



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: San Francisco Regional
Instruction CPL 04-00-13

EFFECTIVE DATE: October 1, 2014

SUBJECT: Local Emphasis Program for Inspections of Longshoring Activity

REGIONAL IDENTIFIER: Region IX

ABSTRACT

Purpose: This instruction transmits the policies and procedures to be followed when scheduling and conducting programmed safety and health inspections in Longshoring.

References: See Paragraph III.

Cancellation: This instruction cancels Region IX Enforcement Programs Notice CPL 04-00-13, dated October 1, 2013.

Significant Changes: The procedures for scheduling inspections have been modified to comply with national directives.

Action Offices: Honolulu, Oakland and San Diego Area Offices
Office of Enforcement Programs
Office of Cooperative and State Programs

Originating Office: Office of Enforcement Programs

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By and Under the Authority of

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for

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Executive Summary

Longshoring is a highly specialized and hazardous activity, covered by standards in 29 CFR 1917 and 1918. OSHA Region IX has jurisdiction over longshoremen working for stevedoring companies in California (jurisdiction in California is shared with Cal/OSHA), Hawaii, American Samoa, Guam, and CNMI.

In the past, Region IX has scheduled longshoring inspections through the scheduling systems in place in the CPL 02-00-025/CPL 2.25I, Scheduling System for Programmed Inspections national directive, and through a regional Letter of Instruction. This instruction will clarify the scheduling system to be used in Region IX.

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I. Purpose:

This instruction transmits the policies and procedures to be followed when scheduling and conducting programmed safety and health inspections in Longshoring.

II. Scope:

This instruction applies to all Federal OSHA Enforcement Offices located in Region IX for inspections of longshoring sites. OSHA Region IX has jurisdiction over longshoremen working for stevedoring companies in California (jurisdiction in California is shared with Cal/OSHA), Hawaii, American Samoa, Guam, and CNMI.

III. References:

- A. OSHA Instruction CPL 02-00-150, April 22, 2011, Field Operations Manual
- B. OSHA Instruction CPL 02-00-025, January 4, 1995, Scheduling System for Programmed Inspections
- C. OSHA Instruction CPL 02-00-051, May 28, 1998, Enforcement Exemptions and Limitations under the Appropriations Act (Appendix A updated annually)
- D. OSHA Instruction CPL 04-00-001, November 10, 1999, Procedures for Approval of Local Emphasis Programs (LEPs)

IV. Cancellation:

This instruction cancels Region IX Enforcement Programs Notice CPL 04-00-13, dated October 1, 2013.

V. Expiration:

This LEP will expire no later than one year from the date of implementation, unless renewed.

VI. Background:

Longshoring is a highly specialized and hazardous activity, covered by standards in 29 CFR 1917 and 1918. In the past, Region IX has scheduled longshoring inspections through the scheduling systems in place in the national directive CPL 02-00-025/CPL 2.25I, Scheduling System for Programmed Inspections, and through a regional Letter of Instruction. This instruction will clarify the scheduling system to be used in Region IX.

VII. Jurisdiction:

Federal OSHA has jurisdiction in the following areas:

- California: Federal OSHA has jurisdiction over shipboard activity; Cal/OSHA has jurisdiction over all marine terminals, except the Naval Base at Port Hueneme and the Coast Guard Base Terminal Island (Los Angeles/Long Beach), which are under exclusive Federal jurisdiction.
- Hawaii: Federal OSHA has jurisdiction over all marine terminal and shipboard longshoring operations.
- Pacific Territories: Federal OSHA has jurisdiction over marine terminal and shipboard longshoring activities in Guam, CNMI, and American Samoa. However, in Guam, Federal OSHA does not have jurisdiction over local port authority personnel employed by the Government of Guam.

Federal OSHA does not have jurisdiction in the following areas:

- In California, Federal OSHA does not have jurisdiction over marine terminals except for the Naval Base at Port Hueneme;
- The U.S. Coast Guard has jurisdiction over ships' crew members. If a CSHO encounters any situation involving the safety or health of ships' crew members, a referral may be made to the Coast Guard.
- Federal OSHA does not have jurisdiction over employees of political subdivisions, such as Port Authorities.

