

VOSH PROGRAM DIRECTIVE: 02-067D**ISSUED: 01 May 2018****SUBJECT** **Overhead High Voltage Line Safety Inspection Procedures and Interpretations Manual****Purpose** This revised Directive updates procedures **and provides OIS coding instructions** for the enforcement of the Overhead High Voltage Line Safety Act, Va. Code §§59.1-406 to 59.1-414.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.

Scope This directive applies to all VOSH personnel.**References** VOSH PD 14-221D (01 April 2003), LEP (note OIS coding for planned inspections)
VOSH PD 12-246A (15 February 2004) Overhead High Voltage Line Safety Act**Cancellation** VOSH Directive 02-067C (15 October 2005)**Action** Directors and Managers shall ensure that field personnel understand and comply with the inspection and OIS coding policies and procedures contained in this directive.

C. Ray Davenport
Commissioner

Distribution: Commissioner of Labor and Industry Consultation Program Manager
 Assistant Commissioner VOSH Compliance & Cooperative Programs Staffs
 VOSH Directors and Managers OSHA Region III & OSHA Norfolk Area Offices
 VOSH Legal Support & OIS Staffs

Effective Date 01 May 2018

Expiration Date Not Applicable – remains in effect until cancelled or superseded.

I. Background

Annually, at least 10% of occupational fatalities in Virginia are the result of accidental contact with overhead high voltage lines. The Overhead High Voltage Line Safety Act (“the Act”) was initially passed by the 1989 General Assembly to provide a means to ensure that workers are better protected from the hazards that high voltage lines present. This directly enforceable legislation, updated in 2003, designates the Department of Labor and Industry as the enforcement authority and the VOSH Program will enforce the provisions of the Act as part of its daily operations.

II. Summary of Act

A. Effective Dates

Initial: *1 July 1989*

Amendments: *1 July 1996; 1 July 2003*

B. Scope

The Act applies to all persons responsible for work being done in the vicinity of high voltage lines.

C. Exemptions to the Law

The Act exempts any electrical or communications circuits or conductors of rail communication systems; electrical generating, transmission or distribution systems; coal or other mines covered by the Federal Mine Safety and Health Act; and privately or publicly owned systems where work is performed by employees of the owner/operator or independent contractors hired by the owner/operator.

Also exempted are agricultural and forestry employers’ covered equipment that is less than 13 feet 6 inches high; and such equipment may operate on the farmers’ or foresters’ land without restriction.

In addition, violations of existing VOSH Standards that are more stringent than requirements of the Act or that cover hazards not addressed by the Act shall also be cited in accordance with procedures in the VOSH Field Operations Manual (FOM). If a violation of identical provisions of the Act and VOSH Standards occurs, the Act shall be cited.

D. Prohibited Activities in the Absence of Temporary Safety Arrangements.

- a. Operating "covered" equipment within 10 feet of high voltage power lines.
- b. Placing an individual or tools, machinery, ladders, antennas, equipment, “covered equipment,” as defined in Section 8. of this Directive, being used by an individual within 10 feet of high voltage power lines.

[NOTE: The prohibitions in subsections a. and b., above, do not apply to covered equipment when lawfully driven or transported on public streets and highways in compliance with the height restriction imposed by Va. Code §46.2-1110.]

5. Requirements.

a. Warning Signs.

Warning signs must be placed on all "covered" equipment capable of being operated in the proximity of high voltage power lines.

- (1)** One sign must be placed within equipment and readily visible and legible to the operator when he is at the controls.
- (2)** Signs must be placed on the outside of equipment in numbers and locations that are readily visible and legible from 12 feet, to others engaged in work operations.

b. Training and Information.

Owners or employers are responsible for informing their operators about the requirements of this legislation.

c. Notification and Notification Procedures.

(1) Owner or Operator of Overhead High Voltage Lines

To facilitate the notification required by the Act, every owner or operator of overhead high voltage lines shall publish a phone number or numbers that, when called, will serve to provide initial notification of the need to arrange for temporary safety arrangements pursuant to the Act.

