of business. I have text messages to [REDACTED] on 15OCT2020 to prove this timeline. I went into the office of [REDACTED] my supervisor, around 3pm and told him I made a mistake, "the B102 wipes need to be done by COB". I requested an hour of comp time to ensure I would have enough time to complete this mission. He said something to the effect of: "I am not approving comp time for your screw up, this is your fault and your responsibility, stop throwing [REDACTED] under the bus". I told [REDACTED] I understand it is my responsibility and I am going to stay until the job gets done, he said: "you are going to be held accountable whether you do the job or not". At this point I stood up, I gently shut his door and went to my desk. I called B102 and [REDACTED] the [REDACTED] at B102, said the line would be shut down again at 4:15pm. I went back to [REDACTED] to tell him I was taking two radiation meters and I was going to go as fast as I could to try and complete my work by 5pm. I added that however, if I needed some time to complete it off the clock that was ok with me, it was my screw up. I was at B102 when the line was shut down and completed the job and sent a text to [REDACTED] at like 5:12pm saying the job was done and I was headed back to the office. When [REDACTED] stopped by my cubical a little later, I was simply packing up to leave for the day. The job was done by me and the mission was complete. There is no regulation of which I am aware that says results must be logged the same day and I know [REDACTED] had done it this way previously, when I was with him. I would rather be held accountable for working 30-45 min off the clock, than for not getting the job done and have that held against me. I am aware that my supervisors were just hoping I did not meet any deadlines, so as to build a dismissal case against me for failure to complete assigned tasks in the required timelines. This DU wipe requirement at B102 has nothing to do with two mission critical radiography machines as mentioned; they are not even located in this building. This specification is simply wrong.

(b) On 02SEPT2020, I was instructed to read ARSO duty related regulations CAAR 385-15, CAAA 385-17, ARA for cabinet x-ray at B2748 & B104, Public Health Center report for other CAAA x-ray cabinets and I did as time allowed. I assumed all of [REDACTED] (intern) duties after he left. This includes respirator fit testing, ARSO duties, OSHA statistics and reporting. I also had two days of leave without pay for military duty the week this reading assignment was due. I asked my supervisor [REDACTED] to approve 4 hours of comp time for one of my leave without pay days and it was denied. I completed the reading assignment on 25SEPT2020 on my own time. As I did not fail to complete this assignment, the specification should be dismissed.

c) On 21OCT2020 in the morning, I was literally doing the wipe sample readings in the office to support manifest 38 loadout. [REDACTED] and [REDACTED] told me to stop everything I was working on in order to complete the required OSHA investigations of B102 and B105,

based on a complaint that was received. The wipe samples and spreadsheet would have been loaded prior to shipment if I was not instructed to drop it and allow [REDACTED] and [REDACTED] to finish it up for me. I cannot be held accountable for following the orders of my superiors.

d) [REDACTED] did instruct me to work with [REDACTED] to assume most of his intern duties. We completed most of the handover tasks as instructed and I signed the "Turn Over" forms that [REDACTED] had which were duplicates of the forms I had; therefore, I thought this was sufficient. The exception was that I had planned to come in on a comp time status for a DU load out when I was performing military duty. The dates I question can be found on my GOV computer that was confiscated even though I am not terminated and that is premature. I did not check my work calendar at home on my government phone since [REDACTED] told me to try and stay off my work phone while at home. I do not have to be at work by 6-7am to perform Military duty and I am not supposed to be in Army buildings in USAF uniform. I live over an hour away with an hour time change. Needless to say, I forgot I was supposed to meet [REDACTED] until approximately 7am ET after I helped get the kids ready for daycare. Around 6am CT, I called [REDACTED] and did not get an answer. By the time I got to Crane around 8:30ET, he was already gone to do the load out. At this point, I just went about my day performing USAF duties and I did not charge any comp time to the Army.

e) The contamination survey mentioned was an agreed to be done in an email between [REDACTED] and [REDACTED] in addition to my original inspection and assessment of the potentially radioactive material. I was not made aware of the needed extra wipes of the contamination survey until after the inspection I performed. The potentially radioactive portable shoulder fired rockets were sealed in plastic bags and no radiation above background was detected at time of survey at the surveillance workshop building. I did wipes inside the boxes, outside the boxes, inside the plastic bag and directly on the launch tube of one item. Why extra wipes were needed for a contamination survey did not make sense to me. However, I told [REDACTED] that it was not a problem, and that I would get back out there and get it done eventually. To my knowledge, the items were returned to a magazine already approved for DU storage. My delay in doing this contamination survey did not pose any extra risk to the agency or anyone. I have also never received any training on how to perform this type of survey, so this would have been a good opportunity for OJT with [REDACTED]. Instead, the Agency's lack of proper training protocols is being held against me.

4. Knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization.

This charge is not supportable. I never gave any false information to [REDACTED]. Everything I told him in our conversation is a fact. In fact, this charge is trying to impede my First Amendment rights to speak the truth and cannot be supported. What happened that day is that I stopped by to see [REDACTED] to get another pair of the cut resistant gloves he is now stocking at supply. I am not sure if this comment you attribute to me is based on an email he sent or a conversation he had with [REDACTED] later. I can say that after a 20 year career in health and safety, CAAA is the most unsafe command/industry I have ever seen. There is electrical and

weight handling equipment in most buildings that is not up to code. I have made this known to the CAAA command all the way up to the [REDACTED]. I have the email I sent on 15 October 2020 to prove it. It is attached. I also made the deficiencies in ESAMS as documentation of these violations and I have copies to prove it. Potentially dropping ordnance or setting off an explosion due to electrical not being up to code is pretty relevant in my opinion. I have personally seen dozens of chain slings, web slings, etc that are expired by as much as 8 years. I also have emails from several people proving fact, i.e., the [REDACTED] who had over 40 slings that were expired just a month or so ago. Army required annual building inspections had not been conducted for 8 years. The safety group has been short-staffed for many years. The outside independent ISO 45001 inspection conducted by Department of Defense contractors in late 2019 early 2020 had CAAA as 80% noncompliant. Navy NSWC also inspected in 2019-2020 was found to be 80% compliant. There are bomb lines in B155 and B2748 that have no documentation of inspection or load tests ever being performed. An OSHA required list of hazardous (classified) electrical locations at CAAA is not maintained and there is also no required annual inspections being performed as required. I have emails on my Government computer with the [REDACTED]

[REDACTED] confirming this is true. I repeat, I did not make any false statements in my conversation with [REDACTED]. It is my right to make true statements and make opinion statements to anyone on matters of public concern such as safety at CAAA. There have been some false statements made about me and my actions, [REDACTED] was all upset that he heard that I went to JMC and the Army Corp of Engineers a few months ago and that is why he did not want me doing building inspections. I talked to him personally about this and sent him emails proving I did not do that. Working with JMC [REDACTED] is what I was told to do because our staff was too busy and I wanted an explosives expert to help since explosives safety is still somewhat new to me, I did not want to screw up when dealing with 16" projectiles at B105. [REDACTED] is the one who contacted ACOE not me. I also got a nasty email from [REDACTED] telling me to stop working on it, and why did I copy [REDACTED]. I just made more work for him and [REDACTED] to try and explain. Never mind that fact they just wanted to do a deviation of risk assessment and not what [REDACTED] and I recommended.

5. Conduct Unbecoming a Federal Employee.

It is true that [REDACTED] and I discussed the fact that we both heard that [REDACTED] had just won a settlement against CAAA for wrongful termination during her probation period. We also talked about how sad it was that it took three (3) OSHA recordable hand injuries to get CAAA to spend an extra \$3 on a pair of gloves. I may have mentioned I was not going to give CAAA the satisfaction of quitting, and that the Command was going to have to fire me. This was a private conversation protected by the 1st Amendment. [REDACTED] also mentioned that CAAA has a way with trying to turn good people into bad ones to fit its own narrative. I do not remember any specific conversation with [REDACTED] mentioned. I can say, however, that after 18 years of successful civilian government service in safety and industrial hygiene for various commands within the department of the Army and the department of the Navy, 6 years as an enlisted soldier in the Army (Guard), 6 years as an Officer in the Army (Guard/Reserves/Active), and 8 years as an Officer in the U.S. Air Force (Guard/Reserves), I have never received a bad performance review until my

year at CAAA (other than for failing a fitness test years ago). I have gone from getting many awards, retention bonuses, cash spot bonuses, medals, and letters of appreciation from commanders, for my exceptional knowledge and service to getting letters of reprimand, removed from my supervisor job during probation period, and now this action with CAAA. [REDACTED] appears to be correct in CAAA turning a good employee into an allegedly bad one to fit its narrative.

6. Insubordination.

- a) On 21AUG2020 I forwarded [REDACTED] and [REDACTED] an email from [REDACTED] confirming that CAAA says we follow NAVSUP PUB 538 in SOP CN-000-004-Rev 6 Chg 3. On 25AUG2020, I responded to an email to [REDACTED] where he asked "is there an issue here" on my own time. What is not mentioned in the proposal is the response was from my GOV issued phone. From time to time, I would check GOV email and respond from my phone when I felt it was appropriate so I was not bombarded with hundreds of emails over a few days when returning to work. And there is an issue, CAAA says they follow NAVSUP PUB 538 in Army SOP's and they do not. Specifically, weight testing and stenciling of pallet jacks that handle ordnance. I have an email from [REDACTED] that confirms this on my government computer.
- b) The rest of my response to this accusation is explained in paragraph 3A. I have text messages to [REDACTED] at 1410 on my personal phone to prove the timeline/story is not accurate about how [REDACTED] discovered it and brought to my attention at 1615.
- c) I believe this specific accusation of insubordination is the same as item b above.

7. Insolence.

- a) On 21AUG2020, I forwarded [REDACTED] an email from my phone that was from [REDACTED] confirming that CAAA states that it will follow the local Naval Facilities and Engineering Command (NAVFAC) P-538 Material Handling Equipment (MHE) Instruction in CAAA local Standard Operating Procedures (SOPs). This email was in regards to manual pallet trucks used to handle ordnance not being weight tested, inspected, and stenciled as safe to use with ordnance as required per this instruction. I noticed this was not being done the first few months of my employment at CAAA when I was still allowed to do building inspections. I also confirmed with [REDACTED] that this was not being done for CAAA manual pallet trucks and there are emails to prove it. I do not understand how this is considered an insolent email. I was, however, banned from doing building inspections, because I found too many safety problems and [REDACTED] and [REDACTED] do not want to deal with all of the phone calls. My supervisor [REDACTED] has stated this to me directly in or around August 2020. I also volunteered for months to come in off telework to perform the 8 year past due building inspections with a member of [REDACTED] team, I have an email on my GOV computer from [REDACTED] telling me not to do it and he would tell me what to do later if I came in. On 28OCT2020, I was talking with [REDACTED] about the OSHA findings and was airing some of my disagreements with [REDACTED]. [REDACTED] told me that [REDACTED] had banned me from buildings. I told him that is funny because [REDACTED] told me personally that he was ok with releasing me back to the wild doing building inspections he just wanted to do it systemically at first.

b) 16SEP2020, it is alleged I was insolent. On that date, I asked [REDACTED] if he knew where any extra P100 respirator cartridges were hidden, because I was running out of them during fit testing. I was not reusing any as we normally would because of COVID-19 and the first several employees being fit tested did not bring their own PPE. In my response about being able to do fit testing blind folded in my sleep, I did not mean to be insolent. I was just a little sarcastic. The fact is I have performed thousands of fit tests in my career, mostly as an E4 in the Army or in entry level safety jobs. I used to do fit testing for entire Army units when they would deploy, because I was the only certified fit tester in a several county radius in the Army National Guard in Maryland. I used to do oversight inspections of Respirator Programs for the Navy as an Industrial Hygienist. I am certified by OSHA to be a respiratory protection program manager. I was a Respiratory Protection Program Manager alternate for approximately 8 years in Safety for the Navy. I still think I must be the only GS-13 in the Army assigned to be a respirator fit tester, as this is normally done by an intern or an entry level person.

8. I understand that the following was considered in determining the appropriate penalty for this action:

a) This is my second offense to warrant formal discipline. On 19AUG2020, I was issued a Letter of Reprimand for being absent without leave (AWOL). What is not mentioned in the proposal is that I appealed this AWOL action and my appeal was not denied nor final until 28OCT2020, the very day I was placed on Administrative Leave. I was placed on administrative leave approximately one hour after a conference call that [REDACTED] and [REDACTED] had with [REDACTED] at the Joint Munitions Command [REDACTED] and within an hour of my completion of a response Memo for [REDACTED] for OSHA in regards to allegations made regarding safety violations at CAAA recently. With respect to the leave in question, I followed the same leave request procedures I had since OCT 2019. I put a leave request in ATAPS to take off an afternoon to mow the yard and get ready for my kid's birthday party. I was at home on telework, so I had no reason to believe my request would be denied. After submitting my spreadsheet for the day to [REDACTED] he asked if I took the afternoon off like the spreadsheet said. I said yes, I put the request in ATAPS, didn't you get the automated email? [REDACTED] was a new supervisor and had not approved my leave request in ATAPS before I mowed my yard. Fast forward a few days after returning to work and I am told my request was denied days after the fact and I was counted AWOL. The dates and specifics about this issue are contained in emails and spreadsheets on my GOV computer that was confiscated prematurely since I have not been terminated.

I, [REDACTED] provide this sworn declaration, which consists of 10 pages typed pages, in support of my pending case. I hereby swear or affirm under penalty of perjury that the foregoing statements are true and correct to the best of my personal knowledge, information, and belief.

11/30/2020

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION			
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:	
Building or Area: 03373		Specific Location: Most CAAA Buildings	
Description of Hazard: Annual portable ladder inspections are not being performed and documented. JMCR-385-10-All portable ladders will be inspected annually or as required my manufacturer's instructions:			
Citation Violated: 29 CFR 1910 23(b)(9) - Ladders are inspected before initial use in each work shift, and more frequently as necessary, to identify any visible defects that could cause employee injury;			
Work Order Type: Mission-Operational		Deficiency Status: Response Required	
Personnel Exposed: 200		Abatement Priority:	
RAC: 4 - Minor	Mishap Probability: D - Unlikely		Hazard Severity: II - Critical
OSH Official: [REDACTED] [REDACTED]	Date Identified: 8/10/2020		Date Issued: 8/10/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)			
Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted:			
The following permanent measure(s) are recommended to alleviate a hazard:			
Comments:			

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION			
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:	
Building or Area: 03373		Specific Location: Some CAAA Buildings	
Description of Hazard: No face shield or cut resistant gloves are available for employees to use when cutting and attaching metal banding.			
Citation Violated: 29 CFR 1910 132(d)(1)(i) - Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;			
Work Order Type: Mission-Operational		Deficiency Status: Response Required	
Personnel Exposed: 100		Abatement Priority:	
RAC: 4 - Minor	Mishap Probability: C - Possible		Hazard Severity: III - Marginal
OSH Official: [REDACTED]	Date Identified: 8/10/2020		Date Issued: 8/10/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)			
Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted:			
The following permanent measure(s) are recommended to alleviate a hazard: Obtain faceshields, safety glasses and cut resistant gloves for all employees that cut or use metal banding. Train employees as necessary.			
Comments:			

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION		
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:
Building or Area: 03373		Specific Location: All CAAA Locations that wear fall protection.
<p>Description of Hazard: CAAA is following their own Army fall protection program. We are on a Navy base and everyone else follows the Navy Fall Protection guide except for outside contractors and they follow EM385. There is an issue when CAAA employees go to training for boom lifts and scissor lifts, this training is provided by [REDACTED] and NAVFAC. They teach to Navy standard not Army. I.E. wearing of a harness and lanyard in scissor lift for all Navy personnel but not Army, however Army personnel need to show up to training with harness and lanyard because that is what is taught.</p>		
<p>Citation Violated: 29 CFR 1903.1 - The Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq.) requires, in part, that every employer covered under the Act furnish to his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees. The Act also requires that employers comply with occupational safety and health standards promulgated under the Act, and that employees comply with standards, rules, regulations and orders issued under the Act which are applicable to their own actions and conduct. The Act authorizes the Department of Labor to conduct inspections, and to issue citations and proposed penalties for alleged violations. The Act, under section 20(b), also authorizes the Secretary of Health, Education, and Welfare to conduct inspections and to question employers and employees in connection with research and other related activities. The Act contains provisions for adjudication of violations, periods prescribed for the abatement of violations, and proposed penalties by the Occupational Safety and Health Review Commission, if contested by an employer or by an employee or authorized representative of employees, and for judicial review. The purpose of this Part 1903 is to prescribe rules and to set forth general policies for enforcement of the inspection, citation, and proposed penalty provisions of the Act. In situations where this Part 1903 sets forth general enforcement policies rather than substantive or procedural rules, such policies may be modified in specific circumstances where the Secretary or his designee determines that an alternative course of action would better serve the objectives of the Act.</p>		
Work Order Type: Mission-Operational		Deficiency Status: Response Required
Personnel Exposed: 30		Abatement Priority:
RAC: 4 - Minor	Mishap Probability: C - Possible	Hazard Severity: III - Marginal
OSH Official: [REDACTED] [REDACTED]	Date Identified: 7/6/2020	Date Issued: 7/6/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)		

Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted: N/A			
The following permanent measure(s) are recommended to alleviate a hazard: Have the CAAA Commander sign a memo that CAAA will follow the Navy Fall Protection Guide and then make sure we train and adhere to it.			
Comments:			

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION			
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:	
Building or Area: 03373		Specific Location: Many CAAA Buildings	
Description of Hazard: Unapproved out of service lock found in the work area. Replaced with an approved out of service lock and tag. Do not use red LOTO locks for out of service for an extended period.			
Citation Violated: NSWCCRANEINST 5100.1A Chapter 13 - Appendix D-1 - A yellow out of service tag is to be used for out-of-service situations that are not lockout/tag out situations. It may be used in conjunction with a lock, but that lock may not be a lock that is reserved for used during lockout situations.			
Work Order Type: Mission-Operational		Deficiency Status: Response Required	
Personnel Exposed: 5		Abatement Priority:	
RAC: 5 - Negligible	Mishap Probability: D - Unlikely		Hazard Severity: IV - Negligible
OSH Official: [REDACTED]	Date Identified: 8/10/2020		Date Issued: 8/10/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)			
Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted:			
The following permanent measure(s) are recommended to alleviate a hazard: Unapproved locks are replaced with approved yellow lock and out of service tag when found. Implement an			

improved LOTO program that includes yellow out of service locks and tags. Train employees as needed.

Comments:

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION			
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:	
Building or Area: 03373		Specific Location: Some CAAA Buildings	
Description of Hazard: Manual pallet trucks do not appear to have had safety certification performed. Will need to be load tested and stenciled ordnance or non-ordnance.			
Citation Violated: NAVSUP P-538 Sixth Revision 5-7c - MHE Safety Certification. For MHE assigned to handle ammunition and explosives or are used afloat, an MHE Safety Certification Marking, figure 5-9, shall be stenciled or labeled in a location that is visible to the operator upon mounting the MHE and shall comply with the periodic testing requirements of NAVSEA SW023-AH-WHM-010.			
Work Order Type: Mission-Operational		Deficiency Status: Response Required	
Personnel Exposed: 300		Abatement Priority:	
RAC: 4 - Minor	Mishap Probability: C - Possible		Hazard Severity: III - Marginal
OSH Official: [REDACTED]	Date Identified: 8/10/2020		Date Issued: 8/10/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)			
Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted: Do more research on this topic to confirm if there are other requirements.			

The following permanent measure(s) are recommended to alleviate a hazard: Contact [REDACTED] at NAVFAC to have safety inspection performed and stencils added if required. It is best to just deliver to the forklift shop for certification.

Comments:

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION		
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:
Building or Area: 03373		Specific Location: Various CAAA Buildings & Operations
<p>Description of Hazard: CAAA does not maintain a list or perform inspections of classified locations IAW NFPA 70:505.7 Special Precaution. Article 505 requires equipment construction and installation that ensures safe performance under conditions of proper use and maintenance. Informational Note No. 1: It is important that inspection authorities and users exercise more than ordinary care with regard to the installation and maintenance of electrical equipment in hazardous (classified) locations. CAAA 385-10 8-6, Maintenance. Electrical equipment and installations in hazardous locations will be inspected and maintained periodically by qualified personnel in the CAAA Maintenance or NAVFAC Public Works Directorate. A written record will be kept of the inspections and maintenance work performed. Makeshift wiring is prohibited. This has been verified as not being performed.</p> <p>Citation Violated: AR 385-10 16-2 - d(15) - Policy a. OSHA programs and national consensus standards will be applicable to and integrated into all Army equipment, systems, operations, and workplaces (CONUS and OCONUS). b. Military design, specifications, and deployment requirements will comply with OSHA standards where feasible. When standards do not exist for military application or the application is not feasible, the Army component will apply RM. c. Military and DA Civilian officials at each management level will promote strong safety programs, safe working conditions, and safe performance to prevent accidents, injuries, and occupational illnesses. d. All Army leaders at each echelon will develop and implement functions and written procedures as part of the Army Safety Program and the Army Occupational Health Program to fulfill the following Army and OSHA requirements: (1) Ergonomics. (2) Hazard communications. (3) Respiratory protection. (4) PPE. (5) Materials handling training. (6) Bloodborne pathogens. (7) Confined space program. (8) Emergency action plans and fire prevention plans. (9) Fall protection. (10) Control of hazardous energy (lockout and tagout). (11) Process safety management. (12) Hazardous waste operations and emergency response (as applicable). (13) Chemical hygiene. (14) Inspecting and abating hazards (for example, operations, facilities, equipment, and personnel). (15) Reporting of unsafe and unhealthful conditions.</p>		
Work Order Type: Mission-Operational		Deficiency Status: Response Required
Personnel Exposed: 200		Abatement Priority:
RAC: 4 - Minor	Mishap Probability: C - Possible	Hazard Severity: III - Marginal
OSH Official: [REDACTED]	Date Identified: 8/4/2020	Date Issued: 8/4/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)		

Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted: N/A			
The following permanent measure(s) are recommended to alleviate a hazard: Installations of electrical equipment in classified locations needs to be inspected by qualified people on a periodic basis. A written record will be kept of the inspections needs to be kept. A master list of all hazardous locations also needs to be made by qualified people.			
Comments:			

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION			
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:	
Building or Area: 03373		Specific Location: Various buildings and operations on base.	
Description of Hazard: CAAA base wide has a mixture of hazard rated and non hazard rated electrical devices in production areas. During inspections class 2 div 1 devices are found next to non rated devices. Either a space is classified or it is not, you cannot have a mix of stuff and expect it to be hazard rated. Some operations may need equipment upgraded to meet hazard classification. A list of hazardous location is also needed and identified in a separate deficiency.			
Citation Violated: 29 CFR 1910 307(c) - Electrical installations. Equipment, wiring methods, and installations of equipment in hazardous (classified) locations shall be intrinsically safe, approved for the hazardous (classified) location, or safe for the hazardous (classified) location. Requirements for each of these options are as follows:			
Work Order Type: Facility-Structural		Deficiency Status: Response Required	
Personnel Exposed: 200		Abatement Priority:	
RAC: 3 - Moderate	Mishap Probability: D - Unlikely		Hazard Severity: 1 - Catastrophic
OSH Official: [REDACTED]	Date Identified: 8/4/2020		Date Issued: 8/4/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)			
Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted: Make supervisors aware of the issue.			

The following permanent measure(s) are recommended to alleviate a hazard: CAAA needs to survey operations and decide what areas need to be classified hazard locations. Those where it is required need to have the necessary upgrades performed to be in compliance. SOPs should indicate whether the operation requires electrical to be hazard class rated.

Comments:

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION			
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:	
Building or Area: 03373		Specific Location: CAAA Base Wide	
Description of Hazard: Official Bulletin Boards are out of date. The pre-printed yellow heavy stock forms that have Safety information and forms on them are obsolete.			
Citation Violated: AR 385-10 16-2g - DD Form 2272 (Department of Defense Safety and Occupational Health Protection Program) or equivalent poster will be posted in all workplaces and in places of easy access by employees.			
Work Order Type: Mission-Operational		Deficiency Status: Response Required	
Personnel Exposed: 700		Abatement Priority:	
RAC: 5 - Negligible	Mishap Probability: D - Unlikely		Hazard Severity: IV - Negligible
OSH Official: [REDACTED] [REDACTED]	Date Identified: 7/8/2020		Date Issued: 7/8/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)			
Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted: N/A			
The following permanent measure(s) are recommended to alleviate a hazard: Basewide have all of these pre-printed forms removed and replaced with up to date safety forms. Set up an OBB site on sharepoint to keep the most up to date forms.			
Comments:			

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION			
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:	
Building or Area: 03373		Specific Location: Most CAAA Buildings	
Description of Hazard: Pallet racks are not bolted to the floor.			
Citation Violated: ANSI MH16.1: 2012 1.4.7 - The bottom of all columns shall be furnished with column base plates, as specified in Section 7.1. All rack columns shall be anchored to the floor with anchor bolts, which shall be designed in accordance with Section 7.3, to resist all applicable forces as described in Section 2.1 or Section 2.2.			
Work Order Type: Facility-Structural		Deficiency Status: Response Required	
Personnel Exposed: 500		Abatement Priority:	
RAC: 5 - Negligible	Mishap Probability: D - Unlikely		Hazard Severity: III - Marginal
OSH Official: [REDACTED]	Date Identified: 8/10/2020		Date Issued: 8/10/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)			
Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted: Make leadership aware of this hazard. Racks loaded with MHE are much higher hazard than those loaded by hand.			
The following permanent measure(s) are recommended to alleviate a hazard: Submit a work request to have the pallet racks bolted to the floor.			
Comments:			



DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION			
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:	
Building or Area: 03373		Specific Location: All Explosive Making Processes On Base See Attached Spreadsheet	
Description of Hazard: CAAA does not have a documented procedure/process of how it complies with the OSHA PSM standard. This is also a JMC safety requirement.			
Citation Violated: 29 CFR 1910.119(o) - Compliance Audits. 1910.119(o)(1) Employers shall certify that they have evaluated compliance with the provisions of this section at least every three years to verify that the procedures and practices developed under the standard are adequate and are being followed. 1910.119(o)(2) The compliance audit shall be conducted by at least one person knowledgeable in the process. 1910.119(o)(3) A report of the findings of the audit shall be developed. 1910.119(o)(4) The employer shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected. 1910.119(o)(5) Employers shall retain the two (2) most recent compliance audit reports.			
Work Order Type: Mission-Operational		Deficiency Status: Response Required	
Personnel Exposed: 400		Abatement Priority:	
RAC: 3 - Moderate	Mishap Probability: D - Unlikely		Hazard Severity: I - Catastrophic
OSH Official: [REDACTED]	Date Identified: 9/29/2020		Date Issued: 9/29/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)			
Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			

The following interim measure(s) should be applied if the permanent measures cannot be instituted: Employee awareness
The following permanent measure(s) are recommended to alleviate a hazard: Recommend bringing in JMC Safety to consult and help document procedures. Follow all of OSHA PSM standard.
Comments:

DEFICIENCY NOTICE

SECTION A - DEFICIENCY INFORMATION			
Command: CAAA Department: ASB		ID Number: [REDACTED] External Ref. Number:	
Building or Area: 03373		Specific Location: Several CAAA Buildings	
Description of Hazard: Several types of Weight Handling Equipment do not have the proper certifications or annual load tests performed.			
Citation Violated: TB 43-0142 6.f.(5) - Lifting fixtures shall be marked to indicate use of fixture, the load rating, source of load rating, and next periodic inspection date. This marking may be accomplished by means of color coding, pressure sensitive tapes, metal tags, or a combination of these methods. Hooks shall not be painted as doing so would cover small cracks. NOTE Under no circumstances shall these markings be painted over or removed, except for maintenance or inspection, or change of the forklift's load rating, at which time the item will be re-stenciled.			
Work Order Type: Mission-Operational		Deficiency Status: Response Required	
Personnel Exposed: 300		Abatement Priority:	
RAC: 3 - Moderate	Mishap Probability: C - Possible		Hazard Severity: II - Critical
OSH Official: [REDACTED]	Date Identified: 9/28/2020		Date Issued: 9/28/2020
SECTION B - ABATEMENT STATUS (Complete all applicable parts)			
Responsible for abatement: [REDACTED]			
<i>INTERIM CONTROLS</i>			
<i>ABATEMENT PROJECT INITIATED</i>			
Project or Work Order Description:			
Work Order Number:	Cost Estimate: 0	Work Order Date: N/A	Est. Completion Date: N/A
<i>DEFICIENCY CORRECTED</i>			
Correction Made:			
Final Cost: 0			
Signature:		Completion Date: N/A	
SECTION C - COMMENTS and RECOMMENDED ACTIONS			
The following interim measure(s) should be applied if the permanent measures cannot be instituted: Educate personnel of the requirement.			

The following permanent measure(s) are recommended to alleviate a hazard: Have NAVFAC or CAAA maintenance perform the required certifications and load tests as required.

Comments:

U.S. Department of Labor



December 22, 2020



RE: OSHA Complaint No. 1675264

Dear 

Department of The Army, Crane Army Ammunition Activity, Crane, IN has advised me that the hazards you complained about have been investigated. The employer states that your concerns have been investigated. A copy of the employer's letter and documentation are enclosed.

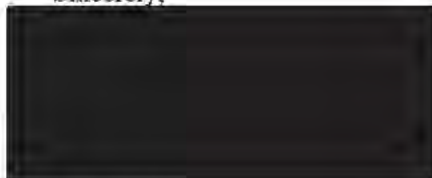
With this information, OSHA feels the case can be closed on the grounds that the hazardous condition(s) have been corrected. If you do not agree that the hazards you complained about have been satisfactorily abated, please contact us within ten (10) business days of the date of this notification. If we do not hear from you within that time, we will assume that the hazards have been corrected and will take no further action with respect to this case.

Section 11(c) of the Occupational Safety and Health Act protects employees from being discriminated against because of their involvement in protected activities related to safety and health. If you believe you are being treated differently or action is being taken against you because of your safety or health activity, you may file a complaint with OSHA. You should file this complaint as soon as possible, because OSHA normally can accept only those complaints filed within 30 days of the alleged discriminatory action.

Please feel free to contact the office at  if you have any questions or concerns.

Your action on behalf of safety and health in the workplace is sincerely appreciated.

Sincerely,



Enclosure(s)

U.S. Department of Labor



December 22, 2020

RE: OSHA Complaint No. 1675264

Dear [REDACTED]

Department of The Army, Crane Army Ammunition Activity, Crane, IN has advised me that the hazards you complained about have been investigated. The employer states that your concerns have been investigated. A copy of the employer's letter and documentation are enclosed.

With this information, OSHA feels the case can be closed on the grounds that the hazardous condition(s) have been corrected. If you do not agree that the hazards you complained about have been satisfactorily abated, please contact us within ten (10) business days of the date of this notification. If we do not hear from you within that time, we will assume that the hazards have been corrected and will take no further action with respect to this case.

Section 11(c) of the Occupational Safety and Health Act protects employees from being discriminated against because of their involvement in protected activities related to safety and health. If you believe you are being treated differently or action is being taken against you because of your safety or health activity, you may file a complaint with OSHA. You should file this complaint as soon as possible, because OSHA normally can accept only those complaints filed within 30 days of the alleged discriminatory action.

Please feel free to contact the office at [REDACTED] if you have any questions or concerns.

Your action on behalf of safety and health in the workplace is sincerely appreciated.

Sincerely,

[REDACTED]
Enclosure(s)

SWORN DECLARATION OF [REDACTED]

Pursuant to 28 U.S.C. § 1746, I, [REDACTED] hereby swear or affirm under penalty of perjury under the laws of the United States of America, that the following statements are true and correct to the best of my personal knowledge, information, and belief.

I, [REDACTED] provide this Sworn Declaration in support of my pending case: Proposal to Remove from Federal Service

1. I have been in the Army/Air Force Guard/Reserves/Active Duty for 20 years in various capacities as both an enlisted member and as an Officer. I am currently an Air Force Reserve Major (will be a LTC in June of 2021) serving as an environmental health intelligence analyst (Bioenvironmental Engineering Officer) for the National Center for Medical Intelligence at Ft. Detrick, MD. I have been an Environmental Science Officer, Nuclear Counter Proliferation Officer, a Consequence Management Medical Support Officer, and a Chemical Biological Radiological Nuclear specialist in my military career. I have been a Civilian employee for the Department of Defense in a variety of Commands in safety/industrial hygiene positions for 17 years both with the Army and the Navy. I have been getting paid as a GS13 (GS11 with 25% retention bonus) since 2006 when I was 29 years old working in Industrial Hygiene for the Navy. I was also offered a 10% retention bonus and early promotion to GS11 when I left the Army working at Aberdeen Proving Grounds as an Industrial Hygienist in 2002. I was offered a GS14 safety job with the Central Intelligence Agency in 2008, however they lowballed the offer less than what I was making in Indiana, so I turned it down. I have a master's degree in occupational safety, a bachelor's degree in environmental health and a minor in industrial hygiene. I completed the Navy sponsored graduate certification in public management through Indiana University Purdue University, Indianapolis.

I am a Certified Industrial Hygienist (CIH), a Certified Safety Professional (CSP), and a Certified Hazardous Materials Manager (CHMM). I have the U.S. Army CP-12 safety certification in addition to the Army Level 1 and Level 2 explosive safety certifications. I am master level certified in consequence management by the Defense Threat Reduction Agency (DTRA). I also have the advanced nuclear operations certification from DTRA. I used to help teach consequence management advisory teams (CMAT) for DTRA. I have been to many other safety/IH conferences and additional training too numerous to mention by name (asbestos, laser, mold, fall protection, etc). I have an active TS SCI clearance with polygraph. I have been an adjunct professor of health & safety at Indiana University (IU, Bloomington, IN) for 3 years. IU recruited me to teach classes. I did not apply to the job until they came to asking me for help. I have also served on the American National Standards Institute laser safety committee for non-beam hazards and the American Industrial Hygiene Association (AIHA) emergency response committee. From 2008 to 2011 I served on active duty with the Army Reserve Consequence Management Unit supporting the 415 Chemical BDE and the 20th SUPCOM. In this position, I advised 1-3 star Army generals on how to respond (in training) to chemical and nuclear attacks on our homeland, and to interdict our adversary's chemical and nuclear weapons programs. I have received many awards and commendations for my service including Army Commendation Medals, Army Achievement Medals, Air Force Commendation Medal, etc. I have also received various bonuses, time off

awards, letters of appreciation from Commanders, and Commander's coins, during my many years of service. I was #1/18 Officers and honor graduate of the Air Force Bioenvironmental Engineering Officers qualifying class in 2014. I have never had an unsatisfactory civilian performance rating until working for Crane Army Ammunition Activity since October of 2019. I was removed from my position during a 12-month supervisor probation status in March 2020 while struggling with sleep apnea/sleep deprivation.

