

VOSH PROGRAM DIRECTIVE: 02-225D

ISSUED: 01 July 2013

Subject **Focused Inspections in Construction - Renewal**

Purpose This Directive reinitiates focused construction inspections as developed in 02-225C and in force through 2011. It provides basic guidance to compliance officers for determining which projects are eligible for focused construction inspections and how those inspections are to be conducted. This re-adoption also includes the Construction Focused Inspections Initiative (*Appendix A*), a handout for contractors and employees (*Attachment 1*), detailed notification to all worksite employees concerning the Focused Safety Inspection (*Attachment 2*) and the non-mandatory Construction Focused Inspection Guidelines (*Attachment 3*) to assist the compliance officer in determining if a project qualifies for a Focused Inspection.

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 Memorandum from James W. Stanley, Deputy Assistant Secretary, (22 Aug.1994, revised 22 Oct. 2004)
Memorandum from John B. Miles, Director, Directorate of Compliance Programs, (05 April 1995)

Cancellation N/A

Action Directors and Managers shall assure that field personnel understand and comply with the guidelines in this Directive.

Effective Date 01 July 2013.

Courtney M. Malveaux
Commissioner of Labor and Industry

Distribution: Commissioner of Labor and Industry
Assistant Commissioner
VOSH Directors and Managers
Legal Support & IMIS Staffs

Cooperative Programs Manager
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I. **Background**

Under prior agency policy all construction inspections were comprehensive in scope, addressing all areas of the workplace and by inference all classes of hazards. This guidance may have caused compliance officers to spend too much time and effort on a few projects looking for all violations and, thus, too little time overall on many projects inspecting for hazards which are most likely to cause fatalities and serious injuries to workers.

In such cases, a contractor was likely to be cited for hazards that are unrelated to the four leading causes of death that make up 90% of all construction fatalities (falls from elevations--33%; struck by--22%; caught in/between--18%; electrical shock--17%). Although these other hazardous conditions are important, the time and resources spent to pursue them on a few projects can be better spent pursuing conditions on many projects related to the four hazard areas most likely to cause fatalities or serious injuries. **The goal of construction inspections is to make a difference in the safety and health of employees at the worksite.**

To accomplish this, the CSHO's time will be more effectively spent inspecting the most hazardous workplace conditions. The CSHO shall conduct comprehensive, resource-intensive inspections only on those projects where there is inadequate contractor commitment to safety and health. It is this group of employers that will receive our full attention.

II. **Action**

1. All construction inspections shall have opening conferences consistent with current agency procedures, and then shall proceed as follows:
 - a. During all inspections, CSHO's shall determine whether or not there is project coordination by the general contractor, prime contractor, or other such entity that includes:
 1. an adequate safety and health program/plan that meets the guidelines set forth below; and,
 2. a designated competent person responsible for and capable of implementing the program/plan.

If the general contractor, prime contractor, or other such entity meets both of these criteria then a focused inspection shall be made. When either of these criteria is not met, then the inspection shall proceed in accordance with previously established guidelines for comprehensive inspections. Inspectors are to take the time necessary to conduct comprehensive inspections based on the conditions of the project and the effectiveness of any safety and health program/plan.

If the project does not qualify for a focused inspection, then the CSHO is to conduct the same type of inspection that would have been conducted previous to the focused inspection policy.

- b. During all safety inspections: fatality/catastrophe, complaint, and referral inspections, the CSHO shall inspect the worksite in regard to the fatality/complaint/referral item(s), and then will proceed in accordance with paragraph 1. a., above.
 - c. All health inspections shall be conducted in accordance with current agency procedures.
2. In their assessment of safety programs/plans, CSHOs shall consider:
- a. the comprehensiveness of the program/plan;
 - b. the degree of program/plan implementation;
 - c. the designation of competent persons as are required by relevant standards; and
 - d. how the program/plan is enforced, including management policies and activities, effective employee involvement, and training.

Employees shall be interviewed during the walkaround to aid in the evaluation of the program/plan. Examples of safety and health programs can be found in the Safety and Health Program Management Guidelines, published on January 26, 1989 in the Federal Register (54 FR 3904), in the ANSI A10.33 – “Safety and Health Program Requirements for Multi-Employer Projects”, and in Owner and Contractor Association model programs that meet the Part 1926 Subpart C standards.