VIII. Scheduling Procedures:

The following procedures shall be followed when scheduling inspections under this program:

- A. Scheduling: The Honolulu, Oakland and San Diego Area Offices will schedule longshoring inspections by random selection of port areas, using the procedures outlined in Appendix D.
 1. Based on the random list of port areas, inspections of employers within each port area will be scheduled as follows:

- a. The order of inspection of employers within a port area is at the discretion of the compliance officer. Appendix B contains a list of current known employers.
- b. Where Federal OSHA has jurisdiction over marine terminals, every terminal within a port area will be inspected.
- c. Employers may be subject to multiple inspections at a single port area within a quarter, if they are working at multiple ships or terminals when that port area comes up for inspection. Each ship will be counted as a separate worksite and a separate inspection; where Federal OSHA has jurisdiction over marine terminals, each terminal will be counted as a separate worksite and separate inspection.
- d. Employers will be scheduled for programmed inspections within the same port area no more than twice a year (once every other quarter).
- e. If a compliance officer observes imminent danger or serious hazards at an employer's site which is not scheduled for inspection, the CSHO may make a self-referral and conduct an inspection. This is not a programmed inspection, and as such is not covered by the proscription on inspections in consecutive quarters in paragraph d.

IX. Inspections

- A. Active loading or unloading of a vessel or barge will have priority over Marine Terminal inspections where no longshoring activity is underway.
- B. Programmed inspections will not be scheduled while an on-site fatality or catastrophe investigation is in progress.
- C. Signed, formal complaints; reports of imminent danger; and unresolved phone/fax investigations will be scheduled for on-site investigation as appropriate, in accordance with the current FOM. All other complaints and referrals will be handled by phone/fax in accordance with policy. Programmed inspections will not be scheduled while an on-site complaint or referral investigation is in progress.
- D. Whenever possible, CSHOs will verify abatement immediately, during the on-site inspection. On-site abatement is particularly important in

longshoring inspections, where conditions can change quickly; therefore, CSHOs must make every attempt possible to compel immediate abatement, before inspections are completed. It is critical that compliance officers verify abatement before inspected ships leave port. A ship leaving port is not satisfactory abatement.

- E. Employer and employee involvement is expected on inspections. If an employee representative cannot accompany OSHA personnel during an inspection, compliance officers should thoroughly document in the case file the steps taken to request and encourage such involvement, and the reasons for continuing the inspection without the participation of the employee representative. If necessary, the compliance officer may delay the opening of the inspection for a reasonable period of time, until an employee representative becomes available.
- F. Programmed inspections will not be scheduled during a work stoppage, including strikes or lock-outs.
- G. In areas where Cal/OSHA has jurisdiction in marine terminals (all port areas in California outside of the exclusive federal jurisdiction area of Port Hueneme), the Area Director may need to contact Cal/OSHA to coordinate enforcement activity.

X. Recording in OIS:

In addition to recording information and entering data in OIS in accordance with all other relevant instructions and directives, all inspections of longshoring operations, including programmed and unprogrammed inspections, shall be coded with the LEP code **LNGSHR9**. For those jobsites that are inspected under multiple emphasis programs or the Site Specific Targeting program, appropriate coding should be included for each program, as well as any appropriate strategic plan codes.

XI. Evaluation:

- A. The LEP will be evaluated in accordance with the guidelines in Appendix A of CPL 04-00-001, November 10, 1999, Procedures for Approval of Local Emphasis Programs and Experimental Programs.
- B. For LEPs renewed from a previous year, the evaluation will use data from the beginning of the 4th quarter of the previous fiscal year through the end of the 3rd quarter of the current fiscal year (i.e., the FY 15 evaluation will include data from July 1, 2014 – June 30, 2015). The narrative sections of the evaluation should cover the same time frame; although significant issues arising in the 4th quarter affecting a decision on renewal of the LEP may also be discussed.

- C. This evaluation will be submitted to the Regional Administrator for review by November 1, and a decision made to renew or discontinue the LEP. On approval of the Regional Administrator, the evaluation report will be submitted to the Directorate of Enforcement Programs no later than November 30.