(2) Notifications Concerning Proposed Work.

Notification may be in writing or by phone. If notification is done by phone, both parties shall document the record of notification. (See also "Temporary Safety Arrangements" below).

Information to be included in the notification:

- (a)** Name of the individual serving notice;
- (b)** The location or address of the tract or parcel of land upon which the work is to take place with sufficient particularity to enable the owner or operator of the overhead high voltage lines to ascertain the precise tract or parcel of land involved;

- (c) The name, address and work day telephone number of the person responsible for the work;
- (d) Field telephone number at the site of such work if one is available;
- (e) Type and extent of the proposed work;
- (f) The name of the person for whom the proposed work is being performed;
- (g) Time and date of the notice; and
- (h) The dates upon which the work is scheduled to commence and be completed.

(3) Exemptions to Notifications Concerning Proposed Work

Agricultural and forestry employers are not required to notify the owner of the overhead lines when they work near the lines (unless otherwise required by state or federal law) even though the other requirements of the law are applicable.

d. Temporary Safety Arrangements.

Employers must notify the owner or operator of high voltage lines of the intent to do work closer than permitted to the lines promptly, on a working day or in an emergency situation, as soon as possible under the circumstances. Owner or operator of lines shall initiate agreed upon safety arrangements within five (5) working days.

The work to be performed shall not be initiated until satisfactory mutual arrangements have been negotiated between owner or operator of the overhead high voltage lines and the person responsible for the work to be done; and the safety precautions are in place.

e. Examples of Safety Arrangements.

- (1) Placement of temporary mechanical barriers preventing contact between persons, equipment and high voltage power lines.
- (2) Temporary de-energization and grounding.
- (3) Temporary relocation or raising of the lines.
- (4) Other measures the owner/operator finds appropriate.

6. Expenses.

To be paid by the person responsible for the work to be done.

7. Enforcement.

Provisions of this legislation shall be considered a safety and health standard and shall be enforced by the Commissioner of the Department of Labor and Industry according to Title 40.1-49.4.

For violations over which the Commissioner does not have enforcement powers, a civil penalty of up to \$1,000 may be imposed at the discretion of the circuit court for the jurisdiction where the offense occurred.

[NOTE: See also procedures listed below.]

8. Definitions.

"Covered equipment" means any mechanical equipment or hoisting equipment, any part of which is capable of vertical, lateral or swinging motion that could cause the equipment to be operated within ten feet of an overhead high voltage line, including but not limited to cranes, derricks, power shovels, drilling rigs, excavating equipment, hay loaders, hay stackers, combines, grain augers and mechanical cotton pickers.

The Act does not apply to covered equipment when lawfully driven or transported on public streets and highways in compliance with the height restriction imposed by Va. Code §46.1-329 of the Code nor does the Act apply to covered equipment, when used in agricultural or silvicultural (forestry) activities, that is in compliance with the height restrictions imposed by §46.2-1110 when driven or transported on land used for agricultural or silvicultural activities (§59.1-408).

"In proximity to" means, for purposes of "covered equipment", that equipment during normal use at the time of inspection is capable of being operated within 10 feet of an overhead high voltage line in the work area.

Example:

A crane is being operated in a work area and is only to be operated within a 180 arc north of the cab's location. The crane has a swing radius of 100 feet. An overhead high voltage line is located 50 feet due south of the location of the cab. In this situation, the crane is being operated "in proximity" to an overhead high voltage line because if the crane is swung in a 360 arc, the crane would penetrate the minimum 10 foot clearance equipment. If no overhead high voltage line is close enough to be contacted by a 360 arc of the crane, there is no exposure to the hazard and no citation will be issued.

[NOTE: A lack of warning signs in this case would be cited as a serious violation, see section I.1.a.]

"Notice" means actual notification in the manner prescribed in § 59.1-411.