3. Focused inspections shall concentrate on the project safety and health program/plan and the four leading hazards that account for the most fatalities and serious injuries in the construction industry: falls; electrical hazards; caught in/between hazards (such as trenching); and "struck-by" hazards (such as materials handling equipment and construction vehicles).

During the course of the focused inspections, citations shall be proposed for the four leading hazards and any other serious hazards observed. Other-than-serious hazards which are abated immediately, and this abatement is observed by the CSHO, normally shall not be cited. If during the walkaround, the CSHO determines that the number of serious and other-than-serious hazards found on the project indicates that the safety and health program/plan is inadequate or is ineffectively implemented, then the inspection shall be comprehensive.

INSTRUCTIONAL MATERIALS

Construction Focused Inspections Initiative

A. GENERAL GUIDELINES

1. The Focused Inspections Directive, which first became effective in Virginia on August 15, 1995, is a significant departure from how VOSH has previously conducted construction inspections. This Initiative will recognize the efforts of responsible contractors who have implemented effective safety and health programs/plans, and will encourage other contractors to adopt similar programs. The number of inspections is no longer driving the construction inspection program. The measure of success of this new policy will be an overall improvement in construction jobsite safety and health.
2. The Focused Inspections Initiative will enable VOSH to focus on the leading hazards that cause 90% of the construction workplace injuries and deaths.

The leading hazards are:

- falls (e.g., floors, platforms, roofs),
- struck by (e.g., falling objects, vehicles),
- caught in/between (e.g., cave-ins, unguarded machinery, equipment),
- electrical (e.g., overhead power lines, power tools and cords, outlets, temporary wiring)

3. Under the Focused Inspection Initiative, CSHOs shall determine whether or not there is project coordination by the general contractor, prime contractor, or other such entity and shall conduct a brief review of the project's safety and health program/plan to determine whether or not the project qualifies for a Focused Inspection.

In order to qualify, the following conditions must be met:

- a. the project safety and health program/plan meets the requirements of 29 CFR 1926 Subpart C, General Safety and Health Provisions, and
 - b. there is a designated competent person responsible for and capable of implementing the program/plan.
4. If the project meets the above criteria, an abbreviated walkaround inspection shall be conducted focusing on:
 - a. verification of the safety and health program/plan effectiveness by interviews and observation;

- b. the four leading hazards listed above, and
 - c. other serious hazards observed by the CSHO.
5. The CSHO conducting a Focused Inspection is not required to inspect the entire project. Only a representative portion of the project need be inspected, as stated in VOSH FOM.
 6. The CSHO shall make the determination as to whether a project's safety and health program/plan is effective, but if conditions observed on the project indicate otherwise, the CSHO immediately shall terminate the Focused Inspection and conduct a comprehensive inspection. The discovery of serious violations during a Focused Inspection need not automatically convert the Focused Inspection into a comprehensive inspection. These decisions will be based on the professional judgment of the CSHO.
 7. The Focused Inspection Initiative should be publicized to the maximum extent possible so as to encourage contractors to establish effective safety and health programs/plans and concentrate on the four leading hazards prior to being inspected.
 8. The Focused Inspection Initiative will be continuously evaluated and modified based on experience.

B. SPECIFIC GUIDELINES.

1. The Focused Inspection Initiative policy applies only to construction safety inspections. Construction health inspections will continue to be conducted in accordance with current agency guidelines.
2. A project determined not to be eligible for a Focused Inspection shall be given a comprehensive inspection with the necessary time and resources to identify and document violations.
3. A comprehensive inspection shall be conducted when there is no coordination by the general contractor, prime contractor or other such entity to ensure that all employers provide adequate protection for their employees.
4. A request for a warrant will not affect the determination as to whether a project will receive a Focused Inspection.
5. On jobsites where unprogrammed inspections (complaints, fatalities, etc.) are being conducted, the determination as to whether to conduct a Focused Inspection shall be made only after the complaint or fatality has first been addressed.
6. All contractors and employee representatives shall be informed, at some time during the inspection, why a focused or a comprehensive inspection is being conducted. This may be accomplished either by personal contact or posting the "Handout for contractors and employees." (*See Attachment 1 of this Program Directive*).

