REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration

DIRECTIVE NUMBER: 2015-07 (CPL 2) EFFECTIVE DATE: October 1, 2014

SUBJECT: Local Emphasis Program – Warehousing and Refuse Handlers and Haulers (Multiple SICs)
REGIONAL IDENTIFIER: Region 2

ABSTRACT

Purpose: This regional notice implements a Local Emphasis Program for programmed safety inspections of Warehousing, Storage and Distribution industries, and Waste Management, Recycling Operations and Refuse Haulers (NAICSs 311612, 312111, 312112, 424410, 424420, 424430, 424450, 424460, 424470, 424480, 424490, 424520, 424590, 424810, 424820, 425110, 425120, 444220, 445110, 445210, 445220, 445230, 445292, 445299, 445310, 445310, 453910, 454390, 493110, 493120, 493130, 493190, 531130, 562111, 562112, 562119, 562211, 562212, 562213, 562219 and 562920).

References: CPL 02-00-150, Field Operations Manual (FOM), April 22, 2011.
CPL 04-00-001, Procedures for Approval of Local Emphasis Programs (LEPs), 11/10/1999.
CPL 02-00-0025, Scheduling System for Programmed Inspections, 01/04/1995.
CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, 5/28/1998.

Expiration: This notice expires September 30, 2015.

State Impact: None

Action Offices: All Region II Area Offices

Originating Office: Office of Regional Administrator

Contact: Office of Regional Administrator (212) 337-2378
201 Varick Street, Rm 670
New York, NY 10014

By and Under the Authority of

Robert D. Kulick
Acting Regional Administrator
I. **Purpose.** This regional notice implements a Local Emphasis Program (LEP) for programmed safety inspections of Refuse Handlers and Haulers (NAICS codes: 562111, 562112, 562119, 562212, 562213, 562219 and 562920) and Warehousing, Storage, and Wholesale Distribution Industries (NAICS codes: 312111, 312112, 493130, 493120, 493110, 531130, 493190, 424410, 425110, 425120, 445110, 424420, 454390, 424430, 445299, 424420, 445210, 424460, 445220, 311612, 424470, 424480, 424490, 453910, 424520, 424590, 444220, 454390, 424430, 445299, 424420, 445210, 424450, 445292, 424460, 445220, 311612, 424470, 424480, 445230, 424490, 453910, 424520, 424590, 444220, 424810, 445310 and 424820) with 11 or more employees in accordance with the Field Operations Manual (FOM) and CPL 04-00-001. These work sites may not be included in the present national targeting system. Additionally, this LEP provides for simultaneous outreach efforts for these NAICS codes, concurrent with the initiation of enforcement activities.

II. **Scope.** This notice applies to all Region II Area Offices.

III. **Expiration.** This notice expires on September 30, 2015.

**EXCEPTION:** Any inspection begun prior to September 30, 2015 may continue until its conclusion.

IV. **Background.** Employees in the above-subject industries are exposed to many serious safety hazards, including being struck-by, caught-in, caught-between, and falling-off, various heavy equipment, process equipment, motor vehicles, powered industrial trucks, and refuse handling equipment and conveyors.

In addition to the permanent employees found at the establishments, recent inspection reports and activity has identified the use of temporary workers in many of the above listed industries. Temporary workers are more vulnerable to workplace safety and health hazards as they are often not given adequate safety and health training, equipment, and explanation of their job tasks and duties.

**Refuse Handlers and Haulers and Recycling:** (NAICS Codes 562111, 562112, 562119, 562211, 562212, 562213, 562219 and 562920) Data indicates that workers continue to die in incidents related to refuse collection activities, waste hauling, waste transfer operations and refuse handling, and recycling operations. The number of annual fatalities has remained fairly constant over the years, indicating the need for continuing emphasis on this hazard. Bureau of Labor Statistics reported that in 2013 there were 61 fatalities in waste management and remediation services. There were 4.7 total recordable cases per 100 full time workers, higher than the 3.3 per 100 workers reported for all private sector industries.

**Warehousing, Storage and Distribution:** This LEP also targets for inspection establishments in the warehousing, storage, and wholesale distribution industries (NAICS codes: 312111, 312112, 493130, 493120, 493110, 531130, 493190, 424410, 425110, 425120, 445110, 424420, 454390, 424430, 445299, 424420, 445210, 424460, 445220, 311612, 424470, 424480, 445230, 424490, 453910, 424520, 424590, 444220, 424810, 445310 and 424820) There is a need for increased enforcement activity in this industry as indicated by the fact that of targeted industry sites within the Region, a significant
number are warehouses, and employees in these workplaces who perform these warehousing operations are potentially exposed to the hazard of being struck-by material handling equipment such as powered industrial trucks and order picking equipment, and being struck-by, caught-in, crushed by motor vehicles, and/or motor vehicle related operations. Bureau of Labor Statistics reported that in 2013 there were 16 fatalities in warehousing and storage services. There were 5.2 total recordable cases per 100 full time workers, higher than the 3.3 per 100 workers reported for all private sector industries.

Since virtually all employers in the above-subject industries are known to use and operate motor vehicles, heavy equipment, powered industrial trucks and other power mechanized material handling and equipment, in their goods transfer operations; inspections conducted under this LEP are expected to help control all above-mentioned hazards associated with such use. The ultimate aim of this LEP is to reduce the number of occupational injuries and fatalities which result. Further, implementation of this LEP supports the current Strategic Management Plan goals to reduce injuries, illnesses, and fatalities in general industry.

V. Action. The Area Director shall ensure that the procedure outlined in this notice is followed during the effective period of this notice. This notice is not intended to conflict with inspection priorities as established in the Field Operations Manual or other appropriate directives. When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with the current procedures for handling such refusals.

