



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-11-06G

EFFECTIVE DATE: October 1, 2016

SUBJECT: Workers Compensation Local Emphasis Program (LEP)

REGIONAL IDENTIFIER: Region VII

ABSTRACT

Purpose: This Notice makes a minor modification (see Section VIII.C.6.) to the policies and procedures for the continuation of a Local Emphasis Program (LEP) for the purpose of reducing injuries and illnesses related to workplace exposures in private industry within the State of Nebraska. The LEP establishes policies, parameters and procedures for initiating enforcement activity (including inspections) based on data received from the Nebraska Workers' Compensation Court (NWCC).

References: OSHA Instructions: CPL 02-00-160, CPL 04-00-001, CPL 02-00-025, CPL 02-00-051, CPL 03-00-003

State Impact: None

Expiration: September 30, 2017

Action Offices: Omaha Area Office - Region VII

Originating Office: Kansas City Regional Office

Contact: Enforcement Programs (816) 283-8745

By and Under the Authority of:

Kimberly A. Stille
Regional Administrator

Table of Contents

I. Purpose	3
II. Scope	3
III. References	3
IV. Action	4
V. Expiration	5
VI. Background	5
VII. Procedures	5
VIII. Recording in OIS	9
IX. Evaluation	10

- I. Purpose. This Notice modifies policies and procedures for the continuation of a Local Emphasis Program (LEP) for the purpose of reducing injuries and illnesses related to workplace exposures in private industry within the State of Nebraska. The LEP establishes policies, parameters and procedures for initiating enforcement activity (including inspections) based on data received from the Nebraska Workers' Compensation Court (NWCC).
- II. Scope. This Notice applies to general industry, construction, and agricultural establishments within the jurisdictional boundaries of the Omaha Area Office. This LEP establishes OSHA's procedure of safety and/or health inspections and other enforcement activity for establishments where specified injuries or health exposures have been reported to the NWCC pursuant to the provisions contained in the Field Operations Manual (FOM).
- III. References.
 - A. OSHA Instruction CPL 04-00-001 (CPL 2.102A), November 10, 1999, Procedures for Approval of Local Emphasis Program (LEPs) and Experimental Programs.
 - B. OSHA Instruction CPL 02-00-160, August 2, 2016, Field Operations Manual (FOM).
 - C. OSHA Instruction CPL 02-00-025 (CPL 2.25I), January 4, 1995, Scheduling System for Programmed Inspections.
 - D. OSHA Instruction CPL 02-00-051 (CPL 2-0.51J) May 28, 1998, Exemptions and Limitations under the Current Appropriations Act, and Appendix A, Change dated January 29, 2016, or most recent version.
 - E. OSHA Instruction CPL 03-00-019, August 13, 2015, National Emphasis Program on Amputations (or current version).
 - F. OSHA Instruction CPL 03-00-007, January 24, 2008, National Emphasis Program – Crystalline Silica.
 - G. OSHA Instruction CPL 02-02-076, February 23, 2010, National Emphasis Program - Hexavalent Chromium.
 - H. OSHA Regional Notice CPL 02-11-01G, Region-wide Local Emphasis Program – Workplaces with Noise and Respiratory Hazards, October 1, 2016 (or current version).
 - I. OSHA Instruction CPL 02-00-147, February 11, 2008, The Control of Hazardous Energy – Enforcement Policy and Inspection Procedures.