7. A brief justification will be included in each case file as to why a Focused Inspection was or was not conducted. The optional "Construction Focused Inspection Guideline" [See Attachment 3 of this Program Directive] may be used for this purpose.
8. Although the walkaround inspection shall focus on the four leading hazards, citations shall be issued for any serious violations found during a Focused Inspection, and for any other-than-serious violations that are not immediately abated. Normally, other-than-serious violations that are immediately abated shall not be cited nor documented.
9. Only contractors on projects that qualify for a Focused Inspection will be eligible to receive a full "good faith" adjustment of 25%.
10. For Focused Inspections an VOSH-1 will be completed in accordance with the multi-employer policy as stated in the Field Operations Manual for the:
 - a. general contractor, prime contractor or other such entity and
 - b. each employer that is issued a citation.
11. For coding purposes on the VOSH-1, a Focused Inspection will:
 - a. be considered to be a partial inspection;
 - b. be coded so it includes the identification of the general contractor, prime contractor or other such entity; and
 - c. record **Focus, C** for the general contractor, prime contractor or other such entity and shall include a notation of the total number of employers affected (i.e., general contractor plus subcontractors on site).

For example, under the existing IMIS system, if there is a general and three subcontractors, the inspection would be recorded as follows:

<u>Type</u>	<u>ID</u>	<u>Value</u>
N	14	Focus, C, 4

For each subcontractor issued a citation on a focused inspection the subcontractor's inspection (record **Focus, S** for the subcontractor) shall be recorded as follows:

<u>Type</u>	<u>ID</u>	<u>Value</u>
N	14	Focus, S

Note: Procedures for entering the general contractor, prime contractor or other such entity, and the project identification number on each VOSH-1 in the optional information code boxes will continue to be followed until the IMIS system is replaced.

The following resources can provide assistance in developing and evaluating safety and health programs/plans:

Safety and Health Program Management Guidelines published January 26, 1989 in the Federal Register (54 FR 3904).

STD 3-1.1 "Clarification of Citation Policy Regarding 29 CFR 1926.20, 29 CFR 1926.21 and Related General Safety and Health Provisions."

ANSI A10.33: "Safety and Health Program Requirements for Multi-Employer Projects".

ANSI A10.38: "Basic elements of an employer program to provide a safe and healthful work environment".

Owner and Contractor Association Model Safety and Health Programs.

CONSTRUCTION FOCUSED INSPECTIONS INITIATIVE

Handout for Contractors and Employees

The goal of Focused Inspections are to reduce injuries, illness and fatalities by concentrating OSHA enforcement on those projects that do not have effective safety and health programs/plan and limiting VOSH's time on projects with effective programs/plans.

To qualify for a Focused Inspection, the project safety and health program/plan will be reviewed and a walkaround will be made of the jobsite to verify that the program/plan is being fully implemented.

During the walkaround the compliance officer will focus on the four leading hazards that cause 90% of deaths and injuries in construction. The leading hazards are:

- falls (e.g., floors, platforms, roofs)
- struck by (falling objects, vehicles)
- caught in/between (e.g., cave-ins, unguarded machinery, equipment)
- electrical (e.g., overhead power lines, power tools and cords, outlets, temporary wiring.)

The compliance officer will interview employees to determine their knowledge of the safety and health program/plan, their awareness of potential job site hazards, their training in hazard recognition and their understanding of applicable VOSH standards.

If the project safety and health program/plan is found to be effectively implemented the compliance officer will terminate the inspection.

If the project does not qualify for a Focused Inspection, the compliance officer will conduct a comprehensive inspection of the entire project.

If you have any questions or concerns related to the inspection or conditions on the project, you are encouraged to bring them to the immediate attention of the compliance officer or call the area office at _____.

_____ **qualified as a FOCUSED PROJECT.**
Project/site

Regional Safety/Health Director

Date

This document should be distributed at the site and given to the Contractor for posting.