VI. Procedures.

A. The Area Director shall be responsible for developing the final list of inspection sites for this initiative. First, a list shall be obtained from our National Office of Statistics which includes all refuse handlers and haulers, transfer stations, and adjacent warehousing operations plus other warehousing, storage and wholesale distribution locations in the respective Area Office jurisdiction. The Area Director then has the ability to add or delete other sites for inspection based on local knowledge and/or gathered from available sources, i.e.: OIS Data, telephone books, sightings, and other relevant literature.

B. When performing programmed inspections under this LEP, each Area Office shall develop an inspection master list of establishments. The National Office policy on List Generation and Randomization shall be followed in accordance with the National Office memorandum to Regional Administrators dated November 12, 2014, Establishment-Targeting Lists for Emphasis Programs. Inspection scheduling and deletions shall be done in accordance with CPL02-00-025, Scheduling System for Programmed Inspections.

C. Any inspection sites which have had a previous comprehensive safety and health inspection within the past three years will then be deleted prior to finalizing the inspection list. After deleting establishments inspected (comprehensive) within the
last three (3) years, all remaining establishments shall be randomly selected for
inspection using a random numbers table applied to the final list. This selection
process sets forth administratively neutral criteria to identify establishments for
inspection.

D. All inspections conducted under this LEP will be comprehensive. (Please see
comprehensive in scope as defined in the Field Operations Manual (FOM) in
Chapter II at paragraph A.1.a: “Comprehensive - A substantially complete
inspection of the potentially high hazard areas of the establishment. An
inspection may be deemed comprehensive even though, as a result of the exercise
of professional judgment, not all potentially hazardous conditions, operations and
practices within those areas are inspected.”

E. Any refuse handler and hauler observed not adhering to safety rules will be
inspected in accordance with the Imminent Danger and referral procedures.

F. If the establishments identified by this LEP are inspected before they have been
reached on the SST list the inspection will be coded as an SST and an LEP case.

G. Establishments for inspection may fall within the scope of the current with the
directive, CPL 02-00-051, Enforcement Exemptions and Limitations under the
Appropriations Act.

H. At the opening conference compliance officers shall obtain the necessary
information regarding the presence and/or use of temporary workers. If
temporary workers are present or utilized at the establishment the compliance
officer shall obtain all the necessary documentation and information required to
evaluate the safety and health program relating to temp workers and determine
compliance with OSHA regulations in providing a safe and healthful workplace
for these workers. The compliance officer shall refer to the current National
Office guidance found on the Temporary Worker Page to conduct these
inspections.

VII. Outreach: Region II will develop an outreach plan which will implement programs that
will support the efforts of the Agency in meeting the Strategic Plan/Operating Plan goals.
Such programs could include speeches, training sessions, or news releases to our
constituents such as unions, professional organizations, and community groups.
Inspections may be initiated independent of any outreach being conducted.

VIII. Recording in OIS. Current instructions for completing the appropriate inspection
classification boxes on the OSHA Inspection Report, as found in the OIS manual shall be
applied when recording inspections conducted under this LEP, as follows:

A. The OSHA Inspection Report for any programmed inspections covered under the
Local Emphasis Program for Refuse Handlers and Haulers shall be marked.
"Program Planned" in the Initiating Type field, and "REFUSE" in the Local Emphasis Program field.

B. **LEP Combined with Unprogrammed Inspections.** For all unprogrammed inspections conducted in conjunction with this LEP for Refuse Handlers and Haulers and warehousing operations, waste transfer operations, or recycling operations adjacent to refuse operations under this initiative, the OSHA Inspection Report must be marked with the appropriate unprogrammed activity in the Initiating Type field. In addition, the value "REFUSE" shall be recorded in the Local Emphasis Program field of the OSHA Inspection Report and the Unprogrammed Activity under inspection type.

C. **LEP Combined with other Emphasis Program Inspections.** For all programmed inspections such as other NEPs/LEPs conducted in conjunction with an LEP inspection under this initiative, the OSHA Inspection Report must be marked as "Program Planned" in the Initiating Type field. In addition, the value "REFUSE" shall be recorded in the Local Emphasis Program field along with all NEP and LEP OIS codes applicable to the inspection.

The OSHA Inspection Report for any programmed inspection covered under this Local Emphasis Program for any other Warehousing, Storage, and Wholesale Distribution Industries shall be marked "Program Planned" in the Initiating Type field and the value "FORKLIFT" shall be recorded in the Local Emphasis Program field.

IX. **Evaluation.**

A. Abatement documentation/verification will be submitted to or otherwise collected by the Area Office for all violations. The abatement information must be included in the case file in a timely manner.

B. Each Region II Office participating in the LEP will prepare a written evaluation of this LEP in the format specified by OSHA Instruction CPL 04-00-001. The evaluation must respond to the questions outlined in Appendix A of the Instruction. Evaluations will be submitted to FEO no later than September 15, 2014. The evaluation will include a recommendation for the continuation or elimination of this program. In addition, the evaluation will include the following evaluation factors:

1. The goal of the program and the Area Office's opinion of how effective the program was in meeting its goals.

2. Data and information used to support the conclusions stated above such as enforcement statistics, serious hazards eliminated, any impact on covered, non-inspected employers, and the number of employees affected by enforcement activities covered by the LEP. Data to be evaluated may also include:
a. Number and percentage of serious, repeat, 5(a)(1) and willful violations cited
b. Number and type of violations issued directly related to hazards targeted by the LEP
c. Number of fatality inspections
d. Number of visits coded as “No Inspection”
e. Number and type of referrals made to other agencies
f. Number of outreach activities conducted
g. Number of employers contacted through outreach
h. Number of individuals affected through outreach