



# OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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**DIRECTIVE NUMBER:** CPL 02-09-01L | **EFFECTIVE DATE:** October 1, 2019

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**SUBJECT:** Des Moines Area Office Local Emphasis Program (LEP) Covering Maritime Employers

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**REGIONAL IDENTIFIER:** Region VII

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## ABSTRACT

- Purpose:** This Instruction continues an existing Local Emphasis Program (LEP), established for the Des Moines Area Office. The purpose of this LEP is reducing employee exposure to hazards associated with the maritime industry. Hazards associated with the maritime industry include, but are not limited to, confined space hazards, fall hazards, injury or illness from physical hazards (such as hearing loss and musculoskeletal disorders), and chemical exposure which is causing or likely to cause severe injury, permanent disability, or death.
- Scope:** Maritime establishments throughout Iowa, Missouri, and Nebraska.
- References:** CPL 02-00-163, Field Operations Manual (FOM), September 13, 2019, or the most current version at the time of the inspection opening conference.
- OSHA Instruction CPL 03-00-020, National Emphasis Program on Shipbreaking, March 7, 2016
- OSHA Instruction CPL 02-00-051 Enforcement Exemptions and Limitations under the Appropriations Act, May 28, 1998, or successor guidance
- OSHA Instruction CPL 02-01-055, Maritime Cargo Gear Standard and 29 CFR Part 1919 Certification, September 30, 2013
- OSHA Instruction CPL 04-00-002, Procedures for the Approval of Local Emphasis Programs, November 13, 2018
- Cancellations:** This Instruction cancels CPL 2-09-01K, Local Emphasis Program (LEP), Covering Maritime Employers, October 1, 2018.
- State Plan Impact:** None
- Action Offices:** Des Moines Area Office, Omaha Area Office, Saint Louis Area Office

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By and Under the Authority of

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Regional Administrator, VII

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## **Executive Summary**

This Instruction continues the policy and procedures the Des Moines Area Office will follow when making programmed safety and health local emphasis inspections of maritime employers located in Iowa, Missouri, and Nebraska.

The intent is encouraging employers to take steps to address hazards, evaluate facilities to determine compliance with all relevant OSHA requirements, and help employers correct hazards, thereby reducing potential injuries, illnesses, and death for their workers.

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**I. Purpose.** This Instruction continues the policy and procedures the Des Moines Area Office will follow to make programmed safety and health local emphasis program (LEP) inspections of maritime employers located in Iowa, Missouri, and Nebraska. Hazards associated with the maritime industry include, but are not limited to, confined space, fall, injury or illness from physical hazards (such as hearing loss and musculoskeletal disorders), and chemical exposure likely to cause severe injury, permanent disability, or death.

**II. Scope.** This Instruction applies to maritime establishments in the North American Industrial Classification System (NAICS) Codes listed below, including those maritime establishments where the NAICS Codes cover a secondary business operation of the maritime establishment (e.g., maritime establishments involved in maritime activities):

NAICS	Description
336611	Ship Building and Repairing
483111	Deep Sea Freight Transportation
483112	Deep Sea Passenger Transportation
483113	Coastal and Great Lakes Freight Transportation
483114	Coastal and Great Lakes Passenger Transportation
483211	Inland Water Freight Transportation
483212	Inland Water Passenger Transportation
487210	Scenic and Sightseeing Transportation, Water
488310	Port and Harbor Operations
488320	Marine Cargo Handling
488330	Navigational Services to Shipping
488390	Other Support Activities for Water Transportation
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing
713930	Marinas

**III. Expiration.** This Instruction will expire September 30, 2024.

IV. **Action.** OSHA compliance personnel shall follow the procedures contained in this instruction when conducting outreach and enforcement activities.

V. **References.**

- A. CPL 04-00-002, Procedures for Approval of Local Emphasis Programs, November 13, 2018.
- B. CPL 02-00-163, Field Operations Manual (FOM), September 13, 2019, or the most current version at the time of the inspection opening conference.
- C. CPL 02-00-025, Scheduling System for Programmed Inspections, January 4, 1995.
- D. CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, May 28, 1998, Appendix A, change effective December 18, 2018, or most current version.
- E. STD 03-13-002 - 29 CFR 1926.605(a) (1) as Applied to Marine Construction, July 15, 1982.
- F. CPL 03-00-009, National Emphasis Program – Lead, August 14, 2008.
- G. CPL 03-00-020 - OSHA's National Emphasis Program (NEP) on Shipbreaking, March 7, 2016.
- H. CPL 02-01-028 - Compliance Assistance for the Powered Industrial Truck Operator Training Standards, November 30, 2000.
- I. 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.
- J. CPL 02-01-049 - 29 CFR Part 1915, Subpart I, Enforcement Guidance for Personal Protective Equipment (PPE) in Shipyard Employment, November 4, 2010.
- K. CPL 02-01-055 Maritime Cargo Gear Standard and 29 CFR Part 1919 Certification, September 30, 2013.
- L. CPL 02-00-151 - 29 CFR Part 1910, Subpart T – Commercial Diving Operations, June 13, 2011.
- M. CPL 02-00-154 - Longshoring and Marine Terminals "Tool Shed" Directive, July 31, 2012.
- N. River Barge Terminal Directory, <https://iowadot.gov/barge>, April 2011.
- O. Occupational Safety and Health Act, Public Law 91-596, December 29, 1970, as amended through January 1, 2004.
- P. OSHA Memorandum from Francis Yebesi to Regional Administrators, Establishment-Targeting Lists for Emphasis Programs, November 12, 2014.