FOCUSED SAFETY INSPECTION



TO ALL EMPLOYEES ON THIS WORKSITE:

**THIS IS TO ADVISE YOU THAT A FOCUSED SAFETY COMPLIANCE INSPECTION
WAS CONDUCTED AT THIS SITE ON _____
BY THE VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY.**

THIS INSPECTION PROGRAM FOCUSES ON THE FOUR (4) MAJOR CAUSES OF SERIOUS ACCIDENTS AND FATALITIES ON THE CONSTRUCTION WORKSITE:

FALLS

ELECTROCUTION

CAUGHT BETWEEN

STRUCK BY

Any Other-than-serious Violations Identified during this Focused Inspection Which Could Be and Were Corrected Prior to the Completion of the Closing Conference for the Inspection Were Not Cited.

Any Serious Violations Identified During this Focused Inspection Will Be Cited Just as They Would Be for Any Comprehensive Safety Inspection, with the Citations Issued to the Contractor(s) Involved.

The General Contractor Was Responsible for this Site's Eligibility for the Focused Inspection Program. Necessary Qualifications Include Having a Written Safety and Health Program On-site Which Addresses All Required Programs Such as Hazard Communication, Confined Space Entry, Etc.; Documentable On-site Safety Training; and a Documentable and Working Disciplinary Action Program. These Programs must Be Available on Request for Both the General Contractor and All Subcontractors Involved on the Site. Work Site Conditions and Evidence must Also Confirm That These Programs Are in Place and Implemented.

For more information or assistance contact the site's Competent Person named below.

NAME: _____

Phone #: _____

CONSTRUCTION FOCUSED INSPECTION GUIDELINE

This guideline is to assist the professional judgment of the compliance officer to determine if there is an effective project plan, to qualify for a Focused Inspection.

	Yes/No
PROJECT SAFETY AND HEALTH COORDINATION; are there procedures in place by the general contractor, prime contractor or other such entity to ensure that all employers provide adequate protection for their employees?	<input type="checkbox"/>
Is there a DESIGNATED COMPETENT PERSON responsible for the implementation and monitoring of the project safety and health plan who is capable of identifying existing and predicable hazards and has authority to take prompt corrective measures?	<input type="checkbox"/>
<p>PROJECT SAFETY AND HEALTH PROGRAM/PLAN* that complies with 1926 Subpart C and addresses, based upon the size and complexity of the project, the following:</p> <p>Project Safety Analysis at initiation and at critical stages that describes the sequence, procedures, and responsible individuals for safe construction.</p> <p>Identification of work/activities requiring planning, design, inspection or supervision by an engineer, competent person or other professional.</p> <p>Evaluation/monitoring of subcontractors to determine conformance with the project Plan. (The Project Plan may include, or be utilized by subcontractors.)</p> <p>Supervisor and employee training according to the Project Plan including recognition, reporting and avoidance of hazards, and applicable standards.</p> <p>Procedures for controlling hazardous operations such as : cranes, scaffolding, trenches, confined spaces, hot work explosives, hazardous materials, leading edges, etc.</p> <p>Documentation of: training, permits, hazard reports, inspections, uncorrected hazards, incidents and near misses.</p> <p>Employee involvement in hazard: analysis, prevention, avoidance, correction and reporting.</p> <p>Project emergency response plan.</p> <p><small>*FOR EXAMPLES, SEE OWNER AND CONTRACTOR ASSOCIATION MODEL PROGRAMS, ANSI A10.33, A10.38, ETC.</small></p>	<input type="checkbox"/>
<p>The walk-around and interviews confirmed that the Plan has been implemented, including:</p> <p>The four leading hazards are addressed: falls, struck by, caught in/between, electrical.</p> <p>Hazards are identified and corrected with preventative measures instituted in a timely manner.</p> <p>Employees and supervisors are knowledgeable of the project safety and health plan, avoidance of hazards, applicable standards, and their rights and responsibilities.</p>	<input type="checkbox"/>
THE PROJECT QUALIFIED FOR A FOCUSED INSPECTION	<input type="checkbox"/>