

VOSH PROGRAM DIRECTIVE: 02-024B**ISSUED: July 1, 2026****Subject** **Severe Violator Enforcement Program (SVEP)**

Purpose **CHANGE I:** This Directive transmits to VOSH compliance personnel policies and procedures for VOSH's Severe Violator Enforcement Program (SVEP), which concentrates on inspecting employers who have demonstrated indifference to their OSH Act obligations by willful, repeated, or failure-to-abate violations. **CHANGE II:** This change transmits guidance on removing employers from the Severe Violator Enforcement Program (SVEP) after a period of three years from the date of final disposition of the SVEP inspection citation items. **CHANGE III:** This Directive updates several program procedures and criteria, and adds sample documents, new procedures and criteria, guidance for specific situations, and other necessary updates and information.

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.

Reference **CHANGE I:** OSHA Instruction CPL 02-00-149 (June 18, 2010);
CHANGE II: Memorandum from Thomas Galassi, Director of Enforcement Programs (16 August 2012).
CHANGE III: OSHA Instruction CPL-02-00-169 (September 15, 2022)

Cancellation VOSH Program Directive 02-024A (01 September 2013).

Effective Date CHANGE I: 01 April 2012
CHANGE II: 01 September 2013
CHANGE III: 01 October 2026

Action Directors and Managers shall ensure that the policies and procedures established in this Directive are followed.

James S. Frederick
Commissioner

Distribution: Executive Leadership Team
VOSH Directors and Managers
VOSH Compliance and Cooperative Programs Staffs
HLS and OIS Staffs
Philadelphia Regional and Norfolk Area Offices

Attachments: OSHA Instruction CPL-02-00-169 (September 15, 2022)

When the instructions, as set forth in this Program Directive, are applied to the Department of Labor and Industry and/or to Virginia employers, the following federal terms, if and where they are used, shall be considered to read as below:

Federal Terms

VOSH Equivalent

Compliance Safety and Health Officer (CSHO)
and/or Industrial Hygienist

CSHO

Table of Contents

I.	Purpose.....	1
II.	Scope.....	1
III.	Reference.....	1
IV.	Cancellations.....	1
V.	Background.....	1
VI.	Handling Severe Violator Enforcement Cases.....	1
VII.	Criteria for a Severe Violator Enforcement Case.....	2
VIII.	Enforcement Considerations	2
IX.	Procedures of the Severe Violator Enforcement Program (SVEP).	3
X.	SVEP Log Removal Criteria and Procedures.	9
XI.	Auxiliary SVEP Log Removal Criteria and Procedures.....	10
XII.	Relationship to Other Programs.....	11
XIII.	Recording and Tracking Inspections.....	11
XIV.	Dun & Bradstreet Number.	13
XV.	Administrative Reporting Requirements for OSHA.....	13
	Appendix A: Criteria for Investigating an Employer's Related Establishments	14
	Appendix B: Sample Letter to Company.....	16
	Appendix C: Sample Letter to Company Headquarters.....	17
	Appendix D: SVEP Removal Memo	18

I. Purpose.

This Directive establishes enforcement policies and procedures for VOSH's Severe Violator Enforcement Program (SVEP), which concentrates on employers that have demonstrated indifference to VOSH laws and regulations by committing willful, repeated, or failure-to-abate violations.

II. Scope.

This Directive applies VOSH-wide.

III. Reference.

CHANGE I: OSHA Instruction CPL 02-00-149 (June 18, 2010); and

CHANGE II: Memorandum from Thomas Galassi, Director Directorate of Enforcement Programs (16 August 2012)

CHANGE III: OSHA Instruction CPL-02-00-169 (September 15, 2022)

IV. Cancellations.

VOSH Program Directive 02-024A (01 September 2013)

V. Background.

The SVEP is intended to focus enforcement efforts on significant hazards and violations by inspecting employers who have demonstrated recalcitrance or indifference to their compliance obligations by committing willful, repeated, or failure-to-abate violations in one or more of the following circumstances: (1) a fatality or catastrophe situation; (2) a non-fatality or catastrophe situation; or (3) all egregious enforcement actions.

Cases meeting the severe violator enforcement criteria are those in which the employer is found to be recalcitrant or indifferent to its compliance obligations, thereby endangering employees. The SVEP procedures in Section IX are intended to increase attention on the correction of hazards found in these workplaces and, where appropriate, in other worksites of the same employer where similar hazards and deficiencies may be present. This program applies to all employers regardless of size.

VI. Handling Severe Violator Enforcement Cases.

- A. Compliance Safety and Health Officers (CSHOs) must become familiar with Section VII criteria for an SVEP case, to effectively evaluate employers during all inspections likely to result in an SVEP case.
- B. Potential SVEP cases are Significant cases and, therefore, must be reviewed by the Regional Director and, for purposes of SVEP, with the Program Director. Additional support of this review process may involve HLS. The review should identify whether the employer is a candidate for SVEP.
- C. State and Local Government (SLG) cases that meet the SVEP case criteria are classified as SVEP cases; the terms "employer-wide" or "company-wide" will apply SLG Agency-wide or Department-wide. The VOSH Regional Director in consultation with the Program Director and the HLS determines appropriate SVEP actions.
- D. After the significant case review is completed for an SVEP case, the VOSH Compliance Manager will accurately identify the establishment in the OSHA Information System (OIS).

- E. At the beginning of every month VOSH Compliance Manager will produce a SVEP report in OIS and share the findings with the VOSH Regional Directors and HLS.
- F. Regional Offices must ensure VOSH conducts all necessary follow-up or referral inspections and record them accurately in OIS.