2: WHISTLEBLOWER DISCLOSURES:

I have been raising the alarm internally at Crane Army Ammunition Activity (CAAA) about safety issues since I started in October of 2019. These complaints have been made to [REDACTED]

[REDACTED] and [REDACTED]. I had reported many safety issues on many separate occasions to the host Naval Support Activity (NSA) Command between October 2019-October 2020. This includes the [REDACTED] and the [REDACTED]

[REDACTED] I also usually copied these safety findings and/or the ridiculous responses from my chain of command to the [REDACTED] who is a personal friend whom I highly regard and the [REDACTED] whom I also highly regard and who is a retired Marine Officer. The issues disclosed include weight handling equipment not inspected or certified, lack of compliance with hazardous classified electrical in explosives areas, lack of documentation and training for explosive safety training, failure to inspect and stencil pallet jacks handling ordnance, and lack of cut resistant gloves for cut hazard operations, pallet racks not bolted to the floor command wide, Lock Out Tag Out issues, fall protection issues, lack of ladder inspections, and lack of process safety management in explosives pressing operations. I have a copy of an email with deficiencies that I put in the ESAMS database and a copy of these deficiencies were sent to [REDACTED] on 15OCT2020 (copy included). I also forwarded this email to with deficiencies to [REDACTED] on 18OCT2020 (copy included). I talked to [REDACTED] on the respirator lab phone also on or around 19OCT2020 I asked to be put on [REDACTED] calendar for 5 minutes on 15OCT2020 and his secretaries never got back with me. On or around October 8 I called [REDACTED] to discuss all of the safety issues as mentioned above at CAAA. The exact date for this call is on my GOV cell phone which was confiscated and wiped before being reissued to another member on the CAAA safety team. There were also many pictures of deficiencies from my OSHA complaint investigation on this cell phone.

On 19OCT2020, I filed an official safety complaint with the U.S. Department of Labor Occupational Safety and Health Administration (OSHA). On 20OCT2020, I sent a copy of this complaint to [REDACTED] at Joint Munitions Command. On 18OCT2020 I sent an email (copy attached) to [REDACTED] and [REDACTED] (the JMC CP-12 [REDACTED]). This email contains my displeasure with CAAA's hiring of a non-CP-12 accredited person and a non-Certified Safety Professional (CSP) as [REDACTED] and totally ignoring the requirement listed in JMCR 385-10 that the Command get approval from JMC to hire anyone who is not properly educated or documented. This email had also been sent to [REDACTED] and [REDACTED] (CEA) several weeks before this with no response. On 19OCT2020, I also spoke with [REDACTED] and [REDACTED] on the phone regarding CAAA's safety issues and the fact that [REDACTED] is [REDACTED]

not qualified for his job and asking whether I would file an Inspector General (IG) complaint. [REDACTED] responded in an email confirming JMC was not consulted on this hire (copy attached). On 18OCT2020, I sent a text to [REDACTED] showing the OSHA complaint number and making him aware I had filed it since he is supposed to escort inspectors on base if they come to the base. OSHA recorded it as 19OCT2020, a Monday. [REDACTED] also works as a supervisor at CAAA. On 21OCT2020, [REDACTED] sent an email to [REDACTED] and [REDACTED] saying that CAAA has received an OSHA complaint, here are the details and CAAA is pretty sure they know who did it. I have tried to get a copy of this email which I was specifically advised exists, but no one will share it with me without a freedom of information act (FOIA) request. [REDACTED] told me about it at lunch with him one day or in casual conversation. On 28OCT2020, I was called into [REDACTED] office with [REDACTED] and was told I was being put on admin leave indefinitely pending legal review. When I asked for what, they said "my performance over the last few months." I turned in my CAC, my GOV phone, and my GOV computer, then I was escorted out by [REDACTED] and [REDACTED] like a criminal. In early November, I briefed in person the [REDACTED] of the CAAA safety issues and that I would probably file an Inspector General (IG) complaint eventually, so I wanted to give him a heads up, I forwarded him a copy of the ESAMS deficiencies I had created. On 18NOV2020, [REDACTED] called me and said the [REDACTED] want him to get involved and have him inspect my allegations. I reminded [REDACTED] this was the same information I sent him months ago and that he didn't do anything. He responded that he was sorry and that he didn't want to get in the middle of what is going on at CAAA, but now that his Commander wants him involved, he would be .

I have been charged with the following alleged offenses:

1. **Failure to observe written regulations, orders, rules, or procedures where safety to persons is endangered.**
 - a) On or about 21 September 2020, trash (waste) samples from B102 were placed in a plastic bag and given to me by CAAA [REDACTED] (last name unknown, cell [REDACTED]). I placed them in an envelope and mailed them to the CECOM Radiological Analysis and Calibration Laboratory with the other depleted uranium (DU) contaminated samples from this 30mm DU demilitarization (demil) operation at B102 for analysis per the local standard operating procedure (SOP). I did not receive the email from the [REDACTED] with further direction until after the wipe samples and trash samples were in the mail. I had no on the job training (OJT) with [REDACTED] the [REDACTED] regarding trash, before he left CAAA in September of 2020. I am supposed to be receiving more on the job training with the [REDACTED] the [REDACTED] however, to date, the on the OJT has been very minimal and if I have any questions, they all must go through my supervisor [REDACTED] first. The wipe samples were read by me locally and known to be contaminated with DU. The trash samples were not read locally prior to shipment. I do not believe the safety of anyone was endangered because of my failure to follow this administrative procedure to the letter. I did not at any time deliberately place anyone in danger and I did not deliberately fail to follow instructions. The results of the trash samples have now been analyzed at CECOM and the analysis proves that there were no trash/waste samples mailed that exceeded and NRC

License No. SUC-1380 requirements. [REDACTED] the Joint Munitions [REDACTED] can confirm this information and has a copy of the results from CECOM. Besides the envelope would have shielded the alpha radiation if there were any, and there would be no inhalation potential to the public since the samples were in a ziplock bag. This specification cannot be upheld based on the facts available and must be dismissed.

- b) 29 September 2020 was my first day providing ARSO support at B66 regarding Depleted Uranium (DU) shipments via railcar. I was not issued an optically stimulated dosimeter (OSD) by [REDACTED] before he left nor was I issued one by the CAAA [REDACTED]. As the new ARSO in training, I did not feel comfortable issuing an OSD to myself nor do I think that is necessarily appropriate. That is what I had to do though a few days after being reminded by [REDACTED] at B66 on 29 September 2020 that I should have one. It is also the responsibility of supervisors to ensure their employees have the right personal protective equipment (PPE) and that employees follow all applicable procedures and rules at all times. Note: I was not at B66 doing wipe procedures, I was scanning the bags of 30mm DU prior to shipment with a handheld radiation instrument, the wipe samples had been done by [REDACTED] or [REDACTED] prior to 29 September 2020. The very small dose of radiation I received that day did not endanger my safety, going to the doctor to get an x-ray would have provided me with a significantly higher dose. If this was a big deal then why did the RSO not give me a badge then or tell me to leave the area?

2. Failure to observe written regulations, orders, rules, or procedures where safety to persons is not endangered.

- a) On or about 20 October 2020, I did indeed send a copy of the ANSI Hand Protection Standard to [REDACTED] a [REDACTED] at the CAAA higher headquarters Joint Munitions Command (JMC) to whom I am required to send OSHA Log statistics every month. I sent her this information on this date as part of an email explaining what CAAA was doing about the three (3) OSHA recordable hand injuries we have had in the last 6 months where employees were cut through their "safety approved" leather gloves. I thought that perhaps other commands under JMC might benefit from obtaining cut resistant gloves, so I was providing details that may have been beneficial to her in making that decision. I brought the idea of cut resistant gloves up to my chain of command 6-10 months ago, but no one really felt like it was necessary at that time, since we did not have a history of it being a problem at CAAA and cut rated gloves are more expensive. I had literally recommended cut resistant gloves during a pre-operation inspection in or around April involving a razor knife and then came back a few weeks later to do the accident investigation when an employee cut their hand through their leather non-cut rated gloves. I told the team we had a similar issue with the Navy approximately 5 years ago with the employees not using the right gloves and nobody at CAAA really appeared to care. "We are the Army, not the Navy" is a popular response from peers in the CAAA Safety Office when I mention my Navy experiences. I worked with [REDACTED] in Supply so that CAAA now has ANSI cut-rated A3 gloves in stock and Standard Operating Procedures are being updated to include this as a requirement for sharp operations involving metal banding, de-banding, sheet metal, and razor knife cutting. [REDACTED] told me the ANSI

document I sent her was controlled by the Army and I should not have sent it. I responded that I did not think so, as I had the document in my old Navy files or something to that effect. Regardless, the document did have a document control stamp from NSWC on it, of which I was not aware, and I thanked her for bringing it to my attention. I did not realize this document was licensed to the Navy when I sent it to [REDACTED] at JMC. Nonetheless, this action was inadvertent and does not justify a misconduct charge.

3. Delay in carrying out or failure to carry out instructions within the time required.

a) It is part of my newly assigned duties as the ARSO in training to conduct bi-weekly radiation surveys at B102. On 15OCT2020, [REDACTED] (last name unknown) [REDACTED] Technician and I were at B66 in the afternoon doing wipe samples of DU bags that were placed on a railcar from B102 to transport to B66 before the required wipes were done. After doing the wipes at B66, I asked [REDACTED] if she was ready to go to B102 to do the wipes, because it had popped up on my calendar and they were due that day. She said: "we just did the wipe samples at B102 last week". I said ok, I will go back to the office and check my calendar and previous forms, maybe I set my calendar invite incorrectly. I got back to the office and was looking into this issue. I then realized myself before [REDACTED] or [REDACTED] said anything to me that the inspection needed to be completed by close of business. I have text messages to [REDACTED] on 15OCT2020 to prove this timeline. I went into the office of [REDACTED] my supervisor, around 3pm and told him I made a mistake, "the B102 wipes need to be done by COB". I requested an hour of comp time to ensure I would have enough time to complete this mission. He said something to the effect of: "I am not approving comp time for your screw up, this is your fault and your responsibility, stop throwing [REDACTED] under the bus". I told [REDACTED] I understand it is my responsibility and I am going to stay until the job gets done, he said: "you are going to be held accountable whether you do the job or not". At this point I stood up, I gently shut his door and went to my desk. I called B102 and [REDACTED] the [REDACTED] at B102, said the line would be shut down again at 4:15pm. I went back to [REDACTED] to tell him I was taking two radiation meters and I was going to go as fast as I could to try and complete my work by 5pm. I added that however, if I needed some time to complete it off the clock that was ok with me, it was my screw up. I was at B102 when the line was shut down and completed the job and sent a text to [REDACTED] at like 5:12pm saying the job was done and I was headed back to the office. When [REDACTED] stopped by my cubical a little later, I was simply packing up to leave for the day. The job was done by me and the mission was complete. There is no regulation of which I am aware that says results must be logged the same day and I know [REDACTED] had done it this way previously, when I was with him. I would rather be held accountable for working 30-45 min off the clock, than for not getting the job done and have that held against me. I am aware that my supervisors were just hoping I did not meet any deadlines, so as to build a dismissal case against me for failure to complete assigned tasks in the required timelines. This DU wipe requirement at B102 has nothing to do with two mission critical radiography machines as mentioned; they are not even located in this building. This specification is simply wrong.

(b) On 02SEPT2020, I was instructed to read ARSO duty related regulations CAAR 385-15, CAAA 385-17, ARA for cabinet x-ray at B2748 & B104, Public Health Center report for other CAAA x-ray cabinets and I did as time allowed. I assumed all of [REDACTED] (intern) duties after he left. This includes respirator fit testing, ARSO duties, OSHA statistics and reporting. I also had two days of leave without pay for military duty the week this reading assignment was due. I asked my supervisor [REDACTED] to approve 4 hours of comp time for one of my leave without pay days and it was denied. I completed the reading assignment on 25SEPT2020 on my own time. As I did not fail to complete this assignment, the specification should be dismissed.

c) On 21OCT2020 in the morning, I was literally doing the wipe sample readings in the office to support manifest 38 loadout. [REDACTED] and [REDACTED] told me to stop everything I was working on in order to complete the required OSHA investigations of B102 and B105,

based on a complaint that was received. The wipe samples and spreadsheet would have been loaded prior to shipment if I was not instructed to drop it and allow [REDACTED] and [REDACTED] to finish it up for me. I cannot be held accountable for following the orders of my superiors.

d) [REDACTED] did instruct me to work with [REDACTED] to assume most of his intern duties. We completed most of the handover tasks as instructed and I signed the "Turn Over" forms that [REDACTED] had which were duplicates of the forms I had; therefore, I thought this was sufficient. The exception was that I had planned to come in on a comp time status for a DU load out when I was performing military duty. The dates I question can be found on my GOV computer that was confiscated even though I am not terminated and that is premature. I did not check my work calendar at home on my government phone since [REDACTED] told me to try and stay off my work phone while at home. I do not have to be at work by 6-7am to perform Military duty and I am not supposed to be in Army buildings in USAF uniform. I live over an hour away with an hour time change. Needless to say, I forgot I was supposed to meet [REDACTED] until approximately 7am ET after I helped get the kids ready for daycare. Around 6am CT, I called [REDACTED] and did not get an answer. By the time I got to Crane around 8:30ET, he was already gone to do the load out. At this point, I just went about my day performing USAF duties and I did not charge any comp time to the Army.

e) The contamination survey mentioned was an agreed to be done in an email between [REDACTED] and [REDACTED] in addition to my original inspection and assessment of the potentially radioactive material. I was not made aware of the needed extra wipes of the contamination survey until after the inspection I performed. The potentially radioactive portable shoulder fired rockets were sealed in plastic bags and no radiation above background was detected at time of survey at the surveillance workshop building. I did wipes inside the boxes, outside the boxes, inside the plastic bag and directly on the launch tube of one item. Why extra wipes were needed for a contamination survey did not make sense to me. However, I told [REDACTED] that it was not a problem, and that I would get back out there and get it done eventually. To my knowledge, the items were returned to a magazine already approved for DU storage. My delay in doing this contamination survey did not pose any extra risk to the agency or anyone. I have also never received any training on how to perform this type of survey, so this would have been a good opportunity for OJT with [REDACTED]. Instead, the Agency's lack of proper training protocols is being held against me.

4. Knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization.

This charge is not supportable. I never gave any false information to [REDACTED]. Everything I told him in our conversation is a fact. In fact, this charge is trying to impede my First Amendment rights to speak the truth and cannot be supported. What happened that day is that I stopped by to see [REDACTED] to get another pair of the cut resistant gloves he is now stocking at supply. I am not sure if this comment you attribute to me is based on an email he sent or a conversation he had with [REDACTED] later. I can say that after a 20 year career in health and safety, CAAA is the most unsafe command/industry I have ever seen. There is electrical and

weight handling equipment in most buildings that is not up to code. I have made this known to the CAAA command all the way up to the [REDACTED]. I have the email I sent on 15 October 2020 to prove it. It is attached. I also made the deficiencies in ESAMS as documentation of these violations and I have copies to prove it. Potentially dropping ordnance or setting off an explosion due to electrical not being up to code is pretty relevant in my opinion. I have personally seen dozens of chain slings, web slings, etc that are expired by as much as 8 years. I also have emails from several people proving fact, i.e., the [REDACTED] who had over 40 slings that were expired just a month or so ago. Army required annual building inspections had not been conducted for 8 years. The safety group has been short-staffed for many years. The outside independent ISO 45001 inspection conducted by Department of Defense contractors in late 2019 early 2020 had CAAA as 80% noncompliant. Navy NSWC also inspected in 2019-2020 was found to be 80% compliant. There are bomb lines in B155 and B2748 that have no documentation of inspection or load tests ever being performed. An OSHA required list of hazardous (classified) electrical locations at CAAA is not maintained and there is also no required annual inspections being performed as required. I have emails on my Government computer with the previous [REDACTED]

[REDACTED] and [REDACTED] confirming this is true. I repeat, I did not make any false statements in my conversation with [REDACTED]. It is my right to make true statements and make opinion statements to anyone on matters of public concern such as safety at CAAA. There have been some false statements made about me and my actions, [REDACTED] was all upset that he heard that I went to JMC and the Army Corp of Engineers a few months ago and that is why he did not want me doing building inspections. I talked to him personally about this and sent him emails proving I did not do that. Working with JMC [REDACTED] is what I was told to do because our staff was too busy and I wanted an explosives expert to help since explosives safety is still somewhat new to me, I did not want to screw up when dealing with 16" projectiles at B105. [REDACTED] is the one who contacted ACOE not me. I also got a nasty email from [REDACTED] telling me to stop working on it, and why did I copy [REDACTED] and [REDACTED] I just made more work for him and [REDACTED] to try and explain. Never mind that fact they just wanted to do a deviation of risk assessment and not what [REDACTED] and I recommended.

5. Conduct Unbecoming a Federal Employee.

It is true that [REDACTED] and I discussed the fact that we both heard that [REDACTED] had just won a settlement against CAAA for wrongful termination during her probation period. We also talked about how sad it was that it took three (3) OSHA recordable hand injuries to get CAAA to spend an extra \$3 on a pair of gloves. I may have mentioned I was not going to give CAAA the satisfaction of quitting, and that the Command was going to have to fire me. This was a private conversation protected by the 1st Amendment. [REDACTED] also mentioned that CAAA has a way with trying to turn good people into bad ones to fit its own narrative. I do not remember any specific conversation with [REDACTED] mentioned. I can say, however, that after 18 years of successful civilian government service in safety and industrial hygiene for various commands within the department of the Army and the department of the Navy, 6 years as an enlisted soldier in the Army (Guard), 6 years as an Officer in the Army (Guard/Reserves/Active), and 8 years as an Officer in the U.S. Air Force (Guard/Reserves), I have never received a bad performance review until my

year at CAAA (other than for failing a fitness test years ago). I have gone from getting many awards, retention bonuses, cash spot bonuses, medals, and letters of appreciation from commanders, for my exceptional knowledge and service to getting letters of reprimand, removed from my supervisor job during probation period, and now this action with CAAA. [REDACTED] appears to be correct in CAAA turning a good employee into an allegedly bad one to fit its narrative.

6. Insubordination.

- a) On 21AUG2020 I forwarded [REDACTED] and [REDACTED] an email from [REDACTED] confirming that CAAA says we follow NAVSUP PUB 538 in SOP CN-000-004-Rev 6 Chg 3. On 25AUG2020, I responded to an email to [REDACTED] where he asked "is there an issue here" on my own time. What is not mentioned in the proposal is the response was from my GOV issued phone. From time to time, I would check GOV email and respond from my phone when I felt it was appropriate so I was not bombarded with hundreds of emails over a few days when returning to work. And there is an issue, CAAA says they follow NAVSUP PUB 538 in Army SOP's and they do not. Specifically, weight testing and stenciling of pallet jacks that handle ordnance. I have an email from [REDACTED] that confirms this on my government computer.
- b) The rest of my response to this accusation is explained in paragraph 3A. I have text messages to [REDACTED] at 1410 on my personal phone to prove the timeline/story is not accurate about how [REDACTED] discovered it and brought to my attention at 1615.
- c) I believe this specific accusation of insubordination is the same as item b above.

7. Insolence.

- a) On 21AUG2020, I forwarded [REDACTED] & [REDACTED] an email from my phone that was from [REDACTED] confirming that CAAA states that it will follow the local Naval Facilities and Engineering Command (NAVFAC) P-538 Material Handling Equipment (MHE) Instruction in CAAA local Standard Operating Procedures (SOPs). This email was in regards to manual pallet trucks used to handle ordnance not being weight tested, inspected, and stenciled as safe to use with ordnance as required per this instruction. I noticed this was not being done the first few months of my employment at CAAA when I was still allowed to do building inspections. I also confirmed with [REDACTED] that this was not being done for CAAA manual pallet trucks and there are emails to prove it. I do not understand how this is considered an insolent email. I was, however, banned from doing building inspections, because I found too many safety problems and [REDACTED] and [REDACTED] do not want to deal with all of the phone calls. My supervisor [REDACTED] has stated this to me directly in or around August 2020. I also volunteered for months to come in off telework to perform the 8 year past due building inspections with a member of [REDACTED] team, I have an email on my GOV computer from [REDACTED] telling me not to do it and he would tell me what to do later if I came in. On 28OCT2020, I was talking with [REDACTED] about the OSHA findings and was airing some of my disagreements with [REDACTED] told me that [REDACTED] had banned me from buildings. I told him that is funny because [REDACTED] told me personally that he was ok with releasing me back to the wild doing building inspections he just wanted to do it systemically at first.

b) 16SEP2020, it is alleged I was insolent. On that date, I asked [REDACTED] if he knew where any extra P100 respirator cartridges were hidden, because I was running out of them during fit testing. I was not reusing any as we normally would because of COVID-19 and the first several employees being fit tested did not bring their own PPE. In my response about being able to do fit testing blind folded in my sleep, I did not mean to be insolent. I was just a little sarcastic. The fact is I have performed thousands of fit tests in my career, mostly as an E4 in the Army or in entry level safety jobs. I used to do fit testing for entire Army units when they would deploy, because I was the only certified fit tester in a several county radius in the Army National Guard in Maryland. I used to do oversight inspections of Respirator Programs for the Navy as an Industrial Hygienist. I am certified by OSHA to be a respiratory protection program manager. I was a Respiratory Protection Program Manager alternate for approximately 8 years in Safety for the Navy. I still think I must be the only GS-13 in the Army assigned to be a respirator fit tester, as this is normally done by an intern or an entry level person.

8. I understand that the following was considered in determining the appropriate penalty for this action:

a) This is my second offense to warrant formal discipline. On 19AUG2020, I was issued a Letter of Reprimand for being absent without leave (AWOL). What is not mentioned in the proposal is that I appealed this AWOL action and my appeal was not denied nor final until 28OCT2020, the very day I was placed on Administrative Leave. I was placed on administrative leave approximately one hour after a conference call that [REDACTED] and [REDACTED] had with [REDACTED] at the Joint Munitions Command [REDACTED] and within an hour of my completion of a response Memo for [REDACTED] for OSHA in regards to allegations made regarding safety violations at CAAA recently. With respect to the leave in question, I followed the same leave request procedures I had since OCT 2019. I put a leave request in ATAPS to take off an afternoon to mow the yard and get ready for my kid's birthday party. I was at home on telework, so I had no reason to believe my request would be denied. After submitting my spreadsheet for the day to [REDACTED] he asked if I took the afternoon off like the spreadsheet said. I said yes, I put the request in ATAPS, didn't you get the automated email? [REDACTED] was a new supervisor and had not approved my leave request in ATAPS before I mowed my yard. Fast forward a few days after returning to work and I am told my request was denied days after the fact and I was counted AWOL. The dates and specifics about this issue are contained in emails and spreadsheets on my GOV computer that was confiscated prematurely since I have not been terminated.

I, [REDACTED] provide this sworn declaration, which consists of 10 pages typed pages, in support of my pending case. I hereby swear or affirm under penalty of perjury that the foregoing statements are true and correct to the best of my personal knowledge, information, and belief.

11/30/2020

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SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is PMG.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, USC Section 301; Title 5, USC Section 2951; E.O. 9397 Social Security Number (SSN).

PRINCIPAL PURPOSE: To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.

ROUTINE USES: Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention, placement, and other personnel actions.

DISCLOSURE: Disclosure of your SSN and other information is voluntary.

1. LOCATION	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME	6. SSN	7. GRADE/STATUS	
8. ORGANIZATION OR ADDRESS	000-00-0000		
9. I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:			

Sworn Statement provided during
interview. from 11/30/2020
copy of ESAs deficiency
Notices provided.

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	Page 1 of 8
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____ THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.		

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

Nothing Follows

INITIALS OF PERSON MAKING STATEMENT

Page 2 of 8

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

Nothing Follows

INITIALS OF PERSON MAKING STATEMENT

Page 3 of 8

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

Nothing Follows

INITIALS OF PERSON MAKING STATEMENT

Page 4 of 8

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

Nothing Follows

INITIALS OF PERSON MAKING STATEMENT

Page 5 of 8

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

Nothing Follows

INITIALS OF PERSON MAKING STATEMENT

Page 6 of 8

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF _____ TAKEN AT _____ DATED _____

9. STATEMENT (Continued)

Nothing Follows

INITIALS OF PERSON MAKING STATEMENT

Page 7 of 8

STATEMENT OF _____ TAKEN AT _____ DATED _____

AFFIDAVIT

I, _____ HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 8. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, at _____.

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

Army Regulation 15-6 and Article 136 UCMJ
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

Page 8 of 8



[REDACTED]

December 30, 2018

[REDACTED]

[REDACTED]

Re: OSC File No. DI-21-000185

Dear [REDACTED]

The U.S. Office of Special Counsel (OSC) has completed its review of the information you referred to the Disclosure Unit. You alleged that employees at the U.S. Department of the Army, (Army) U.S. Army Joint Munitions Command, Crane Army Ammunition Activity (CAAA), Crane, Indiana, may have engaged in conduct that constituted a violation of law, rule, or regulation, an abuse of authority, and a substantial and specific danger to public health.

OSC is authorized by law to determine whether a disclosure should be referred to the involved agency for investigation or review, and a report; however, OSC does not have the authority to investigate disclosures. OSC may refer allegations of violations of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; a substantial and specific danger to public health or safety; or censorship related to scientific research or analysis. Disclosures referred to the agency for investigation and a report must include information sufficient for OSC to determine whether there is a substantial likelihood of wrongdoing.

You disclosed numerous safety concerns at CAAA. Specifically, you alleged that: electrical hazards exist; CAAA lacks a required process safety management standard regarding a safety program for controlling and handling hazardous substances; weight handling equipment, manual pallet trucks, and portable ladders lack safety inspections and/or certifications; pallet racks are not bolted to the floor; CAAA lacks an appropriate fall protection program and related training; and safety information posted at the facility is out of date or obsolete.

On November 27, 2020, you filed a complaint with the Army Office of Inspector General (OIG) with respect to the safety concerns at CAAA. During our December 17, 2020 telephone conversation, you explained that Joint Munitions Command [REDACTED] directed you to file an OIG complaint so that he could investigate these issues. Thereafter, you received confirmation that the matter was transferred to [REDACTED] and his supervisor, [REDACTED] [REDACTED] for internal investigation and resolution. You stated that after receiving confirmation of [REDACTED] and [REDACTED] involvement, you are confident the issues will be examined and corrected.

[REDACTED]
Page 2

As we discussed, it is OSC's general policy, not to transmit allegations of wrongdoing to the head of the agency involved where the agency has investigated or is currently investigating the same allegations. Because [REDACTED] and/or [REDACTED] are actively looking into the safety concerns outlined in your open OIG complaint, we do not have a basis to depart from OSC's general policy. Consequently, we will take no further action in this matter. However, this does not preclude you from refileing with OSC's Disclosure Unit at a future date should the need arise, simply file another Form OSC-14.

Should you wish to follow up on these allegations further, you may contact the Army, OIG. If your complaint involves non-senior officials, you may send it to the following address: [REDACTED]

If your complaint involves Senior Army Officials (Officers in the grades of Colonel (O6) promotable or above and Senior Executive Service, Department of the Army Civilians), please send the information to the following address: [REDACTED]

You also alleged prohibited personnel practices (PPPs) including whistleblower retaliation and granting an unauthorized preference. Our records show that your PPP allegations are currently being reviewed by [REDACTED] an attorney with OSC's Investigation and Prosecution Division. See OSC File No. MA-21-000468. If you have any questions about your PPP complaint, please contact [REDACTED]. Because the Disclosure Unit does not review PPP allegations, we will take no further action on this matter.

Accordingly, we are closing our file. Should you wish to discuss this matter, please call me at [REDACTED]

Sincerely,

CAM: [REDACTED]

SWORN STATEMENT

Encl 9

For use of this form, see AR 190-45; the proponent agency is PMG.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, USC Section 301; Title 5, USC Section 2951; E.O. 9397 Social Security Number (SSN).

PRINCIPAL PURPOSE: To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.

ROUTINE USES: Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention, placement, and other personnel actions.

DISCLOSURE: Disclosure of your SSN and other information is voluntary.

1. LOCATION Crane Army Ammunition Activity	2. DATE (YYYYMMDD) 20210430	3. TIME 1321	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME [REDACTED]	6. SSN 000-00-0000	7. GRADE/STATUS	

8. ORGANIZATION OR ADDRESS

9. I, [REDACTED], WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

IO Question: What is your unit / position (title)?

Answer (A): [REDACTED]

Q. How long have you been in this position?

A. 10 months

Q. What are your duties in the position?

A. [REDACTED]

Hazardous (classified) locations

IO: Can you describe CAAA's compliance to 29 CFR 1910.307 (Hazardous classified locations) - and provide details if CAAA has properly categorized, classified and rated locations or areas with powered or explosives processes?

A: See write up provided in email to investigator.

IO: Subsequently, can you confirm if any hazardous classified locations (e.g., Class 1, Division 1 or otherwise) lack properly rated corresponding electrical components, fixtures, or circuitry deemed safe for that area?

A: I cannot confirm any hazardous classified locations (building, rooms, or areas) that lacked properly rated corresponding electrical components, fixtures, or circuitry deemed safe for that area.

IO: Are you aware of other associated regulatory requirements concerning hazardous work locations (e.g. NFPA, NEC, DA etc) marking, labeling, and electrical equipment usage?

I am aware of NFPA, NEC, and DA regulatory requirements associated with markings, labeling, and electrical equipment usage.

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

Page 1 of 11

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF [REDACTED] TAKEN AT Crane Army Ammunition Activity DATED 20210430

9. STATEMENT (Continued)

Control of Hazardous Energy (Lockout / Tagout)

IO: Can you detail CAAA's current compliance to 29 CFR 1910.147 (Control of Hazardous Energy, aka lock out tag out)

A: CAAA is not currently complying with 29 CFR 1910.147. Energy Control Procedures were not created nor used for equipment preventative or corrective maintenance. There are minor service maintenance (cleaning, greasing, etc..) that operators perform while equipment is shutdown and are protected by interlocks; however, OSHA requires LOTO for this work.

IO: Does CAAA "lack a complete, updated hazardous energy control (e.g. lockout / tagout program)?

CAAA does have a complete, updated (2019) hazardous energy control program/procedure. However, the organization was not following it. Safety Department did not succeed in implementing the change to the organization after signed in 2019.

Process Safety Management

IO: Can you detail or describe CAAA's current compliance to 29CFR1910.119, Process Safety Management of highly hazardous chemicals?

A: CAAA is not fully complying with the OSHA PSM Regulations. Several areas need improvement to fully implement the regulation. Employee engagement, Mechanical Integrity, Process Safety Information, Process Hazard Analysis are some of the major elements not fully implemented. CAAA is meeting parts of each element; however, for full compliance change is needed.

IO: Can you provide a brief historical perspective regarding CAAA's previous attempts to comply with 29CFR1910.119, Process Safety Management regulations?

A: From what I have researched, OSHA was involved with the command in the 2013-2015 time frame after a fire occurred in our pyro production building injuring a few employees. I reviewed a 2013 OSHA Report assigning 39 serious safety violations against the command. It appeared that the Command attempted to correct the violations; however, was struggling to communication with OSHA. The command reached out to JMC for guidance during this time frame. JMC seemed to have conducted cross-walks of the OSHA PSM against Army Regulations. JMC identified GAPs in the Army regulations. I read a communication to AMC in that time-frame requesting assistance on this matter. I did not see further communications at that level. After discussing with several people it sounds like the command reached out to legal representative and pursued a military unique exemption for the work we do at Crane Army. This communication was sent to OSHA in late 2015. Communications between OSHA and CAAA stopped until an anonymous complaint was filed with OSHA in October 2020. At the time I was unaware of any past legal issues in this area. As we started looking into the OSHA complaint I found most of the history buried in a folder on a shared computer drive. OSHA was later consulted by CAAA, JMC, and AMC Safety about this matter and they agreed, following a DOL Solicitor Generals opinion on the matter, with CAAA's 2015 notification and commented it is DOD's jurisdiction. To date Department of Army had been working on a revision to the DA 385-10 or the PAM to include requirements for Army to implement OSHA PSM.

IO: Can you outline planned or future actions regarding CAAA's implementation of process safety management regulations?

A: Resulting from the OSHA allegations response in 2020, CAAA is committed to implementing OSHA PSM in the Pyro Building by end of September 2021. Following that it is our current plan to implement across the organization after we pilot the Pyro building.

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

STATEMENT OF [REDACTED] TAKEN AT Crane Army Ammunition Activity DATED 20210430

9. STATEMENT (Continued)

Fall Protection

IO: Can you define specific issues, or describe CAAA's "fall protection program, including consistent employee training", pursuant to AR 385-10 and 29CFR1926 regulations?

A: I am not aware of any issues with fall protection at CAAA. There was a comment brought up about the Navy providing fall protection training discussing using fall protection to tie off to scissor lifts. This was reviewed and determined there is not an OSHA nor and Army requirement for using fall protection on a scissor lift. If our employees desire to use fall protection on a scissor lift the Command would have no problem doing so. They would just need to hook to the guardrail.

IO: Who maintains fall protection equipment, and maintains employee fall protection training records at CAAA?

A: PM Supervisor, Training Manager

Weight Handling Equipment (WHE)

IO: Can you describe / detail if CAAA "lacks current inspection tags and/or certifications for weight bearing apparatuses, chain or web slings used over production lines, and material handling equipment including manual pallet trucks and portable ladders?

A: After receiving an OSHA letter describing similar allegations, CAAA reviewed the program for WHE. Our review of several buildings turned up one portable chain hoist past its inspection date. This chain hoist was owned by a private contractor doing business in one of our operating building. The chain hoist was removed from service and replaced with a current tested one. The review also identified there was a WHE Program for CAAA; however, there was no owner assigned to manage it. The only parts of the program being followed was the WHE user checks prior to use and the Navy's tracking and maintenance of the stationary and less portable WHE. The Navy kept a log of all the WHE that went through their office that assigned serial numbers and inspection tags with due dates. However, no one working at CAAA was managing those logs. The Navy was sending an updated list periodically to an individual that no longer works for CAAA.

Since discovery of the Program Issue, CAAA has hired and assigned an owner to the WHE Program. The navy lists are now being sent to the owner of the program, their direct supervisor and manager. We are currently in the process of restoring the program. More focus has been applied to ensure the WHE inspections prior to use are completed.

CAAA requires inspections of WHE prior to each use. If WHE tags are expired or the WHE show visible damage the users of the WHE turn that into the tool room for testing. The tool room takes the material to the Navy to be retested. The Navy will test our portable rigging gear as need when we bring it to them. The Navy maintains our larger and less portable WHE for us.

IO: Can you outline who (what section / agency) is responsible for this equipment, and any specific references used to assure proper inspection / certification of weight handling equipment?