XII. Outreach:

CSP staff and the Area Directors will be made familiar with this directive, and will actively promote the LEP when conducting outreach sessions and meetings. Handouts and publications that address these hazards, which are already developed and available, will be provided at all outreach sessions and meetings. A copy of this LEP will be provided to interested parties upon request.

Appendix A

Port Areas

Honolulu Area Office:

American Samoa

CNMI: Saipan

CNMI: Tinian

CNMI: Rota

Guam

Hawaii (Big Island): Hilo Harbor

Hawaii (Big Island): Kawaihae Harbor

Kauai: Nawiliwili Harbor

Lanai: Kaumalapau Harbor

Maui: Kahului Harbor

Molokai: Kaunakakai Harbor

Oahu: Honolulu (Honolulu, Barbers Point, Kewalo Basin, Marine Corp)

Oakland Area Office:

Benicia

Crockett

Eureka

Oakland/Alameda

Redwood City

Richmond

Sacramento

San Francisco

Stockton

San Diego Area Office:

Long Beach (excluding Terminal Island)

Los Angeles (excluding Terminal Island)

Terminal Island (separate Port Area)

San Diego

Port Hueneme

Appendix B

Known Employers by Port Area

Honolulu Area Office:

American Samoa

Feliciano Incorporated
Mother Pearl of the Pacific
Harbor Maritime & Stevedoring
Blue Angel Enterprises Inc.
Peter E. Reid Stevedoring, Inc.

CNMI, Saipan
CNMI, Tinian
CNMI, Rota

Saipan Stevedoring
Tinian Stevedoring

Guam

International Bridge
Casamar Guam Inc.
Michael Corp
Ocean Care
Horizon Lines
Fung Li Fisheries
Hourki Pacific Warehouse # 1
Matson Facilities & Maintenance Shop
RRG International Inc.
J.T. Angoco & Sons
Tide Water Distributors
SN-5 Shipping
Mariana Steamship Agency

Hawaii (Big Island), Hilo Harbor
Hawaii (Big Island), Kawaihae Harbor
Kauai, Nawiliwili Harbor
Lanai, Kaunapali Harbor
Maui, Kahului Harbor
Molokai, Kaunakakai Harbor
Oahu, Honolulu

DHX – Pier 21 Honolulu
Hawaii Stevedores Inc. – Barbers Point
Aloha Cargo Transport – Barbers Point
McCabe, Hamilton & Renny Co., Ltd. –
Barbers Point
Aes Kalaeloa – Barbers Point

Oakland Area Office:

Benicia
Crockett
Eureka
Oakland/Alameda

Stevedoring Services of America
Metropolitan Stevedore Co.

APM Terminals
TRAPAC
SSA Terminals
Ports America

Redwood City
Richmond

Marine Terminals Corp.
SSA Terminals

Sacramento
San Francisco
Stockton

Ports America
SSA Pacific
Metropolitan Stevedore Co.
Marine Terminals Corp.

San Diego Area Office:

Long Beach (excluding Terminal Island)

SSA Marine
Crescent City Marine Ways
Long Beach Container Terminal
California United Terminals

Los Angeles (excluding Terminal Island)

Metropolitan Stevedore Co.
TRAPAC

Terminal Island (separate Port Area)

Pasha Stevedoring
International Transportation Services
Pasha Stevedoring
Yusen Terminals Inc.

San Diego

Ports America
Eagle Marine Service
Pasha Stevedoring & Terminals L.P. –
National City

Port Hueneme

Ports America

Appendix C

Sample Order of Inspection of Port Areas by Area Office

Honolulu Area Office

PORT AREA	QTR & ORDER ¹				DATE INSPECTED	CSHO	INSPS AT PORT				COMPANIES INSPECTED
	Q1/Q2/Q3/Q4						Q1/Q2/Q3/Q4				
American Samoa	12	11	03	01							
CNMI, Saipan	08	10	14	07							
CNMI, Tinian	06	02	15	15							
CNMI, Rota	02	08	08	05							
Guam	09	15	04	04							
Hawaii (Big Island), Hilo Harbor	05	13	02	14							
Hawaii (Big Island), Kawaihae Harbor	10	12	07	03							
Kauai, Nawiliwili Harbor	11	05	06	11							
Lanai, Kaunapau Harbor	01	09	13	06							
Maui, Kahului Harbor	04	01	11	10							
Molokai, Kaunakakai Harbor	14	07	09	08							
Oahu, Honolulu	13	14	01	02							
Barbers Point	15	03	05	09							
Kewalo Basin	07	06	10	13							
Marine Corp Base	03	04	12	12							
Total Inspections Per Quarter											

