



VOSH PROGRAM DIRECTIVE: 13-016

ISSUED: September 15, 2008

SUBJECT: Memorandum of Understanding between the Department of Labor and Industry (DOLI) and the Federal Occupational Safety and Health Administration (OSHA)

A. Purpose.

This Directive memorializes into the VOSH Program Directive System the recent Memorandum of Understanding between the Department of Labor and Industry (DOLI) and Federal OSHA to allow DOLI to request and use duly authorized Federal employees as members of the State's Voluntary Protection Program (VPP) onsite review teams. There are no changes.

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 to all VOSH personnel.

C. Reference.

None.

D. Cancellation.

Not Applicable.

E. Action.

Directors and Managers shall ensure that field personnel understand and adhere to the Memorandum of Understanding included in this Directive.

F. Effective Date.

September 15, 2008.

G. Expiration Date.

Not Applicable.

C. Ray Davenport

Commissioner

Attachment: Memorandum of Understanding between the State/Commonwealth of Virginia, Department of Labor and Industry and the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) (February 2008)

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 Staff
OSHA Region III and Norfolk Area Offices

MEMORANDUM OF UNDERSTANDING
between
THE STATE/Commonwealth of VIRGINIA,
DEPARTMENT OF LABOR AND INDUSTRY,
A STATE PLAN STATE
and
THE UNITED STATES DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

I. Purpose and Authority

Pursuant to section 21(c)(2) of the Occupational Safety and Health Act of 1970, (29 U.S.C. § 656, the Act), the State of Virginia, Department of Labor and Industry (designated state agency) and the Occupational Safety and Health Administration (OSHA) agree that the State of Virginia may request and, within the prescribed intent, scope, policies and procedures of OSHA, use duly authorized Federal employees, some of whom may be Federal volunteers who have the status of Special Government Employees (SGEs) as defined at 18 U.S.C. § 202(a), as members of the State's Voluntary Protection Program (VPP) onsite review teams.

II. Duties of Duly Authorized Federal Employees

- A. The Federal members of the State of Virginia VPP onsite review team duties will include, but are not limited to:
1. Reviewing company documents that describe or verify the worksite's safety and health management system
 2. Conducting a walkaround of the worksite to ensure the site's safety and health management system is operating effectively
 3. Interviewing employees of the company and contractors to determine their level of involvement in and perceptions of the worksite's safety and health management system
 4. Assisting in the preparation of a report that evaluates the worksite's safety and health management system with respect to VPP criteria.
- B. The duties of the Federal members of the State of Virginia VPP onsite review team shall not include, at any time, the role Team Leader or other primary decision maker.

III. Period of Performance

This agreement shall commence upon its execution by both parties. Activities shall begin as soon as possible.

Either party may terminate this agreement on 30 days written notice to the other.

IV. Miscellaneous

The State may be asked to provide reports, information and/or recommendations to OSHA regarding activities, expenses and feedback about its experience under this agreement.

The State shall take all reasonable steps to protect the safety and health of the Federal employees acting as members of the onsite review team.

V. Effect of Agreement

This agreement is between government entities and is not intended to confer any right upon any private person.

Nothing in this agreement shall be interpreted as limiting, superseding or otherwise affecting either agency's normal operations or decisions in carrying out its statutory or regulatory duties. This agreement does not limit or restrict the parties from participating in similar activities or arrangements with other entities.

This agreement does not itself authorize the expenditure or reimbursement of any funds. Nothing in this agreement obligates the parties to expend appropriations or enter into any contract or other obligations.

AGREED TO:

Edwin G. Foulke, Jr.
Edwin G. Foulke, Jr.
Assistant Secretary
Occupational Safety and Health Administration

2/4/68
Date

FOR THE STATE OF VIRGINIA:

C. Ray Davenport
C. Ray Davenport
Commissioner
Virginia Department of Labor and Industry

1/11/2008
Date