CAAA is responsible for the WHE we use. However, we contract the Navy to do our testing which is done IAW Navy procedures. Any WHE that falls outside of what the Navy would test is typically Commercial of the shelf items in which the load testing is done IAW the vendor manuals.

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

STATEMENT OF [REDACTED] TAKEN AT Crane Army Ammunition Activity DATED 20210430

9. STATEMENT (Continued)

Building Inspections

IO: Can you define the current compliance status and requirement for CAAA in conducting, "proper inspections and [completing] related documentation for buildings pursuant to AR385-10"?

A: We are in compliance with Work Place inspections in AR 385-10. Proof was sent in email to investigator.

IO: Are you aware of, or involved with completing workplace inspections as required by 29CFR1910 and DODI 6055.07, Safety and Occupational Health Program?

I am aware the inspections are getting completed.

Floor Pallet Racks

IO: Are you aware of any issues / current compliant state or areas where CAAA "has not bolted to the floor pallet racks that store equipment, boxes and spare parts"?

A: There was a deficiency entered into ESAMS, a software abatement tracking tool CAAA is about to implement, by a previous employee of mine. This was ultimately investigated and corrected. During this investigation I had my team inspect several other building for similar deficiencies and one additional deficiency was found and corrected.

Safety Information / Communication

IO: Are you aware (or recently corrected) any issues with regards to CAAA "posting outdated or obsolete safety information that should be replaced"?

A: I provided an email to the investigator detailing my assessment and providing evidence to the matter.

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

STATEMENT OF [REDACTED] TAKEN AT Crane Army Ammunition Activity DATED 20210430

9. STATEMENT (Continued)

Final Questions:

Q. Is there anyone else that may have relevant information? If so, please provide their names and a synopsis of the information.

A. Beyond the audience already interviewed, I am not.

Q. Is there any additional information that you are aware of that may be relevant to the investigation?

A. The individual ([REDACTED]) making these allegations to JMC IG, OSHA, Congress, and US OSC. Was the prior Environmental and Safety Manager prior to myself. I was not able to supervise his performance before my arrival; however, the individual was assigned to my team when I started in this position. After reviewing limited information about his past performance and current direction from my boss, I met with him. This was during my first weeks to learn about him and what his troubles have been. I was quick to realize he had significant issues with communications and interpersonal relationships.

I tried to assign [REDACTED] jobs that limited his interactions with others until I could get a handle on the department and give direction to the other employees on the mission. He consistently ignored my direction to leave co-workers alone and focus on the tasks he was assigned. He failed to meet several deadlines. I had other discipline problems with him including AWOL and not following Radiation Safety Regulations he was responsible and accountable for. All this information was being reviewed by HR and Legal for further discipline following an AWOL discipline. It is of my opinion, based on my experiences from then to now, that at some point he learned there was another form of discipline coming. We received an OSHA letter stating safety violation allegations on CAAA. The Director of Activity Support assigned him to do the immediate investigation and myself to do the deeper dive assessment. Shortly there after an employee, in another department, made a troubling statement about hearing from him, that he was trying to get fired and collect some money, and he was going to teach the command a lesson. I received an email from legal asking me questions about the statement on the day we were wrapping up our initial investigation of the OSHA findings. After I had concerns about the command's safety, not knowing what lesson he was going to teach the command, I recommend to the CAAA [REDACTED] to place [REDACTED] on paid Admin Leave until we putting the information together to determine the appropriate discipline for [REDACTED] on the issues we had been working on. After that I then focused all my time to finish and deliver the discipline.

I would like to state that at different points of [REDACTED] employment with me, he had came to my office alleging most of the things he has here. There was many other high priority safety issues going on then so I asked him if this was something I needed to look into now or can it wait? He said it could wait. He was helping me get familiar with the ESAMS abatement tracking software so I told him to write the issues into ESAMS so we wouldn't forget. I told him we'd go back later once I figured out how to manage that system. We previously had no abatement tracking system. During the OSHA allegations investigation I reviewed the entries he placed into the system and noticed they were very similar to the OSHA allegations and [REDACTED] himself rated the significance of these between none to moderate. Come to find out these were all issues [REDACTED] was trying to address while he was the [REDACTED] and failed to be successful. It is of my opinion, after everything I have learned about the situation, he failed to solve problems as [REDACTED] due to his poor communication and interpersonal communication skills. He does not give the impression of a team player and more of a self fulfilling one. [REDACTED] has made several safety allegations as a Seasoned Safety Specialist and Manager and not findings of fact. It is very important that Safety findings, from any safety professional, are rooted in facts not stories and or assumptions. This way leadership can see the tie to the regulations, understand them, and take action to correct them. I have been having much success since I have started in approaching all these issues. Yes, CAAA has some safety problems that have been lingering for a while. However, I am here now and I seeing evidence of a changing culture here at CAAA. I have won Leadership's trust and supports faster than I expected. I fully believe in my heart this command is eager to be safe and has been in need of a strong safety leader to put them back on track. The Command and I believe I am the Leader to do so. Within a few months from stating at CAAA we accomplished the annual required workplace inspections that some believe have not been completed in 9 years. All it took was some collaboration, innovative problem solving, and productive communication. Its that how we get better at all things in an organization?

IO warning to all witnesses: In order to preserve the integrity of the investigation, you are not to discuss this investigation or your testimony with anyone other than myself, the legal advisor, or your own private legal counsel."

INITIALS OF PERSON MAKING STATEMENT [REDACTED]

STATEMENT OF _____ TAKEN AT Crane Army Ammunition Activity DATED 20210430

9. STATEMENT (Continued)

INITIALS OF PERSON MAKING STATEMENT

Page 6 of 11

STATEMENT OF _____ TAKEN AT Crane Army Ammunition Activity DATED 20210430

9. STATEMENT (Continued)

INITIALS OF PERSON MAKING STATEMENT

Page 7 of 11

STATEMENT OF TAKEN AT Crane Army Ammunition Activity DATED 20210430

9. STATEMENT *(Continued)*

INITIALS OF PERSON MAKING STATEMENT

Page 8 of 11

STATEMENT OF TAKEN AT Crane Army Ammunition Activity DATED 20210430

9. STATEMENT *(Continued)*

INITIALS OF PERSON MAKING STATEMENT

Page 9 of 11

STATEMENT OF _____ TAKEN AT Crane Army Ammunition Activity DATED 20210430

9. STATEMENT (Continued)

INITIALS OF PERSON MAKING STATEMENT

Page 10 of 11

AFFIDAVIT

I, _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 11. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, _____ at Crane Army Ammunition Activity.

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

Army Regulation 15-6 and Article 136 UCMJ
(Authority To Administer Oaths)

UNCLASSIFIED

HVAC DESIGN CONDITIONS NOTES 01, 02, 03

LOCATION	SUMMER COOLING TEMP	SUMMER HUMIDITY	SUMMER HUMIDITY CONTROL	WINTER TEMP	WINTER HUMIDITY	PROCESS OFF WINTER MIN TEMP	PROCESS EXHAUST (CFM)	EMERG EXHAUST	PROCESS HEAT LOAD (NOTE 05)	100% OA WHEN PROCESS ON?	IS SPACE DEDICATED AIRSTREAM / AHU REQUIRED DUE TO PROCESS CHEM OR EXPLOSIVES	AMCA AIRSTREAM RATING	HAZARDOUS CLASSIFICATION
OUTDOORS (FOR ENVELOPE LOADS)	93.0°F DB @ 76.1°F WB AND 84.9°F DB @ 79.2°F WB	SEE TEMP COLUMN	N/A	0°F	0 GR/LB	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1 DIV LESS THAN ADJOINING HAZ ATMOSPHERE WITH OPERABLE OPENING WITHIN 10 FT.
OUTDOORS (FOR AIR INTAKE AND INFILTRATION LOADS)	93.0°F DB @ 76.1°F WB AND 84.9°F DB @ 79.2°F WB	SEE TEMP COLUMN	N/A	0°F	0 GR/LB	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1 DIV LESS THAN ADJOINING HAZ ATMOSPHERE WITH OPERABLE OPENING WITHIN 10 FT.
OUTDOORS (FOR HEAT REJECTION)	98°F	NO EVAP EDP.	N/A	0°F (LOW AMB)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1 DIV LESS THAN ADJOINING HAZ ATMOSPHERE WITH OPERABLE OPENING WITHIN 10 FT.
BLDG 165 VESSEL LOADING ROOM	70°F ± 5°F	50% ± 5%	ACTIVE	70°F ± 5°F	50% ± 5%	50°F	800 CFM (CYCLES)	N/A	?????	YES	YES	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 165 TEFLON ROOM	70°F ± 5°F	50% ± 5%	ACTIVE	70°F ± 5°F	50% ± 5%	50°F	500 CFM (CYCLES)	N/A	?????	YES	NO	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 165 BINDER ROOM	70°F ± 5°F	50% ± 5%	ACTIVE	70°F ± 5°F	50% ± 5%	50°F	500 CFM (CYCLES)	N/A	?????	YES	YES	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 165 MAGNESIUM ROOM	70°F ± 5°F	50% ± 5%	ACTIVE	70°F ± 5°F	50% ± 5%	50°F	800 CFM (CYCLES)	N/A	?????	YES	YES	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 165 HIGH BAY AREA	70°F ± 5°F	50% ± 5%	ACTIVE	70°F ± 5°F	50% ± 5%	50°F	100 CFM	N/A	7,200 BTU/HR	YES	NO	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 165 RESTROOM	78°F	50%	PASSIVE	68°F	N/A	50°F	N/A	N/A	N/A	NO	NO	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 165 JANITORS CLOSET	78°F	50%	PASSIVE	68°F	N/A	50°F	N/A	N/A	N/A	N/A	N/A	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 165 OFFICE	78°F	50%	PASSIVE	68°F	N/A	50°F	N/A	N/A	N/A	NO	NO	N/A	GENERAL PURPOSE (NO HAZ LOC. RATING)
BLDG 165 MECH / COMP / BOILER ROOM	<103°F	N/A	HEAT AND VENT ONLY	50°F MIN	NONE	50°F	N/A	N/A	N/A	N/A	N/A	N/A	GENERAL PURPOSE (NO HAZ LOC. RATING)
BLDG 165 FACILITY ELECTRICAL ROOM	<103°F	N/A	HEAT AND VENT ONLY	50°F MIN	NONE	50°F	N/A	N/A	N/A	N/A	N/A	N/A	GENERAL PURPOSE (NO HAZ LOC. RATING)
BLDG 165 PROCESS ELECTRICAL ROOM	<95°F	<80%	PASSIVE	50°F	>8%	50°F	N/A	N/A	ASK CAAA	N/A	N/A	N/A	GENERAL PURPOSE (NO HAZ LOC. RATING)
TUNNEL A	NONE	N/A	N/A	70°F	50% ± 5%	50°F	N/A	N/A	NONE	?????	YES	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
TUNNEL B WEST	?????	?????	ACTIVE	70°F ± 5°F	50% ± 5%	50°F	?????	N/A	HOT MATERIAL	YES	YES	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
TUNNEL B CENTRAL (NORMALIZING SECTION) NOTE 04	NO FACILITY RELATED HVAC SYSTEM					50°F	NO FACILITY RELATED HVAC SYSTEM						CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
TUNNEL B EAST (COOLING SECTION)	<85°F (SEE NOTE 3)	N/A	N/A	70°F ± 5°F	50% ± 5%	50°F	?????	?????	ENCLOSED CONVEYOR	YES	YES	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 3322 MIXING AREA	70°F ± 5°F	50% ± 5%	ACTIVE	70°F ± 5°F	50% ± 5%	50°F	3250 CFM VARIABLE	1000 CFM	8,045 BTU/HR	YES	YES	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 3322 DRYING AREA	?????	?????	?????	70°F -0/+10°	50% ± 5%	50°F	1000 CFM	1000 CFM	44,000 BTU/HR	YES	YES	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 3322 EXTRUDING AREA	70°F ± 5°F	50% ± 5%	ACTIVE	70°F ± 5°F	50% ± 5%	50°F	?????	1500 CFM	442 BTU/HR	YES	YES	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 3322 PROCESS ELEC / MECH ROOM	<80°F	N/A	NONE	50°F MIN	NONE	50°F	N/A	N/A	39,600 BTU/HR	N/A	N/A	N/A	GENERAL PURPOSE (NO HAZ LOC. RATING)
BLDG 3322 FACILITY MECH / ROOM	<103°F	N/A	HEAT AND VENT ONLY	50°F MIN	NONE	50°F	N/A	N/A	N/A	N/A	N/A	N/A	GENERAL PURPOSE (NO HAZ LOC. RATING)
BLDG 3322 WATER ROOM	<80°F	60%	PASSIVE	50°F MIN	NONE	50°F	N/A	N/A	N/A	N/A	N/A	N/A	GENERAL PURPOSE (NO HAZ LOC. RATING)
BLDG 3322 FACILITY ELECTRICAL ROOM	<103°F	N/A	HEAT AND VENT ONLY	50°F MIN	NONE	50°F	N/A	N/A	N/A	N/A	N/A	N/A	GENERAL PURPOSE (NO HAZ LOC. RATING)
BLDG 3322 CONTROL ROOM	NON-FACILITY HVAC SYSTEM												GENERAL PURPOSE (NO HAZ LOC. RATING)
BLDG 3322 CONTROL ROOM TUNNEL	NONE	N/A	N/A	50°F MIN	NONE	50°F	N/A	N/A	N/A	NO	NO	B	CLASS 1, DIV 1 GROUP D AND CLASS 2, DIV 1 GROUPS E,F,G
BLDG 3322 RESTROOM / LOCKER ROOM	NO FACILITY RELATED HVAC SYSTEM												ASK CAAA
BLDG 165 PRODUCT STORAGE CONTAINERS	NO FACILITY RELATED HVAC SYSTEM												ASK CAAA
BLDG 3322 PRODUCT CAN STORAGE	NO FACILITY RELATED HVAC SYSTEM												ASK CAAA

NOTES

- 01 TOLERANCES LISTED IN TABLE ABOVE ARE FOR CONTROLLABILITY IN FIELD. DESIGN SETPOINTS SHALL BE NUMBER LISTED NOT INCLUDING TOLERANCE. (E.G. IF SUMMER SPACE CONDITION IS 70°F ± 10°F @ 50%RH ± 10% THE DESIGN CONDITION IS 70°F @ 50%RH)
- 02 CODE REQUIRED VENTILATION RATES ARE NOT LISTED. AND ARE THE RESPONSIBILITY OF THE DESIGNER (E.G. ASHRAE 62.1, ASHRAE 15, MECH AND ELEC ROOMS FOR THERMAL CONTROL, ETC.)
- 03 ALL SPACES WITH COOLING REQ'D SHALL HAVE A MAX DP OF SUPPLY AIR OF 55°F DURING COOLING OR DEHUMIDIFICATION MODES
- 04 TUNNEL B CENTRAL WILL BE AT APPROX. 150°F ± 10°F BY OTHERS DURING PROCESS SO EQUIPMENT, WIRING, AND CONTROLS MUST BE ABLE TO BE EXPOSED TO THIS TEMPERATURE.
- 05 NORMAL FACILITY DESIGN RELATED HVAC LOADS ARE NOT SHOWN. ONLY PROCESS LOADS.

CONCEPT ONLY
NOT FOR CONSTRUCTION

(02-23-2021) COPY IS FOR
CAAA TO REVIEW ALL
VALUES AND PROVIDE
COMMENTS AND/OR
REVISIONS



PRELIMINARY
NOT FOR CONSTRUCTION

UNCLASSIFIED

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Encl 10

From:

Subject:

RE: 15-6 Investigation Document Request (Haz Location) (UNCLASSIFIED)

Date:

Monday, April 5, 2021 9:00:10 AM

CLASSIFICATION: UNCLASSIFIED

Allegation: Failed to properly categorize, classify, or rate which locations or areas with powered or explosive processes are hazardous, consequently, these locations or areas lack properly rated corresponding electrical components, fixtures, or circuitry that can be used safely and without posing a fire hazard 2) and has not maintained an accurate list for the above

Because a building is designed, built and maintained to have the potential for Class I or II, Div 1 or 2 operations does not make the location subject to categorizing, classifying or rating it for Class I or II, Div 1 or 2 operations. The SOP and Hazards Analysis does this. We categorize, classify and rate processes, not facilities.

From the -64, "Change of classification. Operating buildings and magazines are constructed to perform a specific function which dictates the requirements for electrical equipment installation. If the functions performed in the facility change or are rearranged, the safety officers must inspect, approve, or reclassify the hazardous locations.

Where to start? What specific process is the allegation referencing? Was the facility and equipment within the facility for this process properly categorized, classified, and rated for that process?

Why does this matter? Many Army facilities are designed, built and maintained for the capability to perform Class I Div 1 operations. Surveillance workshops are an example. Process: Inspect stabilizer content of propellant. This is not a Class I or Class II process. Does not create a combustible dust or have the potential to create an accumulated dust hazard. Therefore you can cut open bags of propellant and inspect them using equipment that does not meet even Class II, Div 2 requirements. You can plug the equipment in using a pig tail. As long as this equipment doesn't pose a hazard to a separate hazard classified process being conducted within the facility.

So, if CAAA was performing a process that should have been Class I or II, Div 1 or 2, and they failed to properly categorize, classify and rate that operation, that is a problem.

Thoughts?

 V/r

Response	Percentage
U.S. should take action to address climate change	95%
U.S. should not take action to address climate change	5%

[REDACTED]
DAC Training Opportunities: [REDACTED]
Munitions and Explosives Safety Forum: [REDACTED]

From: [REDACTED]
Sent: Friday, April 2, 2021 8:45 AM
To: [REDACTED]
[REDACTED]
Subject: FW: 15-6 Investigation Document Request (Haz Location) (UNCLASSIFIED)

[REDACTED] and [REDACTED] would like you to review (just the attached Word doc) what is essentially CAAA's (current safety manager) response to the hazardous classified location allegation.

Their main point seems to be NAVFAC designed their entire complex to a high protective level, that negates any detailed analysis / ensuing protective effort per 1910.307 – essentially the place was built overprotective, as we discussed [REDACTED] – if true, I'm still unsure if that design requirement would meet 1910.307 standards.

[REDACTED] will try calling in about 30 minutes

Thanks for the assistance Gentlemen,

VR/ [REDACTED]

From: [REDACTED]
Sent: Tuesday, March 30, 2021 11:54 AM
To: [REDACTED]
Subject: 15-6 Investigation Document Request (Haz Location) (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

[REDACTED]

My write up, that will go on the 2823 Form, is in the word document. The other documents are ones you requested for this topic.

Very Respectfully,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

From: [REDACTED]
Subject: FW: Media coverage of CAAA accident
Date: Monday, April 1, 2013 3:42:43 PM
Attachments: [WBIW Explosion At Crane, Several Injured.pdf](#)
[WTHR TV Five injured in Crane explosion.pdf](#)
[WISH TV explosion reported at crane naval base.pdf](#)
[TMnews Officials release more details about Crane explosion.pdf](#)
[Herald Times 5 people treated at Bloomington Hospital after incident at Crane.pdf](#)
[Herald Times 5 crane employees released.pdf](#)
[WBIW Crane Releases Names Of Those Hurt In Explosion.pdf](#)
[FOX 59 investigation-into-explosion-at-crane.pdf](#)
[wlfi Explosion reported at Crane Army center in Martin County.pdf](#)
[WTIU Crane Base Explosion Under Investigation.pdf](#)
[SF Chronical Explosion-at-Ind-naval-base-.pdf](#)
[GCDW Explosion at Crane Army Ammunition Activity injures five.pdf](#)

In the safety business you need to know at least one PAO and one lawyer to help manage accident response.

-----Original Message-----

From: [REDACTED]
Sent: Monday, April 01, 2013 3:34 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Media coverage of CAAA accident

v/r

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Monday, April 01, 2013 3:28 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: media coverage

[REDACTED]

Here is a wrap up of the coverage.

The biggest take away from a public affairs perspective is that once we engaged the media, we were able to control and correct the false information (such as there being white phosphorus at the building and that it was a problem with actual mortars).

By the end of Friday, the media was telling the story from our perspective that although the explosion was bad, there it was good that there were no fatalities or serious injuries and the building's safety measures helped to

contain it.

Since some websites require login's, I am attaching pdf copies.

[illegible]



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

End 12b

JMCN-SF

02 Jul 2013

(AMSJM-SF),

SUBJECT: Lessons Learned from Crane Army Ammunition Activity's
(CAAA) Pyrotechnics Explosion on 28 March 2013.

I. Lesson 1: Process Safety Management

- a. There was no process hazard analysis done for deep cleanup operations. CAAA SOP CN-0000-N-086 mentions daily cleanup procedures, but there are no hazards associated with daily cleanup operations.
- b. There are no written cleanup procedures. All current cleanup procedures are historical verbal procedures and every operator has their own method of cleanup.
- c. A pre-startup safety review was not completed when the accumulators and motors were installed. This allowed improperly rated equipment to be installed in a hazardous location.
- d. There is also a lack of preventative and predictive maintenance. Preventative maintenance on actual process equipment appears to not being completed or is not being completed on a regular basis. Preventative maintenance seems to be occurring on motors, belts, and pumps.
- e. There were several failures when it comes to mechanical integrity. The relief vents were improperly sized and incorrectly positioned, there was no back flow preventer installed in the vacuum lines, safe operating parameters were not identified on gauges, there are no procedure to replace vacuum lines once they became compromised, and there are no procedure for changing/idling equipment.
- f. The operators were not properly trained on how to do perform job. Each operator learned how to perform their job either correctly or incorrectly from other operators. And they were trained, again, either correctly or incorrectly from operators before them. Operators were also not trained on what process equipment is actually used during production and cleanup operations.
- g. Management of change dictates that there is a procedure for making changes to the operating process. This was not done with the implementation of the Tiger Vac brand Interceptor Tank. Operators did not know when the foot pedal used to operate the vacuum was removed.



JMCN-SF

SUBJECT: Lessons Learned from Crane Army Ammunition Activity's (CAAA) Pyrotechnics Explosion on 28 March 2013.

II. Lesson 2 - Lockout/Tagout Procedures

- a. Lack of lockout/tagout procedures allowed an operator to turn the idle accumulator.

III. Lesson 3 - Lack of Equipment Awareness

- a. Operators are unaware of what process equipment is operational when running production and/or during cleanup operations. During interviews, numerous operators failed to properly identify the accumulator, Tiger Vac, and Tiger Vac brand Interceptor Tank. Operators were also unable to identify what role each piece of equipment played in production/cleanup operations.

IV. Lesson 4 - Explosive Propagation

- a. Explosion vents on the accumulators were pointed towards the other accumulator and towards the press line. This possibly allowed propagation from one accumulator to the other.
- b. The fire traveled from the accumulator through the vacuum lines. The vacuum lines were not are equipped with a fast acting valve to prevent propagation from the accumulator to the vacuum lines.

V. Lesson 5 - Explosive Qualification and Certification

- a. When reviewing the Explosive Qualification and Certification Record of the personnel involved in the incident, it was found that only two of the six operators were officially qualified/certified.
- b. Their Explosive Qualification and Certification Records were missing the required signatories. The section titled "Explosives Certification Training" only listed on the job training (OJT) not specifically; AMMO 45, HAZCOM, Risk Management, DU Awareness Training, and New Employee Orientation.
- c. There is no way to know an operators level of experience with the current Explosive Qualification and Certification Record. CAAA-R 350-1 has not been updated since 20 December 2005 and is not compliant with AMC-R 350-4 dated 18 February 2009.
- d. Additionally, there is no Certifying Official appointed in writing.

JMCN-SF

SUBJECT: Lessons Learned from Crane Army Ammunition Activity's (CAAA) Pyrotechnics Explosion on 28 March 2013.

VI. Lesson 6 - SOP Inconsistencies

- a. SOP CN-0000-M-004 (Inert and Explosive Operating Building) had numerous inconsistencies and lack of detail. These inconsistencies include but are not limited: to incorrect phone numbers, wrong references and reference numbers, incorrect DOD service providers, incorrect codes, and lack of procedures. Hazard analysis did not address all hazards associated with the operations, i.e. beryllium tools are used but no hazards associated with berylliosis were identified.

VII. Lesson 7 - Rated Equipment

- a. Both accumulators, disconnects, and motors were not properly rated according to the National Electric Code (NEC).
- b. No seal-offs were present going into the mechanical room or production building.

VIII. Lesson 8 - Fire Prevention

- a. The deluge eyes failed to see the fire before the explosion. During cleanup operations, operators did not remove the paper cups from the deluge eyes. Operators should be afforded the same protection during cleanup operations as if production was being accomplished.
- b. SOP does not state that fire suppression system should be operational during cleanup operations.

IX. Lesson 9 - Gauge Operating Parameters

- a. Operators are unable to decipher the magnehelic gauges to determine when the filters on the accumulators are dirty.

X. Lesson 10 - Fire Safety

- a. The exit signs at building 126 fail to meet NFPA 101 2006 7.10.5.1. When the explosion occurred, the exit signs were not illuminated and they operators could not find the emergency doors.
- b. The exit door in the QC office was locked during building occupancy.



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY

Encl 13

MAY 04 2016

Safety Office

Dear [REDACTED]

In response to your letter dated November 12, 2015, regarding Inspection 1065452. The required OSHA-2H form is enclosed along with a second enclosure containing further details of abatement which relates to information within this letter.

Purpose and Statement.

The safety of Crane Army Ammunition Activity (CAAA) employees is paramount. As the Commander informed CAAA employees in CAAA Policy No. 385-2 (16 June 2015): "Providing you a safe place to work free from recognized hazards that may cause death, illness or serious physical harm will be our highest priority and will not be compromised." Unsafe work practices, policies, procedures, and attitudes place employees at risk. In addition, downtime and lost productivity places CAAA's mission at risk. CAAA will continue to do all that it can to protect the safety of our employees and to ensure that CAAA can meet its mission.

Background.

a. CAAA was established in 1977 as a Department of the Army (DA) Working Capital Fund (AWCF) entity on what is now Naval Support Activity (NSA) Crane. CAAA is a Government-owned, Government-operated (GOGO) ammunition plant, subordinate to the Joint Munitions Command (JMC) based in Rock Island, Illinois. The JMC is a subordinate command to the Army Materiel Command (AMC) located at Redstone Arsenal, Alabama. CAAA's commander is a Colonel in the U.S. Army and all of the civilian employees at CAAA report through the chain of command to the Colonel, who reports to the JMC Commanding General. Prior to 1977, CAAA's mission was carried out by the Department of the Navy (DON), dating back to World War II. In 1977, the Department of Defense (DOD) directed that DA was the single manager for conventional ammunition.

b. CAAA's mission is to: "Receive, store, ship, produce, renovate and demilitarize conventional ammunition, missiles and related components to meet contingency requirements in support of the warfighter." Mission Statement, CAAA Website
[REDACTED] CAAA's mission is an



Ammunition & Explosives (A&E) mission in accordance with Army Regulation (AR) 385-10, Chapter 5 and DA Pamphlet 385-64

Executive Order (EO) 12196 and the Definition of "Military Unique."

a. As a general rule, EO 12196 (October 1, 1980) requires federal agencies to comply with OSHA standards. However, Section 1-101 specifically excludes "uniquely military equipment, systems, and operations." OSHA's regulations further provide:

The term uniquely military equipment, systems, and operations excludes from the scope of the order the design of Department of Defense equipment and systems that are unique to the national defense mission, such as military aircraft, ships, submarines, missiles, and missile sites, early warning systems, military space systems, artillery, tanks, and tactical vehicles; and excludes operations that are uniquely military such as field maneuvers, naval operations, military flight operations, associated research test and development activities, and actions required under emergency conditions. The term includes within the scope of the Order Department of Defense workplaces and operations comparable to those of industry in the private sector such as: Vessel, aircraft, and vehicle repair, overhaul, and modification (except for equipment trials); construction; supply services; civil engineering or public works; medical services; and office work.

b. 29 CFR 1960.2(i); *see also* AR 385-10 para. 16-3. Use of the phrase "such as" when describing the DOD equipment and systems indicates that the list of examples is not exhaustive. The demilitarization and manufacturing processes designed pursuant to DOD oversight are another such example, which are consistent with "artillery" as listed in the definition. Demilitarization and production of ammunition stocks are unique to the national defense mission and are not comparable to operations or workplaces in the private sector. Thus, the portions of CAAA's mission which are uniquely military do not fall within the purview of EO 12196. However, DA recognizes OSHA's authority to inspect non-military unique operations and workplaces. *See, e.g.,* AR 385-10, para. 1-9. Even so, in accordance with EO 12196, OSHA recognizes that its authority in non-military unique workplaces is not plenary and that OSHA employees will comply with all security regulations in place at the installation.

DOD's A&E Regulatory Framework.

a. Notwithstanding the military unique nature of the substantial majority of CAAA's operation, OSHA recognizes that Federal agencies may be required to comply with occupational safety and health standards issued by Federal agencies other than OSHA. Specifically: "Nothing in [OSHA's regulation applicable to Federal agencies] affects the duty of any agency head to comply with such standards. In addition, agency heads should comply with other standards issued by Federal agencies which deal with hazardous working conditions, but for which OSHA has no standards." 29 CFR

1960.19(b). The Congressionally-mandated Ammunition Storage Board, now known as the Department of Defense Explosive Safety Board (DDESB), is one agency which issues other occupational safety and health standards.

b. DDESB has been in existence since 1928 with the directive to: “provide oversight of the development, manufacture, testing, maintenance, demilitarization, handling, transportation and storage of explosives, including chemical agents on DOD facilities worldwide.” See Welcome, DDESB Website (available at: <https://www.ddesb.pentagon.mil/>); see also 10 USC § 172 (establishing the Ammunition Storage Board). DDESB establishes the standards applicable to the military’s organic industrial base, which includes both GOGO and Government-owned, Contractor-operated (GOCO) facilities. See generally, DODD 6055.9E and DODM 6055.9-M (Vol. 1-8) for GOGO standards and DOD 4145.26 and DODM 4145.26-M for GOCO standards. In contrast, as a matter of statutory construction, when OSHA was established in 1970, Congress left oversight of A&E with the DDESB rather than transferring oversight to OSHA. Otherwise, Congress would have eliminated the DDESB, but instead left it and its mission intact.

c. Historically, OSHA’s involvement at CAAA was limited to workplaces which were comparable to private industry, such as the machine shop, office environment, or shipping and receiving of non-A&E products. Over time, long-term OSHA staff retired and new staff came on board. After CAAA’s deflagration event in 2013, which caused no fatalities, OSHA began regulating in areas where DDESB regulations apply. See, e.g., OSHA Inspection No. 898336. Regarding Inspection No. 898336, the root cause was the accumulation of explosives material (as opposed to combustible dust). After the incident, a large team of OSHA investigators and compliance officers conducted an independent accident investigation. OSHA applied general industry standards under 29 CFR 1910.109 and 119 to CAAA’s operation, which is already subject to DDESB oversight. CAAA permitted the independent investigation to occur. The result was an extensive list of findings for operations which fall under DDESB’s jurisdiction. This has led to confusion and conflict as engineers, technicians, safety professionals, and supervisors attempt to determine what compliance with 29 CFR 1910.109 and 119 looks like while trying to comply with DDESB requirements, some of which are conflicting or mutually exclusive.

d. In 1978, the Department of Labor (DOL), DOD, and DA entered into an agreement outlining oversight of GOCO ammunition plants. See Memorandum of Understanding Concerning Army GOCO Ammunition Plants Between the Department of Labor and the Department of the Army Acting for the Department of Defense, November 6, 1978 (GOCO MOU). As noted in Section 5 of the GOCO MOU, DA has exercised authority in regulating GOCO ammunition plants since their inception. The DOL has recognized that DOD and DA have retained authority over operations pertaining to GOCO ammunition plants since 1978. The clear intent of the GOCO MOU is that DOD retained its inherent authority to establish its own standards related to development, manufacture, testing, maintenance, demilitarization, handling, transportation and storage of explosives – which is exactly CAAA’s mission. These

same standards established by DDESB apply even more so to GOGO operations than GOCO operations. Neither DOD nor DA relinquished any regulatory authority in the area of explosives safety, regardless of whether the entity is a GOCO or a GOGO. DOD has explicitly vested enforcement of DDESB's standards at GOCO ammunition plants with the DOD components, not OSHA. DODI 4145.26, para. 2.2. As the single manager for conventional ammunition, DA has specific ownership of this directive as explained in DA PAM 385-64, para 1-1 (explaining DA's safety criteria and standards cover the U.S. Army, i.e., all GOGO, and GOCO facilities and property).

e. The foregoing authorities, stemming from Congress' grant of authority to DDESB, firmly establish that GOGO and GOCO installations are subject to DDESB's oversight for A&E, including Process Safety Management (PSM) regulations. General industry explosives and pyrotechnics (fireworks) manufacturing as defined under 1910.109(a)(3) is subject to PSM. See 29 CFR 1910.109(k)(2) & (3). PSM standards are established in 29 CFR 1910.119. However, unlike the manufacture of general industry explosives and pyrotechnics, which are subject to OSHA's regulatory authority, the manufacturing of military munitions is subject to DDESB's standards. Thus, the PSM standards under 1910.109 are not applicable to GOGOs and GOCOs. In other words, OSHA has no regulatory authority or jurisdiction to require DOD's organic industrial base to follow the PSM regulations so long as DDESB has the regulatory oversight of military A&E. Accordingly, OSHA's PSM notices related to DDESB-regulated processes issued to GOGOs or GOCOs under 1910.109 are not applicable to CAAA. If there is a conflict as to which standard should apply, i.e., OSHA's general industry blasting agent standard in 1910.109 or DDESB's Explosives Safety Standards, such conflicts are to be resolved at a higher level by both agencies. 29 CFR 1960.19(c). The same concept applies when there are conflicts between OSHA's PSM standards in 1910.119 and DDESB's Explosives Safety Management standards found in DODD 6055.9E and DODM 6055.09-M vols. 1 through 3.

Accident Investigations.

a. Related to OSHA Inspection Nos. 898336 and 1065452, OSHA conducted independent investigations but instead should have relied on CAAA's investigative findings. The DOD is responsible for investigating accidents at CAAA. The DOD has retained sole authority to investigate Army accidents. Among other things, an Army accident includes occupational illnesses or injuries to civilian personnel and damage to Army property, including any reported near misses. AR 385-10, para. 3-3. DA's mandate regarding Army accident investigation is clear:

With respect to investigating Army accidents, which is solely a DOD responsibility under EO 12196, Federal and State OSHA officials may be shown or provided factual portions of pertinent accident investigation reports as outlined in DA Pam 385-40. Federal and State OSHA officials, upon request, may also be authorized to accompany Army accident investigators in an observer status. Separate, duplicate OSHA investigations of Army accidents, concurrent either with or subsequent to

required Army investigations, are not expected. However, Federal and State OSHA officials may inspect for residual hazardous conditions at the site of an Army accident.

b. AR 385-10, para. 17-10(g). Thus, OSHA may: (1) review factual portions of DA reports as authorized by DA regulations; (2) accompany DA Safety investigators in an observer status; or (3) inspect for residual hazardous conditions. OSHA publishes an annual report summarizing the safety issues within Federal agencies. OSHA's reports to the President often cite DA's safety reports for a given accident, not an independent OSHA investigative report. Further accident investigations by OSHA at CAAA will be administered in compliance with AR 385-10 and DA PAM 385-40.