¹ Port Areas can be numbered and assigned in random order using the random sequence generator at <http://www.random.org/sequences/>

Oakland Area Office

PORT AREA	QTR & ORDER				DATE INSPECTED	CSHO	INSPS AT PORT				COMPANIES INSPECTED
	Q1/Q2/Q3/Q4						Q1/Q2/Q3/Q4				
Benicia	07	08	01	12							
Crockett	14	09	11	10							
Eureka	06	01	13	02							
Oakland/ Alameda	09	07	14	11							
Redwood City	03	06	08	06							
Richmond	12	12	07	09							
Sacramento	02	05	02	07							
San Francisco	11	11	04	14							
Stockton	01	13	10	04							
Total Inspections Per Quarter											

San Diego Area Office

PORT AREA	QTR & ORDER				DATE INSPECTED	CSHO	INSPS AT PORT				COMPANIES INSPECTED
	Q1/Q2/Q3/Q4						Q1/Q2/Q3/Q4				
Long Beach (Excluding Terminal Island)	13	03	06	13							
Los Angeles (Excluding Terminal Island)	08	14	03	01							
Port Hueneme	10	04	05	03							
San Diego	04	10	12	05							
Terminal Island (Separate Port Area)	05	02	09	08							
Total Inspections Per Quarter											

Procedures for Scheduling Inspections

1. The Area Office will maintain a master list of port areas eligible for inspection under this LEP. The master list, all additions and deletions, the randomized list, and scheduling cycles created for this LEP, shall be retained for three years.
 - a. Additions may be made to the master list based on local knowledge or other factors, including OSHA inspection history.
 - b. Port areas shall be deleted from the master list if, during the course of an inspection, it is determined that the site no longer falls within the parameters of the LEP. This would primarily apply to sites which no longer perform the process or use the equipment targeted by the LEP.
 - c. All additions and deletions must be documented.
2. At the beginning of each fiscal year (or on the LEP's effective date), the Area Office shall create a randomly numbered list of all port areas on the master list. Port areas shall be randomly ordered using the RANDBETWEEN function in Excel. AOs may also send their master list to EP for randomization.
3. If all port areas on the master list are to be inspected during the fiscal year, the sites may be inspected in any order. If an Area Office is not able to complete all inspections on the master list within a fiscal year, the Area Office will complete the list as soon as possible in the first quarter of the next fiscal year, and shall develop and follow scheduling cycles for the remainder of that year and in subsequent years.
4. The Area Office will create scheduling cycles by selecting a number of port areas from the randomized master list.
 - a. Port areas selected in a cycle can be inspected in any order, but the Area Office should take into account that the cycle must be completed before another cycle is created. Area Offices should take into account programming goals and available resources when setting the size of a cycle.
 - b. To the extent possible, new cycles should be selected at least once per quarter. Cycles may be run more often if necessary. An uncompleted cycle may be carried over into the next quarter, but the Area Office should take this into account and adjust the number selected for subsequent cycles accordingly.

- c. Employers within a port area may be deferred to the next cycle if the process to be inspected is not active, or if the employer has been subject to a comprehensive programmed inspection (under this or any LEP) within the previous quarter, at this port area. Area Directors are not required to defer an employer based on this criteria; an employer working on different ships or using different processes at a single port area may be subject to re-inspection. All deferrals must be documented. Additional criteria for deferral include:
- i. Necessary equipment or personnel with necessary experience are not available to perform the inspection.
 - ii. The port area is the last remaining area in a cycle, the inspection would require travel in excess of 50 miles, and it cannot be combined with other inspection activity.
 - iii. The employer was cited as the result of a previous comprehensive inspection, and the final abatement date has not yet passed.
 - iv. The employer has contested a previous citation and it is still pending before the Review Commission.

Approval for deferrals based on reasons other than those listed must be discussed with and approved by the ARA for EP.