VII. Criteria for a Severe Violator Enforcement Case.

VOSH may consider an inspection to result in a SVEP case if it meets at least one of the criteria below, **and** the VOSH Regional Director in consultation with the VOSH Program Director determines that there are reasonable grounds to believe that the willful/repeated/failure-to-abate compliance problems and issues found during the initial inspection may be in existence at other specific facilities owned or operated by that employer (see Appendix A). HLS may also support this review as requested by the VOSH Program Director.

A. Fatality/Catastrophe Criterion.

A fatality/catastrophe inspection in which VOSH finds at least one willful or repeated violation or issues a failure-to-abate notice based on a serious violation directly related either to an employee death, or to an incident causing three or more employee hospitalizations.

B. Non-Fatality/Catastrophe Criterion.

An inspection in which VOSH finds at least two willful or repeated violations or issues failure-to-abate notices (or any combination of these violations/notices), based on the presence of high gravity serious violations

NOTE: Low and moderate gravity serious violations do not fulfill this criterion.

C. Egregious Criterion.

All egregious (e.g., per-instance citations) enforcement actions will be considered SVEP cases if there are reasonable grounds to believe that the egregious-related compliance problems and issues found during the initial inspection may be in existence at other specific worksites owned or operated by that employer.

NOTE: For SVEP consideration, **willful** and **repeated** citations and **failure-to-abate** notices must be based on serious violations, except for recordkeeping, which must be egregious. (See VOSH FOM, Chapter 9, Penalties.)

VIII. Enforcement Considerations

- A. Two or more inspections of the same employer - For inclusion under SVEP, each individual inspection must be evaluated independently to determine if it meets any of the SVEP criteria (See Section VII, Criteria for an SVEP Case). If any of the inspections meet one of the SVEP criteria, VOSH will consider that inspection to be an SVEP case and code it accordingly (See Section XIII, Recording and Tracking Inspections).

NOTE: Do not combine two or more inspections of the same employer to fulfill the SVEP criteria.

- B. Grouped and combined violations must count as one violation for SVEP purposes. In cases where an inspection's original violations at issuance initially qualify an employer for SVEP, **but later are reclassified to fall outside the program's eligibility criteria**, the employer must be removed from the SVEP log.
- C. Multi – employer: Under VOSH's multi-employer citation policy, a general contractor may be cited for the same violations as other contractors qualifying for SVEP and therefore may also qualify for the program. An employer can qualify for SVEP even if none of its own employees were exposed to hazards.

IX. Procedures of the Severe Violator Enforcement Program (SVEP).

A. Follow-Up or Referral Inspections

When a VOSH Program Director determines that a case meets one of the SVEP criteria, follow paragraphs A through E below. Follow-up or Referral Inspections.

1. General.

For any SVEP inspection opened on or after the effective date of this Directive, VOSH must conduct a follow-up or referral inspection within **one year** but no longer than two years, after the citation becomes a final order, even if the Department has received abatement verification of the cited violations. The purpose of the follow-up or referral inspection is to assess **not only** whether the cited violation(s) were abated, **but also** whether the employer is failing to address similar or related hazards.

If the Regional Director learns that a cited employer/operation has moved to a different location, VOSH should inspect the new location. If the new location is outside the original Regional Office's jurisdiction, a referral must be made to the Regional Office with appropriate jurisdiction. The VOSH Compliance Director must be consulted to coordinate referrals outside of your Region.

NOTE: CSHOs must create or open an inspection in OIS for all follow-up or referral attempts. Mark the inspection as "No Inspection" in instances where the employer is no longer located at the originally-inspected site. Apply relevant SVEP coding per Section XX. Recording and Tracking Inspections.

2. Justification for Not Conducting a Follow-up.

If there is no compelling reason to conduct a follow-up inspection the Regional Director must document that justification in the case file, and must document and complete "No Inspection" in OIS.

Reasons for not conducting a follow-up inspection **may** include:

- a. worksite/workplace closed,
- b. employer is out of business, or
- c. cited operation discontinued at the worksite/workplace.

NOTE: A corrected-during-inspection determination does not eliminate the required follow-up inspection.

NOTE: (Outside of the three reasons listed above) If there is another compelling reason not to do an inspection, then the RD should consult with the PD to determine the next course of action.

3. Follow-Up Inspections at Construction, Mobile, and Temporary Worksites.

When the Regional Office has reason to believe that a construction, mobile, or otherwise temporary worksite is no longer active (or is nearing completion), therefore making a follow-up inspection of the same worksite difficult or impractical, the provisions in *Section IX.B.5 Construction Worksites* will apply.

B. Statewide Inspections of Related Workplaces/Worksites.

1. General

Employer indifference to compliance responsibilities under the OSH Act and VOSH laws, standards and regulations at one worksite may indicate broader patterns of non-compliance at that employer's related worksites. When VOSH has reasonable grounds to believe that violations identified in the initial inspection may indicate a broader pattern of non-compliance, the Department may inspect related worksites of the same employer. While VOSH usually initiates inspections of related worksites only after issuing citations to the employer of violations from the original worksite, in cases of "imminent danger" hazards or similarly exigent circumstances, the Regional Office and VOSH Compliance Director must follow the procedures outlined in the VOSH Field Operations Manual (FOM) Chapter 6.