"Overhead high voltage line" means all above ground bare or insulated electrical conductors of voltage in excess of 600 volts measured between conductors or measured between a conductor and the ground, except those conductors that are de-energized and grounded or that are enclosed in rigid metallic conduit or flexible armored conduit.

"Person" means natural person, firm, business association, company, partnership, corporation or other legal entity.

"Person responsible for the work" means the person performing or controlling the work.

"Warning sign" means a weather-resistant sign of not less than five inches by seven inches with a yellow background and black lettering reading as follows:

"WARNING - UNLAWFUL TO OPERATE THIS EQUIPMENT
WITHIN 10 FEET OF OVERHEAD HIGH VOLTAGE LINES"

or such other equally effective warning signs as may be approved for use by the Virginia Safety and Health Codes Board or the Commissioner of Labor and Industry.

"Work" means the physical act of performing or preparing to perform any activity under, over, by, or near overhead high voltage lines, including, but not limited to, the operation, erection, handling, storage, or transportation of any tools, machinery, ladders, antennas, equipment, covered equipment, supplies, materials, or apparatus, or the moving of any house or other structure, whenever such activity is done by a person or entity in pursuit of his trade or business.

"Working day" means every day except Saturdays, Sundays, and legal state and/or federal holidays.

J. Procedures.

1. Classification of Violations.

- a.** Violations of the Overhead High Voltage Power Line Safety Act will be cited as serious when that violation occurred during work performed in proximity to high voltage overhead power lines.
- b.** If work is being performed in proximity to the power lines (in the absence of temporary safety arrangements), but no work is being done within the 10 foot limits and the employer does not intend to work within the 10 foot limits, then the following violations are appropriate to cite as serious:
 - (1)** Lack of Warning Signs (Inside).
 - (2)** Lack of Warning Signs (Outside).
 - (3)** Lack of Training.

- c. If the employer intends to work within either of the 10 foot limits (in the absence of temporary safety arrangements) all violations can be cited as serious.
- d. If the employer does **not** intend to work within either the 10 foot limits (in the absence of temporary safety arrangements) but work does occur within the limits then all violations can be cited as serious. However, the inspector shall document any possible employee misconduct defense in accordance with the VOSH FOM.

2. Violations To Be Cited.

[NOTE: Violations of existing VOSH Standards that are more stringent than requirements of the Act or that cover hazards not addressed by the Act shall also be cited in accordance with procedures in the VOSH Field Operations Manual. If a violation of identical provisions of the Act and VOSH Standards occurs, the Act shall be cited.]

The following violations shall be cited under the Act:

- a. Performance of any work that causes any person or tools, machinery, ladders, antennas, equipment, "covered equipment" as defined in Section II.8. of this Directive, supplies, materials or apparatus to be placed within 10 feet of a power line without temporary safety arrangements having been made. (Va. Code §59.1-408.1).
- b. *(Reserved)*
- c. Lack of warning signs inside covered equipment and visible to the operator. (Va. Code §59.1-409.A.1).
- d. Lack of warning signs on the outside of covered equipment in such numbers and locations that would make them legible from 12 feet to any persons working near the equipment. (Va. Code §59.1-409.A.2).
- e. Lack of training for employees on the requirements of the Act. (Va. Code §59.1-409.B).
- f. Failure to notify the overhead high voltage line owner or operator of work to be performed within 10 feet of the overhead high voltage line in the manner prescribed.(Va. Code §59.1-410.A).
- g. Failure to maintain record of notification (by phone) required under the Act (the notification need only be retained by the employer until the work has been successfully completed and the temporary safety arrangements have been removed by the overhead high voltage line operator. The employer shall retain the notification when an accident has occurred for review by the Department and/or the Commonwealth's Attorney). (Va. Code §59.1-411.B).
- h. Failure by the overhead high voltage line owner or operator to publish a phone number or numbers to allow the person responsible for the work to provide initial notification of the need to arrange for temporary safety arrangements. (Va. Code §59.1-411.C).

- i. Failure by the person responsible for the work to give new notice to the overhead high voltage line owner or operator if a delay in the commencement of work is encountered after temporary safety arrangements are made. (Va. Code §59.1-411.D).

