

**VOSH PROGRAM DIRECTIVE: 06-011A**

**ISSUED: May 15, 2008**

**SUBJECT: Letter of Interpretation Concerning Volunteer Firefighters and 16 VAC 25-60-10 of the ARM**

**A. Purpose.**

This directive transmits to field personnel an interpretation of the definition of “Public employee” in section 16 VAC 25-60-10 of the VOSH Administrative Regulations Manual (ARM) and the applicability of VOSH standards to volunteer firefighters.

**B. Scope.**

This directive applies VOSH-wide.

**C. Reference.**

Letter from Floyd E. Green to Commissioner Carol Amato, dated on October 2, 1987.

VOSH Standard Interpretation, dated on December 7, 1987.

**D. Cancellation.**

VOSH Program Directive 06-011 (May 18, 1988).

**E. Action.**

Directors and Managers shall assure that the guidelines in the attached standard interpretation letter are followed in inspections covering volunteer firefighters.

**D. Background.**

See attached letter requesting a standard interpretation, and the agency response. *Please be advised that the attached 1987 letters reference section 13.1 of an earlier version of the VOSH Administrative Regulations Manual (ARM). Former section 13.1 is now covered by 16 VAC 25-60-10 of the current ARM.*

**E. Effective Date:**

May 15, 2008.

C. Ray Davenport  
Commissioner

ATTACHMENTS: Letter from Floyd E. Green to Carol Amato dated  
October 2, 1987.

VOSH Standard Interpretation dated December 7, 1987.

DISTRIBUTION: Commissioner of Labor and Industry  
Assistant Commissioner – Programs  
VOSH Directors and Managers  
Cooperative Programs Director and Manager  
VOSH Compliance and Cooperative Programs Staff  
Legal Support and IMIS Staffs  
OSHA Region III and Norfolk Area Offices

# Powhatan County Fire Association

P.O. Box 333  
POWHATAN, VIRGINIA 23139

October 2, 1987

Carol Amato, Commissioner  
Virginia Department of Labor & Industry  
P. O. Box 12064  
Richmond, Virginia 23241



Dear Ms. Amato:

At the recent Commonwealth of Virginia Hazardous Materials Conference in Virginia Beach much discussion was held on whether volunteer fire fighters and volunteer rescue squad personnel in Virginia are covered by OSHA regulations. A Department of Emergency Services representative stated that volunteers are not covered, however in July the Department of Fire Programs stated volunteers are covered.

Please let me know whether volunteer fire fighters and rescue squad members are covered by either existing regulations or the new Hazardous Waste Operations and Emergency Response regulations.

Thank you for your assistance in this matter.

Sincerely,

POWHATAN COUNTY FIRE ASSOC.

*Floyd E. Greene, Jr.*  
Floyd E. Greene, Jr.  
County Fire Chief

cc: W. R. Britton, Jr.  
County Administrator



## COMMONWEALTH of VIRGINIA

Department of Labor and Industry  
205 North Fourth Street  
P. O. Box 12064  
Richmond, Virginia 23241

December 7, 1987

Floyd E. Greene, Jr.  
County Fire Chief  
Powhatan County Fire Association  
P. O. Box 333  
Powhatan, Virginia 23139

Dear Mr. Greene:

I apologize for the lengthy delay in getting back to you concerning your letter of October 2, 1987. Your question concerning volunteers is one we have had a lot of questions about lately, so I will try to be as helpful as possible in clearing up the issue.

The short answer to your question is that our Administrative Regulation, Section 13.1 (copy attached) provides the following:

"Volunteer members of volunteer fire departments and volunteer rescue squads and other volunteers pursuant to the Virginia State Government Volunteers Act are not public employees." (and therefore not covered by our regulations).

Attached is a copy of Virginia Code Section 27-42 (which defines what a "volunteer fire fighter" is) and a copy of the Virginia State Government Volunteers Act, Virginia Code Section 2.1-554 to -558 (which defines what a volunteer is generally). Both statutes contain provisions that define a volunteer as a person who serves "without pay" (Section 27-42) or "without any financial gain" (Section 2.1-555). Certainly, if an individual receives no benefits or pay for their work or receives such benefits as outlined in Section 2.1-558 (Volunteer Benefits), then our regulations (including the Hazardous Waste Operations and Emergency Response Standard) do not apply. However, for instances where "benefits" go beyond or are different from those listed in Section 2.1-558, we will look

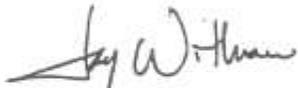
Mr. Greene

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at those on a case-by-case basis. For cases where you are not sure whether a particular "benefit" qualifies under Section 2.1-558, you should request an interpretation from your County Attorney or the Attorney General's Office.

I want to close by apologizing again for my failure to respond in a timely manner and to say that if you have any questions regarding what I have written, please give me a call at (804) 786-5873.

Sincerely,



Jay Withrow  
VOSH Technical Services Director

/ib

cc: C. Amato  
C. Harrigan  
E. Scruggs  
C. Wheeling  
M. Rodgers