Appendix A, CSHO Guidance – Considerations for Determining Company Structure and Safety and Health Organization, of this Instruction, provides guidance for evaluating whether violative conditions found during the initial SVEP inspection are likely to exist at related facilities. It is essential that information in Appendix A be gathered during the initial SVEP inspection. VOSH may also obtain such information by letter, telephone or other legal remedies available in the Commonwealth of Virginia.

The VOSH Regional Director is responsible for assuring that VOSH collects relevant information and will consult with the VOSH Program Director and HLS to determine whether it provides reasonable grounds to believe that a broader pattern of non-compliance may exist.

When the VOSH Program Director finds sufficient evidence of potential broader noncompliance, the VOSH Program Director, in consultation with the OSHA Philadelphia Region and OSHA Office of Statistical Analysis (OSA), will identify the employer's related establishments in the same 3-digit NAICS code as the initial SVEP case and then select establishments for inspection in accordance with *Section IX.B.4 Similar Related Workplaces*. Establishments outside that 3-digit NAICS code may also be inspected if the evidence establishes **reasonable grounds** for the presence of potential hazards at those sites.

NOTE 1: The Directorate of Enforcement Programs (DEP) at OSHA serves as the National Office point of contact for all SVEP nationwide referrals. At VOSH address any questions to the VOSH Program Director who may contact the DEP.

NOTE 2: Establishments are related when there is evidence of common ownership. Related establishments include entities in the same corporate family, such as subsidiary, affiliate, or parent corporations with substantial common responsibilities. Similar related establishments are those establishments that are in the same 3-digit NAICS code.

2. SVEP Referrals to OSHA

OSHA will accept referrals, which must include all relevant facts, from VOSH regarding any inspections conducted pursuant to VOSH's SVEP. VOSH referrals (letter or memorandum) to federal OSHA must be sent to the OSHA Philadelphia Regional Office liaison. The referral will be identified in OIS as a referral to OSHA, assuming OIS provides this as a resource to a state plan.

3. Inspections of Related Workplaces.

a. Where an Employer Has Three (3) or Fewer Related Workplaces.

Pursuant to Appendix A, when the VOSH Program Director determines that VOSH should inspect additional workplace(s) within the Commonwealth because there are **reasonable grounds** to believe that the SVEP-related compliance problems and issues found during the initial inspection may be in existence at the other specific facilities owned or operated by that employer, and the employer has three or fewer related workplaces, **all** such workplaces must be inspected to determine whether those sites have hazardous conditions or violations similar to those in the SVEP case (see *IX.B.6. Scope of Related Inspections* below for inspection scope guidance). The VOSH Program Director has overall responsibility for coordinating the inspections and planning investigative strategy. If one or more of the workplaces is outside the original Regional Office's jurisdiction, the VOSH Program Director will notify the appropriate Region Director and initiate a referral. The VOSH Program Director will also consult with DLS and the OAG as appropriate.

b. Where an Employer Has Four (4) or More Related Workplaces.

When the VOSH Program Director determines that additional workplaces must be inspected, and the employer has four or more similar related establishments within the original Regional Office or in other Regions, the VOSH Program Director has responsibility for coordinating those inspections and planning investigative strategy. The VOSH Program Director must consult with HLS and the Deputy Commissioner, as appropriate.

However, if there are unusual circumstances or if a Regional Office is unable to determine the number of workplaces/worksites, the VOSH Compliance Director will initially send the recommendation for inspections, including all relevant facts, to the Assistant or Deputy Commissioner for approval. The Assistant Commissioner will consult with DLS and the OAG as appropriate.

- i. When VOSH determines that there are reasonable grounds for inspecting related establishments,¹ the VOSH Program Director must issue an **SVEP statewide inspection list**.
 - When the number of related establishments statewide is 10 or fewer, VOSH will attempt to inspect all related establishments.
 - When the number of related establishments statewide is more than 10, the Office of Statistical Analysis (OSA) will assign random numbers all of the related establishments, sort those establishments in random number order, and select the first 10 for inspection.

VOSH must inspect all establishments on the SVEP statewide inspection list to determine whether hazardous conditions or violations similar to those found in the initial SVEP inspection are present. Based on the results of these inspections, the Deputy Commissioner

¹ That there are reasonable grounds to believe that the SVEP-related compliance problems and issues found during the initial inspection may be in existence at the other specific facilities owned or operated by that employer.

determines whether VOSH needs to inspect additional establishments. Any inspection conducted from an SVEP statewide inspection list must be coded as an “unprogrammed-referral.” A referral report must be generated when learning of a site where an SVEP statewide referral employer is working.

- ii. In addition to or in lieu of (i) above, when the Deputy Commissioner has reasonable grounds to believe that hazards may exist at specific related establishments, the Deputy Commissioner may select those establishments for inspection if supported by evidence of potential non-compliance.
 - iii. The VOSH Program Director is responsible for coordinating statewide inspections of related establishments under this section. Where complex or systemic issues are present, the VOSH Program Director will consult with HLS and the Deputy Commissioner on investigative strategies.
- c. SVEP Statewide Related Inspections that involve Process Safety Management (PSM) hazards.

For SVEP Statewide inspections arising from willful or repeated PSM citations or failure-to-abate PSM notices, related inspections must be limited to requirements under the PSM standard. No inspections of establishments are to be conducted where VOSH has performed a PSM inspection at that establishment in the past two years from the opening conference date.

4. Construction Worksites.

a. Regional Office.