- J. OSHA Instruction CPL 02-02-079 (CPL 02-02-038), July 9, 2015, Inspection Procedures for the Hazard Communication Standard.
 - K. OSHA Instruction STD 03-08-001 (STD 3-8.1), October 30, 1978, Welding, Cutting or Heating of Metals Coated with Lead-Bearing Paint.
 - L. OSHA Instruction CPL 02-02-006 (CPL 2-2.6), October 30, 1978, Inorganic Mercury and its Compounds.
 - M. OSHA Instruction CPL 02-02-058, December 13, 1993, Lead Exposure in Construction; Interim Final Rule – Inspection and Compliance Procedures.
 - N. OSHA’s Campaign to Prevent Heat Illness in Outdoor Workers, www.osha.gov/SLTC/heatillness/index.html.
 - O. OSHA Instruction CPL 02-02-069 (CPL 2-2.69), November 27, 2001, Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens.
 - P. OSHA Instruction CPL 02-02-045 (REVISED), September 13, 1994, Process Safety Management of Highly Hazardous Chemicals – Compliance Guidelines and Enforcement Procedures.
 - Q. OSHA Notice CPL 02-15-01B, October 1, 2016, Region-wide Local Emphasis Program (LEP) for Powered Industrial Trucks and Other Material or Personnel Handling Motorized Equipment in Construction, General Industry, and Maritime.
 - R. December 3, 2014, Memorandum from Thomas Galassi to Regional Administrators regarding Procedures for Local and Regional Emphasis Programs.
 - S. November 13, 2014, Memorandum from Francis Yebesi to Regional Administrators regarding Establishment-Targeting Lists for Emphasis Programs.
 - T. Title 29 United States Code 651, Occupational Safety and Health Act of 1970 (the Act).
- IV. Action. The Regional Administrator, through the Assistant Regional Administrator for Enforcement Programs, and the Omaha Area Director shall ensure that the procedures outlined in this Notice are followed and adhered to in the scheduling and implementation of enforcement activity (including inspections) based on data received from the Nebraska Workers' Compensation Court.

V. Expiration. This LEP will expire on September 30, 2017, and may be renewed pending the program's evaluation at that time.

VI. Background.

Under 29 CFR 1904.39, employers are required to report fatalities and multiple hospitalization incidents to OSHA, and they sometimes fail to do so. Aside from amputations occurring as a result of employee use of a mechanical power press [29 CFR 1910.217(g)], employers are not required to report any other severe occupational injury or exposure-related illness to OSHA. Many National Emphasis Programs (NEPs) and Local Emphasis Programs (LEPs) recognize the hazards to which workers are exposed and the need for enforcement actions by OSHA, e.g. National Emphasis Program on Amputations (CPL 03-00-019), National Emphasis Program – Crystalline Silica (CPL 03-00-007), National Emphasis Program - Hexavalent Chromium (CPL 02-02-076), and Region VII Local Emphasis Program (LEP) on Workplaces with Noise and Respiratory Hazards (CPL 02-11-01G). OSHA's access to data to identify establishments where workers are suffering severe occupational injuries or exposure-related illnesses has been extremely limited. Therefore, OSHA is unable to focus enforcement activity at some locations where employees have experienced significant injuries and illnesses.

In Nebraska, Federal OSHA works cooperatively with the Nebraska Workers' Compensation Court. The NWCC provides OSHA with their weekly summary of reported injuries and illnesses. Using this data, OSHA is able to focus enforcement activity at general industry, construction, and agricultural jobsites where employees have experienced injuries and illnesses. Thereby, in accordance with the Department of Labor Strategic Plan 2014 – 2018, this LEP addresses OSHA Performance Goal 2.1: "Improve workplace safety and health through the enforcement of occupational safety and health regulations and standards." As per CPL 02-00-051 (Reference D), this safety and health hazard targeting program will include establishments with ten or fewer employees. This LEP will not include Federal Agency establishments.

VII. Procedures. The following procedures will be utilized to notify affected employers about the program and to implement enforcement activity.

A. Outreach. Outreach was conducted prior to the initiation of this program and will continue to be provided as opportunities present themselves. While the Omaha Area Office continues to use an electronic distribution (e-mail) network which allows for periodic and up-to-the-minute dissemination of safety and health information, a brief description of this program will be incorporated in any such distribution.

B. Targeting/Selection. The Omaha Area Office will review the weekly summary of reported injuries and illnesses provided by the NWCC.

Inspections conducted under this program shall be scheduled and conducted pursuant to the following criteria:

1. **Amputation:** Any establishment which has reported an amputation (a traumatic injury caused by an external force, such as contact with a piece of equipment or machinery) to the NWCC will be evaluated. Based on the reporting requirements of 29 CFR 1904.39, all amputations, which meet the definition under 29 CFR 1904.39(b)(11), should have been reported to OSHA within 24 hours of the incident. If the NWCC identifies the same previously reported incident no further action is required. If the NWCC identifies an amputation that has not been previously reported and an Initial Treatment Code of 3 or higher as identified in first report form or with an Accident Description in the same form which clearly alleges a serious amputation, the establishment will be scheduled for inspection, unless the establishment does not fall under OSHA jurisdiction, the hazard has been addressed by an OSHA inspection that occurred after the reported amputation or the incident site is a temporary site (construction, etc.) where the hazard was identified more than two weeks prior to receipt by the Omaha Area Office.
2. **Electric Shock:** Any establishment which has reported an injury (an abnormal condition or disorder), resulting from an electric shock, including but not limited to burns, to the NWCC, with an Initial Treatment Code of 3 or higher as identified in first report form or with an Accident Description in the same form which alleges a serious injury or illness, will be scheduled for inspection, unless the establishment does not fall under OSHA jurisdiction, the hazard has been addressed by an OSHA inspection that occurred after the reported electric shock or the incident site is a temporary site (construction, etc.) where the hazard was identified more than two weeks prior to receipt by the Omaha Area Office. Note: Most establishments in Standard Industrial Classification (SIC) code 80 [North American Industrial Classification System (NAICS) 62] have immediate access to medical care and therefore even first aid will often be designated with an Initial Treatment Code of 3. Therefore, these establishments [two digit NAICS designation (62)] will only be scheduled for inspection due to electric shock reported to the NWCC, with an Initial Treatment Code of 4 or higher.
3. **Powered Industrial Trucks and Other Material or Personnel Handling Motorized Equipment:** Any establishment which has reported an injury or illness due to an incident covered by the current version of CPL 02-15-01B [Region-wide Local Emphasis Program (LEP) for Powered Industrial Trucks and Other Material or Personnel Handling Motorized Equipment in Construction, General

Industry, and Maritime] will be inspected in accordance with that directive.

4. **Chemical Exposure:**

- a. Any establishment which has reported an injury or illness due to chemical exposure to the NWCC, with an Initial Treatment Code of 3 or higher, will be scheduled for inspection if the exposure relates to any chemical. This would include but would not be limited to abnormal conditions such as burns, dermatitis, respiratory disorders, and others. Note: Most establishments in SIC code 80 (NAICS 62) have immediate access to medical care and therefore even first aid will often be designated with an Initial Treatment Code of 3. Therefore, these establishments [two digit NAICS designation (62)] will only be scheduled for inspection due to chemical exposure reported to the NWCC, with an Initial Treatment Code of 4 or higher.
- b. Any establishment which has reported an injury or illness due to chemical exposure for which a Compliance Directive applies and/or for which there is an expanded health standard, including but not limited to: asbestos, lead, silica, inorganic mercury, hexavalent chromium, methylene chloride, or isocyanates (excluding bloodborne pathogens), will be scheduled for inspection.
- c. Any establishment which has reported an injury or illness due to exposure to carbon monoxide or anhydrous ammonia will be scheduled for inspection.

If the establishment does not fall under OSHA jurisdiction, the hazard has been addressed by an OSHA inspection that occurred after the reported injury or illness, or the incident site is a temporary site (construction, etc.) where the hazard was identified more than two weeks prior to receipt by the Omaha Area Office, no inspection will be scheduled.

5. **Noise Exposure:** If an establishment has reported more than one recordable hearing loss or standard threshold shift to the NWCC within a one month period, further information will be gathered to determine if it meets the criteria for an inspection. The Omaha Area Office will attempt to identify the total number of employees at the site based on ReferenceUSAGov (an Internet-based reference service from the Government Division of Infogroup™), the Nebraska Secretary of State website or OSHA's OIS database. The Omaha

Area Office will then calculate a rate by dividing the number of reported hearing losses or standard threshold shifts by the total number of employees at the site. If the rate is greater than or equal to 0.05 or if employment data is not available to calculate the rate, the establishment will be scheduled for inspection. If the establishment does not fall under OSHA jurisdiction or the hazard has been addressed by an OSHA inspection within the past three years, no inspection will be conducted.

6. **Heat or Cold Stress:** Any establishment which has reported a temperature-related injury or illness due to severe environmental temperature exposure to the NWCC will be evaluated. If the incident resulted in “hospitalization” or “days away from work”, an inspection will be scheduled unless the establishment does not fall under OSHA jurisdiction, the hazard has been addressed by an OSHA inspection that occurred after the reported temperature-related injury, or illness, or the incident site is a temporary site (construction, etc.) where the hazard was identified more than two weeks prior to receipt by the Omaha Area Office.