Security Requirements.

OSHA recognizes that it must comply with the internal security requirements of Federal agencies. Even in private sector inspections, OSHA will ensure that inspectors have appropriate security clearances where needed. See 29 CFR 1903.8(d); OSHA CPL-02-159 Field Operations Manual (FOM), Ch. 3, para. II.F, V.F; GOCO MOU, para. 6(b). Moreover, photography on-base is governed by DON's policies. See FOM, Ch. 10, para. III.E.2. Photographs require permission of NSA Crane (the host installation) as well as CAAA. DA Commanders are required to conduct an operations security (OPSEC) review for all material released. AR 530-1, para. 2-19(d). Additionally, all photographs must be reviewed for OPSEC. See AR 530-1, para. 5-1. Accordingly, future OSHA visits will comply with all of NSA Crane and CAAA's security requirements.

Fines, Subpoenas, Warrants, and the Anti-Deficiency Act.

a. Federal agencies are co-equal to OSHA, which creates a different regulatory environment than regulating private industry. Unlike private industry, CAAA is a Federal AWCF entity subject to the Anti-Deficiency Act (ADA). Under the ADA, CAAA, among other things, cannot make or authorize an expenditure or obligation exceeding an appropriation or fund, or contract or obligate money before an appropriation is made. See 31 USC § 1341(a)(1). Some of OSHA's findings in Inspection No. 898336 would require CAAA to expend funds in a manner which would violate the ADA – specifically, OSHA-mandated changes to property, plant, and equipment without consideration of the Federal budget cycle and approval process for military construction (MILCON). Even in an area where OSHA regulations apply, CAAA may not be able to comply with an OSHA timeline due to budget constraints and the ADA and MILCON projects.

b. Another key difference from private industry is that subpoenas and warrants issued to Federal agencies are not authorized. OSHA has long recognized that OSHA has no authority or jurisdiction to issue an administrative subpoena or a warrant to another Federal agency. OSHA's subpoena power stems from 29 U.S.C. § 657(b): OSHA has jurisdiction to issue an administrative subpoena when performing inspections "under this chapter." However, this power only applies to work environments where "work is performed by an employee of an employer." 29 U.S.C. § 657(a). The definition

of "employer" for investigations in such circumstances excludes the United States. 29 U.S.C. § 652(5). OSHA's current FOM specifically states: "OSHA will not use administrative subpoenas or warrants for federal agencies." FOM, Ch. 13, Sec. III.G. Consistent with security and OPSEC requirements, CAAA will respond to documents requests as required under 1960 subpart I, but not to subpoenas or warrants.

Any questions or additional information, please contact [REDACTED]
[REDACTED]

Sincerely,
[REDACTED]

Enclosures

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET – FEDERAL AGENCIES

Inspection Number: 1065452

Agency Name: Department of the Army, Crane Army Ammunition Activity, Crane, IN

Inspection Site: [REDACTED]

Issuance Date: 11/12/2015

Employer Instruction: List the specific method of correction for each item on the enclosed notices that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration**, [REDACTED] Failure to submit a timely certification of corrective action may result in a notification to your agency DASHO.

Notice Number 1 and Item Number 1 was corrected on 29 Aug 2015
By (Method of Abatement): SOP update directing remote operations prior to operation restart.

Notice Number 1 and Item Number 2 was corrected on 29 Aug 2015
By (Method of Abatement): Same as Notice 1 Item 1.

Notice Number 1 and Item Number 3a was corrected on 18 Mar 2015
By (Method of Abatement): Was in place prior to operation's first start
in March 2015.

Notice Number 1 and Item Number 3b was corrected on 18 Mar 2015
By (Method of Abatement): Was in place prior to operation's first start
in March 2015

Notice Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Notice Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

5/3/2016
Date

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review.

Inspection No. 1065452

Notice 1 Item 1:

Basis: 29 CFR 1910.132(a): Barrier protection.

Response:

Fuze removal Standard Operating Procedures (SOPs) for 5"/38 and 5"/54 white phosphorus canister loaded projectiles, regardless of fuze type (mechanic time or point detonating) have been consolidated into a single fuze removal protocol. The revised protocol requires all fuze removals to be conducted via remote operation under deluge, eliminating any risk that may have been associated with approved manual removal of select fuze types. An additional safety step of adding water directly into the fuze well – after the required wait time of the removal and prior to the projectile being handled – has been implemented, eliminating the risk of an ignition event after the required wait time.

The SOPs documenting the procedural changes are available for on-site inspection by OSHA employees with a security clearance; however, security protocols prohibit copying and disclosure without an OPSEC review. *See generally*, AR 530-1. Accordingly, if OSHA had jurisdiction, this item is abated as required by the notice.

Notice 1 Item 2:

Basis: 29 CFR 1910.138(b): Hand protection.

Response:

With the SOP changes implemented as discussed under Notice 1 Item 1, hand protection during the fuze removal process is no longer required because the process is executed remotely. Accordingly, this item has been abated. *See response to Notice 1 Item 1.*

Even so, CAAA is subject to DOD's jurisdiction when demilitarizing weapons. CAAA manages a substantial portion of the DOD conventional munitions stockpile, which includes items manufactured during and since World War II. Each of the services – DA, DON, and the Department of the Air Force (AF) – issues a Depot Maintenance Work Requirement (DMWR) for each of its items managed by CAAA. DMWRs instruct CAAA and other depots on how to properly handle, demilitarize, renovate, ship, and store each item and are "required as guidance for the overhaul and rebuild processes." AR 750-1, para. 3-11(c)(9). DMWRs also include any relevant safety information. More importantly:

DMWRS and letters of instruction are the only procedural guidance authorized for performance of maintenance and demilitarization at installations. Exceptions to this policy must have the approval of the [National Maintenance Program (NMP).]

AR 750-1, para. 6-49(c)(7). Implementation of the NMP is the responsibility of the AMC Commanding General (CG), a four-star general who is in CAAA's direct chain of command. AR 750-1, para. 8-14(a).

Some of DOD's DMWRs pre-date both CAAA and OSHA. With respect to the "fuzzy duck" gloves referenced in this item, the DMWR provided that this was the type of glove that must be used. Any changes to the protocols listed in the DMWR must be submitted and approved through the proponent of the DMWR or the AMC CG. CAAA complied with the direction given through the DMWR. Using different hand protection as suggested by OSHA would have placed CAAA in a compliance quandary, requiring CAAA to violate one regulatory scheme or the other. Moreover, the composition of hand protection can affect the safety of the worker performing the task. Electrostatic discharge or chemical reactions from using a glove other than what is approved by the DMWR could be disastrous. CAAA followed the directive of its chain of command, stemming from the authority of the AMC CG, and used the gloves as directed.

Notice 1 Item 3a:

Basis: 29 CFR 1910.1200(h)(3)(ii): Training on WP did not include physical and chemical health hazard information.

Response: Employees receive HAZCOM training when hired and receive annual refresher training. The SOP includes communicating all hazards and steps to safely conduct the operation, which is mandated by AMC regulation. The processes for hazard analyses are mandated by DA PAM 385-30. Each employee reads and signs the SOP prior to starting work with that operation.

Accordingly, even if OSHA had jurisdiction to issue notices for items falling under DDESB jurisdiction, the factual basis of the notice is incorrect. The SOPs documenting that the employees have read and signed them are available for on-site inspection by OSHA employees with a security clearance; however, security protocols prohibit copying and disclosure. *See generally*, AR 530-1.

Notice 1 Item 3b:

Basis: 29 CFR 1960.55(a): Training for supervisors regarding physical and chemical health hazard information.

Response: Supervisors are required to read and sign the SOP prior to starting work with that operation and ensure their employees do so as well. *See* response to Notice 1, Item 3a above.

PSM Crosswalk

Page 1

PSM Crosswalk

Page 2

PSM Crosswalk
Comparison of Army Requirements and the OSHA PSM Standard

Original Order OSHA CITATION		OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS	1. Limit on process hazards 2. Review existing DA Requirement with OSHA 3. Compliance with existing DA 4. Alternative Compliance 5. Review DA Requirement with OSHA 6. Review DA Requirement with OSHA 7. Not applicable to AE						
1010.119(d)(1)(i)	(1)(i)	Does the compilation of information consist of at least the following: 1910.119(d)(1)(i) - Toxicity information; 1910.119(d)(1)(ii) - Permissible exposure limits; 1910.119(d)(1)(iii) - Physical data; 1910.119(d)(1)(iv) - Reactivity data; 1910.119(d)(1)(v) - Corrosivity data; 1910.119(d)(1)(vi) - Thermal and chemical stability data; and 1910.119(d)(1)(vii) - Hazardous effects of inadvertent mixing of different materials that could foreseeably occur.	When employees receive their HazCom briefing and briefing on the Safety Data Sheet, this information is communicated to production workers. Section 18.5 Hazard Communication: "The Hazard Communication Program (HCP) is designed to ensure that information about hazards and associated protective measures are disseminated to workers and employers. Hazardous material will be stored IAW 29 CFR 1910 Subpart H - Hazardous Materials and National Fire Protection Association (NFPA) Code 30, Flammable and Combustible Liquids Code. All employees using or exposed to hazardous materials will be trained IAW 29 CFR 1910.1200, Hazard Communication." JHAs/SOPs may discuss the risk of some fire elements required in the regulation. These issues may be discussed if determined to be a risk but there is no Army requirement that this information be provided in every process analysis document.	Partial	N	Y	Y	Rationale for alternate compliance: The OSHA PSM Standard requires PSI that is used in chemical processes. Inclusion of explosives manufacturing in 1910.119, did not adequately evaluate amending PSI requirements to include useful PSI for explosives manufacturing processes. Proposed alternative compliance method: Requiring PSI relevant to explosives manufacturing versus specific information listed in the OSHA PSM Standard 1910.119(d)(2). (Specific PSI required for explosives manufacturing processes includes: HCSOS, MSDS, NEW limits, bay limits, explosive safety site plans, facility construction/structural analysis/where applicable). Need to list specific requirements in military regs. for obtaining and documenting PSI related information already required by military standards that meet the intent of this requirement.)	- Recommend pursuing DA/DoD and OSHA consensus on required PSI for explosives manufacturing operations. - Develop a list of all PSI currently required for explosive manufacturing (with reference). Update reg to include required PSI for AE operations that meets intent of the OSHA PSM PSI requirements for chemical processes. - Advise that local programs can add to the PSI requirement list, but minimum requirements already required by military regulations must be included. - If alternate compliance is validated and pursued, add language to AMC regulation that ensures that the list of specific PSI for explosives manufacturing is compiled prior to conducting the PHA. - Advise that local programs can add to the PSI requirements list based on local hazards, but minimum requirements in DA/AMC guidance must be based on approved alternate compliance PSI list. - Develop a template/checklist for PSI list for covered AIE processes.						
1010.119(d)(2)	(2)	Information pertaining to the technology of the process. - 1910.119(d)(2)													
1010.119(d)(2)(i)(A)	(2)(i)(A)	Does information concerning the technology of the process include at least the following: 1910.119(d)(2)(i)(A) - A block flow diagram or simplified process flow diagram; 1910.119(d)(2)(i)(B) - Process chemistry; 1910.119(d)(2)(i)(C) - Maximum intended inventory; 1910.119(d)(2)(i)(D) - Safe upper and lower limits for such items as temperatures, pressures, flows or compositions; and, 1910.119(d)(2)(i)(E) - An evaluation of the consequences of deviations, including those affecting the safety and health of employees.	AMC 706.187 Standard Operating Procedures. Section 4. Responsibilities. (f)(6) A line layout, Appendix E, for comprehension of the flow of materials or other significant factors. Functions such as open burning may require inclusion of a site plan for clarity. The SOP and JHA do not provide all the required information required in 119(d)(2). The remainder are addressed in: AMC 385.10 Section 18.2 Responsibilities. Section b: "Supervisors and leaders will develop site specific SOPs for all hazardous operations IAW the requirements of 29 CFR 1910, and DA Pam 385-10 providing operators the level of detail necessary to execute the task or operation in an efficient, effective and safe manner." Section 18.2 Responsibilities Section c: "Supervisors and employees will read and indicate they understand all the requirements of the SOP relative to the operation and that they can execute tasks in an efficient, effective, and safe manner following established SOPs." Section 18.2 Section e: "Supervisors will ensure employees using or exposed to hazardous materials are trained IAW 29 CFR 1910.1200, Hazard Communication." Section 18.5 Standard Operating Procedures - Section b: "The JHAs developed for the processes performed will address and outline Hazardous Operations the employee performs and the PPE required in order to protect the employees during the hazardous operations, additionally when required PPE's will outline Medical surveillance and requirements for base line annual physicals." Section 18.5 Standard Operating Procedures (SOPs) Section c: "The JHAs will be developed with employee involvement. All JHAs must be reviewed by the operational supervisors, organizational Safety Professional, and supporting ISOH as a minimum." AMC R 706-107, 5 F (6) requires SOPs to include: A line layout, Appendix E, for comprehension of the flow of materials or other significant factors. Functions such as open burning may require inclusion of a site plan for clarity. - 1910.119(d)(2)(i)(A) - A block flow diagram or simplified process flow diagram; REQUIRED by military regulations - 1910.119(d)(2)(i)(B) - Process chemistry; NOT REQUIRED by military regulations - 1910.119(d)(2)(i)(C) - Maximum intended inventory; REQUIRED by military regulations - 1910.119(d)(2)(i)(D) - Safe upper and lower limits for such items as temperatures, pressures, flows or compositions; and, REQUIRED FOR PROCESSES BUT NOT REQUIRED FOR EQUIPMENT in military regulations - 1910.119(d)(2)(i)(E) - An evaluation of the consequences of deviations, including those affecting the safety and health of employees; REQUIRED by military regulations.	Partial	N	N	Y	REASON FOR ALTERNATE COMPLIANCE: The OSHA PSM Standard requires PSI that is used in chemical processes. Inclusion of explosives manufacturing in 1910.119, did not adequately evaluate amending PSI requirements to include relevant PSI for explosives manufacturing processes. Additionally, for many JMC explosive manufacturing processes, the original technical information no longer exists. Although, 1910.119(d)(2)(i) allows for developing information in conjunction with the process hazard analysis in sufficient detail to support the analysis, in many cases extensive reverse engineering would be required to develop documentation to comply with 1910.119 (d) (2) (i) (A) thru (E). Obtaining approval for alternative PSI concerning the technology of the process that is relevant to explosive manufacturing is needed. Proposed alternative compliance method: Military regulations require PSI relevant to explosives manufacturing hazards versus specific PSI required in the OSHA PSM Standard 1910.119(d)(2) (A) thru (E). Specific PSI required for explosives manufacturing processes includes: HCSOS, MSDS, NEW limits, bay limits, explosive safety site plans, facility construction/structural analysis/where applicable). Need to list specific requirements in military regs. for	- Recommend pursuing DA/DoD and OSHA consensus on required PSI for explosives manufacturing operations. - Develop a list of all PSI currently required for explosive manufacturing (with reference). Update reg to include required PSI for AE operations that meets intent of the OSHA PSM PSI requirements for chemical processes. - Advise that local programs can add to the PSI requirement list. (Note: At CAAA, for safe upper and lower limits OSHA wanted to see labels on equipment that provide guidance to employees on safe upper and lower limits; labels on local exhaust CTM to compare to gauges for worked to know when they have exceeded etc.)						
1010.119(d)(2)(i)(E)	(2)(i)(E)	Where the original technical information no longer exists, have you developed information in conjunction with the process hazard analysis in sufficient detail to support the analysis? 1910.119(d)(2)(i)(E)	Army regulations do not require the detailed information in the SOP and JHA as required in the PSM document required under the OSHA standard. There is no equivalent Army regulation requiring the reverse engineering action to secure technical information for the process hazard analysis.	N	N	N	Y	This allowance is the basis upon which pre-existing processes can be evaluated and relevant PSI developed in conjunction with the PHA. A systematic, methodical process for evaluating the process should be documented to provide evidence that establishes methods in place, meeting the intent of this requirement. The allowance in 1910.119(d)(2)(i)(E) for developing information in conjunction with the process hazard analysis can be met, provided the rationale for alternative compliance with 1910.119 (d) (2)(i) (A) thru (E) for providing relevant PSI for explosive manufacturing is accepted.	- Update reg to include required PSI for AE operations that meets intent of the OSHA PSM PSI requirements for chemical processes. Also include requirements for developing information in conjunction with the process hazard analysis in sufficient detail to support the analysis. - Advise that local programs can add to the PSI requirement list.						

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Original Order OSHA CITATION OSHA REGULATION			AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS				JMC COMMENTS				JMC RECOMMENDATIONS			
1910.119(d)(3)	Does your documentation include information pertaining to the equipment in the process?	1910.119(d)(3)	Many SOP's and JHAs are process specific even though they do not include all the information required under the PHA documentation. SOP's are specific to the equipment being worked. Regulations that apply are: Section 18-2 Responsibilities - Section b: "Supervisors and leaders will develop site specific SOP's for all hazardous operations IAW the requirements of 29 CFR 1910, and DA Pam 385-10 providing operators the level of detail necessary to execute the task or operation in an efficient, effective, and safe manner." Section 18-3 Responsibilities: Section c: "Supervisors and employees will read and indicate they understand all the requirements of the SOP relative to the operation and that they can execute tasks in an efficient, effective, and safe manner following established SOP's." Section 18-2 Section c: "Supervisors will ensure employees upon or exposed hazardous materials are trained IAW 29 CFR 1910.120, Hazard Communication." Section 18.3 Standard Operating Procedures: Section b: "The JHA developed for the processes performed will address and outline Hazardous Operations the employee performs and the PPE required in order to protect the employee during the hazardous operations, additionally when required PD's will outline Medical surveillance and requirements for base line annual physicals." Section 18.5 Standard Operating Procedures (SOP's) Section c: "The JHAs will be developed with employee involvement. All JHAs must be reviewed by the operational supervisor, organizational Safety Professional, and supporting IFOR as a minimum." AMSC 704-107 Appendix B, para. 1, Section 1. Equipment, tools, gages, and supplies. This space will include all materials and standard APE, locally fabricated equipment, and nonstandard APE; specific hand tools that are unique to operation, specific safety equipment or other items required to support operations. It is not necessary to list those tools that are commonly used in most operations, i.e., g., handling containers, hammers, screwdrivers, jacks etc. They must be span-proof, anti-static, nonconductive including their description, material stock number and/or specification number will be used to adequately identify listed equipment, tools, gages, and supplies.	Partial	N	N	Y	The OSHA PSM Standard requires PSI that is used in chemical processes. Inclusion of explosives manufacturing in 1910.119, did not adequately reduce exempting PSI requirements to include relevant PSI for explosives manufacturing processes. Military regulations require PSI pertaining to the equipment that differs from the specific PSI required in the OSHA PSM Standard 1910.119(a)(3)(i)-(A) thru (H). Additionally, for many JMC explosive manufacturing processes, information pertaining to the equipment in the process no longer exists. 1910.119(a)(3)(ii) allows the employer to determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner, while existing equipment is designed and constructed in accordance with codes, standards, or practices that are no longer in general use. By providing information pertaining to the equipment IAW 1910.119(a)(3)(ii), there would be no need to request alternative compliance. (Need to list specific requirements in military regs. for obtaining and documenting PSI related information already required by military standards that meet the intent of this requirement.)	- Develop a standard process for how to document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner. - Need to establish signature authorities for who can validate/certify/approve that equipment is designed, maintained, inspected, tested, and operating in a safe manner. - Ensure language in the regulations address the context of 1910.119(a)(3)(ii) as a method to demonstrate compliance with requirements for documentation pertaining to the equipment in the process. - Recommend reviewing existing regulations for standardized methods on designing, maintaining inspecting, testing, and operating equipment in a safety manner (list the references) or develop a standard template/checklist for how to demonstrate compliance with this requirement					
1910.119(d)(3)(ii)	Does your documentation include information pertaining to the equipment in the process?	1910.119(d)(3)(ii)	(There is an AMC regulation requiring that process hazard analysis include all the information required under the standard. JHAs and SOP's may capture some of this information but there is no requirement that each one of these elements in the standard be addressed. There is no requirement that each one of the issues found under the standard be addressed in the JHA or SOP. Some discussion does occur in DoD regulations but there is no guidance on addressing these issues. DoD 6055.99 STD DoD Ammunition and Explosives Safety Chapter 3 - Hazard Classification, Storage and Compatibility Principles, and mixing rules. Covers risk assessment and assessment of the work area. Chapter 4 - Personnel Protection. Covers potential risk to employees, protective measures and completing a risk assessment. Chapter 5 - Construction Criteria. Covers some of the construction requirements for buildings and structures. Chapter 8 - Electrical Standards. Covers electrical design with static and electromagnetic radiation. DoD 6055.99 STD - C5.4.2.3.7. Approved drawings or, when approved drawings are not used, general construction details to include the following: materials used, dividing walls, vent walls, firewalls, roofs, operational shields, barricades, exits, types of floor finish, fire protection system installations, electrical systems and equipment, ventilation systems and equipment, hazardous waste disposal systems, lightning protection system, static grounding systems, process equipment, and auxiliary support structures. C5.4.2.3.8. A summary of the design procedures for any engineering protections that are to be used which the DOES has not already approved. The summary shall include the following: a statement of the design objectives in terms of protection categories to be obtained (see Reference [iii]), the explosives quantities involved, the design loads applied, any material properties and structural behavior assumptions made, references, and the sources of methods used. (Only engineers who are experienced in the field of structural dynamics and who use design procedures accepted by professionals in that field may design explosion resistant facilities.) DA PAM 385-64 Chapters 14 - Maintenance of Ammunition and Explosives that covers machine and equipment involved in processes. Chapter 16 - Construction which covers the life safety and construction requirements for structures with explosives. Chapter 17 - Electrical Hazards and Protection covers structures/buildings where explosives exist. Partial compliance outlining the construction and design or work places containing explosives. 1910.119(a)(3)(ii)(A) - Materials of construction. REQUIRED by military regulations. 1910.119(a)(3)(ii)(B) - Piping and instrument diagrams (P&ID's) (chemical process requirement?) NOT REQUIRED by military regulations. 1910.119(a)(3)(ii)(C) - Electrical classification, REQUIRED by military regulations. 1910.119(a)(3)(ii)(D) - Relief system design and design basis. (chemical process req) NOT REQUIRED by military regulations. 1910.119(a)(3)(ii)(E) - Ventilation system design. ?? 1910.119(a)(3)(ii)(F) - Design codes and standards employed. NOT REQUIRED by military regulations. 1910.119(a)(3)(ii)(G) - Material and energy balances for processes built after May 26, 1962, and, 1910.119(a)(3)(ii)(H) - Safety systems (e.g. interlocks, detection or suppression systems).	Partial	N	N	Y	See JMC Comments for 1910.119 (f)(2) in cell 14;	- Develop a standard process for how to document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner. - Need to establish signature authorities for who can validate/certify/approve that equipment is designed, maintained, inspected, tested, and operating in a safe manner. - Ensure language in the regulations address the context of 1910.119(a)(3)(ii) as a method to demonstrate compliance with requirements for documentation pertaining to the equipment in the process. - Recommend reviewing existing regulations for standardized methods on designing, maintaining inspecting, testing, and operating equipment in a safety manner (list the references) or develop a standard template/checklist for how to demonstrate compliance with this requirement					

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Original Order OSHA CITATION		OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS	1. Using DA Requirements 2. Review existing DA Requirement with OSHA 1910.119 3. Amend existing DA Requirement with OSHA 1910.119 4. Develop new DA Requirement 5. Use DA Requirement with OSHA 1910.119 6. Use DA Requirement with OSHA 1910.119 7. Not possible to use							
14	1910.119(d)(3)(ii)	1910.119(d)(3)(ii) - For existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, the employer shall determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner.	There is no Army requirement that life equipment, not in use, has been designed, maintained, inspected, tested and operating in a safe manner.	Partial	N	N	Y	This is a critical requirement. In many circumstances this will allow JMC explosives manufacturing processes to comply with the OSHA PSM requirements for equipment ISI. See JMC Comments for 1910.119.119(d) in cell 114. This allowance is the basis upon which pre-existing equipment, APE and other aged equipment can be evaluated to determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner. A systematic, methodical process for evaluating the process should be documented to provide evidence that there are established methods in place, meeting the intent of this requirement. The allowance in 1910.119(d)(3)(ii) for determining and documenting that the equipment is designed, maintained, inspected, tested, and operating in a safe manner, can be met.	Ensure language in the regulations address the allowances of 1910.119(d)(3)(ii) as a method to demonstrate compliance with requirements for documentation pertaining to the equipment in the process. Recommend reviewing existing regulations for standardized methods on designing, maintaining, inspecting, testing, and operating equipment in a safe manner (see the references) or develop a standard (template/checklist) for how to demonstrate compliance with this requirement.							
15	1910.119(e)	1910.119(e) - Process hazard analysis.														
16	1910.119(e)(1)	1910.119(e)(1) - The employer shall perform an initial process hazard analysis (hazard evaluation) on processes covered by this standard. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process. Employers shall determine and document the priority order for conducting process hazard analyses based on a rationale which includes such considerations as extent of the process hazards, number of potentially affected employees, age of the process, and operating history of the process. The process hazard analysis shall be conducted as soon as possible, but not later than the following schedule:	There are three similar inspection processes in addition to some quality types or inspections and analysis. Pre-operation while the line is being set up for production. Line check is performed when line first starts and product passes through process. The third inspection is a final inspection that occurs after all 500, safety and health processes are in place. Many SOPs and JHAs include information and sometimes photographs to communicate information related to the safe operations of the process to employees. Does not include history of process. AMC 385.10 Section 18.5 Standard Operating Procedures - Section b: "The JHAs developed for the processes performed will address and outline Hazardous Operations the employee performs and the PPE required in order to protect the employee during the hazardous operations, additionally when required PDVs will outline Medical surveillance and requirements for base line annual physicals." Section 18.5 Standard Operating Procedures (SOPs) Section c: "The JHAs will be developed with employee involvement. All JHAs must be reviewed by the operational supervisor, organizational Safety Professional, and supporting IH/OH as a minimum." Also AMC 709 187 (f) states, "[3] Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operation is advised to look for a particular configuration or condition)." AR 385-10 Glossary, Section II defines hazards analysis/Hazard analysis A hazard analysis is a clear, systemic, concise, well defined, orderly, consistent, closed-loop, quantitative or qualitative and objective methodology used to identify possible hazards within a mission, system, equipment or process that can cause losses to the mission, equipment, process, personnel or damage to the environment. Examples of hazard analyses are What-If, Preliminary Hazard Analysis, Sneak Circuit Analysis, Hazard and Operability Study, Fault Tree Analysis, Failure Mode and Effects Analysis, and Fault Hazard Analysis." DA PAM 385-64 defines hazards analysis as: "The logical, systematic examination of an item, process, condition, facility, or system to identify and analyze the probability, causes, and consequences of potential or real hazards." DA PAM 385-64 para 2-2 outlines the hazards analysis and risk assessment process. "All operations involving AE will be reviewed to identify and manage the potential risk associated with the operation." assessment. AR 385-10, para 2-2 outlines requirements for prioritization of safety functions and tasks. "All safety functions and tasks will be prioritized based on regulatory requirements and strategic planning in accordance with DA Pam 385-10. a. All safety and tasks identified as not being met or completed will be evaluated to identify the potential risk to the organization. b. The organization's commander will be provided the complete ranking of all safety functions and tasks along with the risk assessment for review and approval." DA PAM 385-30, para. 2-11 a. (6) summarizes characteristics of preliminary hazards analysis. "If [preliminary hazards analysis] provides a qualitative ranking of the hazardous situations; this ranking can be used to prioritize recommendations for reducing or eliminating hazards." DA PAM 385-64 2-2, Hazard analysis and risk assessment. AR 385-10, para 2-2, Hazard analysis and risk assessment. AR 385-10, para 2-2, Hazard analysis and risk assessment.	Partial	N	Y	Y	Requirement for an initial process hazards analysis is met. Requirement for PHA based on complexity of process is met. Requirement for prioritized order is met with RAC categorization of hazards.	Recommend submission of DA risk management process and use of Composite Risk management worksheet meets the intent of the OSHA PSM standard and is an approved equivalent methodology for hazards analysis. Recommend adding language to the DA/AMC that translates various DA risk and hazard analysis tools into OSHA hazard analysis requirements and provide examples.							
17	1910.119(e)(1)(i)	1910.119(e)(1)(i) - No less than 25 percent of the initial process hazards analyses shall be completed by May 20, 1994.														
18	1910.119(e)(1)(ii)	1910.119(e)(1)(ii) - No less than 50 percent of the initial process hazards analyses shall be completed by May 20, 1995.														
19	1910.119(e)(1)(iii)	1910.119(e)(1)(iii) - No less than 75 percent of the initial process hazards analyses shall be completed by May 20, 1996.														
20	1910.119(e)(1)(iv)	1910.119(e)(1)(iv) - All initial process hazards analyses shall be completed by May 20, 1997.														
21	1910.119(e)(1)(v)	1910.119(e)(1)(v) - Process hazards analyses completed after May 20, 1997 which meet the requirements of this paragraph are acceptable as initial process hazards analyses. These process hazard analyses shall be updated and reevaluated, based on their completion date, in accordance with paragraph (e)(6) of this standard.														

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Original Order		OSHA CITATION	OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS				JMC COMMENTS				JMC RECOMMENDATIONS				1 Using as Prescribed					2 A Review of Guidance (2) Amendment with Guidance					3 Amend Guidance					4 Amend Guidance with Guidance					5 Not applicable to AME																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
22	1910.110(a)(2)	1910.110(a)(2) - The employer shall use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process being analyzed.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															</

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Original Order	OSHA CITATION	OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS					JMC COMMENTS	JMC RECOMMENDATIONS	OSHA PSM STANDARD				
			29 CFR 1910.119(a)(2)(ii) - What-If Checklist	29 CFR 1910.119(a)(2)(iii) - Hazard and Operability Study (HAZOP)	29 CFR 1910.119(a)(2)(iv) - Failure Mode and Effects Analysis (FMEA)	29 CFR 1910.119(a)(2)(v) - Process Hazard Analysis (PHA)	29 CFR 1910.119(a)(2)(vi) - Safety Instrumented Systems (SIS)			1. Using an approved OSHA PSM Standard	2. Review existing OSHA PSM Standard	3. Review existing OSHA PSM Standard	4. Review existing OSHA PSM Standard	5. Review existing OSHA PSM Standard
1910.119(a)(2)(ii)	1910.119(a)(2)(ii)	What-If Checklist	There is no requirement to use "What-If" methodology when completing the process hazard analysis; however, what-if checklist is listed as a type of hazard analysis method. The Army completes a risk assessment collectively looking at system failures but does not strategically analyze each process step and apply this methodology and create scenarios. A fault tree analysis is not required for each process. Risk assessments are designed to identify the risk so risk can be mitigated to the lowest level possible but is not as detailed as a fault tree analysis which looks at potential operational, environmental and mechanical failures. AMC 385.10 Section 18.2 Responsibilities - Section b: "Supervisors and leaders will develop site specific SOPs for all hazardous operations IAW the requirements of 29 CFR 1910.119, and DA Pam 385-10 providing operators the level of detail necessary to execute the task or operation in an efficient, effective and safe manner." Section 18.2 Responsibilities Section c: "Supervisors and employees will read and indicate they understand all the requirements of the SOP relative to the operation and that they can execute tasks in an efficient, effective, and safe manner following established SOPs." Section 18.2 Section e: "Supervisors will ensure employees using or exposed to hazardous materials are trained IAW 29 CFR 1910.1200, Hazard Communication." Section 18.5 Standard Operating Procedures - Section b: "The JHAs developed for the processes performed will address and outline Hazardous Operations the employee performs and the PPE required in order to protect the employee during the hazardous operations, additionally when required PO's will outline Medical surveillance and requirements for base line annual physicals." Section 18.5 Standard Operating Procedures (SOPs) Section c: "The JHAs will be developed with employee involvement. All JHAs must be reviewed by the operational supervisors, organizational Safety Professional, and supporting IHCH as a minimum." AR 385-10 Glossary, Section 11 defines hazards analysis/hazard analysis. A hazard analysis is a clear, systematic, concise, well defined, orderly, consistent, closed-loop, quantitative or qualitative and effective methodology used to identify possible hazards within a mission, system, equipment or process that can cause losses to the mission, equipment, process, personnel or damage to the environment. Examples of hazard analyses are What-If, Preliminary Hazard Analysis, Sneak Circuit Analysis, Hazard and Operability Study, Fault Tree Analysis, Failure Mode and Effects Analysis, and Fault Hazard Analysis." DA Pam 385-10 para 2-10(a) specifies hazard assessment tools, and hazard analysis categories, and lists "qualitative analysis, for example checklists, hazard lists, hazard matrix, preliminary hazard analysis and job hazard analysis."	Partial	N	Y	Y	There is no requirement to use a specific hazard analysis methodology when completing the process hazard analysis. However, what-if is listed as a type of hazard analysis method in military regulations, whereas checklist is not.	- Recommend adding language to DA/AMC guidance that specifically lists Checklists as an accepted hazards analysis methodology and requires use of OSHA approved PHA methods for PSM covered processes.					
1910.119(a)(2)(iii)	1910.119(a)(2)(iii)	Hazard and Operability Study (HAZOP)	There is no requirement use "What-If" methodology when completing the process hazard analysis; however, HAZOP is listed as a type of hazard analysis method. The Army completes a risk assessment collectively looking at system failures but does not strategically analyze each process step and apply this methodology and create scenarios. A fault tree analysis is not required for each process. Risk assessments are designed to identify the risk so risk can be mitigated to the lowest level possible but is not as detailed as a fault tree analysis which looks at potential operational, environmental and mechanical failures. AMC 385.10 Section 18.2 Responsibilities - Section b: "Supervisors and leaders will develop site specific SOPs for all hazardous operations IAW the requirements of 29 CFR 1910.119, and DA Pam 385-10 providing operators the level of detail necessary to execute the task or operation in an efficient, effective and safe manner." Section 18.2 Responsibilities Section c: "Supervisors and employees will read and indicate they understand all the requirements of the SOP relative to the operation and that they can execute tasks in an efficient, effective, and safe manner following established SOPs." Section 18.2 Section e: "Supervisors will ensure employees using or exposed to hazardous materials are trained IAW 29 CFR 1910.1200, Hazard Communication." Section 18.5 Standard Operating Procedures - Section b: "The JHAs developed for the processes performed will address and outline Hazardous Operations the employee performs and the PPE required in order to protect the employee during the hazardous operations, additionally when required PO's will outline Medical surveillance and requirements for base line annual physicals." Section 18.5 Standard Operating Procedures (SOPs) Section c: "The JHAs will be developed with employee involvement. All JHAs must be reviewed by the operational supervisors, organizational Safety Professional, and supporting IHCH as a minimum."	YES	Y	N	Y	There is no military requirement to use a specific hazard analysis methodology when completing the process hazard analysis. However, what-if hazard analysis is listed as a type of hazard analysis method in military regulations. Military requirements do outline criteria for hazards analysis.	Update DA/AMC guidance to ensure HA requirements for PSM covered processes are spelled out and mirror OSHA requirements.					
1910.119(a)(2)(iv)	1910.119(a)(2)(iv)	Failure Mode and Effects Analysis (FMEA)	There is no requirement use "What-If" methodology when completing the process hazard analysis; however, FMEA is listed as a type of hazard analysis method. The Army completes a risk assessment collectively looking at system failures but does not strategically analyze each process step and apply this methodology and create scenarios. A fault tree analysis is not required for each process. Risk assessments are designed to identify the risk so risk can be mitigated to the lowest level possible but is not as detailed as a fault tree analysis which looks at potential operational, environmental and mechanical failures. AMC 385.10 Section 18.2 Responsibilities - Section b: "Supervisors and leaders will develop site specific SOPs for all hazardous operations IAW the requirements of 29 CFR 1910.119, and DA Pam 385-10 providing operators the level of detail necessary to execute the task or operation in an efficient, effective and safe manner." Section 18.2 Responsibilities Section c: "Supervisors and employees will read and indicate they understand all the requirements of the SOP relative to the operation and that they can execute tasks in an efficient, effective, and safe manner following established SOPs." Section 18.2 Section e: "Supervisors will ensure employees using or exposed to hazardous materials are trained IAW 29 CFR 1910.1200, Hazard Communication." Section 18.5 Standard Operating Procedures - Section b: "The JHAs developed for the processes performed will address and outline Hazardous Operations the employee performs and the PPE required in order to protect the employee during the hazardous operations, additionally when required PO's will outline Medical surveillance and requirements for base line annual physicals." Section 18.5 Standard Operating Procedures (SOPs) Section c: "The JHAs will be developed with employee involvement. All JHAs must be reviewed by the operational supervisors, organizational Safety Professional, and supporting IHCH as a minimum." AR 385-10 Glossary, Section 11 defines hazards analysis/hazard analysis. A hazard analysis is a clear, systematic, concise, well defined, orderly, consistent, closed-loop, quantitative or qualitative and effective methodology used to identify possible hazards within a mission, system, equipment or process that can cause losses to the mission, equipment, process, personnel or damage to the environment. Examples of hazard analyses are What-If, Preliminary Hazard Analysis, Sneak Circuit Analysis, Hazard and Operability Study, Fault Tree Analysis, Failure Mode and Effects Analysis, and Fault Hazard Analysis."	YES	Y	N	Y	There is no military requirement to use a specific hazard analysis methodology when completing the process hazard analysis. However, what-if hazard analysis is listed as a type of hazard analysis method in military regulations. Military requirements do outline criteria for hazards analysis.	Update DA/AMC guidance to ensure HA requirements for PSM covered processes are spelled out and mirror OSHA requirements.					