Whenever an SVEP case involves a construction industry employer, VOSH must further investigate that employer’s overall compliance. If the initially inspected worksite closes before VOSH can conduct a follow-up inspection, the Regional Office must attempt to conduct an inspection of at least one of the employer’s other worksites (or make a referral to another Regional Office) to determine whether the employer is failing to address hazardous conditions similar to those identified in the initial SVEP inspection, provided there are reasonable grounds to believe that the SVEP-related compliance problems and issues found during the initial inspection may be in existence at the other specific facilities owned or operated by that employer. Because construction worksites are often difficult to locate, the following means may be useful to identify a cited employer’s other sites.

NOTE: If a construction related SVEP case is resolved through a settlement, the agreement shall require the employer to notify the Regional Director or VOSH Program Director prior to beginning work at any new construction sites during the subsequent three-year period.

VOSH will make a request to an employer requesting the location of worksites where employees of that employer are presently working, or are expected to be working, within the next 12 months.

VOSH may issue interrogatories during the early stages of an investigation if it appears that the inspection is likely to result in an SVEP case and the VOSH Compliance Director determines (after consultation with the Deputy Commissioner and HLS as appropriate) that the hazards discovered during the inspection, and the inadequacy of the employer’s response to those hazards, indicate that a broader response is appropriate.

b. VOSH Communication with National Office

- i. VOSH Notifying OSHA - when the VOSH Program Director determines that an SVEP construction employer is operating under federal OSHA jurisdiction, and there are reasonable grounds to believe that the SVEP-related compliance problems and issues found during the initial inspection may be in existence at the other specific facilities owned or operated by that employer, the VOSH Program Director will notify the OSHA Philadelphia Regional office.
- ii. OSHA Notifying VOSH - when the OSHA DOC Director deems it necessary to notify the Philadelphia Regional Administrator and State Plan Designees regarding activity of a particular construction employer with worksites in multiple Regions and/or State Plans, the Director will issue an SVEP nationwide referral as outlined in *Section IX.B Nationwide Inspections of Related Workplaces/Worksites*.

NOTE: VOSH will only conduct inspections in response to such referrals if there are reasonable grounds to believe that the SVEP-related compliance problems and issues found during the initial inspection may be in existence at the other specific facilities owned or operated by that employer in Virginia.

- iii. Code any inspection conducted under an SVEP nationwide referral as an unprogrammed referral from the National Office. Generate a referral report when finding a site where an SVEP nationwide referral employer is operating.

5. Scope of Related Inspections.

A related inspection to an SVEP inspection will be **partial** in scope. The scope of a related inspection is limited to the potential systemic hazard based on the original investigation. The decision to expand the scope of an inspection to related establishments must be determined by the evidence gathered in the original SVEP inspection. The expanded inspection should focus primarily on potential systemic hazards that are the same, or similar, to those found in the original investigation.

6. Priority of the Inspection.

- a. In accordance with the inspection priorities listed in the VOSH FOM, SVEP nationwide referral inspections are considered lower priority than imminent dangers, fatalities, and complaints, but higher than other programmed inspections. Also review Section XII Relationship to Other Programs of this Instruction, regarding when VOSH can conduct other inspections concurrent with an SVEP nationwide referral inspection.
- b. Consistent with VOSH Standard §1908.7(b)(2)(iv), any VOSH onsite consultation visit already in progress must terminate prior to the opening conference of an SVEP referral inspection.

C. Increased Company Awareness of VOSH Enforcement.

1. Sending letters, citations, or penalty notifications to headquarters, or coordinating meetings with the establishment's regional or national office..

In cases where VOSH determines that it should address an establishment's safety and health issues at the corporate level, consider the following actions:

- a. Send a letter from the VOSH Program Director to the company president expressing VOSH's concern with the company's violations. Include a copy of the citations with the letter and cover letter. See sample cover letter in Appendix B: Sample Letter to the Company.
- b. Organize a meeting between VOSH, company officials, employees, and employee representatives to discuss how the company intends to address safety and health compliance. If the company operates in multiple Regions, such a meeting will require National Office coordination.
- c. Employee representatives (e.g., unions) must receive a copy of the citations and notifications of penalty VOSH sends to the employer's national headquarters. VOSH must also notify employee representatives by letter when the Department determines that the establishment's safety and health problems require corporate-level intervention.
- d. For all employers that are eligible for SVEP the Regional Director or VOSH Compliance Director must mail a copy of the citations and notification of penalty to the employer's national headquarters if the employer has more than one fixed establishment. See sample cover letter in Appendix C: Sample Letter to Company Headquarters.

D. Enhanced Settlement Agreements.

The following settlement provisions should be included in agreements to ensure future compliance both at the cited facility and at the employer's other related facilities:

1. The employer hires a qualified safety and health consultant to develop and implement an effective and comprehensive safety and health program or, where appropriate, a workplace program to ensure full compliance with the subpart for which VOSH cited the employer under the SVEP.
2. Require interim abatement controls in cases where the employer is unable to implement final abatement in a short period of time.
3. In construction settings (and, where appropriate, in general industry), the settlement agreement should require a list of the employer's current jobsites and/or future jobsites for a specified time period. The agreement will also incorporate specific protective measure(s) the employer must take for each current or future jobsite.
4. Require the employer to submit its Log of Work-Related Injuries and Illnesses on a quarterly basis and to allow VOSH access to inspect the workplace based on that information.
5. Require the employer to notify the Regional Office immediately of any serious injury or illness requiring any medical attention beyond first aid, and to consent to an inspection.
6. Since DOLI VOSH has been implementing enhanced settlement agreements since the 1990's, further enhancements may be included in settlement terms and will include guidance and direction from the VOSH Program Director to the regions. These additional terms may include items such as;
 - a. For construction safety and effective program implementation and management, contracting with ISNetworld or equivalent. Such programs offer services that assess contractors and subcontractors safety and health efforts, mentor such entities for program improvements, manage data, and audit program effectiveness.

