



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: 2019-08

EFFECTIVE DATE: 10/1/2018

SUBJECT: Regional Emphasis Program – Health High Hazard – Top 50

REGIONAL IDENTIFIER: Region 2

ABSTRACT

Purpose: This instruction continues the Regional Emphasis Program for programmed health inspections in multiple manufacturing and service industries (multiple NAICS Codes) to address health hazards.

References: CPL 02-00-160, Field Operations Manual (FOM), August 2, 2016.
CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (LEPs), 11/13/2018.
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.

Cancellations: This instruction cancels Regional Emphasis Program – Health High Hazard - Top 50, 2018- 08 (CPL 2).

Expiration: This instruction expires September 30, 2023.
EXCEPTION: Any inspection begun prior to September 30, 2023 may continue until conclusion.

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

For Robert D. Kulick
Regional Administrator

I. Purpose.

This regional instruction continues the implementation of a Regional Emphasis Program (REP) for programmed health inspections of various general industry worksites where workers have been documented through previous inspection activity to be exposed to various health hazards. Workers continue to be exposed to various health hazards in these workplaces and current inspection targeting programs limit our ability to address these hazards in these particular establishments. In addition, long latency periods from exposure to hazardous contaminants to symptom onset prevent a timely response. This REP will assist in developing an inspection targeting system to identify those worksites with health hazards.

II. Scope. This instruction applies to all Region II Offices.

III. Expiration. This instruction expires on September 30, 2023.

EXCEPTION: Any inspection begun prior to September 30, 2023 may continue until its conclusion.

IV. Background.

This REP targets health hazards. Occupational diseases often manifest themselves after a delay from the time of exposure, especially for chronic conditions. Therefore, relying on injury and illness data is not adequate to identify and target these hazards. Instead, a mix of historical data (sorted by NAICS code) may be used including exposures data and violations of health-related standards. For purposes of this REP, the National Office ranks existing health inspection data by the number of serious violations of health standards issued per inspection. The top 200 of these establishments, identified by their NAICS code, are then placed in order and ranked from 1 to 200, thereby developing the top 200 high health hazard industries. The National Office will then generate a randomized list of establishments for inspection by a specific Area Office containing the top 50 high health hazard NAICS codes.

This emphasis program supports the DOL objective to secure safe and healthful working conditions for America's workers by implementing the OSHA Strategic Plan objective to target the most hazardous worksites for inspection by making efforts to prioritize its limited resources for inspections, compliance assistance and outreach efforts on specific industries that routinely experience injury, illness, or fatalities above the national average.

V. Action. The Area Directors shall ensure that the procedure outlined in the instruction is followed during the effective period of this instruction. This instruction is not to conflict with inspection priorities as established in the Field Operations Manual (FOM).

When an inspection is not conducted because the employer has refused entry, the CSHO shall document the reason for this refusal, EP shall be contacted immediately, and a

warrant shall be sought in accordance with the current procedures for handling such refusals.

VI. Procedures.

- A. The Area Director will review the establishment list provided by the National Office of Statistics. All establishments inspected (health comprehensive) within the last 3 years will be deleted.
- B. If not already done so by the National Office, when performing programmed inspections under this REP, 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*.
- C. Where establishments are found on more than one NEP and/or REP/LEP list (such as SST/SILICA /LEAD) the Area Office shall conduct one comprehensive health inspection to satisfy all the requirements of all of these programs. The OSHA Inspection Report shall then be coded for each inspection with all applicable codes.
- D. The Area Director will select a reasonable cycle size that is appropriate based on existing resources and must ensure that all selected sites are inspected. Before a new cycle is initiated all sites on the previous cycle need to be completed. Open cycles should be carried into the next fiscal year if the REP is renewed. An establishment list from the National Office shall be obtained at least every three years to ensure that the list is current.
- E. Under this REP all inspections will be comprehensive in scope. (Please see comprehensive in scope as defined in the Field Operations Manual (FOM) in Chapter 3 at paragraph III 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.”
- F. Establishments for inspection may fall within the scope of the current Appropriations Act. If so, inspection activities must be done and completed in accordance with the directive CPL 02-00-051, *Enforcement Exemptions and Limitations under the appropriations Act*.
- G. In addition to the permanent employees found at the establishment, recent inspection reports and activity has identified the use of temporary workers in many of the above targeted 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. 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. 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 REP, as follows:

- A. The OSHA Inspection Report for any programmed inspections covered under this Regional Emphasis Program for Health High Hazard TOP 50 shall be marked "Program Planned" in the Initiating Type field and insert "HHHT50" in the Regional Emphasis Program field.
- B. REP Combined with Unprogrammed Inspections. For all unprogrammed inspections conducted in conjunction with this REP inspection under this initiative, the OSHA Inspection Report must be marked with the appropriate unprogrammed activity in the Initiating Type field. In addition, the value "HHHT50" shall be recorded in Regional Emphasis Program field of the OSHA Inspection form and the Unprogrammed Activity form.
- C. REP Combined with other Emphasis Program Inspections. For all programmed inspections such as other NEPs/REP/LEPs conducted in conjunction with an REP inspection under this initiative, the OSHA Inspection Report must be marked as "Program Planned" in the OSHA Inspection form. In addition, the value "HHHT50" shall be recorded the Regional Emphasis Program field along with all NEP and REP OIS codes applicable to the inspection.

VIII. Outreach

During the course of this renewal REP the Area Director will continue to ensure that the ongoing outreach program will remain in effect during the enforcement phase of the program. Outreach activities will continue to be directed to reach as many stake holders in the Area Office's jurisdiction as is practicable. Stakeholders which include groups such as professional organizations, the ASSP, AIHA, Unions, and Chambers of Commerce, will be notified of the existence, purpose and objectives of this emphasis program. The outreach will also promote employer knowledge and employee awareness of the hazards and acceptable methods of abatement to prevent illness and injuries. The method of outreach is at the Area Director's discretion and can consist of one or more of the following components:

1. Broadcast mail-outs or program information.

2. Stakeholder meetings.
3. Targeted training sessions.
4. Presentations to the affected group(s).
5. Media press release or e-blast

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. The RA will ensure that each Region II area office participating in the REP will prepare and submit to EP a program report. The program report is to be conducted at the midpoint and completion of each REP. At the RA's discretion, additional reports may be required, based on the length, complexity, and coverage of the program. The midpoint assessment will take place no later than the end of the fiscal year following the calendar midpoint between the program effective and expiration dates (e.g., 2 ½ years into a 5 year program). The midpoint assessment will allow for revisions to the REP where necessary, along with an assessment of whether continuation of the REP is appropriate.
 1. The program report will, at a minimum, address whether the REP advances OSHA's goals and initiatives. The program report will address, as appropriate, both quantitative and qualitative measures. Types of measures that may be considered include:
 - b. The number of employees and/or establishments impacted by outreach activities;
 - c. Number of hazards abated;
 - d. The number of workers removed from hazards;
 - e. Impact on illness and injury rates (note: due to lag in available BLS data, this measure may not be suited for shorter termed programs);
 - f. Reductions in the number of complaints or severe injury reports within affected industries, and;
 - g. Any indices that relate directly to measures included in the DOL Strategic Plan, the OSHA Operating Plan, and/or additional goals of the REP.