



OSHA REGIONAL NOTICE

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

DIRECTIVE NUMBER: CPL 2-09-01H **EFFECTIVE DATE:** October 1, 2016

SUBJECT: Local Emphasis Program (LEP) Covering Maritime Employers

REGIONAL IDENTIFIER: Region VII

ABSTRACT

Purpose: This Notice continues the policy and procedures to be followed when making programmed safety and health local emphasis inspections of maritime employers located in Iowa, Missouri, and Nebraska.

References: CPL 04-00-001, STD 03-13-002, ADM 03-00-003, CPL 03-00-009, CPL 03-00-012, CPL 03-00-020, CPL 02-00-025, CPL 02-01-028, CPL 02-01-039, CPL 02-01-047, CPL 02-01-049, CPL 02-00-051, CPL 02-01-055, CPL 02-00-160, CPL 02-00-151, CPL 02-00-154, CPL 02-00-157, River Barge Terminal Directory

Scope: Maritime establishments throughout Iowa, Missouri, and Nebraska.

Expiration Date: September 30, 2017

Action Offices: Des Moines Area Office.

Originating Office: Kansas City Regional Office-Enforcement Programs Section

Contact: Enforcement Programs (816) 283-8745

By and Under the Authority of

Kimberly A. Stille
Regional Administrator

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- I. Purpose. This Notice continues the policy and procedures to be followed when making programmed safety and health local emphasis (LEP) inspections of maritime employers located in Iowa, Missouri, and Nebraska.
- II. Scope. This Notice applies to employers located in Iowa, Missouri, and Nebraska who are classified with a primary or secondary Standard Industrial Classification (SIC) code 3731, 4440 through 4449 or 4490 through 4499 or North American Industry Classification System (NAICS) codes 336611, 483111, 483112, 483113, 483114, 483211, 483212, 487210, 488310, 488320, 488330, 713930, 532411, and 488390 and are involved in maritime activities.

The Iowa Occupational Safety and Health Administration (Iowa OSHA) is responsible for enforcing the OSH Act in Iowa. Iowa OSHA's State Plan (see V. Background) covers private and public employers and employees located in the State but excludes coverage of private maritime employers. The Federal OSHA Des Moines Area Office has historically assumed enforcement of maritime-related OSHA standards in Iowa.

For purposes of this LEP, maritime activities include the operations listed below:

- Shipbuilding
- Ship breaking
- Ship repairing
- Longshoring (includes loading, unloading, moving or handling cargo into or out of any vessel)
- Marine terminals (includes wharves, piers, docks and other berthing locations associated with the primary movement of cargo or materials from vessel to shore or shore to vessel).

- III. Expiration. This Notice expires on September 30, 2017, and may be renewed based upon an evaluation of the program at that time.

- IV. References.

- A. OSHA Instruction CPL 04-00-001, Procedures for Approval of Local Emphasis Programs, November 10, 1999.
- B. OSHA Instruction STD 03-13-002 - 29 CFR 1926.605(a)(1) as Applied to Marine Construction, July 15, 1982.
- C. OSHA Instruction ADM 03-00-003, OSHA Directive System, December 11, 2000.
- D. OSHA Instruction CPL 03-00-009, National Emphasis Program – Lead, August 14, 2008.
- E. OSHA Instruction CPL 03-00-012, OSHA's National Emphasis Program (NEP) on Shipbreaking, November 4, 2010.

- F. OSHA Instruction CPL 03-00-020 - OSHA's National Emphasis Program (NEP) on Shipbreaking, March 27, 2016.
- G. OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections, January 4, 1995.
- H. OSHA Instruction CPL 02-01-028 - Compliance Assistance for the Powered Industrial Truck Operator Training Standards, November 30, 2000.
- I. OSHA Instruction CPL 02-01-039, Enforcement of Cargo Gear Regulations and the Requirements for Gear Certification in the Maritime Program, March 24, 2003.
- J. OSHA Instruction CPL 02-01-047 OSHA Authority Over Vessels and Facilities on or Adjacent to U.S. Navigable Waters and the Outer Continental Shelf (OCS) February 22, 2010.
- K. OSHA Instruction CPL 02-01-049 - 29 CFR Part 1915, Subpart I, Enforcement Guidance for Personal Protective Equipment (PPE) in Shipyard Employment, November 4, 2010.
- L. OSHA Instruction CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, May 28, 1998, Appendix A, change effective January 29, 2016, or most current version.
- M. OSHA Instruction CPL 02-01-055 Maritime Cargo Gear Standard and 29 CFR Part 1919 Certification, September 30, 2013.
- N. OSHA Instruction CPL 02-00-160, Field Operations Manual (FOM), August 2, 2016.
- O. OSHA Instruction CPL 02-00-151 - 29 CFR Part 1910, Subpart T – Commercial Diving Operations, June 13, 2011.
- P. OSHA Instruction CPL 02-00-154 - Longshoring and Marine Terminals "Tool Shed" Directive, July 31, 2012.
- Q. OSHA Instruction CPL 02-00-157 Shipyard Employment "Tool Bag" Directive April 01, 2014.
- R. River Barge Terminal Directory, <http://www.iowadot.gov/barge.htm>, April 2011.
- S. Occupational Safety and Health Act, Public Law 91-596, December 29, 1970, as amended through January 1, 2004.
- T. Memorandum from Thomas Galassi to Regional Administrators, Procedures for Local and Regional Emphasis Programs, December 3, 2014.