- b. Implementation of a safety management system that meets the requirements of ISO 45001, TAG 283, VPP, or ANSI Z10, or equivalent.
 - i. Some agreements may include only relevant portions of such standards. In these instances, the agreement terms should be specific to the case, the violations, and items cited.
 - c. Implementation of DOLI VOSH **WhatIF?** Program. This program moves employers to a leadership and cultural program where the focus is, how might we work injury free. Toolkits and additional information may be found on DOLI's website.
7. Implementation of qualified third party auditors who are employed to audit and assess an employers safety and health management system and its effectiveness in field operations. When included in settlement terms, specific attention should be focused on requirements for frequency of audits/assessments, and how often such reports are provided to VOSH as documentation of compliance with terms of the agreement.

X. SVEP Log Removal Criteria and Procedures.

- A. Notwithstanding the steps outlined hereafter, DOLI ELT and VOSH Program Directors retain the authority to remove an employer from SVEP when it upholds the Code of Virginia Section 40.1-3. Although Federal OSHA states that their focus on SVEP is for the purpose of focusing resources on recalcitrant employers who are indifferent to compliance obligations; no additional resources have been provided to Virginia to support these additional requirements. Further, the enhanced requirements in 2022 relative to SVEP continue to pose resource demands on DOLI VOSH. To effectively manage these demands, VOSH leadership as noted retains the authority to manage an SVEP log in order to effectively uphold workers' safety and health within DOLI's limited resources.
- B. In addition to A., VOSH may remove an employer from the Severe Violator Enforcement Program Log after at least three years from the date of receiving acceptable abatement verification. To be eligible for removal, the employer must have:
 - 1. Abated all SVEP-related hazards,
 - 2. Paid all final penalties,
 - 3. Where applicable, followed and completed all applicable settlement provisions
 - 4. Received no additional serious, willful and/or repeat citations related to the hazards identified in the original SVEP inspection or any related establishments, and
 - 5. Have received one follow-up or referral VOSH inspection.
- C. If contesting a case, the employer may choose to begin the three-year designation period by providing acceptable abatement verification for all SVEP-related hazards. This policy change is meant to incentivize employers to abate hazards but does not affect any of the employer's rights under the OSH Act, or VOSH laws, standards or regulations.

- D. An employer that agrees to an Enhanced Settlement Agreement may elect to reduce the SVEP term to two years. In such cases, SVEP removal is contingent on the employer agreeing to developing and implementing a safety and health management system (SHMS), within the two-year period, that includes policies, procedures, and practices that are effective to recognize and abate occupational safety and health hazards and protect employees from those hazards. The employer's SHMS should include at least the elements outlined in OSHA publication 3885, Recommended Practices for Safety and Health Programs (October 2016) and should also include provisions for evaluating and improving program effectiveness, along with a provision for VOSH's review and evaluation of the SHMS. These program elements may also comply with the previously listed enhanced terms in Section D. 6. Lastly, implementation must be verified by an independent third party (i.e., a CSP, CIH, or – for a unionized workplace – a national union safety and health representative), subject to the approval of VOSH.
- E. Prior to VOSH removing an employer from the SVEP, the Regional Office must conduct at least one follow-up or referral inspection to ensure abatement verification and compliance with the enhanced settlement provisions, if any. If the follow-up inspection results in a serious citation related to the hazards identified in the initial SVEP inspection, then the establishment will not be eligible for removal from the SVEP log, and the Regional Office must perform an additional follow-up inspection.
- F. Only the Deputy Commissioner (ELT) or VOSH Program Director may authorize removing an employer from the SVEP. The SVEP Employer Removal memorandum template in Appendix D: SVEP Removal Memo must be completed by the Regional Director and submitted to the VOSH Program Director if an establishment meets the removal criteria.

XI. Auxiliary SVEP Log Removal Criteria and Procedures.

- A. If, after five years from the final order date, the Regional Office is unable to conduct a follow-up or referral inspection, then it can enter the establishment in the "Auxiliary SVEP Log." Reasons for being unable to conduct a follow-up or referral inspection may include:
 - worksite/workplace closed,
 - employer is out of business, or
 - cited operation discontinued at the worksite/workplace.

However, the employer remains in the "Auxiliary SVEP Log" until VOSH makes contact, verifies abatement, and assures that the employer fulfills all other requirements of the program. VOSH encourages establishments to contact the VOSH Regional Office to discuss the follow-up or referral requirements in SVEP.

- B. After ten years from the case closure date, the VOSH Program Director may remove an employer from the Severe Violator Enforcement Program if the case meets all the following criteria:
 - 1. VOSH's debt collection team has returned the case to the Regional Office as uncollectible.
 - 2. The case was coded as "abatement not completed; worksite changed" in OIS after documenting such in the casefile in accordance with the FOM.
- C. VOSH maintains the legal entity name, any associated business titles or "doing business as" names, and ownership of the company in a searchable format for cross reference for future inspections. In cases

where VOSH encounters the employer at any time in the future, a search of the employer's history in OIS will flag the SVEP inclusion and VOSH will reactivate the entire timeline, process, and abatement verification procedure.