If the evaluation does not result in an inspection being scheduled, the Omaha Area Office will evaluate the severity of the reported incident and, based on Area Director discretion, will draft a heat or cold stress hazard alert letter and will send the letter to the establishment. The letter will request a response similar to an “Inquiry” as defined in Chapter 9 (Section I.A) of the Field Operations Manual (OSHA Instruction CPL 02-00-160). Follow-up activity related to this letter will comply with Chapter 9 (Section I.I) of the Field Operations Manual (OSHA Instruction CPL 02-00-160). If the establishment does not fall under OSHA’s jurisdiction, a hazard alert letter may be developed and sent for informational purposes only.

C. Inspection Procedures.

1. Inspections initiated under this program will be classified as programmed activity. Inspections will be conducted in accordance with OSHA Instruction CPL 02-00-051, Enforcement Exemption and Limitations under the Appropriation Act, and shall be conducted in accordance with provisions of the FOM (OSHA Instruction CPL 02-00-160).
2. All inspections will comply with appropriate hazard specific directives, e.g. CPL 03-00-019, CPL 03-00-007, and CPL 02-02-076. This includes proper coding in OIS. For example if a programmed inspection is opened due to a hexavalent chromium exposure (See

VIII.B.4.ii.), it must be expanded to comply with CPL 02-02-076 and the NEP value "CHROME6" should also be recorded.

3. Except as otherwise stated in this section, inspections conducted under this program will be partial in scope. A partial inspection is one whose focus is limited to certain potentially hazardous areas, operations, conditions, or practices at the establishment. A partial inspection may be expanded based on information gathered by the CSHO during the inspection process consistent with the Act and Omaha Area Office priorities (see VII.C.5.).
4. All inspections initiated under this program will include a review of Hazard Communication (29 CFR 1910.1200) and Control of Hazardous Energy (29 CFR 1910.147) programs, where applicable to the workplace.
5. When an inspection is conducted at an establishment whose NAICS code is identified in an Omaha Area Office Local Emphasis Program (such as Grain Handling Industry LEP CPL 2-13-001E), in addition to an investigation of the initiating incident a comprehensive safety inspection shall be conducted. A comprehensive inspection is a substantially complete and thorough inspection of all potentially hazardous areas of the establishment. An inspection may be deemed comprehensive even though, as a result of professional judgment, not all potentially hazardous conditions or practices within those areas are inspected. Process Safety Management (PSM) related processes need only be evaluated as per paragraph I. 3. of OSHA Instruction CPL 02-02-045 (REVISED). PSM referrals may be made as per the provisions of the FOM (OSHA Instruction CPL 02-00-160).
6. Reports of incidents that have occurred more than ninety (90) days prior to receipt by the Omaha Area Office will not be considered for inspection.
7. When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with procedures in the FOM.

VIII. Recording in OIS.

- A. Inspections that are conducted as a result of this LEP will be coded as "WORKCOMP" and as Programmed Planned.
- B. Where "program related" inspections are conducted, they will be so indicated on the appropriate OIS forms.

- C. All inspections and inquiries must be coded appropriately under Federal Strategic Initiative Program, e.g., “Amputations” when there is potential worker exposure to an amputation hazard, “Noise” when there is potential worker exposure to a noise hazard, “Hispanic” when the inspection involves Spanish-speaking workers, etc.
- D. All consultation activities (requests, visits, and compliance assistance) conducted at sites where vehicle-related standards are evaluated regarding powered industrial trucks and other material or personnel handling motorized equipment in construction, general industry, and maritime will be coded with “WORKCOMP” in the Local Emphasis Program field on the appropriate forms.

IX. Evaluation. The Omaha Area Office shall collect data relevant to the effectiveness of this program and submit it to the Regional Office at the end of each fiscal year (no later than October 30). At a minimum, the evaluation should respond to the requirements of OSHA Instruction CPL 04-00-001, Procedure for Approval of Local Emphasis Programs and Experimental Programs, Paragraph G.4. Evaluations.

Kimberly A. Stille
Regional Administrator

Date

Office of the Solicitor Concurrence
U.S Department of Labor
Office of the Solicitor, Region VII

Date

Distribution: Regional Solicitor
Directorate of Enforcement Programs
Regional Administrator
Deputy Regional Administrator
Assistant Regional Administrators
Area Directors
Supervisory Investigator
Labor Liaison
Field Review Program Coordinator