PSM Crosswalk
Comparison of Army Requirements and the OSHA PSM Standard

Original Order OSHA CITATION OSHA REGULATION			AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS		JMC COMMENTS				JMC RECOMMENDATIONS		Legend				
1010.110(e)(2)(vi)	1010.110(e)(2)(vi) - Fault Tree Analysis, or	There is no requirement use "What if" methodology when completing the process hazard analysis; however fault tree analysis is listed as a type of hazard analysis method. The Army completes a risk assessment collectively looking at system failures but does not strategically analyze each process step and apply this methodology and create scenarios. A fault tree analysis is not required for each process. Risk assessments are designed to identify the risk so risk can be mitigated to the lowest level possible but is not as detailed as a fault tree analysis which looks at potential operational, environmental and mechanical failures. AMC 385.10 Section 18.2 Responsibilities - Section b: "Supervisors and leaders will develop site specific SOPs for all hazardous operations IAW the requirements of 29 CFR 1910, and DA Pam 385-10 providing operators the level of detail necessary to execute the task or operation in an efficient, effective and safe manner." Section 18-2 Responsibilities Section c: "Supervisors and employees will read and indicate they understand all the requirements of the SOP relative to the operation and that they can execute tasks in an efficient, effective, and safe manner following established SOPs." Section 18-2 Section e: "Supervisors will ensure employees using or exposed to hazardous materials are trained IAW 29 CFR 1910.1200, Hazard Communication." Section 18.5 Standard Operating Procedures - Section b: "The JHAs developed for the processes performed will address and outline Hazardous Operations the employee performs and the PPE required in order to protect the employees during the hazardous operations, additionally when required PPE's will outline Medical surveillance and requirements for base line annual physicals." Section 18.5 Standard Operating Procedures (SOPs) Section c: "The JHAs will be developed with employee involvement. All JHAs must be reviewed by the operational supervisors, organizational Safety Professional, and supporting IHQ as a minimum." AR 385-10 Glossary, Section II defines hazards analysis: Hazard analysis is a clear, systemic, iterative, well defined, priority, consistent, closed-loop, quantitative or qualitative and objective methodology used to identify possible hazards within a mission, system, equipment or process that can cause losses to the mission, equipment, process, personnel or damage to the environment. Examples of hazard analyses are What-If, Preliminary Hazard Analysis, Sneak Circuit Analysis, Hazard and Operability Study, Fault Tree Analysis, Failure Mode and Effects Analysis, and Fault Hazard Analysis."	Yes	Y	N	Y		There is no military requirement to use a specific hazard analysis methodology when completing the process hazard analysis. However, what-if hazard analysis is listed as a type of hazard analysis method in military regulations. Military requirements do outline criteria for hazard analysis.	Update DA/AMC guidance to ensure HA requirements for PSM covered processes are spelled out and mirror OSHA requirements.						
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1010.119(e)(2)(vi)	1010.119(e)(2)(vi) - An appropriate equivalent methodology	The Army has established processes for performing hazards analyses. AMC 385.10 Section 18-2 Responsibilities - Section b: "Supervisors and leaders will develop site specific SOPs for all hazardous operations IAW the requirements of 29 CFR 1910, and DA Pam 385-10 providing operators the level of detail necessary to execute the task or operation in an efficient, effective and safe manner." Section 18-2 Responsibilities Section c: "Supervisors and employees will read and indicate they understand all the requirements of the SOP relative to the operation and that they can execute tasks in an efficient, effective, and safe manner following established SOPs." Section 18-2 Section e: "Supervisors will ensure employees using or exposed to hazardous materials are trained IAW 29 CFR 1910.1200, Hazard Communication." Section 18.5 Standard Operating Procedures - Section b: "The JHAs developed for the processes performed will address and outline Hazardous Operations the employee performs and the PPE required in order to protect the employee during the hazardous operations, additionally when required PPE's will outline Medical surveillance and requirements for base line annual physicals." Section 18.5 Standard Operating Procedures (SOPs) Section c: "The JHAs will be developed with employee involvement. All JHAs must be reviewed by the operational supervisors, organizational Safety Professional, and supporting IHQ as a minimum." AR 385-10 Glossary, Section II defines hazards analysis: Hazard analysis is a clear, systemic, iterative, well defined, priority, consistent, closed-loop, quantitative or qualitative and objective methodology used to identify possible hazards within a mission, system, equipment or process that can cause losses to the mission, equipment, process, personnel or damage to the environment. Examples of hazard analyses are What-If, Preliminary Hazard Analysis, Sneak Circuit Analysis, Hazard and Operability Study, Fault Tree Analysis, Failure Mode and Effects Analysis, and Fault Hazard Analysis."	Yes	Y	N	Y		DA has established processes for performing hazards analyses. These processes should serve as a "equivalent methodology". This allowance in the OSHA PSM requirements is the basis upon which processes can be evaluated, for hazards IAW military requirements, and still meet the intent of OSHA PSM PHA requirements, provided the hazards analysis meet the requirements of 1910.119 (e) (1) thru (e) (4).	Recommend listing the specific requirements of elements listed in 1010.119(e)(3) in the DA/AMC guidance provide examples of how the DA Form for risk assessments can be used to fulfill this requirement.						
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1010.119(e)(3)	1010.119(e)(3) - The process hazard analysis shall address:														
31	1010.110(e)(5)(i)	DA PAM 385-30 Mishap Risk Management does require identification of all hazards in the process but there is no explosives safety regulation that requires a risk assessment be completed for every process. DA PAM 385-64 para 2-2 outlines the hazards analysis and risk assessment process "All operations involving AE will be reviewed to identify and manage the potential risk associated with the operation per DA PAM 385-30." DA PAM 385-58 para 2-5(b) describes hazard assessment tools, and hazard analysis categories, and lists "qualitative analysis, for example checklists, hazards risk, hazard matrix, preliminary hazard analysis and job hazard analysis." DAP 385-64 para 2-4. "The SOPs for AE and related operations will identify potentially hazardous conditions." (See DA Pam 385-10, para 8-5, and TM 8-1300-255.)	Yes	Y	N	N		Military requirements are equivalent to the OSHA PSM requirement.							
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PSM Crosswalk
Comparison of Army Requirements and the OSHA PSM Standard

Original Order OSHA CITATION		OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	<small> 1. Does OSHA/AMC guidance identify required PSM elements in 1910.119 (a) (2) for covered processes? 2. The hazards of the process; 3. The identification of any previous incident which had a likely potential for catastrophic consequences in the workplace; 4. Engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases; (Acceptable detection methods might include process monitoring and control instrumentation with alarms, and detection hardware such as hydrocarbon sensors.); 5. Consequences of failure of engineering and administrative controls; 6. Facility siting; 7. Human factors; and 8. A qualitative evaluation of a range of the possible safety and health effects of failure of controls on employees in the workplace. Also, Need a searchable, central repository for storing previous incident findings, recommendations and lessons learned. </small>				JMC COMMENTS	JMC RECOMMENDATIONS	1. OSHA/AMC guidance identifies required PSM elements in 1910.119 (a) (2) for covered processes.	2. The hazards of the process;	3. The identification of any previous incident which had a likely potential for catastrophic consequences in the workplace;	4. Engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases; (Acceptable detection methods might include process monitoring and control instrumentation with alarms, and detection hardware such as hydrocarbon sensors.);	5. Consequences of failure of engineering and administrative controls;	6. Facility siting;	7. Human factors; and	8. A qualitative evaluation of a range of the possible safety and health effects of failure of controls on employees in the workplace.	Also, Need a searchable, central repository for storing previous incident findings, recommendations and lessons learned.
1010.119 (b)(3)(i)	1910.119(b)(3)(i) - The identification of any previous incident which had a likely potential for catastrophic consequences in the workplace;	No regulation in place requiring this information in process documentation. DA PAM 385-30 para 2-14 describes the special analysis considerations when identifying hazards in unique situations, including those involving explosives. DA PAM 385-30 para 2-14(p) specifically lists sources to identify hazards including: "Incident information, lessons learned; examining experiences; use of experts, such as master gunners, CDMs, ESDs, safety officers, operators, maintenance, personnel, sensoring standards, ovens, observations, files, starting operating procedures (SOPs), ARs, TMs, safety of use messages, and considering all sources, all assets; mission phases risk for a given hazard varies from mission to mission, asset to asset; mission phase to mission phase, season to season, with duration of exposure, with time of day and with number of assets."	Partial	N	H		Y	DA regulations identify sources of information to include in hazard analysis processes, including historical information including previous incidents. However, there is no requirement to formally document the evaluation of any previous incident which had a likely potential for catastrophic consequences in the workplace as part of the hazards analysis. Military requirements need to require identifying previous incidents, perhaps in a repository database.	Update OSHA/AMC guidance identify required PSM elements in 1910.119 (a) (2) for covered processes. The hazards of the process; 1910.119(a)(2)(i) The identification of any previous incident which had a likely potential for catastrophic consequences in the workplace; 1910.119(a)(2)(ii) Engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases. (Acceptable detection methods might include process monitoring and control instrumentation with alarms, and detection hardware such as hydrocarbon sensors.); 1910.119(a)(2)(iii) Consequences of failure of engineering and administrative controls; 1910.119(a)(2)(iv) Facility siting; 1910.119(a)(2)(v) Human factors; and 1910.119(a)(2)(vi) A qualitative evaluation of a range of the possible safety and health effects of failure of controls on employees in the workplace. Also, Need a searchable, central repository for storing previous incident findings, recommendations and lessons learned.									
1010.119 (b)(3)(ii)	1910.119(b)(3)(ii) - Engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases. (Acceptable detection methods might include process monitoring and control instrumentation with alarms, and detection hardware such as hydrocarbon sensors.);	No regulation in place requiring this information in process hazards analysis documentation. There may be operational instructions such as maintaining operating temperatures or keeping pressure within required ranges, but no requirement for explanation of the controls or detection methodologies in JHA or SOP. AMC 206-107 (f) states "(5) Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operators are advised to look for a particular configuration or condition)." DA PAM 385-30 para 3-3 describes effective methods of controlling hazards. "Each situation must be viewed considering not only the hazard being addressed but also the total situation."	SH	H	N		Y	DA regulations identify sources of information to include in hazard analysis processes, including effective methods of controlling hazards and impact on the total situation. However, there is no requirement to formally document failures on interrelationships as part of the hazards analysis. Installations need maximum flexibility to choose the appropriate, while still ensuring they meet the PSM requirements.	Update PSM reg to identify required PSM elements in 1910.119 (a) (2) for covered processes. The hazards of the process; 1910.119(a)(2)(i) The identification of any previous incident which had a likely potential for catastrophic consequences in the workplace; 1910.119(a)(2)(ii) Engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases. (Acceptable detection methods might include process monitoring and control instrumentation with alarms, and detection hardware such as hydrocarbon sensors.); 1910.119(a)(2)(iii) Consequences of failure of engineering and administrative controls; 1910.119(a)(2)(iv) Facility siting; 1910.119(a)(2)(v) Human factors; and 1910.119(a)(2)(vi) A qualitative evaluation of a range of the possible safety and health effects of failure of controls on employees in the workplace. Develop a checklist(s), or similar mechanism to assist installations with verifying that their PSM process and documentation meets all the OSHA PSM PSM requirements.	1								

PSM Crosswalk
Comparison of Army Requirements and the OSHA PSM Standard

Original Order OSHA CITATION		OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS	1. Using DA guidance 2. Review existing DA Requirement with guidance 3. Amend existing DA Requirement with guidance 4. Amend existing DA Requirement with guidance 5. Amend existing DA Requirement with guidance 6. Amend existing DA Requirement with guidance 7. Amend existing DA Requirement with guidance						
1012.110(e)(3)(v)	1010.110(e)(3)(v) - Consequences of failure of engineering and administrative controls;	No regulation in place requiring this information in process documentation. DAPAM 385-36 para. 2-13 outlines use of barrier analysis method of hazard analysis. This method includes evaluating the barrier/control performance. DA PAM para 2-13h (4) gives an example of the barrier analysis which includes "Evaluate barrier's performance. Describe how and why the barrier failed and the consequences of the failure." There is no requirement to use barrier analysis when completing the process hazard analysis; however barrier analysis is listed as a type of hazard analysis method.	Y	N	N	Y	DA regulations identify sources of information to include in hazard analysis processes, including control performance analysis as a type of hazard analysis method. However, there is no requirement to formally document consequences of failure of engineering and administrative controls as outlined in the OSHA standard as part of the hazard analysis. Installations need maximum flexibility to choose the appropriate, while still ensuring they meet the PSM requirements.	Update PSM reg to identify required PHA elements in 1010.110 (a) (3) for covered processes. The hazards of the process; 1010.110(e)(3)(ii) The identification of any previous incident which had a likely potential for catastrophic consequences in the workplace; 1010.110(e)(3)(iii) Engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases. (Acceptable detection methods might include process monitoring and control instrumentation with alarms, and detection hardware such as hydrocarbon sensors.); 1010.110(e)(3)(iv) Consequences of failure of engineering and administrative controls; 1010.110(e)(3)(v) Facility siting; 1010.110(e)(3)(vi) Human factors; and 1010.110(e)(3)(vii) A qualitative evaluation of a range of the possible safety and health effects of failure of controls on employees in the workplace. Develop a checklist(?), or similar mechanism to assist installations with verifying that their PHA process and documentation meets all the OSHA PSM PHA requirements.							1
1012.110(e)(3)(v)	1010.110(e)(3)(v) - Facility siting.	This information is not required in current written process documentation. DA Pam 385-44 Chapter 4, outlines safety site planning for explosives and toxic chemicals. DA Pam 385-44 4-1 defines a site plan as An explosives/toxic chemical agent safety site plan describes in text and graphics the relationships between PESs, ESS, toxic chemical sites, facilities, the environment, and personnel. They also contain descriptions of construction specifications for facilities and specifications and placement of required auxiliary equipment (for example, dividing walls, lightning protection systems, utility service lines, conduits). DA Pam 385-44 4-1(a) identifies when site plans are required, which would cover all explosives manufacturing processes covered under the PSM standard. All PSM covered processes would be considered a Potential Explosion Site(PES).	Y	Y	N	Y	The OSHA PSM Standard requires PHA criteria that is used in chemical processes. Inclusion of explosives manufacturing in 1010.110, did not adequately evaluate amending PHA requirements to include PHA elements relevant to explosives manufacturing processes. Facility siting as mentioned here does not refer to the site of the plant in relation to the surrounding community (quantity-distance and protective construction criteria). It refers, rather, to the location of various components within the establishment. (From CPL 02-02-040, Appendix G) Explored sites in relation to the covered process are evaluating and hazards assessed as part of the EISP submission process and serve as evaluating the various components within the establishment.	Validate that current DA/AMC guidance meets intent of this requirement.	1						
1012.110(e)(3)(v)	1010.110(e)(3)(v) - Human factors; and	This information is not required in current written process documentation.	Partial	N	Y	Y	Military requirements do not require special evaluation of human factors. Operator error is normally included as part of the supervisory/evaluation portion of the CRM process.	Recommend updating DA/AMC guidance to include human factors evaluations in the PHA (operator error, improper sequence, lack of experience, fatigue/stamina, inadequate supervision, etc.)		1					
1012.110(e)(3)(vi)	1010.110(e)(3)(vi) - A qualitative evaluation of a range of the possible safety and health effects of failure of controls on employees in the workplace	This information is not required in current written process documentation. DA PAM 385-30 para 2-3(b) defines "Risk is a combined expression of loss probability and severity," as such risk assessments are a form of qualitative evaluation. DAPAM 385-44 para 2-2 outlines the hazards analysis and risk assessment process "All operations involving AE will be reviewed to identify and manage the potential risk associated with the operation per DAPAM 385-30." DAPAM 385-30 para 2-5(b) describes hazard assessment tools, and hazard analysis categories, and lists "qualitative analysis, for example checklists, hazards lists, hazard matrix, preliminary hazard analysis and job hazard analysis." DAP 385-44 para 2-4, "The SOPs for AE and related operations will identify potentially hazardous conditions." (Rev DA Pam 385-10, para 8-8 and TM 8-1300-200.) DA PAM 385-30 para 2-14 describes the special analysis considerations when identifying hazards in unique situations, including those involving employees. DA PAM 385-30 para 2-14(a) lists sources to identify hazards including "historical information; lessons learned; examining experiences; use of experts, such as master gunners, CSMs, ISGs, safety officers, operators, maintenance personnel; consulting standards, codes, checklists, FMEAs, standing operating procedures (SOPs); ARS, TNA, safety of use messages; and considering all sources, all events, mission phases risk for a given hazard source from mission to mission, asset to asset, mission phase to mission phase, season to season, with duration of exposure, with time of day and with number of assets."	Partial	N	Y	Y	DA regulations require use of severity and probability (qualitative evaluation) when assessing the risk associated hazards and effectiveness of controls associated with all explosives manufacturing processes. OSHA Letter of Interpretation 02012005 - Industrial Consultants provides clarification on documentation methods used to comply with qualitative evaluation requirement and suggests that evaluations based on severity and probability based assessments should suffice.	Update DA/AMC guidance to better articulated as meeting this requirement.	1						

PSM Crosswalk
Comparison of Army Requirements and the OSHA PSM Standard

Original Order	OSHA CITATION	OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATION/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS	Legend						
				Partial	N	Y	Y		1. Using an approved process	2. Review training DA Requirement with appendix A	3. Engineering controls DA Requirement with appendix A	4. Administrative controls	5. Use of DA Requirement with appendix A	6. Use of DA Requirement with appendix A	7. Not applicable to AE
38	1910.119(e)(4)	1910.119(e)(4) - The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.	There is no requirement for process hazard analysis for personnel who are not experts in engineering and process operations. DA Pam 285-30 para 2-11a summarizes some preliminary hazards requirements. DA Pam 285-30 para 2-11a(2) describes that the preliminary hazards analysis "is normally performed by one or more people who are knowledgeable about the type of activity through participation in review meetings of documentation and field inspections, when possible." DA Pam 285-30 para 2-12a, outlines characteristics of job hazard analysis as a follow-on to preliminary hazards analysis. A key to a successful JHA is to involve the employees who are doing the job. Conduct a preliminary job review. Discuss with your employees the hazards they know and in their current work and surroundings. Brainstorm with them for ideas to minimize or control those hazards for use later in developing controls. They have a unique understanding of the job, and this knowledge is invaluable for finding hazards. Additionally, involving employees will help minimize oversight, ensure a quality analysis, and get workers to "buy in" to the solutions because they will share ownership in their safety and health program. AMCR 180-167, 3b outlines membership of the HAWG. A Hazard Analysis Working Group (HAWG) will be formed at each installation to support and manage the final JHA development process. Membership of the HAWG will consist of Safety (Chairperson), SOP Developer, Active Surveillance, Environmental, and others deemed necessary to provide adequate technical support. The final chemical operations the group will include at least one employee with experience and knowledge specific to the operation. (An	Partial	N	Y	Y	No military requirements that require all specific team members as outlined in the OSHA PSM PHA team criteria. The HAWG does require "others deemed necessary to provide adequate technical support" and for toxic chemical operations, at least one employee with experience and knowledge specific to the operation (an employee representative) and personnel with expertise in occupational and industrial hygiene.	Update DA/AMC guidance to require hazards analysis for PSM covered processes meet the OSHA PSM PHA team criteria. Mostly AMCR 700-107, 3b to stipulate requirements for PSM covered processes to ensure the HAWG includes personnel with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated.			1			
39	1910.119(e)(5)	1910.119(e)(5) - The employer shall establish a system to promptly address the team's findings and recommendations, ensure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.	No regulation in place requiring this action	NO	N	N	T	No formal tracking system for PHA recommendations. Although controls identified in the hazards analysis process are validated prior to start of operations and prior to identifying the residual risks, this process is not well documented. This requirement is about establish a system and documenting it.	Develop a process for documenting how site validate the controls for hazards identified prior to start of operations and prior to identifying the residual risks, this process is not well documented.						1
40	1910.119(e)(6)	1910.119(e)(6) - At least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and reevaluated by a team meeting the requirements in paragraph (e)(4) of this section, to assure that the process hazard analysis is consistent with the current process.	No regulation in place requiring this action	NO					Pretty clear requirement. No military requirement for updating every 5 yrs. Should add to the JMC Reg. Need to define this requirement. Does not negate reviewing hazards analysis when process changes. Need to address this in management of change.						1
41	1910.119(e)(7)	1910.119(e)(7) - Employers shall retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e)(5) of this section for the life of the process.	No regulation in place requiring this action	NO	N	N	T	Most site keep PHAs as good business practice but there is no military requirement.	Update DA/AMC guidance to require retaining PHA for the life of the process.						1
42	1910.119(f) (1910.119(f))	Operating procedures	AMC addresses operational information. AMC 700-107, 2(f) states: "Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operators are advised to look for a particular configuration or condition)." - AR 285-10, para 18-2 outlines requirements for all hazardous operations: requirements include ensuring instructions are read and understood by operators and provide for a safe operation. - AR 285-10, Chapter 8 outlines requirements for SOPs for hazardous operations. - AR 285-44, 2-4 requires written procedures for AE operations. Written procedures will be developed and used for each AE operation. The SOPs will be developed per AR 285-10 for all explosives operations to ensure workers have the information necessary to perform their assigned tasks safely. The SOPs for AE and related operations will identify potentially hazardous conditions. (See DA Pam 285-10, para 9-8 and TM 9-1300-250.) - AR 285-64, 2-3, requires compliance with the Cardinal principle. Operations must be conducted in a manner that exposes the minimum number of people for the minimum period of time to the minimum amount of explosives required to perform a safe and efficient operation. - AR 285-10, 18-4, requires SOP requirements for explosives. Includes HAZMAT.					DA Pam 285-10 2-4. Use of written procedures. Written procedures will be developed and used for each AE operation. The SOPs will be developed per AR 285-10 for all explosives operations to ensure workers have the information necessary to perform their assigned tasks safely. The SOPs for AE and related operations will identify potentially hazardous conditions. (See DA Pam 285-10, para 9-8 and TM 9-1300-250.) CAHA Notices were not for lacking SOP in general, primarily associated with specific maintenance processes for the dust collectors. PBAs has been working on SOPs for operating lines—those operations are pretty much covered. On the maintenance side they have been using JHA for the	Perhaps update AMC 700-107 with a PSM requirements section to combine all the SOP requirements applicable to PSM in one location with section for ammo ops and a section for maintenance/inspection/surveillance/etc. Also ensure surveillance and inspection SOPs incorporate PSM requirements.						
43	1910.119(f)(1)	1910.119(f)(1) - The employer shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address at least the following elements:		NO	Y	N	Y								1

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Comparison of Army Requirements and the OSHA PSM Standard

Original Order OSHA CITATION		OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS				JMC COMMENTS				JMC RECOMMENDATIONS				1. Using DA Regs to meet 2. Review existing DA Requirement with 3. Amend existing DA Requirement with 4. Develop new DA Requirement 5. Amend existing DA Requirement with 6. Amend existing DA Requirement with 7. Amend existing DA Requirement with			
1910.119(f)(1)(i)	1910.119(f)(1)(i) - Steps for each operating phase:	<p>SOP addresses operational information. AMC 700-107, 5(f) states "(8) Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operators are advised to look for a particular configuration or condition)." → AR 385-10, para 18-5 outlines requirements for operating procedures for all hazardous operations; requirements include ensuring instructions are read and understood by operators and provide for a safe operation.</p> <p>→ OAP 385-10, Chapter 9 outlines requirements for SOPs for hazardous operations.</p> <p>→ AR 385-44, 2-4 requires written procedures for A&E operations. Written procedures will be developed and used for each AE operation. The SOPs will be developed per AR 385-10 for all explosives operations to ensure workers have the information necessary to perform their assigned tasks safely. The SOPs for AE and related operations will identify potentially hazardous conditions. (See DA Pam 385-10, para 8-4 and TM 9-1300-250.)</p> <p>→ AR 385-44, 2-5, requires compliance with the Cardinal principle. Operations must be conducted in a manner that exposes the minimum number of people for the minimum period of time to the minimum amount of explosives required to perform a safe and efficient operation. → AR 385-10, 18-4 provides SOP requirements for emergencies involving HAZMAT.</p> <p>→ AR 385-44, 2-5 requires written procedures for A&E operations to include limits.</p> <p>→ AR 385-44, 2-7 requires written procedures for A&E operations to include disposal.</p>	Yes	Y	N	Y	DA PAM 385-04 2-4. Use of written procedures. Written procedures will be developed and used for each AE operation. The SOPs will be developed per AR 385-10 for all explosives operations to ensure workers have the information necessary to perform their assigned tasks safely. The SOPs for AE and related operations will identify potentially hazardous conditions. (See DA Pam 385-10, para 8-4 and TM 9-1300-250.)	Perhaps update AMC 700-107 with a PSM requirements section to combine all the SOP requirements applicable to PSM in one location (with section for ammo ops and a section for maintenance/inspection/surveillance/etc). Also ensure surveillance and inspection SOPs incorporate PSM requirements.	1									
44																		
1910.119(f)(1)(i)(A)	1910.119(f)(1)(i)(A) - Initial startup:	<p>SOP addresses operational information. AMC 700-107, 5(f) states "(8) Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operators are advised to look for a particular configuration or condition)." → AR 385-10, para 18-5 outlines requirements for operating procedures for all hazardous operations; requirements include ensuring instructions are read and understood by operators and provide for a safe operation.</p> <p>→ OAP 385-10, Chapter 9 outlines requirements for SOPs for hazardous operations.</p> <p>→ AR 385-44, 2-4 requires written procedures for A&E operations. Written procedures will be developed and used for each AE operation. The SOPs will be developed per AR 385-10 for all explosives operations to ensure workers have the information necessary to perform their assigned tasks safely. The SOPs for AE and related operations will identify potentially hazardous conditions. (See DA Pam 385-10, para 8-4 and TM 9-1300-250.)</p> <p>→ AR 385-44, 2-5, requires compliance with the Cardinal principle. Operations must be conducted in a manner that exposes the minimum number of people for the minimum period of time to the minimum amount of explosives required to perform a safe and efficient operation. → AR 385-10, 18-4 provides SOP requirements for emergencies involving HAZMAT.</p> <p>→ AR 385-44, 2-5 requires written procedures for A&E operations to include limits.</p> <p>→ AR 385-44, 2-7 requires written procedures for A&E operations to include disposal.</p>	Yes	Y	N	Y	DA PAM 385-04 2-4. Use of written procedures. Written procedures will be developed and used for each AE operation. The SOPs will be developed per AR 385-10 for all explosives operations to ensure workers have the information necessary to perform their assigned tasks safely. The SOPs for AE and related operations will identify potentially hazardous conditions. (See DA Pam 385-10, para 8-4 and TM 9-1300-250.)	Perhaps update AMC 700-107 with a PSM requirements section to combine all the SOP requirements applicable to PSM in one location (with section for ammo ops and a section for maintenance/inspection/surveillance/etc). Also ensure surveillance and inspection SOPs incorporate PSM requirements. See JMC Comments for specific tasks prior to initial startup.	1									
45																		
1910.119(f)(1)(i)(B)	1910.119(f)(1)(i)(B) - Normal operations:	<p>SOP addresses operational information. AMC 700-107, 5(f) states "(8) Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operators are advised to look for a particular configuration or condition)." → AR 385-10, para 18-5 outlines requirements for operating procedures for all hazardous operations; requirements include ensuring instructions are read and understood by operators and provide for a safe operation.</p> <p>→ OAP 385-10, Chapter 9 outlines requirements for SOPs for hazardous operations.</p> <p>→ AR 385-44, 2-4 requires written procedures for A&E operations. Written procedures will be developed and used for each AE operation. The SOPs will be developed per AR 385-10 for all explosives operations to ensure workers have the information necessary to perform their assigned tasks safely. The SOPs for AE and related operations will identify potentially hazardous conditions. (See DA Pam 385-10, para 8-4 and TM 9-1300-250.)</p> <p>→ AR 385-44, 2-5, requires compliance with the Cardinal principle. Operations must be conducted in a manner that exposes the minimum number of people for the minimum period of time to the minimum amount of explosives required to perform a safe and efficient operation. → AR 385-10, 18-4 provides SOP requirements for emergencies involving HAZMAT.</p> <p>→ AR 385-44, 2-5 requires written procedures for A&E operations to include limits.</p> <p>→ AR 385-44, 2-7 requires written procedures for A&E operations to include disposal.</p>	Yes	Y	N	Y	DA PAM 385-04 2-4. Use of written procedures. Written procedures will be developed and used for each AE operation. The SOPs will be developed per AR 385-10 for all explosives operations to ensure workers have the information necessary to perform their assigned tasks safely. The SOPs for AE and related operations will identify potentially hazardous conditions. (See DA Pam 385-10, para 8-4 and TM 9-1300-250.) At PGA, consequences of deviations are addressed in warnings and cautions.	There must be some consideration for in-depth detail needed for explosives manufacturing SOPs, while still maintaining flexibility in SOP development. Also recommend local procedures for developing SOPs for PSM covered processes provide a more detailed framework for templates/required information. DA/AMC/JMC guidance should be generalized.	1									
46																		
1910.119(f)(1)(i)(C)	1910.119(f)(1)(i)(C) - Temporary operations:	<p>There is no requirement to include this information in the process documentation.</p>	No	N	N	N	Temporary operations are not explicitly identified as a requirement for qualifying procedures. → DA PSM reg already defines SOP requirements for temporary operations (line item does not reduce SOP requirements for temporary operations; need to find the citation should be changed to particular once we find the citation).	Update PSM reg and/or AMC 700-107 to require SOPs to include temporary operations; need to define scope of temporary IAW DOD regs.										
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Comparison of Army Requirements and the OSHA PSM Standard