XII. Relationship to Other Programs.

A. Unprogrammed Inspections.

VOSH may conduct an unprogrammed inspection and an SVEP-related inspection either separately or concurrently. This Instruction does not affect VOSH's ability to conduct unprogrammed inspections.

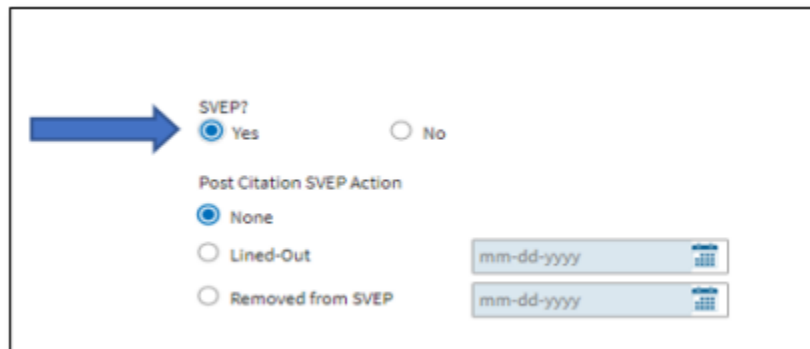
B. Programmed Inspections.

Site-specific targeting; local, regional, or national emphasis program inspections may occur either separately or concurrently with SVEP inspections.

XIII. Recording and Tracking Inspections.

A. Initial SVEP Inspections

Only the VOSH Compliance Manager will designate an inspection that meets the criteria of a severe violator enforcement case as an initial SVEP inspection case. Enter that case into OIS using the following procedures.



The screenshot shows a web form for recording an inspection. A blue arrow points to the 'SVEP?' section, which has two radio buttons: 'Yes' (selected) and 'No'. Below this is the 'Post Citation SVEP Action' section with three radio buttons: 'None' (selected), 'Lined-Out', and 'Removed from SVEP'. To the right of these options are two date input fields, each with a placeholder 'mm-dd-yyyy' and a calendar icon.

Adding to OIS: Identify initial SVEP inspections by selecting the "Yes" SVEP radio button on the "Inspection Data" tab for that inspection in OIS.

NOTE: Once the VOSH Compliance Manager identifies an inspection as an initial SVEP case, any user cannot change the SVEP radio button to "No." Identify lined-outs and removals from SVEP using the relevant Post Citation SVEP Action field below.

B. Post Citation SVEP Action

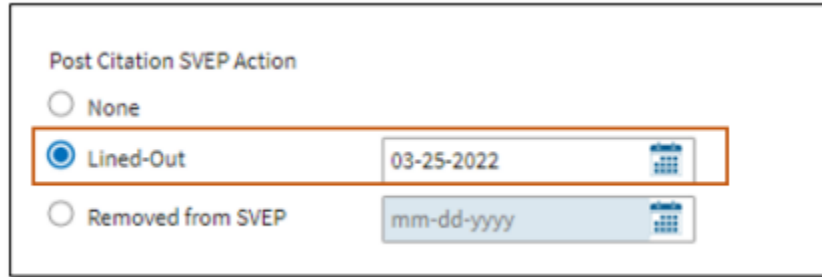
Select the relevant radio button under "Post Citation SVEP Action." If the case remains active on the SVEP log, select the "None" radio button.

If an establishment entered into a settlement agreement (informal or formal) in which VOSH agreed to delete or reclassify the citation that qualified the establishment for SVEP designation; or if a court decision

has vacated such a citation, then select the “Lined Out” radio button to indicate that the entry on the SVEP log will be lined-out.

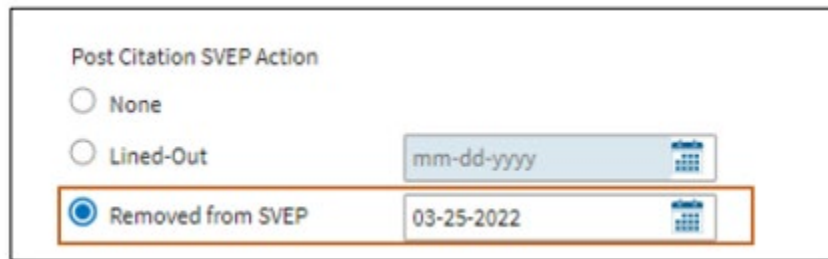
NOTE: VOSH may not use SVEP removal as a settlement incentive. However, if the final terms of an agreement take an employer out of the SVEP criteria, the employer must be removed from the log.

1. Lined-out from SVEP: Identify initial SVEP inspections that meet the criteria of a line-out by selecting the “Lined-Out” radio button and enter the date when the VOSH Program Director or the Deputy Commissioner approved the Line-Out. This option is available on the “Inspection Data” tab for that inspection in OIS.



The screenshot shows a form titled "Post Citation SVEP Action". It has three radio button options: "None", "Lined-Out", and "Removed from SVEP". The "Lined-Out" option is selected, indicated by a blue dot. To the right of the "Lined-Out" option is a date input field containing "03-25-2022" and a calendar icon. The "Removed from SVEP" option has a date input field containing "mm-dd-yyyy" and a calendar icon. The "None" option does not have a date field.

2. Removed from SVEP: Identify initial SVEP inspections that meet the removal criteria by selecting the “Removed from SVEP” radio button and enter the date when the VOSH Program Director or Deputy Commissioner approved the removal. This option is available on the “Inspection Data” tab for that inspection in OIS.