U. Memorandum from Francis Yebesi to Regional Administrators, Establishment-Targeting Lists for Emphasis Programs, November 12, 2014.

V. Background.

Section 18 of the OSH Act allows State agencies to assume responsibility for development and enforcement of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated by submitting a State Plan for the development of such standards and their enforcement. The State of Iowa, Division of Labor, has had such an approved plan since July 2, 1985. However, they have chosen to exclude coverage of private sector maritime activities and bridge construction projects spanning the Mississippi and the Missouri Rivers between Iowa and other States. Therefore, the Des Moines Area Office of Federal OSHA has assumed jurisdiction for these employers in Iowa (except for the Illinois side of bridge projects, and Locks and Dam sites other than 10, 11, 12, and 16 and 19, which are covered by another Federal OSHA Region.)

In an effort to provide regional consistency regarding maritime inspections, the Des Moines Area Office will conduct all inspections, including those within the jurisdictional boundaries of the St. Louis, Kansas City, and Omaha Area Offices.

The U.S. Bureau of Labor Statistics (BLS) compiles workers safety and health data, including the Days Away, Restricted or Transferred (DART) incidence rates for maritime activities. Its seven recent years of available data, calendar years 2007 through 2013 are presented below in Table 1 for NAICS 48832 (marine cargo handling), 336611 (shipbuilding and repairing), 483 (water transportation) and 4832 (inland water transportation).

Table 1 BLS National Days Away Restricted or Transferred Incidence Rates

| Calendar Year | Private Industry Average | Construction Industry Average | Marine Cargo Handling 488320 | Ship Building & Repair 336611 | Water Transportation 483000 | Inland Water Transportation 483200 |
|----------------------|---------------------------------|--------------------------------------|-------------------------------------|--|------------------------------------|---|
| 2007 | 2.1 | 2.8 | 6.1 | 5.2 | 2.6 | 2.8 |
| 2008 | 2.0 | 2.5 | 4.9 | 5.2 | 1.7 | 1.6 |
| 2009 | 1.8 | 2.3 | 4.7 | 4.8 | 1.7 | 2.2 |
| 2010 | 1.8 | 2.1 | 4.9 | 5.8 | 1.6 | 1.7 |
| 2011 | 1.9 | 2.1 | 5.8 | 4.8 | 1.6 | 1.5 |
| 2012 | 1.8 | 2.0 | 6.5 | 4.9 | 1.8 | 1.5 |
| 2013 | 1.7 | 2.2 | 4.2 | 4.6 | 1.6 | 1.2 |
| 2014 | 1.7 | 2.0 | 4.1 | 4.2 | 1.4 | 1.9 |

The national average DART incidence rate for maritime activities continues to exceed the rate for private industry and construction.

The maritime industry is made up of many industrial activities and there are unique differences between coastal and inland maritime establishments. OSHA Instruction CPL 02-00-025, Paragraph B.1.b.(4), allows Area Offices to establish LEPs that address specific hazards or industries in their area. This Notice continues the LEP for inspections of maritime employers in Missouri, Iowa, and Nebraska taking into account the unique jurisdictional circumstances of this Region. This LEP also addresses the following areas of emphasis: Lead, Silica, Noise in non-construction industries, Fall from elevation, Struck by, Powered Industrial Vehicle (PIV), and Electrical.

This program will direct OSHA resources towards maritime operations within Iowa, Missouri, and Nebraska in order to ensure that they are in compliance with applicable OSHA regulations. 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."