Original Order OSHA CITATION		OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS	1. Linking to PSM Standard 2. Review existing DA Requirement with OSHA 1910.119(f)(1)(ii)(D) 3. Amend existing DA Requirement with OSHA 1910.119(f)(1)(ii)(D) 4. Develop new DA Requirement with OSHA 1910.119(f)(1)(ii)(D) 5. Not applicable to AE						
48	1910.119(f)(1)(ii)(D)	1910.119(f)(1)(ii)(D) - Emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner.	Army Regulation is not specific to require specific instructions on duties and responsibilities in an emergency shutdown situation. AMC 700-107, 5(f) states "(5) Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operators are advised to look for a particular configuration or condition)."	Partial	N	N	Y	DAAMC Notices addressed that emergency shutdown was not adequately covered in SOPs, specifically emergency shutdown and egress. Emergency cleanup, emergency services, emergency restart, etc. Current requirements address emergency operator procedures; however there may be a gap on guidance to the operator on unexpectedly having to leave an operation(emergency, injury, etc) and what happens once the emergency event concludes; perhaps include guidance to consider having emergency responders participate in SOP development processes or HAWOs	Update DA/AMC guidance(perhaps AMC 700-107) to ensure emergency shut down operations address requirements in 1910.119(f)(1)(ii)(D), including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner; need to link it to the emergency responders processes; need to document that the organization has a process to verify that procedures include emergency shutdown, recovery, & restart processes.					1	
49	1910.119(f)(1)(ii)(E)	1910.119(f)(1)(ii)(E) - Emergency Operations.	AMC 700-107, 5(f) states "(5) Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operators are advised to look for a particular configuration or condition)."	Yes	Y	N	Y	Current requirements address emergency operator procedures; however there may be a gap on guidance to the operator on unexpectedly having to leave an operation(emergency, injury, etc)	Update DA/AMC guidance to address unexpectedly having to leave an operation(emergency, injury, etc)	1					1
50	1910.119(f)(1)(ii)(F)	1910.119(f)(1)(ii)(F) - Normal shutdown; and.	AMC 700-107, 5(f) states "(5) Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operators are advised to look for a particular configuration or condition)."	Yes	Y	N	N	Military requirements comply with OSHA PSM requirements		1					1
51	1910.119(f)(1)(ii)(G)	1910.119(f)(1)(ii)(G) - Startup following a turnaround, or after an emergency shutdown.	The regulation does not address start up requirements after a turnaround or emergency shutdown. AMC 700-107, 5(f) states "(5) Operational procedures to complete each step in the described process. As the source of guidance to operators, SOPs should contain the specific, step-by-step guidance necessary to complete a task, including start-up, shutdown, maintenance, and emergency situations, as well as steady state operations. Photographs are often important adjuncts to clarify written instructions (particularly when operators are advised to look for a particular configuration or condition)."	No	N	N	Y	May be included in SOPs as part of good business practices; however it is not required by military regulations. Current requirements address emergency operator procedures; however there may be a gap on guidance to the operator on unexpectedly having to leave an operation(emergency, injury, etc) and what happens once the emergency event concludes; perhaps include guidance to consider having emergency responders participate in SOP development processes or HAWOs	Update DA/AMC guidance(perhaps AMC 700-107) to require SOPs to include emergency restart; need to define types of restarting term shutdown, minor disruption, etc)					1	
52	1910.119(f)(1)(ii)(H)	1910.119(f)(1)(ii)(H) - Operating limits.													
53	1910.119(f)(1)(ii)(A)	1910.119(f)(1)(ii)(A) - Consequences of deviation and	AMC 700-107, 5(f) states SOPs: "(4) A place to summarize any significant warnings, notices, or other special requirements that are either generally applicable throughout the SOP, or are of such importance, they must appear both in this special requirements section and in the appropriate steps. These special requirements may pertain to accountability, safety, quality, or any other pertinent topic. A space is provided on the SOP but need requirement stating operating limits - consequences of deviation, if relevant to the operation, must be entered on the SOP."	Partial	N	N	Y	This is often captured in warnings and cautions but may not be depicted explicitly as consequences of deviation. There are gaps in military requirements for operators awareness on authorized deviations and consequences of any unauthorized deviation.	Update PSM reg and/or AMC 700-107 to require SOPs to include requires of consequences of deviation. Need to ensure warning and cautions address address deviations that exceed operating limits and consequences of those deviations.					1	
54	1910.119(f)(1)(ii)(B)	1910.119(f)(1)(ii)(B) - Steps required to correct or avoid deviation.	AMC 700-107, 5(f) states SOPs: "(4) A place to summarize any significant warnings, notices, or other special requirements that are either generally applicable throughout the SOP, or are of such importance, they must appear both in this special requirements section and in the appropriate steps. These special requirements may pertain to accountability, safety, quality, or any other pertinent topic. A space is provided on the SOP but need requirement stating operating limits - any action required to avoid deviation must be entered on the SOP."	Partial	N	N	Y	This is often captured in warnings and cautions but may not be depicted explicitly as consequences of deviation. There are gaps in military requirements for operators awareness on authorized deviations and consequences of any unauthorized deviation.	Update PSM reg and/or AMC 700-107 to require SOPs to include requires of consequences of deviation. Need to ensure warning and cautions address address deviations that exceed operating limits and consequences of those deviations.					1	
55	1910.119(f)(1)(ii)(C)	1910.119(f)(1)(ii)(C) - Safety and health considerations.													
56	1910.119(f)(1)(ii)(A)	1910.119(f)(1)(ii)(A) - Properties of, and hazards presented by, the chemicals used in the process.	AMC 700-107, 5(f) states SOPs: "(4) A place to summarize any significant warnings, notices, or other special requirements that are either generally applicable throughout the SOP, or are of such importance, they must appear both in this special requirements section and in the appropriate steps. These special requirements may pertain to accountability, safety, quality, or any other pertinent topic. A space is provided on the SOP but need requirement stating process information related to chemicals used in the process will include the properties of, and hazards presented by the chemicals."	Partial	N	N	Y	This is often captured in warnings and cautions but may not be depicted explicitly as outlined in the OSHA PSM standard. Safety and health effects may not be provided in detail needed for operator awareness in the safety section of the SOP. May need to reference HAZCOM program methods to educate operators on safety and health hazards.	Update DA/AMC guidance(perhaps AMC 700-107) to require SOPs to include requirements as outlined in the OSHA standard. Perhaps adding the HCS/SDS to the SOP as an addendum/appendix. HAWOs must confirm information in HCS/SDS is current and complete; Recommend adding a SOP requirement for safety information that includes properties of, and hazards presented by the chemicals/energetic materials used in the process.					1	

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Original Order OSHA CITATION		OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS	OSHA 1910.119(a)(1)(ii)(A) - Process safety information OSHA 1910.119(a)(1)(ii)(B) - Process hazard analysis OSHA 1910.119(a)(1)(ii)(C) - Operating procedures OSHA 1910.119(a)(1)(ii)(D) - Training OSHA 1910.119(a)(1)(ii)(E) - Compliance with OSHA PSM standard OSHA 1910.119(a)(1)(ii)(F) - Compliance with OSHA PSM standard OSHA 1910.119(a)(1)(ii)(G) - Compliance with OSHA PSM standard OSHA 1910.119(a)(1)(ii)(H) - Compliance with OSHA PSM standard OSHA 1910.119(a)(1)(ii)(I) - Compliance with OSHA PSM standard OSHA 1910.119(a)(1)(ii)(J) - Compliance with OSHA PSM standard												
57	1910.119(a)(1)(ii)(B)	1910.119(a)(1)(ii)(B) - Process safety information Precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment.	AMC 700-107, 5(f) states SOPs: (4) A place to summarize any significant warnings, notices, or other special requirements that are either generally applicable throughout the SOP, or are of such importance, they must appear both in this special requirements section and in the appropriate steps. These special requirements may pertain to accountability, safety, quality, or any other pertinent topic. There is also a non-mandatory requirement in Appendix C covering example of completing SOP. A space is provided on the SOP but need requirement stating all safety controls that are required for the operation of the process, must state the engineering, administrative or personal protective equipment required to protect the operator.	Partial	N	N	Y	This is often captured in warnings and cautions but may not be depicted explicitly as outlined in the OSHA PSM standard. Needs to be set up throughout safety information.	Update DA/AMC guidance (perhaps AMC 700-107) to require SOPs to include requirements as outlined in the OSHA standard. Perhaps adding the HCSOS/SDS to the SOP as an addendum/appendix; HAWG must confirm information in HCSOS/SDS is current and complete. Recommend adding a SOP requirement for safety information that includes: Warnings necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment.												
58	1910.119(a)(1)(ii)(C)	1910.119(a)(1)(ii)(C) - Operating procedures Control measures to be taken if physical contact or airborne exposure occurs;	AMC 700-107, 5(f) states SOPs: (4) A place to summarize any significant warnings, notices, or other special requirements that are either generally applicable throughout the SOP, or are of such importance, they must appear both in this special requirements section and in the appropriate steps. These special requirements may pertain to accountability, safety, quality, or any other pertinent topic. There is also a non-mandatory requirement in Appendix C covering example of completing SOP. A space is provided on the SOP but need requirement stating the SOP will include all information related to protection of the operator, whether by physical contact or by airborne release, in order to protect the operator.	Partial	N	N	Y	This is often captured in warnings and cautions but may not be depicted explicitly as outlined in the OSHA PSM standard.	Update DA/AMC guidance (perhaps AMC 700-107) to require SOPs to include requirements as outlined in the OSHA standard. Perhaps adding the HCSOS/SDS to the SOP as an addendum/appendix; HAWG must confirm information in HCSOS/SDS is current and complete.												
59	1910.119(a)(1)(ii)(D)	1910.119(a)(1)(ii)(D) - Training Quality control for raw materials and control of hazardous chemical inventory levels; and,	AMC 700-107, 5(f) states SOPs: (4) A place to summarize any significant warnings, notices, or other special requirements that are either generally applicable throughout the SOP, or are of such importance, they must appear both in this special requirements section and in the appropriate steps. These special requirements may pertain to accountability, safety, quality, or any other pertinent topic. There is also a non-mandatory requirement in Appendix C covering example of completing SOP. A space is provided on the SOP but need requirement that states if inventory control is part of preventing a mishap or reducing the potential of catastrophic event, then this information must be included on process hazard analysis or the SOP documentation.	Partial	N	N	Y	This is often captured in warnings and cautions but may not be depicted explicitly as outlined in the OSHA PSM standard.	Update DA/AMC guidance (perhaps AMC 700-107) to require SOPs to include requirements as outlined in the OSHA standard. Perhaps adding the HCSOS/SDS to the SOP as an addendum/appendix; HAWG must confirm information in HCSOS/SDS is current and complete.												
60	1910.119(a)(1)(ii)(E)	1910.119(a)(1)(ii)(E) - Compliance with OSHA PSM standard Any special or unique hazards.	AMC 700-107, 5(f) states SOPs: (4) A place to summarize any significant warnings, notices, or other special requirements that are either generally applicable throughout the SOP, or are of such importance, they must appear both in this special requirements section and in the appropriate steps. These special requirements may pertain to accountability, safety, quality, or any other pertinent topic. Any regulation is to generic and not specific. Need regulation that ensure this information is being reported on the process documentation.	Partial	N	N	Y	This is often captured in warnings and cautions but may not be depicted explicitly as outlined in the OSHA PSM standard.	Update DA/AMC guidance (perhaps AMC 700-107) to require SOPs to include requirements as outlined in the OSHA standard. Perhaps adding the HCSOS/SDS to the SOP as an addendum/appendix; HAWG must confirm information in HCSOS/SDS is current and complete.												
61	1910.119(a)(1)(ii)(F)	1910.119(a)(1)(ii)(F) - Compliance with OSHA PSM standard Safety systems and their components.																			
62	1910.119(a)(1)(ii)(G)	1910.119(a)(1)(ii)(G) - Compliance with OSHA PSM standard Operating procedures that are readily accessible to employees who work in or maintain a process.	Non-mandatory requirement in AMC 700-107 Appendix C - 1. The applicable portion of this standing operating procedure (SOP) will be conspicuously posted in rooms or bays involved in the operation. The supervisor shall maintain a complete copy of the SOP and be responsible for the enforcement of its provisions.	NO	N	N	Y	It is addressed as a non-mandatory requirement.	Update PSM reg and/or AMC 700-107 to make posting of SOP's a mandatory requirement.												
63	1910.119(a)(1)(ii)(H)	1910.119(a)(1)(ii)(H) - Compliance with OSHA PSM standard The operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to facilities. The employer shall certify annually that these operating procedures are current and accurate.	AMC 700-107 (g) Active SOPs require review and revision as follows: (1) Distribution/Storage SOPs require review and occurrence annually by all signatories. Toxic Chemical SOPs require an annual review by the preparation and installation safety manager. (2) Other active SOPs require review every 2 years by the organization performing the work and the Safety Office. (3) Preparation of an inactive SOP for use requires the same approval process as a new SOP, unless operations fluctuate regularly (e.g. every quarter) between active and inactive. (4) Page/revision changes are acceptable until approximately one-third of the SOP has been changed. At this point, the organization will rewrite the SOP. Page changes must correspond to a change in the cover sheet that references the changes (e.g. changed, added, deleted or re-written). Changed portions of text (other than revisions) require identification by bars in the page margin or other highlighting technique. Changeover revisions require the same approval as re-write of SOP.	YES	Y	N	N	Military requirements are equivalent to OSHA PSM requirements.													
64	1910.119(a)(1)(ii)(I)	1910.119(a)(1)(ii)(I) - Compliance with OSHA PSM standard The employer shall develop and implement safe work practices to provide for the control of hazards during operations such as lockout/tagout, confined space entry, opening process equipment or piping, and control over entrance into a facility by maintenance, contractor, laboratory, or other support personnel. These safe work practices shall apply to employee, and contractor employees.	Compliance with Lockout/Tagout and Confined Space Entry are regulated under compliance with 29 CFR 1910.146 and 1910.147 through AMC 385-10 Chapter 16:39 Confined Spaces and Chapter 16:14 - Lockout and Tagout. Unless a local regulation has been developed under the lockout program, there is no AMC or Army regulation specifically related to opening process equipment or piping, control over entrance into a facility by maintenance, contractor, laboratory, or other support personnel.	Partial	N	N	Y	Would requirements for adding warnings in the SOP to "lock out equipment" address this?	Update PSM reg and/or AMC 700-107 to address opening process equipment or piping, control over entrance into a facility by maintenance, contractor, laboratory, or other support personnel.												
65	1910.119(a)(1)(ii)(J)	1910.119(a)(1)(ii)(J) - Compliance with OSHA PSM standard Training.																			
66	1910.119(a)(1)(ii)(K)	1910.119(a)(1)(ii)(K) - Compliance with OSHA PSM standard Initial training.																			

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Original Order OSHA CITATION OSHA REGULATION		AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS				Legend			
			Partial	Y	N	Y					1. OSHA 1910.1200	2. OSHA 1910.1200	3. OSHA 1910.1200	4. OSHA 1910.1200
67	1910.119(g)(1)(i) - Each employee presently involved in operating a process, and each employee before being involved in operating a newly assigned process, shall be trained in an overview of the process and in the operating procedures as specified in paragraph (i) of this section. The training shall include emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.	AMC 385-10 Chapter 18-4. Pre-Operational Planning. Pre-operational planning will be developed as part of planning for operations. Pre-operational plans will identify hazards that impact employee safety and mission execution, including the measures used to eliminate or control them. Job hazard analysis (JHA) worksheets will be used to identify, mitigate hazards, and manage the associated risk with that activity. This requires that risk assessment, risk decision making and implementation of effective risk controls be part of the pre-operational safety plan. Operational plans may incorporate pre-operation safety briefings and training requirements as part of the job hazard analysis. Operational briefings and training will identify hazards and will discuss the impact of hazards on operations. AMC 385-4 Training and Certification Program for Personnel Working in Ammunition Operations is a rigid training and certification program.	Partial	Y	N	Y	JMC installations have safety training programs, including hazard communication training as required by OSHA (29 CFR 1910.1200), and other general and job-specific safety training and a system for documenting training. Thus, the training infrastructure is in place to support required PSM training. Existing training must be enhanced to ensure that all elements required by the PSM Rule is included. Army regs require the pre-operation training of all employees involved in all employees operations.	In addition to process specific training, recommend an DA safety course on PSM be developed. The course should cover implementation of the PSM standard to DA operations. Including definition/determination of PSM covered operations. Update DA/AMC training requirements reg(385-4) to include PSM training as part of certification program for personnel working in AIE operations.			1			
68	1910.119(g)(1)(ii) - In lieu of initial training for those employees already involved in operating a process on May 26, 1992, an employer may certify in writing that the employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures.	Not Applicable because Army regs require the pre-operation training of all employees involved. AMCR 385-10 Chapter 18-4. Supervisors will ensure that personnel are trained and authorized to operate machinery, motor vehicles, watercraft, material handling equipment, and other industrialized equipment as required.	Not	N	Y	Y	Identify military requirement that require pre-operational training in the submission for alternative compliance.	Recommend documenting a process for PSM covered operations that requires verification in writing that each employee has been trained and has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures. Also need to verify they are trained on the equipment involved in a PSM covered process. This can be done locally. Recommend update to the DA/AMC guidance and JMC R 385-10.			1			
69	1910.119(g)(2) - Refresher training. Refresher training shall be provided at least every three years, and more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. The employer, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training.	AMC 385-10 Chapter 18-4. Pre-Operational Planning. Pre-operational planning will be developed as part of planning for operations. Pre-operational plans will identify hazards that impact employee safety and mission execution, including the measures used to eliminate or control them. Job hazard analysis (JHA) worksheets will be used to identify, mitigate hazards, and manage the associated risk with that activity. This requires that risk assessment, risk decision making and implementation of effective risk controls be part of the pre-operational safety plan. Operational plans may incorporate pre-operation safety briefings and training requirements as part of the job hazard analysis. Operational briefings and training will identify hazards and will discuss the impact of hazards on operations. AMC 385-4 Training and Certification Program for Personnel Working in Ammunition Operations is a rigid training and certification program.	Partial	Y	N	Y	Because of the performance-based nature of the PSM rule, no minimum number of hours or frequency for refresher training is specified. The frequency of refresher training should be determined by existing military requirements and consulting with workers involved in operating a process, but it must be provided at least every 3 years as a maximum. Need to verify that the training matrix in AMCR 385-4 does not allow the timeframe for refresher training to exceed 3 yrs.	Recommend incorporation of refresher minimum requirement of 3 years for PSM covered processes into Chapter 18 of AMCR 385-10. Also need to update AMCR 100-4 as mentioned in JMC Comments (cell 170).			1			
70	1910.119(g)(3) - Training documentation. The employer shall ascertain that each employee involved in operating a process has received and understood the training required by this paragraph. The employer shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.	AMC 385-10 Chapter 18-4. Pre-Operational Planning. Pre-operational planning will be developed as part of planning for operations. Pre-operational plans will identify hazards that impact employee safety and mission execution, including the measures used to eliminate or control them. Job hazard analysis (JHA) worksheets will be used to identify, mitigate hazards, and manage the associated risk with that activity. This requires that risk assessment, risk decision making and implementation of effective risk controls be part of the pre-operational safety plan. Operational plans may incorporate pre-operation safety briefings and training requirements as part of the job hazard analysis. Operational briefings and training will identify hazards and will discuss the impact of hazards on operations. AMC 385-4 Training and Certification Program for Personnel Working in Ammunition Operations is a rigid training and certification program. AMCR 788-187 Operator's SOP Statement. Operators will sign the SOP when first assigned to an operation, when an approved change is made to the SOP, at least once per month during continuing operations and after absence from the job in excess of 30 consecutive days.	Yes	Y	N	Y	Document the means used to verify worker understanding (e.g., written test, demonstration of skills, signing SOPs as a condition of understanding, signing SOP and to employee, etc.).	Recommend update DA/AMC guidance to require installations to document the review process used to identify worker training requirements and verification under Chapter 18-2 AMCR 385-10.			1			
71	1910.119(h) - Contractors.													
72	1910.119(h)(1) - Application. This paragraph applies to contractors performing maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to a covered process. It does not apply to contractors providing incidental services which do not influence process safety, such as janitorial work, food and drink services, laundry, delivery or other supply services.	AMC R 385-10, 4-3 a(2) lists requirements for service and supply contracts and requires that (2) Additional requirements will be added when necessary to protect the contractor from adjacent work activities or processes and prevent contractor activities from presenting a hazard to the public or Army personnel, property, or mission execution. AMC R 385-10, 4-3 a(2) For service, supply, and research and development contracting, actions for hazardous materials site investigation, design, or remediation activities, compliance with this manual will be a contract requirement.	Partial	N	N	Y	OSHA PSM operating requirements applies to contractor personnel performing maintenance or repair, turnaround, major renovation, or specialty work on or ADJACENT TO a covered process. This requirement (ADJACENT TO) may further complicate implementing the requirements of this section and may result in additional requirements in service contracts. Installations need to identify the process entry point for contractors/visitors that entry point is the first opportunity to ensure contractors/visitors are informed (AW OSHA PSM standard). This process needs to be documented and include informing contractors/visitors of the hazards of the PSM process (adjacent PSM process) and advise them on emergency actions in the event of an unexpected incident.	Ensure DA/AMC guidance addresses and defines contractors to include contractors performing maintenance or repair, turnaround, major renovation, or specialty work on or ADJACENT TO a covered process. Ensure guidance mandates installations establish processes (AW the JMC Comments/cell 171).			1			
73	1910.119(j)(2) - Employee responsibilities.													

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Comparison of Army Requirements and the OSHA PSM Standard

Original Order	OSHA CITATION	OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	YES	Y	N	N	JMC COMMENTS	JMC RECOMMENDATIONS	1. Using DA guidance	2. Review training DA Requirement with standard 4	3. Implementing training DA Requirement with standard 4	4. Review training DA Requirement with standard 4	5. Review training DA Requirement with standard 4	6. Review training DA Requirement with standard 4	7. Review training DA Requirement with standard 4	8. Review training DA Requirement with standard 4	9. Review training DA Requirement with standard 4	10. Review training DA Requirement with standard 4	
74	1910.119(h)(2)(i)	1910.119(h)(2)(i) - The employer, when selecting a contractor, shall obtain and evaluate information regarding the contractor's safety performance and programs.	AMC 385-10 Chapter 4 addresses the evaluation and awarding of contracts. DAP 385-10, 4-2.a. Army contractors will be required to have a Safety and Occupational Health Program implemented that is tailored to meet the safety requirements of each contract and the associated tasks and products of that contract. AMC R 385-10, 4-7 outlines requirements for consideration of past history for contractors. This includes, but is not limited to, evidence of successful safety programs, historical safety and health data and evaluation of safety ability. AMC R 385-10 1-6.g The contractor's SOH (programs, success, shortcomings, and incident records in performing their contract will be reviewed and considered during the Contract Renewal process. AMC R 385-10, 1-31.a. The AMC personnel will comply with the standards promulgated by OSHA under 29 CFR 1904, 29 CFR 1950, 29 CFR 1910, 29 CFR 1925, DODD 6000.2, 6000.3, 6000.4, 6000.5, 6000.6, 6000.7, 6000.8, 6000.9, 6000.10, 6000.11, 6000.12, 6000.13, 6000.14, 6000.15, 6000.16, 6000.17, 6000.18, 6000.19, 6000.20, 6000.21, 6000.22, 6000.23, 6000.24, 6000.25, 6000.26, 6000.27, 6000.28, 6000.29, 6000.30, 6000.31, 6000.32, 6000.33, 6000.34, 6000.35, 6000.36, 6000.37, 6000.38, 6000.39, 6000.40, 6000.41, 6000.42, 6000.43, 6000.44, 6000.45, 6000.46, 6000.47, 6000.48, 6000.49, 6000.50, 6000.51, 6000.52, 6000.53, 6000.54, 6000.55, 6000.56, 6000.57, 6000.58, 6000.59, 6000.60, 6000.61, 6000.62, 6000.63, 6000.64, 6000.65, 6000.66, 6000.67, 6000.68, 6000.69, 6000.70, 6000.71, 6000.72, 6000.73, 6000.74, 6000.75, 6000.76, 6000.77, 6000.78, 6000.79, 6000.80, 6000.81, 6000.82, 6000.83, 6000.84, 6000.85, 6000.86, 6000.87, 6000.88, 6000.89, 6000.90, 6000.91, 6000.92, 6000.93, 6000.94, 6000.95, 6000.96, 6000.97, 6000.98, 6000.99, 6000.100.	YES	Y	N	N	Military requirements are equivalent to OSHA PSM requirement		1										
75	1910.119(h)(2)(ii)	1910.119(h)(2)(ii) - The employer shall inform contract employers of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.	AMC 385-4 Training and Certification Program for Personnel Working in Ammunition Operations - Section (7) Implementation of time frames (e) Covers that training language must be inserted into the Scope of Work (SOW). This is to ensure all training and topics are covered for contractor employee training.	YES	Y	N	Y	Military requirements are equivalent to OSHA PSM requirement. Need to ensure safety is always in SOW review process.	Recommend requiring safety assessment with SOW development and approval for PSM covered processes.	1										
76	1910.119(h)(2)(iii)	1910.119(h)(2)(iii) - The employer shall explain to contract employers the applicable provisions of the emergency action plan required by paragraph (n) of this section.	No specific regulation requiring this action.	NO	N	Y	Y	AMC R 385-10 4-6 discusses requirements for the Contractor Safety Brief to ensure understanding of the overall safety program, however, it does not explicitly state a requirement to explain to contract employers the applicable provisions of the emergency action plan. Installations need to identify the process entry point for contractors/visitors, that every point in the first opportunity to inform contractors/visitors are informed IAW OSHA PSM standard. This process needs to be documented and include informing contractors/visitors of applicable provisions of the emergency action plan in the event of an unexpected incident.	Update DA/AMC guidance to require explaining to contract employers the applicable provisions of the emergency action plan		1									
77	1910.119(h)(2)(iv)	1910.119(h)(2)(iv) - The employer shall develop and implement safe work practices consistent with paragraph (f)(4) of this section, to control the entrance, presence and exit of contract employers and contract employees in covered process areas.	No specific regulation requiring this action.	NO	N			This may be a security requirement with a safety requirement. Need to identify reference.	Update DA/AMC guidance for safety precautions to require controlling the entrance, presence and exit of contract employers and contract employees in covered process areas.		1									
78	1910.119(h)(2)(v)	1910.119(h)(2)(v) - The employer shall periodically evaluate the performance of contract employers in fulfilling their obligations as specified in paragraph (h)(3) of this section.	AR 385-10 outlines the following: 1-4gg. Contracting officials are to Prepare written procedures for reviewing contractor capability to comply with and administer the safety and occupational health aspects of the contract requirements. (3) Ensure that periodic inspections are conducted by a qualified safety professional at contractor work sites to ensure compliance with this regulation, in accordance with the contract.	YES	Y	N	Y	Military regulations requires periodic safety inspection of contractors for compliance with the contractual obligations, which includes federal safety requirements	Need to update Safety QASP to ensure that periodic safety inspections includes ensuring compliance with PSM contractor requirements/obligations.	1										
79	1910.119(h)(2)(vi)	1910.119(h)(2)(vi) - The employer shall maintain a contract employee injury and illness log related to the contractor's work in process areas.	AR 385-10, 3-5a(8). Requires Commanders/supervisors to investigate and report occupational injuries and illnesses reported by a contractor or subcontractor where incident reporting to the Army is contractually required. (7) Injury or occupational illness to contract employees supervised by Army personnel on a day-to-day basis. AMC R 385-10 paragraph 3-2e requires Commanders and Directors to ensure completion of OSHA Form 301 for reporting civilian and contractor accidents and the maintenance of an accident database log (OSHA Form 300 or equivalent) IAW 29 CFR 1900.	YES	Y	N	N	Military requirements are equivalent to OSHA PSM requirement		1										
80	1910.119(h)(3)	1910.119(h)(3) - Contract employer responsibilities																		
81	1910.119(h)(3)(i)	1910.119(h)(3)(i) - The contract employer shall ensure that each contract employee is trained in the work practices necessary to safely perform his/her job.	AMC R 385-10, 4-4.b, outlines contractor responsibilities and may cover in general and require contractor written safety plan to include how they implement applicable OSHA standards and a description of regular worker safety training.	YES	Y	N	N	Note: DOD 4145-25M will likely not be included in all maintenance or repair, turnaround, major resupply, or specialty work contracts on or adjacent to a covered process.		1										
82	1910.119(h)(3)(ii)	1910.119(h)(3)(ii) - The contract employer shall ensure that each contract employee is instructed in the known potential fire, explosion, or toxic release hazards related to his/her job and the process, and the applicable provisions of the emergency action plan.	No specific regulation requiring this action.	NO	N	N	Y	AMC R 385-10 4-4 outlines contractor responsibilities and may cover in general but not specifically address known potential fire, explosion, or toxic release hazards related to his/her job and the process, and the applicable provisions of the emergency action plan.	Update DA/AMC guidance(perhaps AMC R 385-10) to specify contractor requirement to advise their workers of known potential fire, explosion, or toxic release hazards related to his/her job and the process, and the applicable provisions of the emergency action plan.		1									
83	1910.119(h)(3)(iii)	1910.119(h)(3)(iii) - The contract employer shall document that each contract employee has received and understood the training required by this paragraph. The contract employer shall prepare a record which contains the identity of the contract employee, the date of training, and the means used to verify that the employee understood the training.	No specific regulation requiring this action.	NO	N	N	Y	AMC R 385-10 4-4 outlines contractor responsibilities and may cover in general but not specifically require training be documented IAW OSHA PSM act.	Update DA/AMC guidance(perhaps AMC R 385-10) to specify contractor requirement that training for PSM covered processes must be documented IAW OSHA PSM.		1									
84	1910.119(h)(3)(iv)	1910.119(h)(3)(iv) - The contract employer shall ensure that each contract employee follows the safety rules of the facility including the safe work practices required by paragraph (f)(4) of this section.	AMC R 385-10, 4-2f. requires NSC/COMC Commanders will develop and implement management control processes to ensure that safety professionals assist IC's in evaluating contractor compliance with contractual occupational safety and health requirements as IC's can bring instances of non-compliance or conditions that pose serious or imminent danger to health or safety of the public or Government personnel to the attention of the contractor and request immediate initiation of corrective action.	YES	Y	N	N			1										

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Original Order OSHA CITATION		OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS	1. Using DA Requirement 2. Review training DA Requirement with Appendix A 3. Consistent with DA Requirement with Appendix A 4. Alternative Compliance 5. New DA requirement with Appendix A 6. New DA requirement with Appendix A 7. Not comparable to AE						
85	1010.119(h)(3)(v)	The contract employer shall advise the employee of any unique hazards presented by the contract employer's work, or of any hazards found by the contract employer's work.	AMC R 385-10.4.4 (1) requires contractors to submit a written site specific site specific:	NO					Ensure PSM req outlines contractor requirements and responsibilities for all covered process and stipulates that the requirements outlined in 1010.119(h)(3) for contractor personnel performing maintenance or repair, turnaround, major renovation, or specialty work contracts on or adjacent to a covered process.						
86	1010.119(i)	1010.119(i) - Pre-startup safety review.													
87	1010.119(j)(1)	1010.119(j)(1) - The employer shall perform a pre-startup safety review for new facilities and for modified facilities when the modification is significant enough to require a change in the process safety information.	DA PAM 385-64 Chapter 2-2 addresses hazard analysis and risk assessment. Also DoD 6055.08 STD C.4.2 AR 385-10, 18-9. Preoperational walk-through A preoperational walk-through will be conducted for all hazardous operations to validate the SOP, provide operator training, and ensure that all hazards have been identified during all phases of normal operation and emergencies. They are highly recommended for other long-term operations as well. JMC Safety Reg?	Partial	N	N	Y	Pre-op surveys are alternative form of compliance. May need to reenergize the preop program and JMC participation in preops for some installations. Following DA guidance, not of operations, facilities change(equipment, process, etc)	Recommend local PSSR if operation has been shut down for a period of time exceeding 30 days, if a major operational change(will need to define major as a change to PSM) or an equipment change that it is outside the scope of flow, recommend developing a flowchart that helps the operator visualize MoO and PSSR relationship						
88	1010.119(j)(2)	1010.119(j)(2) - The pre-startup safety review shall confirm that prior to the introduction of highly hazardous chemicals in a process.													
89	1010.119(k)(1)	1010.119(k)(1) - Construction and equipment is in accordance with design specifications;	Army hazard analysis and risk assessment does not include all the information required in OSHA's process hazard analysis. AR 385-10, 18-9. Preoperational walk-through A preoperational walk-through will be conducted for all hazardous operations to validate the SOP, provide operator training, and ensure that all hazards have been identified during all phases of normal operation and emergencies. They are highly recommended for other long-term operations as well. JMC Safety Reg?	NO	N	N	Y	Design specs may not be available or follow current requirements/industry standards for DoD developed equipment or stated equipment or facilities.	Recommend updating PSM guidance to require PSSR(preop survey or walkthrough) to confirm/validate design specs for construction and equipment.						
90	1010.119(k)(2)	1010.119(k)(2) - Safety, operating, maintenance, and emergency procedures are in place and are adequate;	DA PAM 385-64 Chapter 2-2 addresses hazard analysis and risk assessment. AR 385-10, 18-9. Preoperational walk-through A preoperational walk-through will be conducted for all hazardous operations to validate the SOP, provide operator training, and ensure that all hazards have been identified during all phases of normal operation and emergencies. They are highly recommended for other long-term operations as well. JMC Safety Reg?	YES	Y	N	Y		Will need to modify AMC R 700-10T to ensure emergency and abnormal condition procedures are required in the SOP.						
91	1010.119(l)(1)	1010.119(l)(1) - For new facilities, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup; and modified facilities meet the requirements contained in management of change, paragraph (f).	Army hazard analysis and risk assessment does not include all the information required in OSHA's process hazard analysis. In addition, the Army does not have a written program to management the "management of change" over their processes.	NO	N	N	Y	See if property can track modifications and history of building operations.	Update PSM guidance to require PSSR(preop survey or walkthrough) to include confirming PSM controls/corrective actions/recommendations are in place for new processes. Update PSM guidance to require PSSR(preop survey or walkthrough) to include confirming/validating MoO process was completed for major operational changes(will need to define major as a change to PSM).						
92	1010.119(m)	1010.119(m) - Training of each employee involved in operating a process has been completed.	AMC 385-10 Chapter 18-4. Pre-Operational Planning. Pre-operational planning will be developed as part of planning for operations. Pre-operational plans will identify hazards that impact employee safety and mission execution, including the measures used to eliminate or control them. Job hazard analysis (JHA) worksheets will be used to identify, mitigate hazards, and manage the associated risk with that activity. This requires that risk assessment, risk decision making and implementation of effective risk controls be part of the pre-operational safety plan. Operational plans will incorporate pre-operation safety briefings and training requirements as part of the job hazard analysis. Operational briefings and training will identify hazards and will discuss the impact of hazards on operations. AMC 350-4 Training and Certification Program of Personnel Working in Ammunition Operations is a rigid training and certification program. AR 385-10, 18-9. Preoperational walk-through A preoperational walk-through will be conducted for all hazardous operations to validate the SOP, provide operator training, and ensure that all hazards have been identified during all phases of normal operation and emergencies. They are highly recommended for other long-term operations as well. JMC Safety Reg	YES	Y	N	Y		Update AMC R 350-4 to define training for PSM covered processes. Include all PSM training requirements for PSM covered processes, establish symposium courses needed for personnel on covered processes and update Appendix B table accordingly. Training of each employee involved in operating a process has been completed (1010.119(l)(2)(v)) (1) Training for process maintenance activities. The employer shall train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that this employee can perform the job tasks in a safe manner (1010.119(l)(3) (1) be trained in an overview of the process and in the operating procedures (1010.119(l)(3) (1) Refresher training. Refresher training shall be provided at least every three years, and more often if necessary, to each employee involved in operating a process (1010.119(l)(2) (1) and contractor training. Also update wording in AR 385-10 regarding preop planning in 18-4 to require preop planning for PSM covered processes MUST include employee training(venue MAY include);						
93	1010.119(n)	1010.119(n) - Mechanical integrity.													