The screenshot shows the same "Post Citation SVEP Action" form. In this instance, the "Removed from SVEP" option is selected, indicated by a blue dot. The date input field next to it contains "03-25-2022". The "Lined-Out" option now has a date input field containing "mm-dd-yyyy". The "None" option remains unchanged.

C. Follow-up and Related SVEP Inspection

When identifying an inspection as a follow-up or an inspection otherwise related to an original or previous SVEP inspection, the CSHO must select the “Yes” radio button for “Is this inspection related to a previous SVEP inspection?” If the case is a new SVEP case (not a follow-up inspection or related to a previous SVEP case) then select the “No” radio button.

NOTE: Follow-up and inspections otherwise related to an initial SVEP case that do not meet the criteria for a new SVEP case must select the “No” SVEP radio button.

The CSHO must link any inspection marked as “Yes” in the previous step to the initial SVEP inspection by entering the relevant “Inspection Number” in the “Previous/Subsequent Inspections” section of the “Related Activities” subtab, under the “Inspection” tab.

Is this inspection related to a previous SVEP inspection?

☒ Yes ☐ No

Related Inspections

All inspections that have been associated/related as Previous/Subsequent to the selected inspection have been added

Inspection ID	Related Inspection Type	Previous/Subsequent	Establishment Name	Actions
900321	Previous Inspection	Previous Inspection	TESTING SERVICE CORPORATION	***

[Add](#)

D. Significant Enforcement Action Code.

Handling of SVEP cases will follow the guidelines outlined in the procedures for VOSH Significant Cases in the VOSH FOM.

E. Other Program Codes.

Remember to enter all additional applicable emphasis program (SEP, NEP, and LEP) codes in the inspection emphasis program section of the inspection type tab when conducting an SVEP inspection and the SVEP inspection also meets the protocol for other program(s).

XIV. Dun & Bradstreet Number.

As with all inspections, and if it is available, enter the data universal numbering system (DUNS) number in the DUNS number field of the establishment information section. In establishments where ownership has changed, enter the DUNS number for the new owner. If the new owner does not have a corresponding new DUNS number, enter the old DUNS number, if known. Since the DUNS number is site-sensitive, the old number will still provide useful data.

XV. Administrative Reporting Requirements for OSHA.

- A. At the beginning of every month the OSHA National Office produces a SVEP report in OIS and shares the findings with OSHA Regional Coordinators.
- B. Regional Coordinators review the SVEP report with Area Offices and ensure an accurate list of establishments within their jurisdictions. Also, Regional Coordinators and Area Offices ensure that OSHA conducts all necessary follow up or referral inspections and records them accurately in OIS.

Appendix A: Criteria for Investigating an Employer's Related Establishments

When determining whether to inspect other worksites of a company designated as a severe violator enforcement case, determine whether there is reasonable cause to believe that compliance issues found during the initial SVEP inspection are likely to exist at any other similar facilities of the employer. If violations at a local workplace appear to be potentially symptomatic of broader non-compliance with VOSH requirements, either generally or with respect to conditions cited under the SVEP inspection, investigate the company structure to help identify other establishments. Employer and employee interviews should be conducted, and subpoenas or interrogatories issued to determine if there is evidence of similar hazards and conditions at other work sites. The VOSH Program Director can request that the Office of Statistical Analysis (OSA) assist in identifying the employer's similar or related worksites. The following information should be solicited in making this determination:

Extent of Compliance Problems.

Question the plant manager, safety and health personnel, and line employees to help determine if local health and safety violations are indicative of a corporate-wide problem. Examples of questions to ask facility personnel include:

- Are the violative conditions the result of a company decision or related to complying with a standard or addressing a hazard? Have corporate safety personnel addressed compliance or the hazard?
- Who made the decision concerning conditions related to the violation: local management or company headquarters? Was the decision meant to apply to other company facilities? If the decision was from company headquarters, what was the explanation?
- Is there a written company-wide safety program? If so, does it address the specific hazards present? If so, how does the program address or not address the hazards?
- Is there a company-wide safety department? If so, who are they and where are they located? How does company headquarters communicate with other facilities/worksites? Does the company provide effective training for establishment/worksite management, and safety and health personnel?
- Do personnel from company headquarters visit facilities/worksites? Are those visits regular or only sporadic? What subjects do the headquarters personnel address during their visits? Are there audits of safety and health conditions? Did the headquarters personnel discuss the types of cited violative conditions?
- Are there any insurance company or contractor safety and health audit reports that the worksite has ignored? Are headquarters safety and health personnel aware of the reports and the site's inaction?
- Does the company have facilities or worksites other than the one inspected that perform similar or substantially similar work, use similar processes or equipment, or produce like products? If so, where are they?
- What is the overall company attitude concerning safety and health? Does the establishment or worksite receive support from company headquarters on safety and health matters? Does the company provide appropriate safety and health training to its employees?
- Is the establishment's/worksite's overall condition better or worse now compared to past years? If it is worse, why? Has new management or ownership emphasized production over safety and health? Is the equipment

outdated or in very poor condition? Does management allege that poor financial conditions keep it from addressing safety and health issues?

- Is there an active and adequately funded maintenance department? Have they identified these problems and tried to fix them?
- If you are interviewing management: Have you worked at or visited other similar company facilities or worksites? Did those facilities or sites have similar operations and hazards as those found in the original inspection?

Identifying Company Structure.

