



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-02-2403

SUBJECT: Local Emphasis Program- Virgin Island General Industry

REGION: Region 2

SIGNATURE DATE: October 1, 2023

EFFECTIVE DATE: October 1, 2023

ABSTRACT

Purpose: This regional instruction continues the implementation of a Local Emphasis Program (LEP) for programmed safety and health inspections of local construction projects.

Scope: This instruction applies to the Puerto Rico Area Office.

References:

- A. CPL 02-00-164, Field Operations Manual (FOM), 5/14/2020.
- B. CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (LEPs) 10/1/2018.
- C. CPL 02-00-025, Scheduling System for Programmed Inspections, 01/04/1995.
- D. CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act.

Cancellations: This instruction cancels Local Emphasis Program – Virgin Islands General Industry, 2019-07 (CPL 2).

State Impact: No Impact

Action Offices: Puerto Rico Area Office, Region II.

Originating Office: Office of Regional Administrator

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By and Under the Authority of

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Regional Administrator

Executive Summary

This regional instruction provides guidance to the OSHA Region II Puerto Rico Area Office for programmed safety and health inspections of general industry worksites in the U.S. Virgin Island (St. Thomas, St. Croix, St. John).

Significant Changes

None.

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I. Purpose.

This instruction describes policies and procedures for implementing a Local Emphasis Program (LEP) for programmed safety and health inspections of general industry worksites in the U.S. Virgin Islands (St. Thomas, St. Croix, St. John). The LEP will be implemented in accordance with the provisions of the Field Operations Manual (FOM). These work sites cannot be successfully reached using the present targeting system.

II. Scope.

This instruction applies to the Puerto Rico Area Office.

III. References.

- A. CPL 02-00-164, Field Operations Manual (FOM), 5/14/2020.
- B. CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (LEPs) 10/1/2018.
- C. CPL 02-00-025, Scheduling System for Programmed Inspections, 01/04/1995.
- D. CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act.

IV. Expiration Date

This instruction expires on September 30, 2028.

EXCEPTION: Any inspection begun prior to September 30, 2028, may continue until its conclusion.

V. Cancellations.

This instruction cancels Local Emphasis Program – Virgin Islands General Industry, 2019-07 (CPL 2).

VI. Action Offices.

A. Responsible Office.

OSHA Region II, NY Regional Office.

B. Action Office.

OSHA Puerto Rico Area Office.

VII. Federal Program Change.

None

VIII. Significant Changes.

None

IX. Background

OSHA enforcement efforts are focused on targeting the most hazardous worksites. The agency identifies these worksites through several means. Un-programmed inspections are initiated because of complaints and referrals regarding unsafe conditions from outside sources, such as employees, labor organizations, buildings, and health departments. Programmed inspections are initiated based on knowledge obtained from the evaluation of injury, illness, and fatality data.

In the Virgin Islands, worker complaints and referrals are limited. Therefore, OSHA enforcement efforts predominantly rely upon programmed inspections. In the continental US, the agency utilizes information obtained from resources such as the Bureau of Labor Statistics. BLS collects and tabulates data which includes workplace Injury, Illness, and fatality statistics. To develop the establishment universe, injury, illness, and fatality rates are analyzed by industry and high hazard industries are identified. Unfortunately, this data collection is limited or does not exist in the Virgin Islands.

This Local Emphasis Program has been developed to create a neutral system to develop both the establishment universe and the inspection lists. To develop a representative inspection list of the most hazardous worksites in the Virgin Islands, the list of high-hazard industries identified by BLS in the continental U.S. (most recent full-year data, by NAICS code) is obtained. A master list of private sector establishments in the Virgin Islands is obtained from the OSHA Office of Statistics; this list may be supplemented with local knowledge. The master list is sorted by NAICS codes and establishments in high-hazard industries are placed in the universe. Randomized inspection lists are then drawn from this universe.

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.

X. Procedures

- A. The Area Director will review the establishment list provided by the National Office of Statistics to ensure all known establishments are included and to insure that the data appears to be accurate. Next, any known sites that meet the criteria for this LEP and found to have been omitted will be added back onto the master list.
- B. The Area Director shall insure that all establishments who have received a comprehensive inspection within the last 2 fiscal years will be deleted. The final master list shall then be forwarded back to the National Office for their final review and randomization of the worksites.
- C. Establishments shall then be randomly selected for inspection by the National Office of Statistics. This selection process sets forth administratively neutral criteria to identify establishments for inspection. When performing programmed inspections under this LEP, the 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. Inspection scheduling and deletions shall be done in accordance

with CPL02-00- 025, Scheduling System for Programmed Inspections.

- 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 LEP 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. All inspections conducted under this LEP will have the same priority as other LEP inspections.
- F. Under this LEP all inspections will be comprehensive in scope. (Please see comprehensive in scope as defined in the Field Operations Manual (FOM):
“Comprehensive - A substantially complete inspection of the potentially high hazard areas of the establishment. An inspection may be deemed comprehensive even though, because of the exercise of professional judgment, not all potentially hazardous conditions, operations and practices within those areas are inspected.”
- G. 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.
- H. Unprogrammed Inspections. Inspections based upon fatalities/catastrophes, complaints, or referrals related to establishments covered under this LEP shall be expanded to address the workplace hazards targeted by this LEP. In addition to the guidelines provided in this LEP, the inspections must be handled in accordance with FOM Chapter 9, Complaint and Referral Processing, and Chapter 11, Imminent Danger, Fatality, Catastrophe, and Emergency Response.
- I. OSHA may expand the scope of the inspection when there is information or evidence (e.g., injuries or illnesses recorded in OSHA forms 300 and/or 301, employee statements, employee or union complaints, fatalities, referrals, or “plain view” observations) that violative conditions may be found in other areas of that establishment.

XI. Outreach

During the course of this renewal LEP 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:

- Broadcast mail-outs or program information.
- Stakeholder meetings.
- Targeted training sessions.
- Presentations to the affected group(s).
- Media press release or e-blast

XII. 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 LEP, as follows:

- A. The OSHA Inspection Report for any programmed inspections covered under this Local Emphasis Program for V.I. General Industry shall be marked "Program Planned" in the Initiating Type field and insert "VIGENIND" in the Local Emphasis Program field.
- B. LEP Combined with Unprogrammed Inspections. For all unprogrammed inspections conducted in conjunction with this LEP inspection under this initiative, the OSHA Inspection form must be marked with the appropriate un-programmed activity in the Initiating Type field. In addition, the value "VIGENIND" shall be recorded in the local Emphasis Program field.
- C. LEP Combined with other Emphasis Program Inspections. For all programmed inspections such as other NEPs/LEPs conducted in conjunction with an LEP inspection under this initiative, the OSHA inspection form must be marked as "Program Planned" in the Initiating Type field. In addition, the value "VIGENIND" recorded in Local Emphasis Program field along with all NEP and LEP OIS codes applicable to the inspection.

XIII. 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 LEP will prepare and submit to EP a program report. The program report is to be conducted at the midpoint and completion of each LEP. 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 LEP where necessary, along with an assessment of whether continuation of the LEP is appropriate.

- a. The program report will, at a minimum, address whether the LEP 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:
 - i. The number of employees and/or establishments impacted by outreach activities.
 - ii. Number of hazards abated.
 - iii. The number of workers removed from hazards.
 - iv. Impact on illness and injury rates (note: due to lag in available BLS data, this measure may not be suited for shorter termed programs).
 - v. Reductions in the number of complaints or severe injury reports within affected industries, and;
 - vi. Any indices that relate directly to measures included in the DOL Strategic Plan, the OSHA Operating Plan, and/or additional goals of the LEP.