VI. **Cancellation.** This Instruction cancels OSHA Regional Notice CPL 02-09-01K, Local Emphasis Program (LEP), Covering Maritime Employers, October 1, 2018.

**VII. Action Offices.** Des Moines Area Office

**VIII. Background.** Section 18 of the Occupational Safety and Health (OSH) Act allows State agencies to assume responsibility for development and enforcement of occupational safety and health standards by submitting a State Plan. A State Plan develops and promulgates enforcement standards relating to any occupational safety or health issues, and related Federal standards. The State of Iowa, Division of Labor, has had such an approved plan since July 2, 1985. However, they chose to exclude coverage of private sector maritime activities and bridge construction projects spanning the Mississippi and Missouri Rivers between Iowa and other States. Therefore, the Des Moines Area Office of Federal OSHA assumed jurisdiction for these employers in Iowa (except where another Federal OSHA Region covers the Illinois side of bridge projects, Locks, and Dam sites to include 10, 11, 12, 16, and 19.)

In an effort to provide regional consistency regarding maritime inspections, the Des Moines Area Office will conduct all maritime 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. Seven recent years of available data, calendar years 2011 through 2017 are presented below in Table 1 for NAICS 488320 (marine cargo handling), 336611 (shipbuilding and repairing), 483000 (water transportation) and 483200 (inland water transportation).

A. Hazards. According to the National Institute for Occupational Safety and Health (NIOSH), Center for Maritime Safety and Health Studies-Marine Terminals and Port Operations, “Workers at marine terminals have higher fatality, injury, and illness rates than other workers in the U.S. In 2016, there were approximately 98,000 marine terminal and long shoring workers employed at U.S. ports. From 2011–2016 fatal injuries occurred at an annual rate of 17.0 per 100,000 workers, a rate more than five times that of the U.S. workforce overall.”

[https://www.cdc.gov/niosh/programs/cmshs/port\\_operations.html](https://www.cdc.gov/niosh/programs/cmshs/port_operations.html)

**Table 1.**

**BLS National Days Away From Work, Job Transfer, or Restriction**

Calendar Year	Private Industry Average	Construction Industry Average	Marine Cargo Handling 488320	Ship Building & Repair 336611	Water Transportation 483000	Inland Water Transportation 483200
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
2015	1.6	2.0	3.9	3.9	2.0	1.7
2016	1.6	1.9	3.7	3.8	1.2	1.2
2017	0.9	1.2	2.9	1.9	0.7	0.9

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

Many industrial activities comprise the maritime industry with unique differences existing 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.

- B. Maritime Establishments. This Instruction continues to direct OSHA resources towards maritime operations within Iowa, Missouri, and Nebraska in order to ensure they comply with applicable OSHA regulations. 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. Thereby, in accordance with the U.S. Department of Labor’s Strategic Plan, this LEP addresses OSHA Strategic Objective 2.1: “Secure safe and healthful working conditions for America’s workers.”

**IX. Inspection Scheduling and Site Selection.**

- A. The Des Moines Area Office will generate an inspection history from the OSHA Information System (OIS). The history will list all maritime establishments covered by this LEP that are in the NAICS codes receiving a comprehensive safety and health inspection for the period of October 1, 2017 through the effective date of this LEP.



B. Deletions.

1. The Des Moines Area Office will delete from inspection cycles, any maritime establishment that has received a comprehensive safety and health inspection in these NAICS codes within the previous thirty-six (36) calendar months of the current inspection list.
2. Area Offices shall apply deletion criteria to the list of maritime establishments, derived from OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections, Paragraph B.1.b.(1)(b)6.d.

C. The Area Office shall follow procedures set forth in paragraph A. and B. above in accordance with and the site randomization protocols outlined in the November 12, 2014, OSHA Memorandum: Establishment – Targeting Lists for Emphasis Programs.

**X. Inspection Procedures.** Inspections will be conducted in accordance with this Instruction and the Field Operations Manual.

A. Inspection Scope: Upon arrival at each maritime establishment, the CSHO shall confirm and document the NAICS code for each employer on the inspection list and all information required by the FOM prior to initiating each inspection.

The Des Moines Area Office shall inspect all active employers with a confirmed and documented primary or secondary NAICS covered by this program.

The scope of inspections conducted under this program, are comprehensive safety and health inspections. During inspections, CSHOs must make an initial determination of whether the potential exists for worker exposure to lead, silica, noise, struck by hazards, falls from elevations, electricity, and powered industrial vehicles (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, exposure records, 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 initiated.

B. Appropriations Act: The Des Moines Area Office will follow OSHA Instruction CPL 02-00-051 Enforcement Exemptions and Limitations under the Appropriations Act, in the implementation of this program.

C. Unprogrammed Activity: The Des Moines Area Office will schedule inspections of unprogrammed events such as fatalities, catastrophes, complaints, referrals, and follow-up inspections in accordance with existing procedures in the FOM.

**XI. OIS Coding.** The Des Moines Area Office shall code all inspections with the Local Emphasis Program code of “MARITIME” in the appropriate OIS location. Where the CSHO determines there is a potential worker exposure to lead, the CSHO will use the code of “LEAD” in the appropriate OIS location.

- XII. Outreach.** The Area Office makes available upon request an information package, including a copy of the directive, to employers, professional associations, and labor organizations. The Area Office continues to make available, upon request, outreach programs that support the purpose of this LEP to reduce injuries and deaths in the maritime industry. As an additional resource for achieving compliance, employers will be encouraged to utilize the 21(d) Consultation Program.
- XIII. Program Report.** No later than midway through the life of the program and completion of the program, the Area Office will provide a program report of this LEP to the Regional Office. At a minimum, the report should respond to the requirements of CPL 04-00-002, Section VIII, E.