Ask for the location(s) of other facilities or worksites and how they may be linked to the one you are inspecting. Sometimes establishment/worksites management will not have a clear understanding of the company structure, just an awareness of facts concerning control and influence from the corporate office. Try asking the following questions to help understand the corporate structure:

- Is the establishment/worksites, or the company that owns the establishment or uses the worksites, owned by another legal entity such as a parent company? If so, what is that name and location? Attempt to determine whether the inspected establishment/worksites is a “division” or “subsidiary” of a parent company.

NOTE: A “division” is a wholly owned part of the same company that may have an entirely different name, e.g., Chevrolet® is a division of General Motors®. A “subsidiary” is a company controlled or owned by another company that owns a majority or all of the subsidiary’s shares. Try to determine whether the parent company has divisions or subsidiaries other than the one that owns or uses the establishment or worksites you are inspecting. If so, try to obtain the other entities’ names and functions. Sometimes this information is available online, e.g., in Dun & Bradstreet® Sites and Directories. Another good source of information is the relevant state’s office of the Secretary of State.

- Do these other entities control other facilities or worksites that perform the same type of work and might have the same kinds of safety and health concerns?
- Are the company entities publicly held (have publicly traded shares) or are they closely held (owned by one or more individuals)?
- What are the names, positions, and business addresses of relevant company personnel? Which businesses or entities actually employ “company” safety and health personnel?
- On what kind of safety and health-related issues or subjects do headquarters personnel provide instructions?
- Do the same or related people own other companies that perform similar work (especially in construction)?

Appendix B: Sample Letter to Company

DOLI Letterhead with Appropriate Address

Date

Name of Employer's Establishment

Address of Establishment

Dear _____:

We are enclosing a copy of a citation and notification of penalties for violations of Virginia Occupational Safety and Health (VOSH) laws, standards and regulations, which my office issued to [establishment name, located in city, state]. We have identified this case as a severe violator enforcement case under the VOSH's Severe Violator Enforcement Program (SVEP).

The SVEP concentrates inspection resources on employers that have demonstrated an indifference to their VOSH obligations through willful, repeated, or failure-to-abate violations. The program focuses on the most severe violators, leveraging VOSH's enforcement authority with the goal of eliminating those workplace hazards most likely to lead to injuries, illnesses, and deaths.

[Establishment name] will be listed in the VOSH SVEP log VOSH may remove an employer from the Severe Violator Enforcement Program three years after receiving adequate abatement verification. To be eligible for removal from the program, the employer must have:

1. Abated all SVEP-related hazards,
2. Paid all final penalties,
3. In cases where there is a settlement agreement, followed and completed every settlement provision,
4. Received no additional serious citations related to the hazards identified in the original SVEP inspection at the initial establishment or any related establishments, and
5. Been subject to one follow-up or referral VOSH inspection.

Unless contested, the violations referred to in this citation must be abated by the dates listed and the penalties paid. Regardless of any decision to contest, the three-year SVEP term does not begin until VOSH receives final abatement verification for the cited violations. We are providing this citation and notification of penalties to you so that you are aware of both the violations and the Severe Violator Enforcement Program. We encourage you to work with all your sites to ensure that these violations are corrected.

VOSH is dedicated to saving lives, preventing injuries and illnesses, and protecting Virginia's workers. For more information about VOSH programs, please visit our website at www.doli.virginia.gov.

Sincerely,
Regional [Safety OR Health] Director or VOSH Program Director
Enclosure

Appendix C: Sample Letter to Company Headquarters

DOLI Letterhead with Appropriate Address

Date

Name of Employer's National Headquarters

Address of Headquarters

Dear _____:

We are enclosing a copy of a citation and notification of penalties for violations of Virginia Occupational Safety and Health (VOSH) laws, standards and regulations, which my office issued to [establishment name, located in city, state]. We have identified this case as a severe violator enforcement case under the VOSH's Severe Violator Enforcement Program (SVEP).

We are providing this citation and notification of penalties to you so that you are aware of the violations; we mailed the original to [establishment name] on [date]. Unless contested, the violations referred to in this citation must be abated by the dates listed and the penalties paid. Regardless of any decision to contest, the three-year SVEP term does not begin until VOSH receives final abatement verification for the cited violations. We encourage you to work with all your sites to ensure that these violations are corrected. VOSH is dedicated to saving lives, preventing injuries and illnesses, and protecting Virginia's workers. For more information about VOSH programs, please visit our website at www.doli.virginia.gov.

Sincerely,

VOSH Regional [Safety OR Health] Director or VOSH Program Director

Enclosure

Appendix D: SVEP Removal Memo

Regional Office Letterhead

[Select Date]

MEMORANDUM FOR: [Name],
VOSH [Safety OR Health] Program Director

FROM: [Name]
Regional [Safety OR Health] Director
[Region Name] Regional Office

SUBJECT: SVEP Employer Removal

We recommend removing the employer listed below from the SVEP Log based on the following criteria (please check all that apply):

- ☐ Employer has been on the SVEP Log for two or more years after date of abatement verification of the SVEP citation items and has met the requirements of an Enhanced Settlement Agreement, including developing and implementing an appropriate SHMS.
- ☐ Employer has been on the SVEP Log for three or more years after date of abatement verification of the SVEP citation items.
- ☐ Employer abated all SVEP-related hazards.
- ☐ Employer paid all penalties.
- ☐ Employer completed all settlement provisions.
- ☐ VOSH conducted a follow-up inspection.
- ☐ Employer has not received any serious citations related to the hazards identified in the original SVEP inspection.
- ☐ No CSA or nationwide interest in the case(s).

Region [Name]

[Establishment Name]

[Inspection #]

[Year]

[SVEP Log #][SVEP Log #]