3. Citation Numbering Procedures to be printed on VOSH citations (Field Personnel Only).

Violations of the Act to be printed on VOSH citations shall be written as follows:

- a. Va. Code §§ 40.1-49.4.O. and 59.1-408.1.
[working within 10 feet of power line].
- b. *Reserved.*
- c. Va. Code §§ 40.1-49.4.O. and 59.1-409.A.1.
[lack of warning signs inside covered equipment]
- d. Va. Code §§ 40.1-49.4.O. and 59.1-409.A.2.
[lack of warning signs on outside of covered equipment]
- e. Va. Code §§ 40.1-49.4.O. and 59.1-409.B.
[lack of training on the requirements of the Act]
- f. Va. Code §§ 40.1-49.4.O. and 59.1-410.A.
[failure to notify owner of power line]
- g. Va. Code §§ 40.1-49.4.O. and 59.1-411.B.
[failure to maintain records of phone notification to owner of power line]
- h. Va. Code §§ 40.1-49.4.O. and 59.1-411.C.
[failure by owner or operator of power line to publish phone number(s) for notification]
- i. Va. Code §§ 40.1-49.4.O. and 59.1-411.D.
[failure to notify owner or operator of power line of delay in commencing work]

4. OSHA Information Systems (OIS) Coding. The following guidelines shall be applied when recording inspections conducted under this State Emphasis Program (“SEP”) or other inspections where general industry and construction activities within close proximity to overhead high voltage lines are found:

- a. **Programmed Inspections.** A programmed inspection conducted under this SEP shall be coded as “OHPWRLNE” in the STATE Emphasis Program block and as Programmed Planned” in the Initiating Type block OIS. Inspections under this SEP will be typically coded as “Safety” inspections in the “Inspection Category” block.
- b. **Complaint Inspections.** On the OIS Inspection Form, inspections involving activities conducted within close proximity to overhead high voltage lines which are initiated as a result of a complaint, referral, or fatality/catastrophe, shall be coded as “OHPWRLNE” in the *State Emphasis Program* block and as the appropriate “unprogrammed” activity in

the *Initiating Type* block regardless of whether they are listed on a cycle list.

- c. **No Inspection Conducted.** When no inspection of activities is conducted within close proximity to overhead high voltage lines for any of the reasons listed in I.1 through I.5 of VOSH Program Directive 14-221D, or its successor, OIS shall be updated in the *Reason No Inspection* block.
- d. Code placement of "OHPWRLNE" is necessary in the State Emphasis Program field for all consultation activities, i.e., requests, visits, and compliance assistance conducted at establishments in the NAICS codes included in this LEP.

[NOTE: If you have any questions regarding the proper way to record in OIS, please contact the VOSH OIS section.]

5. Procedures for Obtaining Agency Interpretations.

All outside requests for interpretations of the Act shall be referred to the VOSH Director.

6. Approval of Warning Signs Not Meeting the Specific Requirements of the Act.

The following procedures shall apply to approval of warning signs not meeting the specific requirements of the Act:

a. Size.

If the warning sign is larger than the minimum 5" X 7" size specified in the §59.1-407, no violation exists and no approval by the Commissioner or the Safety and Health Codes Board (Board) is needed.

b. Color.

The following color combinations are acceptable under the Act:

Yellow background with black letters.

White background with red letters.

Red background with white letters.

All other color combinations must be approved by the Commissioner or the Board in accordance with the procedures in section J.6.e., below.

c. Wording.

Any difference in wording of the "warning" must be approved by the Commissioner or the Board in accordance with section J.6.e., below.

d. Visibility.

Signs not visible from 12 feet due to inadequate letter size or some form of obstruction, e.g., mud, are in violation of the Act and shall be cited in accordance with sections J.1. and J.2., above.

e. Requests for Approval of Warning Signs.

Requests for approval of warning signs received in the Central or Field Offices shall be referred to the VOSH Director acting for the Commissioner. The employer shall have a right of appeal to the Board of an adverse decision.