VI. Policy. The Des Moines Area Office shall use this Notice for inspection selection and scheduling for both safety and health inspections of maritime establishments.

VII. Procedures.

A. Establishment Targeting/Selection.

1. A master list of active maritime establishments on the Missouri and Mississippi Rivers and other navigable waters in Iowa, Missouri, and Nebraska will be compiled by the Des Moines Area Office using the National Office establishment file, the most current data obtained from the Iowa Department of Transportation, the Missouri Department of Transportation, the Nebraska Department of Transportation, the Inland River Guide, the US Coast Guard, the US Army Corp of Engineers, and locally derived information.
2. All establishments compiled on the master list will be entered into a Microsoft Excel spreadsheet and randomized by using the Microsoft Excel RANDBETWEEN function. After randomization, the first 30 establishments on the master list will be selected by ascending random number order as the first cycle of 30 establishments. Subsequent cycles will be established in the same manner.
3. Establishments within a cycle may be inspected in any order that makes efficient use of resources; however, all establishments within a cycle must be inspected prior to initiating a new cycle.
4. Each establishment on the list will receive a comprehensive safety and health inspection. When both the safety and health inspections of an establishment

on the list have been completed, the establishment will be removed from the list. The safety and health inspections may be conducted jointly or at separate times. In addition, if a CSHO observes an establishment engaged in maritime activities, as defined in Paragraph II., and it is not on the current inspection list, the establishment will be added to the master inspection list, the list will be re-randomized, and the establishment will be scheduled for a comprehensive safety and health inspection during the cycle of inspections when it is randomly selected.

5. Unprogrammed events such as fatalities, catastrophes, complaints, referrals and follow-up inspections will be scheduled for inspection in accordance with existing procedures in the FOM.
6. OSHA Instruction CPL 02-00-051, Enforcement Exemptions and Limitations Under the Appropriations Act, will be followed in the implementation of this program.

B. Inclusion and Deletions.

1. An inspection history from the OSHA Information System (OIS) will be generated by the Des Moines Area Office. The history will list all establishments covered by this LEP that are in the SIC/NAICS codes that have received a comprehensive safety and health inspection for the period of October 1, 2014 through the effective date of this LEP. All establishments that have received a comprehensive safety and health inspection in these SIC/NAICS codes between October 1, 2014 and the effective date of this LEP will be deleted from the inspection cycle lists.
2. Deletions made from the master list or any cycle will be made in accordance with criteria set forth in OSHA Directive CPL 02-00-025.

C. Inspection Procedures

1. Upon arrival at each maritime establishment, the CSHO shall confirm and document the SIC (or NAICS) code for each employer on the inspection list and all information required by the FOM prior to initiating each inspection.
2. All active employers classified with a confirmed and documented primary or secondary SIC or NAICS that is covered by this program shall be inspected.
3. The scope of inspections conducted under this program will be comprehensive safety and health inspections. During inspections, CSHOs must make an initial determination of whether or not the potential exists for worker exposure to lead, silica, noise, struck by hazards, falls from elevations, electricity and PIVs. If exposure to lead exists, the CSHO will address all aspects of any potential lead work or exposure and include a review of all related written documentation (i.e., record keeping, monitoring, compliance program, medical monitoring, respirator fit testing and procedures, and training materials), in accordance with

OSHA Instruction CPL 03-00-009. As resources allow, an inspection may begin as safety only or health only and appropriate referrals may be initiated.

VIII. Recording in OIS.

All inspections shall be coded with the Local Emphasis Program code of "MARITIME" in the appropriate OIS location. Where the compliance officer determines that there is a potential worker exposure to lead, the code of "LEAD" shall be coded in the appropriate OIS location.

All Consultation activities (requests, visits, and compliance assistance) conducted at establishments in the SIC/NAICS codes listed in the LEP will be coded with "MARITIME" in the Local Emphasis Program field on the appropriate forms

IX. Evaluation. No later than October 30 of each year this LEP is in effect, the Des Moines Area Office will prepare a formal written evaluation of this LEP in the format specified by OSHA Instruction CPL 04-00-001, Appendix A.

Kimberly A. Stille
Regional Administrator

Date

Concurrence of the Regional Solicitor' Office

(Signature)

Date

Distribution:

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Directorate of Enforcement Programs
Regional Administrator
Deputy Regional Administrator
Assistant Regional Administrators
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