

**North Carolina Department of Labor
Occupational Safety and Health Division**

Raleigh, North Carolina

Field Information System

Operational Procedure Notice 96F

Subject: Focused Inspections in Construction

A. **Purpose.**

This Operational Procedure Notice (OPN) establishes the North Carolina Department of Labor (NCDOL), Occupational Safety and Health (OSH) Division policy for focused inspections of construction sites and provides instructions regarding when focused inspections are authorized and required. This document also provides supplementary procedures beyond the standard inspection protocol set forth in the OSH Division's Field Operations Manual (FOM).

This OPN applies only to qualifying construction worksites and limits the scope of these inspections to hazards that are related to the four (4) leading causes of construction fatalities: falls, electrical hazards, caught-in/between hazards (such as trenching), and "struck-by" hazards (such as materials handling equipment and construction vehicles).

B. **Discussion.**

An analysis of construction fatalities investigated by the Occupational Safety and Health Administration (OSHA) from 2012-2016 indicates similarities to construction fatalities that occurred in recent years in North Carolina. This OPN, enabling compliance safety and health officers (CSHOs) to conduct focused inspections on certain construction sites, is consistent with the intent of the federal OSHA focused inspection policy. In North Carolina, over 88% of construction fatalities fall in these four categories:

Cause of Fatality	United States %	North Carolina %
Falls	37%	36%
Struck By	9%	34%
Caught In/Between	2%	7%
Electrocution	9%	10%

Scheduled construction safety inspections (programmed) are normally comprehensive inspections covering all areas and conditions on a construction site and all safety hazards regardless of severity. By focusing the safety inspection and concentrating on the four areas representing the leading causes of construction fatalities and those serious hazards that are observed, the CSHO may spend less time on qualified sites and more time on sites that require more compliance assistance. Contractors on sites having effective safety and health programs in place may avoid comprehensive OSH inspections.

C. **Action.**

1. This policy will apply to construction site safety and health inspections only.
2. For each construction inspection, the CSHO will determine whether or not there is project coordination by the controlling contractor, prime contractor, or other such legal entity (hereafter called the controlling contractor) that includes:
 - a. An adequate and effective safety and health program/plan that meets the guidelines set forth below; and,
 - b. A designated competent person responsible for, and capable of, implementing the program/plan site-wide, who may or may not be on site at all times.
3. If the conditions in C.2. are not met, the CSHO will proceed with a comprehensive inspection of the site. If the conditions in C.2. are met, the CSHO will initiate a focused inspection pursuant to the following guidelines.

D. **Inspection Guidelines.**

1. **Evaluation of the Safety Program.**

The following resources may be used for evaluating safety and health programs:

- STD 03-01-001 - Clarification of Citation Policy Regarding 29 CFR 1926.20, 29 CFR 1926.21 and Related General Safety and Health Provisions.
- ANSI A10.33 - Construction and Demolition Operations - Safety and Health Program Requirements for Multi-employer Project.
- ANSI A10.38 - Basic Elements of an Employer Program to Provide a Safe and Healthful Work Environment.
- OSHA's Recommended Practices for Safety and Health Programs in Construction, published in October 2016.

The CSHO will evaluate and document the safety and health program in effect at the site using the following criteria and minimum requirements:

a. **Designated Competent Person.**

There must be a person working at the site who is responsible for administering the program. (This can be a manager or employee but both management and the employee must acknowledge that the assignment of responsibility exists.)

b. **Comprehensiveness.**

The safety and health program must address the hazards encountered at the site. Confirmation that the program is comprehensive in scope is an overall evaluation of the features of the program, the physical characteristics of the site, number of employees, and trades engaged at

the site. The CSHO will take into account the evaluations of the remaining program categories and document whether the program is written.

c. Communication.

Employees must be aware of and have access to the services provided through the site safety and health program. The controlling contractor must supply evidence showing how the site-specific safety program is communicated to employees and subcontractors (e.g., oral instructions, booklets, memorandums, posters, safety meeting minutes/attendance rosters, etc.). The CSHO should confirm whether the employer holds safety meetings and review meeting content, agendas, frequency, and who conducts them (e.g., crew foreman, intermediate level supervisors, safety director, etc.). The CSHO will conduct employee interviews to determine whether the employer is effectively communicating with employees and subcontractors to substantiate the effectiveness of the controlling contractor's safety program.

d. Enforcement.

The controlling contractor must have a method to enforce the safety and health rules. The CSHO will identify the principal methods used (e.g., warnings, written reprimands, disciplinary action, discharge, etc.) and whether they are effective. The CSHO shall verify effectiveness by conducting interviews or reviewing written documentation of past enforcement practices.

e. Safety/Health Training Program.

The CSHO will evaluate the need for and effectiveness of the controlling contractor and any specialized or trade-specific subcontractor safety and health training programs. Factors to be considered include the need for special training in view of unique conditions/hazards likely to be encountered at the site as well as specific requirements for such ongoing or periodic training or retraining of employees.

f. Investigations.

The CSHO will evaluate the controlling contractor's efforts to conduct accident/injury/illness investigations and determine if corrective actions are taken as a result of the contractor's investigation.

2. Conduct of the Focused Inspections.

- a. All programmed construction safety assignments start out as comprehensive inspections, but are candidates for focused inspections.
- b. Qualification for a focused inspection will concentrate primarily on the project safety and health program/plan, and the four groups of hazards which account for the most fatalities and serious injuries in the construction industry. A request for a warrant will not affect the

determination as to whether a given jobsite is eligible for a focused inspection.