If an employer uses unapproved warning signs during a VOSH inspection, he shall be cited in accordance with sections J.1. and J.2. of this Directive.]

7. Penalties.

No penalty reduction factors may be applied to any violation of §59.1-408 of the Overhead High Voltage Line Safety Act under the local emphasis program for Overhead High Voltage Line Safety or during other inspections where general industry and construction activities are found within close proximity to overhead high voltage lines. The maximum allowable penalty for situations where a powerline is contacted or an arc flash occurs shall be based on the classification of the violation in accordance with Va. Code §40.1-49.4.O.

8. Referrals.

a. Background.

The Act provides that in the case of violations of the Act over which the Department does not have enforcement powers pursuant to §40.1-49.4 (i.e., no employer-employee relationship, federal enclaves, maritime jurisdiction), a civil penalty of up to \$1,000 may be imposed at the discretion of the general district court for the jurisdiction in which the violation occurred.

b. Procedures.

(1) Documentation.

In those cases where an inspection has been initiated and violations of the Act have been noted, but the inspector determines that VOSH does not have jurisdiction, the inspector shall fill out a VOSH-1 for a "No Inspection". However, the inspector shall, to the extent possible, obtain documentation of the violations for referral purposes.

Appropriate documentation includes the following:

- (a)** Complete information to fill out the VOSH-1.
- (b)** Pictures or video of violations.

- (c) Names and addresses of exposed persons.
- (d) Witness statements where obtainable.
- (e) Owner or operator of the Overhead High Voltage Power Line, if possible.

(2) Referral by Regional Office.

When all appropriate documentation has been gathered, the inspector shall turn over the documentation to the Regional Compliance Manager for regular referral procedures. The Compliance Manager shall refer the information to the Owner or Operator of the Overhead High Voltage Power Line.

(3) Imminent Danger Situations (Where VOSH Does Not Have Jurisdiction).

In the event of an imminent danger situation that meets the guidelines in the VOSH FOM (but where VOSH does not have jurisdiction), the inspector shall attempt to eliminate the imminent danger situation in accordance with the requirements in the FOM.

If the employer either cannot or will not voluntarily eliminate the imminent danger situation, the inspector shall call his Supervisor and the VOSH Director. The Director will consult with the Commissioner and the Office of Legal Support and will proceed to request the immediate assistance of the Owner or Operator of the Overhead High Voltage Power Line and the Commonwealth's Attorney for the jurisdiction in which the violation is located. The Owner or Operator and the Commonwealth's Attorney will determine what further action is necessary to eliminate the imminent danger situation.

9. Appropriations Act.

VOSH Program Directive 02-003R, *or its successor*, contains the Federal Appropriations Act Limitations for federal OSHA. It also limits use of these federal funds for State Plans such as Virginia. The Appropriations Act places certain limitations on where and when inspections can be conducted by OSHA (and VOSH).

As an example, farming operations with 10 or fewer employees that do not maintain an active temporary labor camp are exempt from inspections. This exemption means that VOSH cannot conduct inspections on such farms, unless the state wishes to pay 100% of the cost of that inspection.

All violations of the Overhead High Voltage Line Safety Act will be cited regardless of any exemptions, restrictions or limitations contained in the Appropriations Act.

It shall be the responsibility of the Inspector, Regional Director or the Compliance Manager to notify the VOSH Director of all inspections that go beyond the limitations of the Appropriations Act. The VOSH Director shall assure that expenses attributed to such inspections are paid for with 100% state funds in such cases where it is necessary.

e-Attachment: Overhead High Voltage Line Safety Act, Va. Code §§59.1-406 to 59.1-414
<https://law.lis.virginia.gov/vacode/title59.1/chapter30/>

e-Attachment: Height of Vehicles; Damage to Overhead Obstruction, Va. Code §46.2-1110
<https://law.lis.virginia.gov/vacode/title46.2/chapter10/section46.2-1110/>