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Original Order OSHA CITATION OSHA REGULATION		AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS						
			1	2	3	4	5	6	7	8	9	10	11
1910.119(j)(1)(v)	1910.119(j)(1)(v) - Controls (including monitoring devices and sensors, alarms, and interlocks) and:		NO	N	N	Y	Any devices used to monitor, prevent abnormal operation, or warn of hazardous conditions fall under the standard. No existing requirement to document mechanical integrity with piece of equipment or machinery under the MI applicability statement in 1910.119 (Pressure vessels and storage tanks; Piping systems (including piping components such as valves), Relief and vent systems and devices; Emergency shutdown systems; Controls (including monitoring devices and sensors, alarms, and interlocks); and, Pumps; -- or equipment not relevant to PSM covered explosion manufacturing operations).	Any need to submit a LHA to request integration or develop equipment for explosion manufacturing processes as a standalone as permissive compliance. Applicable equipment (pressure vessels and storage tanks; Piping systems (including piping components such as valves), Relief and vent systems and devices; Emergency shutdown systems; Controls (including monitoring devices and sensors, alarms, and interlocks); and, Pumps; -- or equipment not relevant to PSM covered explosion manufacturing operations) would be included.					
90	Note: This OSHA citation just defines what "process equipment" MI is required for.												
1910.119(j)(1)(vi)	1910.119(j)(1)(vi) - Pumps.		NO	N	N	Y	Any devices used to monitor, prevent abnormal operation, or warn of hazardous conditions fall under the standard. No existing requirement to document mechanical integrity with piece of equipment or machinery under the MI applicability statement in 1910.119 (Pressure vessels and storage tanks; Piping systems (including piping components such as valves), Relief and vent systems and devices; Emergency shutdown systems; Controls (including monitoring devices and sensors, alarms, and interlocks); and, Pumps; -- or equipment not relevant to PSM covered explosion manufacturing operations).	Any need to submit a LHA to request integration or develop equipment for explosion manufacturing processes as a standalone as permissive compliance. Applicable equipment (pressure vessels and storage tanks; Piping systems (including piping components such as valves), Relief and vent systems and devices; Emergency shutdown systems; Controls (including monitoring devices and sensors, alarms, and interlocks); and, Pumps; -- or equipment not relevant to PSM covered explosion manufacturing operations) would be included.					
100	Note: This OSHA citation just defines what "process equipment" MI is required for.												
1910.119(j)(2)	1910.119(j)(2) - Written procedures. The employer shall establish and implement written procedures to maintain the on-going integrity of process equipment.	No Army safety requirement that written procedures for MI must be developed for each piece of equipment or machinery under the MI applicability statement in 1910.119 (Pressure vessels and storage tanks; Piping systems (including piping components such as valves); Relief and vent systems and devices; Emergency shutdown systems; Controls (including monitoring devices and sensors, alarms, and interlocks); and, Pumps; -- or equipment not relevant to PSM covered explosion manufacturing operations).	NO	N	N	Y	No requirements for written procedures for preventive maintenance (mechanical integrity) requirements in the safety regulations. Need to explore equipment regulations to identify and evaluate those safety related preventive maintenance is incorporated. After evaluation, requirement revisions to equipment regs to ensure PM requirements meet intent of OSHA PSM requirements. (Note: There are thoughts that LMF II program may task equipment and maintenance. This may be a tool to validate that PM is performed)	Update PSM guidance to identify the MI requirement for and reference equipment regulations that meet that requirement, if they exist.					1
101													
1910.119(j)(3)	1910.119(j)(3) - Training for process maintenance activities. The employer shall train each employee involved in maintaining the on-going integrity of process equipment in an overview of the process and its hazards, and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner.	No Army safety requirement for training of maintenance personnel in each individual process. Only explosives safety required for operators. (See AMC 355-4 matrix)	NO	N	N	Y	No requirements is safety regulations for training maintenance workers on the 3 areas identified in 1910.119(j)(3)-overview of that process, its hazards and the employee's job tasks. Need to explore equipment regulations to confirm training for maintenance personnel indeed includes the employee's job tasks, and will likely need to add requirements to training for maintenance personnel also includes an overview of the process and its hazards. After evaluation, requirement revisions to equipment regs to ensure PM training requirements meet intent of OSHA PSM requirements.	Update PSM guidance to identify the MI training requirement, emphasize the additional training needed for personnel performing ongoing maintenance (an overview of that process and its hazards) and reference equipment regulations that meet that requirement, if they exist. May need to capture training for personnel performing ongoing maintenance in AMC 355-4 matrix. Also update PSM guidance to advise that local procedures must ensure that personnel performing ongoing maintenance receives training on specific PSM covered process and to document the training.					1
102													
1910.119(j)(4)	1910.119(j)(4) - Inspection and testing.												
103													
1910.119(j)(5)	1910.119(j)(5) - Inspections and tests shall be performed on process equipment.	Requirement under DA Pam 385-64 - Electrical Hazards and Protection Chapter 17-2 g. for maintenance on electrical equipment. Maintenance. More than ordinary care will be taken to maintain equipment and electrical installations in hazardous locations. The equipment must be periodically inspected and maintained by qualified personnel, with a written report kept of the inspections and maintenance. Where inspection frequency is not prescribed in a TM or other directive, the inspection period will be fixed by local authority on the basis of the existing situation. AMCR 285-100 16-14. Maintenance and Repairs to Equipment and Buildings. a. Before being placed into routine operations, all new or newly repaired process equipment for use in hazardous operations must be examined and assayed tested to assure that it is in safe working condition. If machinery or equipment does not appear to function properly, operations shall be discontinued if the immediate stoppage does not create a new hazard. AR 385-189-6.3. Operational off-the-shelf, nondevelopmental items, and local purchases. Prior to purchasing, consider the following: 1. Are any permissive equipment or actions needed during operations, maintenance, storage, or transport of the system? 2. Are any AMC requirements for each piece of equipment or machinery under the MI applicability statement in 1910.119 (Pressure vessels and storage tanks; Piping systems (including piping components such as valves); Relief and vent systems and devices; Emergency shutdown systems; Controls (including monitoring devices and sensors, alarms, and interlocks); and, Pumps) 29 CFR 1910.119(j)(5) as required?	Partial	N	N	Y	Based on maintenance operations, and system safety requirements called out in AR 385-10, DA Pam 385-10 for COTS/NDI and JMC's Locally Manufactured Equipment guidance, AMC's COTS/NDI may partially meet this requirement. However, non-electrical equipment is really not addressed in the regulations. Testing is required for all equipment per AMCR 285-100, but requirements for inspections is lacking.	Update the guidance to explicitly require inspections/testing on identified process equipment (or alternative compliance equipment list, if developed); if equivalent requirements already exist, ensure the PSM guidance references those requirements.					1
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PSM Crosswalk
Comparison of Army Requirements and the OSHA PSM Standard

Original Order		OSHA CITATION	OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS					1 - Under PSM Requirement 2 - Requires Compliance DA Requirement with original DA 3 - Requires compliance DA Requirement with updated DA 4 - Requires DA requirement with updated DA 5 - Not applicable to AMC				
					See OSHA 1910.119(a)(1) - General Requirements for Process Safety Management (PSM) - 1910.119(a)(2) - Process Hazard Analysis (PHA) - 1910.119(a)(3) - Safety Instrumented Systems (SIS) - 1910.119(a)(4) - Operating Procedures - 1910.119(a)(5) - Training - 1910.119(a)(6) - Mechanical Integrity (MI) - 1910.119(a)(7) - Refueling, Hot Work, and Other Special Operations - 1910.119(a)(8) - Management of Change (MOC) - 1910.119(a)(9) - Commissioning - 1910.119(a)(10) - Decommissioning - 1910.119(a)(11) - Emergency Planning and Response - 1910.119(a)(12) - Incident Investigation - 1910.119(a)(13) - Process Safety Information (PSI) - 1910.119(a)(14) - Process Safety Management (PSM) - 1910.119(a)(15) - Process Safety Management (PSM) - 1910.119(a)(16) - Process Safety Management (PSM) - 1910.119(a)(17) - Process Safety Management (PSM) - 1910.119(a)(18) - Process Safety Management (PSM) - 1910.119(a)(19) - Process Safety Management (PSM) - 1910.119(a)(20) - Process Safety Management (PSM) - 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1910.119(a)(460) - Process Safety Management (PSM) - 1910.119(a)(461) - Process Safety Management (PSM) - 1910.119(a)(462) - Process Safety Management (PSM) - 1910.119(a)(463) - Process Safety Management (PSM) - 1910.119(a)(464) - Process Safety Management (PSM) - 1910.119(a)(465) - Process Safety Management (PSM) - 1910.119(a)(466) - Process Safety Management (PSM) - 1910.119(a)(467) - Process Safety Management (PSM) - 1910.119(a)(468) - Process Safety Management (PSM) - 1910.119(a)(469) - Process Safety Management (PSM) - 1910.119(a)(470) - Process Safety Management (PSM) - 1910.119(a)(471) - Process Safety Management (PSM) - 1910.119(a)(472) - Process Safety Management (PSM) - 1910.119(a)(473) - Process Safety Management (PSM) - 1910.119(a)(474) - Process Safety Management (PSM) - 1910.119(a)(475) - Process Safety Management (PSM) - 1910.119(a)(476) - Process Safety Management (PSM) - 1910.119(a)(477) - Process Safety Management (PSM) - 1910.119(a)(478) - Process Safety Management (PSM) - 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1910.119(a)(498) - Process Safety Management (PSM) - 1910.119(a)(499) - Process Safety Management (PSM) - 1910.119(a)(500) - Process Safety Management (PSM) - 1910.119(a)(501) - Process Safety Management (PSM) - 1910.119(a)(502) - Process Safety Management (PSM) - 1910.119(a)(503) - Process Safety Management (PSM) - 1910.119(a)(504) - Process Safety Management (PSM) - 1910.119(a)(505) - Process Safety Management (PSM) - 1910.119(a)(506) - Process Safety Management (PSM) - 1910.119(a)(507) - Process Safety Management (PSM) - 1910.119(a)(508) - Process Safety Management (PSM) - 1910.119(a)(509) - Process Safety Management (PSM) - 1910.119(a)(510) - Process Safety Management (PSM) - 1910.119(a)(511) - Process Safety Management (PSM) - 1910.119(a)(512) - Process Safety Management (PSM) - 1910.119(a)(513) - Process Safety Management (PSM) - 1910.119(a)(514) - Process Safety Management (PSM) - 1910.119(a)(515) - Process Safety													

PSM Crosswalk
Comparison of Army Requirements and the OSHA PSM Standard

Original Order		OSHA CITATION	OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	JMC COMMENTS				JMC RECOMMENDATIONS	Legend							
					Yes	No	Partial	Not Applicable		1. Using DA Reg with OSHA 1910.119(a)(2)	2. Review existing DA Requirement with OSHA 1910.119(a)(2)	3. Amend existing DA Requirement with OSHA 1910.119(a)(2)	4. Develop DA Requirement with OSHA 1910.119(a)(2)	5. Amend DA Requirement with OSHA 1910.119(a)(2)	6. Amend DA Requirement with OSHA 1910.119(a)(2)	7. Not comparable to OSHA	
115	1910.119(a)(2)	1910.119(a)(2) - The permit shall document that the fire prevention and protection requirements in 29 CFR 1910.252(a) have been implemented prior to beginning the hot work operations; it shall indicate the date(s) authorized for hot work, and identify the object on which hot work is to be performed. The permit shall be kept on file until completion of the hot work operations.	DA Form 5383 requires all the information. DA Pam 385-64 para 8-1(f) "Where explosives, highly flammable, or energetic materials are involved, a written permit is required for using heat-producing equipment capable of reaching a temperature higher than 225 degrees Fahrenheit (F) (109 degrees Celsius (C)). (See para 6-8a and AR 420-1 for additional guidance.)"	Yes	Y	N	Y	Military requirements are equivalent to OSHA PSM requirements.		1							
116	1910.119(a)(2)	1910.119(a)(2) - Management of change.															
117	1910.119(a)(2)	1910.119(a)(2)(i) - The employer shall establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process.	There is no Army or DoD requirement that written procedures be developed at each worksite where explosives are present that outlines how changes in processes, technology or procedures will be addressed. When a change is made, what is the process to follow before the process is restarted. Army does risk assessments and JIAs but there is no written procedure to give guidance so there is uniformity in the changing of processes. This standard makes each worksite responsible for writing a procedure that outlines what roadmap to follow when changes are made. AR 385-18, 8-1g.g. Design and facility use changes will be evaluated for increased risks according to DA Pam 385-18.	NO	N	N	Y	AMC Safety fully agrees to no requirements for a written management of change procedure. The closest available written procedure for change management is the facility system safety requirements called out in AR 420-10 Para. 8-1g and DA Pam 385-10. Changes to the terms that require TGP are covered by configuration management. SOPs changes are fairly understood to need to comply with PSM. PBA has a written policy to address MoC implementing changes "on the line" is more difficult, equipment and facility changes, are more difficult. All aspects of the SOP may differ at various sites. Local process will need to address all aspects of the process. Adequate execution requires having the up-to-date PSM. Most effective MoC programs must have safety as a required routing point for all changes to facilities, drawings, equipment, etc. AMC 700-107 is the basis for requirements for SOPs. Recommended modifications to AMC 700-107 be mindful that MoC covers more than just SOPs.	DA/AMC guidance for PSM must address management of change requirements and perhaps provide an example template for an explosive operation or a checklist/form that outlines the specific criteria that aligns with the OSHA PSM MoC requirements. The nature of MoC programs will likely differ at each installation so recommend DA/AMC guidance allow flexibility so installations can develop local policies to address management of change requirements that work best for them.								
118	1910.119(a)(2)	1910.119(a)(2)(i) - The procedures shall assure that the following considerations are addressed prior to any change:	There is no Army or DoD requirement that written procedures be developed at each worksite where explosives are present that outlines how changes in processes, technology or procedures will be addressed. When a change is made, what is the process to follow before the process is restarted. Army does risk assessments and JIAs but there is no written procedure to give guidance so there is uniformity in the changing of processes. This standard makes each worksite responsible for writing a procedure that outlines what roadmap to follow when changes are made. AR 385-18, 8-1g.g. Design and facility use changes will be evaluated for increased risks according to DA Pam 385-18.	NO	N	N	Y	AMC Safety fully agrees to no requirements for a written management of change procedure. The closest available written procedure for change management is the facility system safety requirements called out in AR 420-10 Para. 8-1g and DA Pam 385-10. Changes to the terms that require TGP are covered by configuration management. SOPs changes are fairly understood to need to comply with PSM. PBA has a written policy to address MoC implementing changes "on the line" is more difficult, equipment and facility changes, are more difficult. All aspects of the SOP may differ at various sites. Local process will need to address all aspects of the process. Adequate execution requires having the up-to-date PSM. Most effective MoC programs must have safety as a required routing point for all changes to facilities, drawings, equipment, etc. AMC 700-107 is the basis for requirements for SOPs. Recommended modifications to AMC 700-107 be mindful that MoC covers more than just SOPs.									
119	1910.119(a)(2)(i)	1910.119(a)(2)(i) - The technical basis for the proposed change;	There is no Army or DoD requirement that written procedures be developed at each worksite where explosives are present that outlines how changes in processes, technology or procedures will be addressed. When a change is made, what is the process to follow before the process is restarted. Army does risk assessments and JIAs but there is no written procedure to give guidance so there is uniformity in the changing of processes. This standard makes each worksite responsible for writing a procedure that outlines what roadmap to follow when changes are made. AR 385-18, 8-1g.g. Design and facility use changes will be evaluated for increased risks according to DA Pam 385-18.	NO	N	N	Y	The closest thing to address a technical basis for changes is the change in facility use, structure, personnel, or increased NEW that prompts a revised site plan.	DA/AMC guidance for PSM must address management of change requirements to include technical basis for the proposed change.								
120	1910.119(a)(2)(ii)	1910.119(a)(2)(ii) - Impact of change on safety and health;	There is no Army or DoD requirement that written procedures be developed at each worksite where explosives are present that outlines how changes in processes, technology or procedures will be addressed. When a change is made, what is the process to follow before the process is restarted. Army does risk assessments and JIAs but there is no written procedure to give guidance so there is uniformity in the changing of processes. This standard makes each worksite responsible for writing a procedure that outlines what roadmap to follow when changes are made. AR 385-18, 8-1g.g. Design and facility use changes will be evaluated for increased risks according to DA Pam 385-18.	Partial	N	N	Y	Military requirements address evaluating impact on safety and health for some changes/facility, SOP, CSSP, and require re-evaluation of the PSM, however, all changes/equipment/process, materiel, etc are not re-evaluated to the extent required by OSHA PSM 191, or well documented. Based on the facility system safety requirements, facility changes must be analyzed for safety or health implications or hazards. For explosive facilities, these changes usually involve a substantial of a new site plan or a revised site plan. JMC Safety views the outlined requirements as partially meeting the specific intent of this portion of the management of change evaluation. "Any proposed operational change" requires re-assessment of the PSM.	DA/AMC guidance must address MoC requirements to include impact of change on safety and health for all changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. Ensure in the next update of DA Pam 385-18, change analysis includes evaluation of equipment, information, or procedural changes that affect safety and health IAW PSM standards.								

PSM Crosswalk
Comparison of Army Requirements and the OSHA PSM Standard

Original Order	OSHA CITATION	OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							

Comparison of Army Requirements and the OSHA PSM Standard

Original Order	OSHA CITATION	OSHA REGULATION	AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	OSHA 1910.119(m)(1) - The employer shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release of highly hazardous chemical in the workplace.	OSHA 1910.119(m)(2) - An incident investigation shall be initiated as promptly as possible, but not later than 48 hours following the incident.	OSHA 1910.119(m)(3) - An incident investigation team shall be established and consist of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of the contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.	OSHA 1910.119(m)(4) - A report must be prepared at the conclusion of the investigation which includes at a minimum:	OSHA 1910.119(m)(4)(i) - Date of incident.	OSHA 1910.119(m)(4)(ii) - Date investigation began.	OSHA 1910.119(m)(4)(iii) - A description of the incident.	OSHA 1910.119(m)(4)(iv) - The factors that contributed to the incident, and.	OSHA 1910.119(m)(4)(v) - Any recommendations resulting from the investigation.
128	1910.119(m)(1) -	DA 385-40 does not require investigation of near misses, only accidents. There appears to be no regulation requiring investigation of all near misses in explosive work areas.	NO	N	N	Y						
129	1910.119(m)(2)	No AMC/Army/DOD regulation requiring the investigation to be initiated within 48 hours of the mishap. AR 385-10, para 3-25, DA PAM 385-40 3-2-3-1. Preservation of accident site may meet intent of beginning investigation, and is started as soon as an accident scene is declared safe for entry by emergency response personnel.	NO	N	Y	Y						
130	1910.119(m)(3)	AMC 385-10 Section 3-7 (d) requires technical personnel familiar with the process be used as needed on the investigation Board.	YES	Y	Y	N						
131	1910.119(m)(4)		YES	Y	Y	N						
132	1910.119(m)(4)(i)	AMC 385-10 Section 3-7 (d) and DA 385-40 provide guidelines outlining required information in reports.	YES	Y	Y	N						
133	1910.119(m)(4)(ii)	AMC 385-10 Section 3-7 (d) and DA 385-40 provide guidelines outlining required information in reports.	YES	Y	Y	N						
134	1910.119(m)(4)(iii)	AMC 385-10 Section 3-7 (d) and DA 385-40 provide guidelines outlining required information in reports.	YES	Y	Y	N						
135	1910.119(m)(4)(iv)	AMC 385-10 Section 3-7 (d) and DA 385-40 provide guidelines outlining required information in reports.	YES	Y	Y	N						
136	1910.119(m)(4)(v)	AMC 385-10 Section 3-7 (d) and DA 385-40 provide guidelines outlining required information in reports.	YES	Y	Y	N						

PSM Crosswalk

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PSM Crosswalk
Comparison of Army Requirements and the OSHA PSM Standard

Original Order OSHA CITATION OSHA REGULATION		AMC, ARMY OR DOD EXPLOSIVES REGULATIONS/STANDARDS	<small> 1. Does OSHA regulation require a written PSM? (If not, does it require a written hazard analysis?) 2. Does OSHA regulation require a written process for developing the PSM? 3. Does OSHA regulation require a written procedure for conducting the PSM? 4. Does OSHA regulation require a written procedure for investigating incidents? </small>				JMC COMMENTS	JMC RECOMMENDATIONS	<small> 1. Does OSHA regulation require a written PSM? (If not, does it require a written hazard analysis?) 2. Does OSHA regulation require a written process for developing the PSM? 3. Does OSHA regulation require a written procedure for conducting the PSM? 4. Does OSHA regulation require a written procedure for investigating incidents? 5. Does OSHA regulation require a written procedure for investigating incidents? 6. Does OSHA regulation require a written procedure for investigating incidents? 7. Does OSHA regulation require a written procedure for investigating incidents? </small>						
148	1910.119(g)(1) - 1010.119(g)(1) - Employers shall make all information necessary to comply with the section available to those persons responsible for <u>conducting the process safety information</u> (required by paragraph (d) of this section), those involved in the development of the <u>process hazard analysis</u> (required by paragraph (e) of this section), those responsible for developing the <u>operating procedures</u> (required by paragraph (f) of this section), and those involved in <u>incident investigations</u> (required by paragraph (m) of this section), <u>emergency planning</u> and <u>response</u> (paragraph (n) of this section) and <u>compliance audits</u> (paragraph (o) of this section) without regard to possible trade secret status of such information.		Partial	N	N	Y	May need to sanitize some of the PSI to make it available to all workers. Need to know and other security requirements may come into play and need to be modified.	Update PSM guidance to mirror language in the OSHA PSM rule, may advise that this may affect local procedures: contracts, contract clauses, security clearance requirements, HAWG participant requirements, non-disclosure statements, etc.							
149	1910.119(g)(2) - Nothing in this paragraph shall preclude the employer from requiring the persons to whom the information is made available under paragraph (g)(1) of this section to enter into confidentiality agreements not to disclose the information as set forth in 32 CFR 104.11000.														
150	1910.119(g)(3) - Subject to the rules and procedures set forth in 29 CFR 1010.1200(g)(1) through 1010.1200(g)(12), employees and their designated representatives shall have access to trade secret information contained within the process hazard analysis and other documents required to be developed by this standard.		YES	Y	N	N	Army HAZCOM does provide trade secret information in a need to know basis(SOS). Procedures are in place for requesters to need pre-approval requirements to gain access to documents containing trade secrets.	Update PSM guidance that allows for all required documentation(including trade secrets) to be available during HAWGs, design reviews, audits, etc.							



DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY JOINT MUNITIONS COMMAND

REPLY TO
ATTENTION OF:

AMSJM-CG

13 MAY 2015

MEMORANDUM FOR [REDACTED] Headquarters U.S.
Army Materiel Command, [REDACTED]

SUBJECT: Process Safety Management (PSM) Implementation Guidance

1. Reference, Memorandum, Department of the Army, Office of the Chief of Staff, DACS-SF, 16 Mar 15, subject: Process Safety Management of Energetic Material (Encl. 1).
2. The Occupational Safety and Health Administration (OSHA) 29 Code of Federal Regulations (CFR) 1910.109, Explosives and blasting agents, expands applicability of 29 CFR 1910.119, PSM of highly hazardous chemicals, (OSHA PSM Standard) to the manufacture of explosives and pyrotechnics.
3. The Joint Munitions Command (JMC) requests assistance from Army Materiel Command (AMC) and Army Safety Office with developing a PSM program for explosives and pyrotechnic operations that complies with the OSHA PSM Standard. Enclosure 2 outlines specific assistance requested, provides recommendations for implementing PSM explosives and pyrotechnics operations and presents a case for proposing alternate compliance with the PSM Standard based on existing Department of Defense, Army and AMC requirements.
4. Implementing PSM in Army explosives and pyrotechnics manufacturing operations will require additional resources and requires a synchronized effort to ensure consistency throughout the Army. Current challenges include avoiding potential duplication of effort with other safety requirements, risk of unnecessarily or improperly allocating resources and vulnerability to regulatory action.
5. The JMC point of contact is [REDACTED]

Ready-Reliable-Lethal

2 Encls

1. DA Memo, 16 Mar 15
2. PSM Implementation Plan, 1 May 15

AMSJM-CG

SUBJECT: Process Safety Management (PSM) Implementation Guidance

CF:



ENCLOSURE 1



DEPARTMENT OF THE ARMY

DACS-SF

16 March 2015

MEMORANDUM FOR

SUBJECT: Process Safety Management of Energetic Material

1. Army is reassessing our process safety management program, with specific focus on application of 29 CFR 1910.119, Process Safety Management of Highly Hazardous Chemicals, to energetic material. Purpose of this memorandum is to solicit your assistance.
2. Current Army safety policy and explosives safety standards do not address process safety management of energetic material. We are working with the Army Materiel Command to assess criteria in 29 CFR 1910.119 and develop proposed changes to safety policy and explosives safety standards to rectify this situation. However there are some requirements in 29 CFR 1910.119 which we believe, based on the age of some Army ammunition and explosives facilities, are infeasible to implement. In these situations we plan to request a variance, with compensatory measures, from the Occupational Safety and Health Administration (OSHA).
3. Our desire is to partner with OSHA to gain consensus on our approach to process safety management and application of 29 CFR 1910.119 to energetic material, and to gain approval for variances when OSHA standards are infeasible to implement. Recommend our offices work together in this endeavor. Your authority as representatives of the DoD and DA Designated Agency Safety and Health Official will facilitate partnering with OSHA and expedite development and implementation of the Army program for process safety management of energetic material.

4. My point of contact is

5. Army safe is Army strong!

CF:

ENCLOSURE 2

US ARMY JOINT MUNITIONS COMMAND (JMC)

**Process Safety Management Implementation Plan for
explosives and pyrotechnic operations at JMC
Government-Owned Government-Operated (GOGO)
installations to ensure compliance with the 29 Code of
Federal Regulations (CFR) 1910.119 - Process safety
management of highly hazardous chemicals.**



11 May 2015

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1. Purpose
2. References
3. Scope
4. Summary of the Problem
5. Assistance Requested from Army Materiel Command and Department of Army
6. Rationale for Proposing Alternate Compliance
7. Joint Munitions Command Headquarters Points of Contact

APPENDICES

- A. PSM History
- B. Process Safety Management Applicability Criteria and Requirements Crosswalk

1. PURPOSE

1.1. This implementation plan is submitted as part of the HQ JMC strategy to ensure the JMC organic industrial base complies with 29 Code of Federal Regulations (CFR) 1910.119, Process Safety Management (PSM) requirements, hereby referred to as the Occupational Safety and Health Administration (OSHA) PSM Standard.

1.2. This plan:

- 1.2.1. Summarizes the challenges with implementing a PSM program in explosives and pyrotechnic operations.
- 1.2.2. Outlines specific assistance requested from AMC and DA (Section 5.2).
- 1.2.3. Provides a comparison of DoD, Army, and AMC requirements to the OSHA PSM Standard and recommendations for implementing PSM in JMC Government-Owned Government-Operated (GOGO) installations performing explosives and pyrotechnic operations. Includes:
 - Recommendations for revisions to DA/AMC regulations.
 - Recommendations for PSM requirements where development of policies at the local level is preferred.
 - A case for requesting the Army to evaluate proposing alternate compliance with the OSHA PSM Standard based on existing DoD, DA and AMC requirements.

2. REFERENCES

- 2.1. Occupational Safety and Health Administration (OSHA) 29 Code of Federal Regulations (CFR) 1910.119 (PSM of highly hazardous chemicals).
- 2.2. OSHA 29 CFR 1910.109 (Explosives and Blasting Agents).
- 2.3. Department of Defense Instruction (DODI) 6055.1 (DoD Safety and Occupational Health).
- 2.4. Army Regulation (AR) 385-10 (The Army Safety Program).
- 2.5. Department of Army Pamphlet (DA PAM) 385-10 (The Army Safety Program).
- 2.6. Standard JMC Safety Performance Work Statement-Explosives.
- 2.7. Mission Support Services, Proposal for Process Safety Management (PSM) Gap Analysis and Change Agent Contract, Project Number MISC 2014-001, Site Visit.
- 2.8. Draft Army Materiel Command Regulation 385-10 (Process Safety Management).

2.9. OSHA Letters of Interpretation.

3. SCOPE

- 3.1. The JMC PSM Implementation Plan outlined in this document will apply to all GOGO installations.
- 3.2. Commanders will develop a strategy for PSM program execution as required in the OSHA Standard and this document, as part of their overall safety program.
- 3.3. Each Commander's safety program will include contractors/subcontractors as required by the OSHA PSM Standard. It is not the purpose or intent for JMC to manage or take responsibility for any contractor's safety and health program. This responsibility remains with the contractor.
- 3.4. The JMC Government-Owned Contractor-Operated (GOCO) installations are operated by commercial contractors. Commercial contractors must comply with all applicable OSHA requirements. To ensure this, the standard JMC Safety Performance Work Statement (PWS) at each GOCO installation requires contractors to comply with applicable provisions of local, state, and Federal ordinances, laws, and construction codes. The JMC Safety PWS, paragraph, 4.1.1, also includes specific requirements that require the operating contractor to address implementation of 29 CFR 1910.119, Process Safety Management. The JMC Organizational Inspection Program includes requirements to assess contractor adherence to all safety requirements outlined in the PWS.

4. SUMMARY OF THE PROBLEM

- 4.1. The OSHA PSM Standard is a performance-based standard with criteria that defines what a PSM program must achieve and references approved methods that can be used to demonstrate compliance, but it does not explicitly define how compliance is to be achieved. As such, organizations must demonstrate compliance based on local procedures, programs and technologies that fit the culture of the workplace. Due to variations in each regional OSHA offices' acceptance of DoD and DA safety requirements demonstrating compliance with the OSHA PSM Standard, consensus at the DA level is warranted.
- 4.2. The Army Safety Program, paragraph 16-2 d (11), requires organizations to follow OSHA Process Safety Management requirements for workplace safety. The Army Materiel Command has not published final guidance regarding implementation of PSM in explosives and pyrotechnic operations. Overall, there is a lack of PSM implementation guidance for DA explosives and pyrotechnic operations. Specifically, organizations need clarity as to what specific explosives and pyrotechnic operations must comply with the OSHA PSM standard and a direct association between OSHA PSM requirements and DoD/DA requirements

for safety in explosives and pyrotechnic operations and facilities, equipment and process design requirements.

4.3. In September 2013, JMC formed a PSM Working Group to perform a gap analysis and compare DoD, DA and AMC regulatory requirements to the requirements of the OSHA PSM Standard. The working group identified that full compliance with the OSHA PSM Standard is not feasible without additional action and resources. The working group developed recommendations for establishing compliant PSM programs that included submitting existing DoD, DA and AMC regulatory requirements as alternate compliance to specific OSHA PSM requirements, revising existing DA/AMC regulations to more accurately align with the OSHA PSM Standard and requiring organizations to develop local policies to fill in remaining regulatory gaps to align with the OSHA PSM Standard. Appendix B outlines recommendations for the implementation of PSM in explosives and pyrotechnic operations and presents a case for an alternate standard based on existing DoD, DA and AMC requirements.

5. ASSISTANCE REQUESTED FROM ARMY MATERIEL COMMAND AND DEPARTMENT OF THE ARMY

5.1. Without timely assistance from AMC and DA to ensure organizations have OSHA compliant PSM programs, the JMC organic industrial base executing explosives and pyrotechnic operations is vulnerable to possible regulatory action that may impact mission execution.

5.2. The JMC requests assistance from AMC and DA in establishing a PSM program for explosives and pyrotechnic operations that complies with the 29 CFR 1910.119, OSHA PSM Standard. The JMC requests AMC and DA:

5.2.1. As recommended by JMC legal counsel, evaluate exercising the Army's statutory authority to prescribe regulations affecting worker safety and health in accordance with 29 United States Code 653(b)(1).

5.2.2. Establish consensus within DA on implementation of PSM in explosives and pyrotechnic operations, including defining what explosives and pyrotechnic operations must comply with the OSHA PSM Standard, revising existing requirements and/or developing new requirements to align with the OSHA PSM Standard.

5.2.3. Evaluate requesting that the Deputy Under Secretary of Defense for Environmental Security (DUSD (ES)) submit a proposal for alternative compliance; reach consensus with OSHA regarding acceptance of DoD, DA and AMC requirements as complying with the OSHA PSM Standard; and/or submit a formal inquiry to OSHA for interpretation of the OSHA PSM standard as it applies to explosives and pyrotechnic operations.

- 5.2.4.** Assist in determining and allocating additional resources to ensure the Organic Industrial Base establishes and maintains OSHA compliant PSM programs.

Review the JMC PSM Working Group recommendations for acceptance in implementing PSM in JMC explosives and pyrotechnic operations.

6. RATIONALE FOR PROPOSING ALTERNATE COMPLIANCE

- 6.1.** In accordance with DODI 6055.1, Enclosure 4, if a DoD Component determines that compliance in a non-military unique work environment with an OSHA standard is not feasible, a proposed alternate standard shall be developed and submitted to DUSD (ES). The proposed alternate standard must include the following:

- a) A statement explaining why the alternate standard is required
- b) A description of the proposed alternate standard
- c) An explanation of how the proposed alternate standard affords equal or greater protection than the standard or standards it replaces
- d) An indication that employee or employee representative and other DoD Components' comments were solicited, and a summary and analysis of such comments
- e) A description of interim protective measures in effect pending decision on the alternate standard

- 6.2.** Rationale for proposing alternate compliance includes, but is not limited to:

- 6.2.1.** Existing doctrine, requirements, strategies, precautions and risk management processes in DoD, DA and AMC regulations accomplish similar objectives and provides employees equal or greater protection as the OSHA PSM Standard.
- 6.2.2.** Consensus within DA and negotiation with OSHA is needed to resolve inconsistent acceptance of DoD, DA and AMC regulatory requirements as sufficiently meeting OSHA PSM Standard requirements.
- 6.2.3.** There is a lack of consistent and specific DoD/DA PSM implementation guidance for explosives and pyrotechnic operations, including defining what explosives and pyrotechnic operations must comply with the OSHA PSM Standard. The 29 CFR 1919.109 requires certain types of explosives and pyrotechnic operations to comply with the OSHA PSM Standard. The definition of explosives and pyrotechnics [reference 2.1] along with OSHA letters of interpretation [reference 2.9] indicate that OSHA considers the manufacturing of explosives to mean mixing, blending, extruding, synthesizing, assembling, disassembling and other activities involved in the making of a chemical compound, mixture or device which is intended to explode.

6.2.4. Extensive resources needed to assess the state of PSM in the enterprise and ensure consistent implementation of PSM. In June 2014, a contract was awarded to perform a PSM program gap analysis and develop a path forward to implement an OSHA compliant PSM program at a GOGO ammunition manufacturing plant. Following the site visit and assessment, the estimate for the time and effort to bring a single operation into PSM compliance, without pursuing acceptance of an alternate standard, was approximately 1640 man-hours, roughly estimated at up to \$240,000 per operation (Reference 2.7).