- c. The CSHO will conduct an opening conference with the general contractor, prime contractor, or other controlling entity and obtain a list of their subcontractors, employee representatives, or other governing agencies on site. No inspection report will be created for employers without citations, except for the controlling contractor who had an opening conference as described above.

Note: If the CSHO determines that the general contractor, prime contractor, or other controlling entity falls under any current appropriations exemptions, an attempt will be made to continue with a focused inspection for all subcontractors located at site after getting permission from the general contractor to conduct an inspection at the site. If the general contractor does not want to participate in the inspection activity a comprehensive inspection will take place at the site which will include all subcontractors, but not any exempt employers.

- d. The focused inspection will begin after a determination is made that the site qualifies as set forth in paragraph C – Action, and D – Inspection Guidelines. The walk around will include the controlling contractor and/or their employee representative(s) according to existing policies for the conduct of inspections. The site will be evaluated, concentrating on 1) the four leading hazards listed in paragraph A of this OPN, 2) the project safety and health program/plan, and 3) serious hazards observed by the CSHO. The CSHO conducting a focused inspection is not required to inspect the entire project. Only a representative portion of the project need be inspected.
- e. If conditions observed on the project indicate that the project safety and health program/plan is not as effective as initially determined, the CSHO may immediately terminate the focused inspection and notify the controlling contractor or their representative of the change to a comprehensive inspection and the reason why. The discovery of serious violations during a focused inspection does not automatically change the focused inspection into a comprehensive inspection. These decisions will be based on the professional judgment of the CSHO. If a focused inspection is changed to a comprehensive inspection, then previously noted non-serious hazards will be cited if they are not abated prior to the CSHO returning to the affected area(s).
- f. The CSHO will include a brief justification in each case file narrative for the site as to why a focused inspection was or was not conducted or if a focused inspection was initially started and later terminated/changed to a comprehensive inspection. The CSHO may use the Construction Focused Inspection Checklist contained in Appendix A to assist in this justification.
- g. If the CSHO identifies serious hazards, the CSHO will hold an opening conference with the affected employer(s) or his representatives on the jobsite and may cite the affected subcontractor's employer(s), and/or other employers, as per the multi-employer worksite policy. Citing a

subcontractor employer for a serious hazard does not necessarily mean that it becomes a comprehensive inspection of the controlling contractor.

- h. When the CSHO completes the walk around, a closing conference will be held with the controlling contractor and any other employers at the site that will be receiving a citation.
- i. Citations will be recommended for any serious hazards which are observed and for any non-serious violations which are not abated during the inspection. Non-serious hazards which are abated during the inspection will not be cited, but will be noted in the case file.

3. Inspection Reports.

- a. The CSHO will code the focused inspection as a partial inspection on the inspection report.
- b. The CSHO will always inspect the controlling contractor, prime contractor or other controlling entity. An inspection report will be completed only for each employer who is issued a citation in accordance with the multi-employer policy as set forth in FOM Chapter V - Citations.
- c. The CSHO should consider citations for 29 CFR 1926.20(b)(1) and (b)(2), and/or 29 CFR 1926.21(b)(2) for controlling contractors, and for any employer who received citations during a focused or comprehensive inspection, who did not qualify for a focused inspection as this is an indication of the lack of an effective project safety and health program/plan.

E. Effective Date.

OPN 96E is canceled. This OPN is effective on the date of signature. It will remain in effect until revised or canceled by the director.

Signed on Original
Jennie Cagle
SEP Team Leader

Signed on Original
Kevin Beauregard
Director

01/25/2018
Date of Signature

Appendix A: Construction Focused Inspection Checklist

This is an optional guideline to assist the professional judgment of the compliance officer to determine if there is an effective project program/plan. To qualify for a focused inspection, all of the following should be in place.

PROJECT SAFETY AND HEALTH COORDINATION. Are there procedures in place by the general contractor or other such entity to ensure that all employers provide adequate protection for their employees? **Yes/No**

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 predictable hazards and has authority to take prompt corrective measures? _____

PROJECT SAFETY AND HEALTH PROGRAM/PLAN* that complies with 1926 Subpart C – General safety and Health Provisions, and addresses, based upon the size and complexity of the project, the following:

- _____ 1. Project Safety Analysis at initiation and at critical stages that describes the sequence, procedures, and responsible individuals for safe construction.
- _____ 2. Identification of work/activities requiring planning, design, inspection or supervision by an engineer, competent person or other professional.
- _____ 3. Evaluation/monitoring of subcontractors to determine conformance with the Project Plan.
- _____ 4. The Project Plan may include, or be utilized by subcontractors.
- _____ 5. Supervisor and employee training according to the Project Plan including recognition, reporting and avoidance of hazards, and applicable standards.
- _____ 6. Procedures for controlling hazardous operations, such as: cranes, scaffolding, trenches, confined spaces, hot work, explosives, hazardous materials, leading edges, etc.
- _____ 7. Documentation of: training, permits, hazard reports, inspections, uncorrected hazards, incidents and near misses.

OPN 96E cont' d.

_____ 8. Employee involvement in hazard analysis, prevention, avoidance, correction and reporting.

_____ 9. Project emergency response plan.

*For examples, see owner/contractor association model programs, ANSI A10.33, A10.38, etc.

The walk-around and interviews confirmed that the Plan has been implemented, including:

_____ The four leading hazards are addressed: falls, struck-by, caught-in/between, electrical.

_____ Hazards are identified and corrected with preventative measures instituted in a timely manner.

_____ Employees and supervisors are knowledgeable of the project safety and health plan, avoidance of hazards, applicable standards, and their rights and responsibilities.

THE PROJECT QUALIFIES FOR A FOCUSED INSPECTION. _____