



VOSH PROGRAM DIRECTIVE: 02-407

ISSUED: May 1, 1994

SUBJECT: Lead Exposure in Construction: Interim Final Rule; -- Inspection and Compliance Procedures

A. Purpose.

This directive adopts OSHA instruction CPL 2-2.58 and provides uniform inspection and compliance guidance for Lead Exposure in the Construction Industry.

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.

B. Scope.

This directive applies VOSH-wide and specifically to Occupational Health Enforcement and Consultation Personnel.

C. Reference.

OSHA Instruction CPL 2-2.58 December 13, 1993.
58 Fed. Reg. 26590 (May 4, 1993)

D. Cancellation.

Not Applicable.

E. Action.

The Assistant Commissioner, Directors and Supervisors shall assure that the policies and procedures established in this directive to facilitate uniform enforcement are followed in conducting inspections.

F. Effective Date.

May 1, 1994

G. Expiration Date.

Not Applicable.

H. Background.

On May 4, 1993, federal OSHA published an Interim Final Rule for Lead in Construction (29 CFR 1926.62) which revised its existing lead rule applicable to the construction industry (29 CFR 1926.55). OSHA was required to take action under the Housing and Community Development Act of 1992 (42 U.S.C. 4853) to adopt an interim final standard in a 6-month period and, therefore, was not constrained to follow the Section 6(b) rulemaking procedures (i.e., proposal, comment period, hearings) of the Occupational Safety and Health Act of 1970.

The identical to federal Lead in Construction standard, 1926.62, was adopted by the Virginia Safety and Health Codes Board on June 21, 1993 with an effective date of September 1, 1993.

G Authorization to Review Limited Medical Information.

Appropriately qualified compliance personnel, under the direction of the Regional Supervisor, are authorized to review medical records and medical opinions mandated by VOSH standards.

H. Organization of Directive.

Compliance guidance is set forth in this program directive. Additional information and clarifications from the referenced federal instruction are provided as follows:

1. Appendix A - Inspection Guidance and Citation Policy.
2. Appendix B - Exposure Calculation for Compliance Purpose.
3. Appendix C - Requirements Triggered by Air Lead Levels.
4. Appendix D - Medical Surveillance Flowchart.
5. Appendix E - Summary and Explanation of the Standard

I. Inspection Guidance.

Inspections to assess compliance with 1926.62 must be conducted by a Compliance Safety and Health Officer (CSHO) appropriately trained in conducting inspections in the construction industry (e.g., thoroughly familiar with all effective provisions of 1926.62 and with the guidelines in this instruction).

1. Compliance Procedures.

Guidelines for determining if the employer is in compliance with the standard, and for classifying and grouping violations, are presented in Appendix A of this instruction. (Also refer to the VOSH FOM.)

- a. In cases where deviations from the recommended guidelines for classifying and grouping of violations seem to be warranted, the reasons for the deviations shall be noted in the case file.
- b. In areas where this instruction differs from the OSHA Technical Manual and/or the VOSH FOM, then this directive (in that it presents a special program limited to lead exposures in construction) takes precedence.

2. Biological Monitoring.

If biological testing of exposed employees is determined to be necessary for VOSH to document a violation of 1926.62, the CSHO shall insure that such testing be performed by the employer.

3. Interface With Other Standards.

The recordkeeping requirements for recording cases to the OSHA 200 log and a supplementary record, shall apply in certain lead exposure situations.

- a. Cases requiring an entry to the log would include blood lead test levels greater than or equal to 50 ug/100 g whole blood, employee symptoms of lead poisoning or medical removals.
- b. The lead in construction standard does not remove any obligations of the employer to comply with the Hazardous Waste Operations and Emergency Response (HAZWOPER) standard, 1926.65, and/or the Hazard Communication (HAZCOM) construction standard, 1926.59.

4. Safety and Health Protection for the CSHO.

The CSHO must comply with all safety and health rules and practices at the job site and use the appropriate protective clothing and equipment required by VOSH standards or by the employer for the protection of employees. If the employer's provisions for employee protection do not meet the requirements of VOSH standards then the CSHO must comply with VOSH standards. (Also refer to the VOSH FOM.)

Where CSHOs have potential for being or have been exposed to lead in excess of the action level (AL), initial medical surveillance (blood test) for analysis of blood lead and zinc protoporphyrin (ZPP) levels must be made available by VOSH.

Carol Amato
Commissioner

Attachments: Appendices to OSHA Instruction CPL 2-2.58 December 13, 1993

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