6.3. Proposed language to provide information in accordance with DODI 6055.1, is as follows:

6.3.1. A statement explaining why the alternate standard is required:

The OSHA Standard outlines a 14 element program aimed to prevent unexpected releases of toxic, reactive, or flammable liquids and gases in processes involving highly hazardous chemicals. As referenced in 29 CFR 1910, 109 k, explosives and pyrotechnic manufacturing operations must comply with the OSHA PSM Standard. However, this incorporation did not amend the OSHA PSM Standard in consideration of the unique differences between explosives and pyrotechnic manufacturing operations when compared to traditional highly hazardous chemical operations; the latter of which the standard was originally intended. Full implementation of the OSHA PSM standard may require approval from higher headquarters and additional funding to ensure consistent implementation across the JMC organic industrial base, as it impacts explosives safety, manufacturing, facilities, equipment and process design requirements. Full implementation would be subject to the availability of appropriated funds, subject to the Anti-Deficiency Act, 31 U.S.C. Section 1341, which limits the ability of JMC to expend funds in excess of the availability of appropriated funds.

6.3.2. A description of the proposed alternate standard: Appendix A provides a requirements matrix that identifies specific DoD, Army and Army Materiel Command safety and logistics regulatory requirements that are proposed as the alternate standard for specific OSHA PSM Standard requirements.

6.3.3. An explanation of how the proposed alternate standard affords equal or greater protection than the standard or standards it replaces: Appendix A provides a requirements matrix that identifies specific DoD, Army and Army Materiel Command safety and logistics regulatory requirements that are proposed as the alternate standard for specific OSHA PSM Standard requirements.

6.3.4. An indication that employee or employee representative and other DoD Components' comments were solicited, and a summary and analysis of such comments: Following a decision from DA on approval of the proposed

alternate standard strategy and DA soliciting comments from other DA components, recommend DA solicit comments from employees or employee representatives.

6.3.5. A description of interim protective measures in effect pending decision on the alternate standard: Appendix A provides a requirements matrix that identifies specific DoD, Army and Army Materiel Command safety and logistics regulatory requirements. The listed requirements are proposed as the interim protective measures in effect.

6.4. Following coordination with other DoD components, the proposal for an alternate standard will need to be amended and finalized to include an indication that employee or employee representatives and other DoD components' comments were solicited and a summary and analysis of such comments and a description of interim protective measures in effect pending decision on the alternate standard.

7. HQ, JMC POINTS OF CONTACT

The JMC Safety Office points of contact:

7.1. [REDACTED] JMC Safety and Risk Management Directorate,
[REDACTED]

7.2. [REDACTED] JMC Safety and Risk Management
Directorate, [REDACTED]

7.3. [REDACTED] Safety and Occupational Health Specialist, JMC Safety and
Risk Management Directorate, [REDACTED]

APPENDIX A PSM HISTORY

- 1) On 17 July 1990, OSHA published in the Federal Register (55 FR 29150) a proposed standard, - "Process Safety/Risk Management of Highly Hazardous Chemicals" - containing requirements for the management of hazards associated with processes using highly hazardous chemicals to help ensure safe and healthful workplaces.
- 2) On 24 February 1992, the 29 CFR 1910.109 - Explosives and Blasting Agents standard - was amended to cover the manufacture of explosives under the PSM standard. There were no comments captured from DoD, DA or other Services in the Federal register regarding applicability to military explosives and pyrotechnic operations.
- 3) On 26 May 1992, OSHA issued the final rule on Process Safety/Risk Management of Highly Hazardous Chemicals; Explosives and Blasting Agents.
- 4) In August 2007, Army Regulation 385-10 added a requirement for complying with PSM.
- 5) In 2009, AMC began a project to perform a comparison of Army standard to OSHA PSM standards. Final outcome of the project is unknown as it was not distributed as formal PSM guidance.
- 6) In May 2012, JMC provided PSM awareness training to installation safety managers during the JMC monthly safety managers teleconference.
- 7) In March 2013, the JMC experienced an accidental explosion in a pyrotechnic candle production operation at Crane Army Ammunition Activity (CAAA). Following a 5 month OSHA investigation, on 12 September 2013, OSHA issued 65 Notices of Unsafe or Unhealthful Working Conditions. Many of the notices (50) resulted from lack of comprehensive PSM program that was compliant with the OSHA PSM Standard. This was a first time an Army GOGO Installation was issued OSHA Notices for PSM.
- 8) In November 2013, JMC issued the draft JMC PSM Guide to GOGO installations.
- 9) In December 2013, HQ JMC Safety Office assembled a PSM Working Group to refine the JMC PSM Guide. Invited participants to the working group included representatives of HQ JMC, Safety professionals at JMC GOGO installations, AMC Safety and DoD Voluntary Protection Programs (VPP) Center of Excellence. The working group met weekly from December 2013 to March 2014.
- 10) In February 2014, AMC forwarded an OSHA Request for Information solicitation regarding the OSHA PSM Standard. Collectively, the HQ JMC and subordinates

submitted comments to AMC regarding difficulty in implementing PSM in Ammunition and Explosives (A&E) operations (i.e. lack of definitive guidance on applicability, requirements terminology intended for chemical industry, etc.).

- 11) In February 2014, AMC issued a draft PSM regulation (AMCR 35-3) and solicited comments from major subordinate commands. In April 2014, HQ JMC submitted consolidated comments to AMC on the draft PSM regulation. As of 1 May 2015, the draft AMC Regulation has not been finalized.
- 12) In April 2014, CAAA submitted a Petition for Modification of Abatement (PMA) to the OSHA Regional Office in response to the open OSHA Notices (see 4.6). The PMA provided a corrective action plan that included an update on CAAA's current abatement actions, furnished an overview of the significant hurdles CAAA must overcome to implement PSM within a DoD framework and provided justification for extension of the deadlines required for response to the OSHA Notices. The proposed abatement plan would extend final PSM implementation to 2018.
- 13) In April 2014, JMC Safety reviewed draft Army Materiel Command Regulation 385-10, Process Safety Management, and provided comments (JMC Tasker 5087/ AMC Tasker A1-OC.7-3322-20623 (64587)).
- 14) On 3 July 2014, HQ JMC Safety provided the completed PSM requirements crosswalk to AMC Safety and provided recommendations for alternate compliance.
- 15) In August 2014, JMC contracted with Mission Support Services to perform a PSM program gap analysis of the pyrotechnic candle production operation at CAAA. (\$72K contract, 1 week assessment, 3 safety professionals). The site visit report indicated that the greatest effort is anticipated for the Process Safety Information section (712 man-hours, 8 weeks). The contractor estimated that approximately 1640 man-hours to bring the pyrotechnic candle production operation into full PSM compliance, without pursuing acceptance of an alternate standard. HQ, JMC Safety estimated those costs as approximately \$240,000.
- 16) In January 2015, JMC reconvened the PSM Working Group to refine recommendations for implementation of PSM. Invited participants to the working group included representatives of HQ JMC, Safety professionals at JMC GOGO installations, AMC Safety and Army Safety Office. The working group met weekly from January 2015 to March 2015.
- 17) In February 2015, OSHA responded to CAAA Petition for Modification of Abatement with a counter proposal with a modified abatement schedule. The ; modified abatement schedule extends the abatement plan through December 2016 and requires quarterly status reports to OSHA. CAAA submitted the first quarterly update to OSHA in March 2015.

- 18) In May 2015, Director of Army Safety issued a memorandum to Deputy Assistant Secretary of the Army(DASA), Environment, Safety and Occupational Health (ESOH), Director, ESOH, Office of the Under Secretary of Defense (OSD) for Acquisition, Logistics and Technology (ALT), requesting assistance with developing a PSM program within the Army. The memorandum stated that current Army safety policy and explosive safety standards do not address process safety management of energetic material and emphasized a desire to partner with OSHA to gain consensus on the Army approach to process safety management and application of 29 CFR 1910.119 to energetic material.

U.S. Department of Labor



October 20, 2020

RE: OSHA Complaint No. 1675264

Dear [REDACTED]

On October 19, 2020, the Occupational Safety and Health Administration (OSHA) received a notice of alleged hazardous working conditions and/or violations of 29 CFR Part 1960 citable program elements in your workplace

We notified you by telephone of these alleged hazards on October 20, 2020. The specific nature of the alleged hazards is as follows:

1. In building 105 and 102, the chains, hooks, and slings used on cranes under the hook have not been inspected.
2. In building 102, 105, and the pyro buildings, there is explosive material in use and the electrical present in the buildings is not Class 2 and Division 1.
3. In the pyro building, flares are being produced with explosive materials and the inspection and procedures have not been put in place for process safety management.

While OSHA has decided not to conduct an inspection in response to this report, you should investigate the alleged violation(s). Department of Labor regulation 29 CFR 1960.28 requires that you conduct an inspection within 3 working days for potentially serious conditions and within 20 working days for other than serious hazards. You should implement any necessary correction(s) within 30 calendar days after completing the inspection by December 8, 2020. If you cannot implement correction(s) within 30 calendar days, please provide me with a detailed abatement plan. Your plan should include:

1. All steps you took, and the dates of such action, to achieve compliance during the prescribed abatement period.

2. The specific amount of additional abatement time you estimate you will need to achieve compliance.
3. The reasons you will need additional time, including the lack of professional or technical personnel or of materials and equipment, or because your agency cannot complete necessary construction or alteration of facilities by the original abatement date.
4. Interim steps you are taking to safeguard the employees against the cited violation(s) during the abatement period.

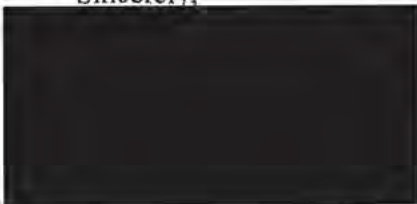
Please advise me in writing, within 30 calendar days after completing the inspection, of your finding(s) and of any action you have taken. Please provide a detailed response and include the specific corrective action(s), if any, taken. If you determine that, based on the report, no violation(s) exist and you will not conduct an inspection, please notify me in writing within 15 calendar days of receipt of this letter. We have notified the complainant that we forwarded the complaint to you for action, and asked the complainant to notify us if you do not correct the violation(s). We will forward a copy of your report to the complainant.

You should enclose any supporting documentation on the action(s) taken, such as monitoring results, new equipment orders, or photograph(s) of corrected condition.

If we do not receive a response from you within 30 calendar days indicating either that you have taken appropriate action or that no violation(s) exists, OSHA may schedule an inspection.

If you have any questions or need assistance concerning this matter, please contact our office.

Sincerely,





DEPARTMENT OF THE ARMY

JMCN-ASF

November 19th, 2020

MEMORANDUM FOR

SUBJECT: CAAA Detailed Assessment Results and Correction Actions related to OSHA Complaint #1675264 from October 20th, 2020

1. Weight Handling Equipment (WHE)

a. Reviewed OSHA regulations against the CAAA WHE Standards. OSHA Regulations are covered in the CAAA WHE Standards. This procedure exists and established a Program at CAAA designed to safely inspect, test, and use WHE to protect employees. No problems identified.

b. Assessed CAAA's implementation of WHE standards. The results are as follows:

- 1) Based on interviews with employee and supervisors. All interviewed were aware of requirement to do visual inspections of WHE prior to and during use. One observation, using WHE, an employee missed checking a chain hoist inspection tag prior to use. The supervisor identified the issue and corrected on the spot.
- 2) CAAA purchases new WHE and sends this equipment to a contractor to serialize, conduct required initial inspections, and testing.
- 3) CAAA's WHE Program oversight and ownership does not currently exist. The program fails implementation for inspection, periodic testing, documentation, and tracking WHE

c. Immediate Actions:

- 1) Program Owner was assigned.
- 2) All WHE Operations were suspended. First line supervisors conducted visual inspections of WHE prior to restarting WHE Operations.

d. Corrective Action:

- 1) Adding an employee, with experience in inspecting and testing WHE, to assist with CAAA's WHE Program Implementation. Due February 25, 2021.

JMCN-ASF

SUBJECT: CAAA Detailed Assessment Results and Correction Actions related to OSHA Complaint #1675264 from October 20, 2020

- 2) Create a system to assist in managing users, locations, periodic load testing, and inspections of WHE. Due February 11, 2021.

2. Hazardous Locations (Class 2 and Division 1)

- a. Assessed OSHA and NFPA-70 Class 2 and Division 1 Hazardous Location regulations against the CAAA Manufacturing Procedures. Results are as follows:

- 1) The CAAA Manufacturing Procedures are the standardized methods for developing specialized manufacturing operations for making, destroying, renovating, and demilitarizing military grade ammunitions and explosives. These standardized methods ensure Class II and Division 1 Hazardous Location requirements are identified, implemented, and verified during design, construction, planning, and prior to each manufacturing operation.
- 2) The Manufacturing Procedure, for preparing of job orders, ensures Class II and Division 1 Hazardous Locations are identified early on in the design phase of a manufacturing operations. However, the procedure vaguely references all OSHA and NFPA-70 safety requirements shall be included within the design of each manufacturing process. Considering the complexity of the Class II, Division 1 Hazardous Location requirements, there is slight possibility these requires could be missed in the design phase.

- b. Assessed CAAA's implementation of Manufacturing Procedures. This revealed that Class II and Division 1 Hazardous Locations were difficult to identify for operators and safety inspectors. Some operators and safety inspectors incorrectly assumed that all of B102 and the Pyro building were Class II and Division 1 Hazardous Locations. Two unique factors at CAAA make clearly identifying Hazardous Locations very important: Several buildings selected for manufacturing ammunition and explosives are aged and where initially built to the highest Class and Division to allow flexibility for potential manufacturing operations, and frequent design/setup/operation/breakdown of processes from customized products and services. Our customers demand for products and services can range from tens to millions in order quantities.

- c. Immediate Actions:

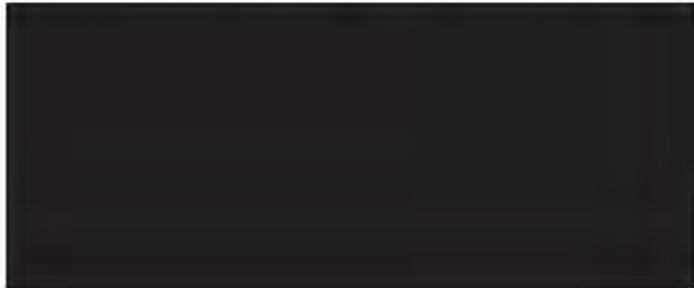
- 1) Those interviewed that had incorrect assumptions, about B102 and Pyro Building hazardous location status were notified of the correct requirements.

- d. Corrective Action:

JMCN-ASF

SUBJECT: CAAA Detailed Assessment Results and Correction Actions related to OSHA
Complaint #1675264 from October 20, 2020

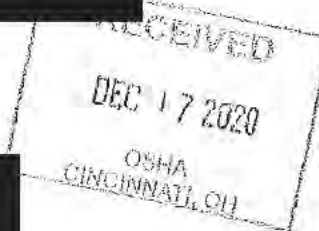
- 2) Revise the Manufacturing Procedure, for preparing of job orders, to make specific reference for including Hazardous Location requirements into the design of the manufacturing process. Due February 11, 2021.
- 3) Add "Hazardous Locations" as required training for explosive certifications. Due February 11, 2021.



DISTRIBUTION:
JMCN-ASF



DEPARTMENT OF THE ARMY

REPLY TO
ATTENTION OF:

DEC 18 2020

Dear [REDACTED]

In response to your letter dated October 20, 2020, regarding OSHA Complaint Number 1675264. Your letter notified us of three alleged hazards.

One of our two safety managers completed an initial inspection of these three hazards and determined that these were potentially "other than serious" hazards (see enclosed [REDACTED] memorandum, dated October 28, 2020).

Our other safety manager completed a more detailed inspection of these hazards with results described below (see enclosed [REDACTED] memorandum, dated November 19, 2020).

a. Alleged Hazard 1: Buildings 105 and 102 - the chains, hooks and slings used on cranes under the hook have not been inspected. There were no weight handling equipment found in Building 102. However, one chain sling found in Building 105 did not have a valid inspection and was immediately removed from service. Current Crane Army Ammunition Activity operating instructions require personnel to verify weight handling equipment is inspected and tested prior to use.

Additionally, we assessed our current weight handling equipment program standard and found that the program is adequate; however, there is no person managing the program. We immediately required first-line supervisors to conduct visual inspections, and verify testing of weight handling equipment currently being used. No issues were identified. We assigned a person to manage the weight handling equipment program and be responsible to ensure implementation of the weight handling program for Crane Army Ammunition Activity.

b. Alleged Hazard 2: Buildings 102, 105, and the pyrotechnics building- there is explosive material in use, however, the electrical present in the buildings is not Class 2, Division 1. There were no issues found in the two work areas in Building 102, the powder and break-out rooms. There were no Class 2, Division 1 areas found in Building 105. Only one issue was found in the rated areas in Building 126 (pyrotechnic); that being a battery-operated clock which was immediately removed.

We assessed our current electrical identification and design procedures and found them to be effective. From our assessment results we identified a couple of improvements. We plan to revise our electrical job orders work instruction and add a "hazardous locations" training course to our explosives workforce certification program by January 14, 2021.

c. Alleged Hazard 3: Building 126 (pyrotechnic) - flares are being produced with explosive materials and the inspection and procedures have not been put in place for process safety management. The inspections and procedures currently in place for operations conducted in the pyrotechnic building do meet the intent of Process Safety Management, which is to prevent or minimize the consequences of catastrophically releasing of toxic, reactive, flammable, or explosive chemicals. However, they appear to not meet the level of detail and format required of 29 CFR 1910.119. We are currently working to align our procedures with that of the OSHA PSM standard. Building 126 (the pyrotechnic building) is our first priority and we anticipate to complete that by September 30, 2021.

Furthermore, we plan to recruit and hire a qualified Process Safety Management Coordinator to ensure all operations are in compliance with OSHA PSM requirements, and anticipate completion by December 31, 2021. In the interim, we will have a current staff member obtain Process Safety Management Training to fill this role by March 1, 2021.

If you have any questions or require additional information, please contact

[REDACTED]

Sincerely,

[REDACTED]

Enclosures

JUN 18 2019

SAFETY

Control of Hazardous Energy Program (Lockout and Tagout)

Applicability. The regulation applies to all elements of Crane Army Ammunition Activity (CAAA), (excluding Letterkenny Munitions Center).

Suggested Improvements. The proponent of this regulation is the Activity Support Directorate Safety Office (ASF). Users are invited to send comments and suggested improvements to ASF.

Distribution of this regulation is made via SharePoint, Records Management.

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This regulation supersedes Chapter 18 of CAAAR-385-10

1. Purpose. The purpose of this program is to establish minimum requirements for the lockout/tagout (LOTO) of energy isolating devices. It will be used to ensure machines or equipment are isolated from all potentially hazardous energy, and locked or tagged out before employees perform any servicing or maintenance activities where the unexpected energization, start up, or release of stored energy could cause injury. This program establishes minimum performance requirements for the control of such hazardous energy.

2. References.

- a. Occupational Safety and Health Act of 1970 (OSHA) 29 CFR, 1910
- b. AR 385-10, The Army Safety Program, 27 Nov 2013
- c. DA Pam 385-10, Army Safety Program, 19 Jan 2010
- d. DA PAM 385-26, The Army Electrical Safety Program, 1 Feb 2013.
- e. AMC-R 385-10, U.S. Army Materiel Command (AMC) Safety Program, 15 Jun 2015

3. Applicability.

a. All CAAA employees are required to comply with the restrictions and limitations imposed upon them during the LOTO of machinery and equipment. Authorized employees will perform LOTO in accordance with this program. Affected employees will, upon observing equipment or machines locked or tagged out, not attempt to start, energize, or use that machine or equipment.

b. This procedure applies to any CAAA operation when:

(1) An employee is required to remove or bypass a guard or other safety device.

(2) An employee is required to place any part of his/her body into an area on a machine or piece of equipment where work is actually performed upon the material being processed (point of operation) or where an associated danger zone exists during a machine cycle. Note: Minor tool changes and adjustments, and other minor servicing activities, which take place during normal production operations, are not covered by this standard if they are routine, repetitive, and integral to the use of the equipment for production, provided that the work is performed using alternative measures which provide effective protection, i.e light curtains, two-hand tripping devices, etc. (ref OSHA 29 CFR 1910, Subpart O).

c. Contractor personnel performing work at CAAA facilities must have an equivalent program which meets the requirements of reference OSHA 29 CFR 1910, part 147.

d. In some situations, it may be necessary to prevent inadvertent operation of a functional system by using LOTO. Even though the situation is not related to any maintenance activity, it may be appropriate to use LOTO to ensure that a system is inoperable for safety, environmental, or operational reasons.

e. This standard does not apply to work on cord and plug connected equipment for which exposure to the hazards of unexpected energization or start-up of the equipment is controlled by the unplugging of the equipment from the energy source and by the plug being under the exclusive control of the employee performing the servicing or maintenance.

4. Responsibilities.

a. Commander will:

(1) ensure Control of Hazardous Energy Program is established, maintained, enforced, and has annual updates.

(2) appoint a LOTO Program Manager, who will coordinate all aspects of the lockout program.

b. Safety Office will:

(1) develop, implement, and update this program.

(2) develop and implement required training in support of this program.

(3) conduct annual audits of this program of all work centers with authorized LOTO employees to ensure compliance with this program.

(4) conduct periodic inspections of this program to ensure any deviations or inadequacies are identified and corrected.

(5) review all procurement request for new machinery and equipment with energized parts to ensure it is capable of being locked out.

(6) review all procurement requests for LOTO material and hardware to ensure it meets the requirements of this standard.

c. Directors will:

(1) enforce all requirements established from this program.

(2) ensure all authorized and affected employees are properly trained to meet the requirements of this regulation.

(3) procure standard LOTO devices for all energy isolating devices as needed.

(4) ensure all machinery or equipment with energized parts that are replaced or undergo major repair, modification, or renovation have an energy isolating device(s) which are capable of being locked out.

d. Activity Support Directorate, will:

(1) develop equipment specific energy control procedures for all required equipment at CAAA, and document them using CAAA Form 385-13. Activity Support (AS) will have 18 months from the date of this publication to complete this task.

(2) develop and post a procedure using CAAA Form 385-13 for machinery or equipment not already having an approved energy control procedure. Work may continue at this point and CAAA Form 385-13 will be generated, reviewed, documented, and posted as required.

(3) maintain copies of completed CAAA Form 385-13 on or near the equipment for reference to any authorized employee that is required to isolate the sources of energy for maintenance and servicing. Also keep a copy attached to the Logistics Modernization Program (LMP) Maintenance Module's Equipment Master Data File.

(4) attach a label to equipment indicating it as a "Single Point Lockout" and identify the single source of energy to be locked or tagged out for machinery or equipment that meets the requirements of 29 CFR 1910, part 147 (c)(4)(i).

(5) conduct periodic inspections of active energy control procedures with authorized employees at least annually. Inspections results will be documented on CAAA Form 385-44.

(6) correct deficiencies to active energy control procedures if discovered.

(7) record lockout devices issued on a permanent basis on DA Form 3161 (Request for Issue for Turn-In). Permanently issued locks will be inventoried annually.

(8) maintain CAAA Form 385-46 to indicate all equipment left in a LOTO status overnight or longer.

e. Supervisors of authorized and affected employees will:

(1) ensure all authorized and affected employees receive the appropriate level of training and that these employees are provided with the proper equipment and personal protective equipment to perform the job safely.

(2) provide and maintain necessary LOTO equipment and resources, including accident prevention signs, padlocks, seals, and/or similarly effective means. If lockout stations are provided as a means to issue LOTO equipment, CAAA Form 385-46 will indicate the following:

- (a) Name of authorized person checking out lock(s) and/or tag(s).
- (b) Serial number(s) of lock(s) and/or tag(s) checked out.
- (c) Barcode number and/or noun name of equipment being locked out.
- (d) Date lock(s) and/or tag(s) were checked out.
- (e) Date equipment was released from LOTO and lock(s) and/or tag(s) returned.

(3) Lockout stations will be inventoried at the end of each shift.

(4) ensure that all authorized employees are informed of all energy sources to include but not limited to electrical, pneumatic, hydraulic, mechanical, to the machinery or equipment that will be worked on and how to control them.

(5) ensure that all authorized employees are informed of all potential energy sources in their work areas and are informed of changes of potential energy sources.

5. Training

a. Training will be provided to ensure that the purpose and function of the hazardous energy control procedures are understood by employees and that employees possess the knowledge and skills required for the safe application, usage, and removal of energy controls.

b. Each authorized employee will receive training in the recognition of hazardous energy sources, the type and magnitude of energy available in the workplace, and the methods and means for energy isolation and control. Authorized AS maintenance personnel, and ME engineering technicians will be trained annually.

c. Each affected (all personnel not authorized employees) employee will be instructed in the purpose and use of the energy control procedures. Training will be on the energy control procedure and the prohibition relating to attempts to restart or reenergize machines or equipment which are locked or tagged out.

d. All employees will be trained in the following limitations of tags:

(1) Tags are essentially warning devices affixed to energy isolation devices and do not provide the physical restraint on those devices that is provided by a lock.

(2) The same conditions required for removal of a lockout device apply to tags.

e. Employees must be retrained in hazardous energy control procedures whenever:

(1) there is a change in their job assignments, a change in systems or processes that present a new energy control hazard, or a change in energy control procedures.

(2) periodic inspection reveals, or there is reason to suspect the presence of, inadequacies in or deviations from the employee's knowledge or use of energy control procedures.

f. Supervisors and Directorate Training Coordinators will certify and document all training and retraining.

6. Controlling Hazardous Energy Sources

a. Energy Control Procedures (ECP)

(1) Equipment specific ECPs will be developed and maintained by the CAAA Equipment Specialist for CAAA equipment that does not meet the exceptions of 29 CFR 1910, part 147 (c)(4)(i), regarding Single Point Lockout. The ECPs will detail the equipment, types of energy sources available, and the procedures required to isolate the energy sources. ECPs will be documented on CAAA Form 385-13. If an ECP has not been developed yet, personnel will fill out CAAA for 385-45 before any LOTO operations are performed.

(2) Tagout devices will only be used when a lockout device cannot be utilized and when an approved Energy Control Procedure authorizes them. Lockout devices are the preferred method for securing energy isolating devices.

b. Sequence of Lockout or Tagout System.

(1) Notify all affected employees that a LOTO is going to be utilized and the reason thereof. The authorized employee will know the type and magnitude of energy that the machine or equipment utilizes and will understand the hazards thereof.

(2) If the machine or equipment is operating, shut it down by normal stopping procedures (depress stop button, open toggle switch, and so on).

(3) Operate the switch, valve, or other energy isolating devices so that the equipment is isolated from its energy source. Stored energy (such as that in springs, elevated machine members, rotating flywheels, hydraulic systems, and air, gas, steam, or water pressure, and so on) must be dissipated or restrained by methods such as repositioning, blocking, bleeding down, and so on.

(4) Lockout and/or tagout the energy isolating devices with assigned individual locks or tags.

(5) After ensuring that no personnel are exposed, and as a check on having disconnected the energy sources, operate the push button or other normal operating controls to make certain the equipment will not operate. Caution: Return operating controls to "neutral" or "off" positions after the test.

(6) The equipment is now locked out or tagged out.

c. Restoring machines or equipment to normal production operations

(1) After servicing and/or maintenance is complete, and equipment is ready for normal production operations, check the area around the machines or equipment to ensure that no one is exposed.

(2) After all tools have been removed from the machine or equipment, guards have been reinstalled and employees are in the clear, remove all LOTO devices. Operate the energy isolating devices to restore energy to the machine or equipment.

d. Procedures involving more than one person. In the preceding steps, if more than one individual is required to LOTO equipment, each will place their own personal lockout device or tag on the energy isolating device. When an energy isolating device cannot accept multiple locks or tags, a multiple LOTO device (hasp) may be used. If lockout is used, a single lock may be used to lockout the machine or equipment with the key being placed in a lockout box or cabinet which allows the use of multiple locks to secure it. As each person no longer needs to maintain their lockout protection, that person will remove their lock from the box or cabinet.

e. Procedures involving personnel changes or shift changes during a job.

(1) Persons being replaced or exchanged on a job during a shift or at the end of a shift must verify that the lock(s) and/or tag(s) have all been replaced one by one before leaving the job.

(2) If a LOTO procedure is to continue through the following work shift, the oncoming crews must place their lock(s) and/or tag(s) on the energy isolating devices before the departing crew removes their lock(s) and or tag(s).

(3) Before work begins on the subsequent work shift, the oncoming crew must re-verify that all safety devices such as blocking, are in place, that there is still zero energy in the system, and they will attempt to restart the system before anyone enters the hazard zone.

f. Procedures for temporary or partial removal.

(1) As a general rule, temporary or partial removal of a LOTO is prohibited, except when required as part of an approved work package, e.g. to stroke a motor operated valve, to check phase rotation on a motor, or to test equipment functionality.

(2) Temporary or partial removal of a LOTO is not regarded as an opportunity to take shortcuts. The same series of checks and precautions is required whether one tag is being removed or any changes are made in the isolation boundary.

(3) After the activity that required temporary or partial removal of the LOTO is completed, the LOTO will either be reapplied or completely removed. If the LOTO is to be reapplied, the equipment will be shut down, de-energized, verified, and locked out or tagged out just as it was for the initial application.

g. Basic rules for using lockout or tagout system procedure:

(1) All equipment will be locked out or tagged out to protect against accidental or inadvertent operation when such operation could cause injury to personnel.

(2) Do not attempt to operate any switch, valve, or other energy isolating device where it is locked or tagged out.

7. Removal of an Authorized Employee's LOTO Device.

a. Each LOTO device must be removed from each energy isolating device by the employee who applied the device. An exception can be made if the authorized employee who applied the LOTO device is not available to remove it. Exceptions will only be made if approved by the Commander or his designated representative. Approvals will be documented on CAAA Form 385-47.

b. When an authorized employee leaves the facility and does not remove their locks or tags from energy isolating device(s) (for example, the employee became sick and left the facility) then the responsible supervisor must attempt to contact that employee to determine if they will be able to return to the facility to remove the devices. If the employee cannot return to the facility, the employee will be informed why the devices require removal and that the devices will be removed.

c. Prior to removal of the LOTO device(s), a full inspection of the machine or equipment must be made by a qualified technician and a Safety Office representative to ensure the machine or equipment is safe to release from LOTO.

d. If no contact with the authorized employee was able to be made prior to removing the lock or tags, the authorized employee will be informed by their supervisor that their locks were removed and the current status of the machine or equipment that the locks or tags were removed from.

8. Disciplinary Action Required for Bypassing Lockout/Tagout Devices

a. The only person authorized to remove the LOTO devices is the person who installed the devices (with the exceptions covered in paragraph 7). The purpose of the LOTO procedure is to prevent injuries caused by a machine being activated while someone is servicing or repairing it; therefore, unauthorized removal or bypassing the LOTO device compromises the worker's safety. Any person who bypasses a LOTO device and energizes, starts, or otherwise activates a machine or who removes a LOTO device without authorization will be disciplined.

b. All personnel who perform maintenance or services on equipment must follow all requirements of this standard. Any person who performs services or maintenance on equipment or machinery which is required to be locked out or tagged out during said services or maintenance will be disciplined.

9. Lockout and Tagout Materials and Hardware

a. Locking devices will be individually keyed and red in color and capable of withstanding the environment that they are exposed to for the maximum period of time the exposure is expected. Locking devices will be substantial enough to prevent removal without the use of excessive force or unusual techniques, such as the use of bolt cutters or other metal cutting tools.

b. All locking devices and tags used LOTO systems must identify the persons applying them. This requirement will be met by tagging each lock with the identification and contact information of the person applying the device.

c. Tagout devices, including their means of attachment, must be substantial enough to prevent inadvertent or accidental removal and will be capable of withstanding the environment that they are exposed to for the maximum period of time the exposure is expected.

d. Tagout device attachment means will be of a non-reusable type, attachable by hand, self-locking, and non-releasable with a minimum unlocking strength of no less than 50 pounds and will have the general design and basic characteristics of being at least equivalent to a one piece, all environment tolerant, nylon cable tie.

e. Tagout devices must clearly warn that operation is not permitted (for example, "Danger, Do Not Operate"). These tagout devices must never be used on equipment that is energized or in-service.

f. Tagout devices must indicate the identification and contact information of the person applying the device.

Appendix A

Acronyms/Definitions

AR

Army Regulation

AS

Activity Support

CAAA

Crane Army Ammunition Activity

DA

Department of the Army

ECP

Energy Control Procedures

LMP

Logistics Modernization Program

LOTO

Lockout/Tagout

Definitions

Affected employee. An employee whose job requires him/her to operate or use a machine or piece of equipment on which servicing or maintenance is being or may be performed under lockout/tagout.

Authorized employee. A person who locks out or tags out machines or equipment in order to perform servicing or maintenance on that machine or equipment. An affected employee becomes an authorized employee when that employee's duties include performing servicing or maintenance on a machine or equipment.

Capable of being locked out. An energy isolating device is capable of being locked out if it has a hasp or other means of attachment to which, or through which, a lock can be affixed, or it has a locking mechanism built into it. Other energy isolating devices are capable of being locked out, if lockout can be achieved without the need to dismantle, rebuild, or replace the energy isolating device or permanently alter its energy control capacity.

Energized. Connected to an energy source or containing residual or stored energy.

Energy isolating device. A mechanical device that physically prevents the transmission or release of energy, including but not limited to the following: A manually operated electrical circuit breaker; a disconnect switch; a manually operated switch by which the conductors of a circuit can be disconnected from all ungrounded supply connectors, and, in addition, no pole can be operated independently; a line valve; a block; and any similar device used to block or isolate energy. Push buttons, selector switches, and other control circuit type devices are not energy isolating devices.

Energy source. Any source of electrical, mechanical, hydraulic, pneumatic, chemical, thermal, or other energy.

Lockout. The placement of a lockout device on an energy isolating device, in accordance with an established procedure, ensuring that the energy isolating device and the equipment being controlled cannot be operated until the lockout device is removed.

Lockout device. A device that utilizes a positive means such as a lock, to hold an energy isolating device in the safe position and prevent the energizing of a machine or equipment. Included are blank flanges and bolted slip blinds.

Normal production operations. The utilization of a machine or equipment to perform its normal production operation.

Servicing and/or maintenance. Workplace activities such as constructing, installing, setting up, adjusting, modifying, and maintaining and/or servicing machines or equipment. These activities include lubrication, cleaning or unjamming of machines or equipment and making adjustments or tool changes, where the employee may be exposed to the unexpected energization or startup of the equipment or release of hazardous energy.

Setting Up. Any work performed to prepare a machine or equipment to perform its normal production operation.

Tagout. The placement of a tagout device on an energy isolating device, in accordance with an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed.

Tagout device. A prominent warning device, such as a tag and a means of attachment, which can be securely fastened to an energy isolating device in accordance with an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed.