



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-09-2405

SUBJECT: Local Emphasis Program for Smelters

REGION: IX

SIGNATURE DATE: October 1, 2023

EFFECTIVE DATE: October 1, 2023

ABSTRACT

Purpose: This instruction renews policies and strategies to be followed when scheduling and conducting programmed local emphasis inspections of smelters.

References: See paragraph III.

Cancellation: Region IX Enforcement Programs Notice CPL 04-00-06, dated October 1, 2018

Significant Changes: None.

Action Offices: Office of Enforcement Programs
Phoenix Area Office
Office of Cooperative and State Programs (CSP)

Originating Office: Office of Enforcement Programs

Contact: Paul Leary, Assistant Regional Administrator
Enforcement Programs

By and Under the Authority of:

James D. Wulff
Regional Administrator

Executive Summary

Smelters have been recognized as places of employment that have various physical and chemical hazards. Employees are exposed to high airborne concentrations of metals and other particulate matter. Employees working in smelters are also exposed to physical hazards such as noise and heat stress.

This instruction renews policies and strategies to be followed when scheduling and conducting programmed local emphasis inspections of smelters.

This instruction applies to the smelter industry in the state of Arizona. Furthermore, this instruction applies to contractors working in the smelting industry in the state of Arizona. The Arizona Department of Occupational Safety and Health (ADOSH) does not have the authority to inspect smelters due to a peculiarity in its State Plan. This has resulted in Federal OSHA assumption of jurisdiction to inspect and enforce safety and health regulations in smelters.

TABLE OF CONTENTS

I.	Purpose	1
II.	Scope.....	1
III.	References	1
IV.	Cancellation	1
V.	Expiration	2
VI.	Action.....	2
VII.	Definitions.....	2
VIII.	Background	2
IX.	Objectives.....	2
X.	Selection & Scheduling of Sites for Inspection	3
XI.	Conduct of Inspections.....	3
XII.	Inspection Procedures.....	4
XIII.	Coding	4
XIV.	Evaluation	5
XV.	Outreach	5

I. Purpose

This instruction renews policies and strategies to be followed when scheduling and conducting programmed local emphasis inspections of smelters. The goal of this instruction is to ensure employees are adequately protected from airborne lead, silica, arsenic, copper, cadmium, and sulfur dioxide exposures; and to protect employees from safety hazards including permit confined spaces, falls, lock out/tag out, amputations, electrical, powered industrial trucks, heat, and noise.

II. Scope

This instruction applies to the smelter industry in the state of Arizona. Furthermore, this instruction applies to contractors working in the smelting industry in the state of Arizona. The Arizona Department of Occupational Safety and Health (ADOSH) does not have the authority to inspect smelters due to a peculiarity in its State Plan. This has resulted in Federal OSHA assumption of jurisdiction to inspect and enforce safety and health regulations in smelters.

III. References

- A. OSHA Instruction CPL 02-00-164, April 14, 2020, Field Operations Manual
- B. OSHA Instruction CPL 02-00-025, January 4, 1995, Scheduling System for Programmed Inspections
- C. OSHA Instruction CPL 02-00-051, May 28, 1998, Enforcement Exemptions and Limitations under the Appropriations Act (Appendix A updated annually)
- D. OSHA Instruction CPL 04-00-002, November 13, 2018, Procedures for the Approval of Local Emphasis Programs (LEPs)
- E. Memorandum dated December 3, 2014 on Procedures for Local and Regional Emphasis Programs.
- F. Memorandum dated November 12, 2014, on Establishment-Targeting Lists for Emphasis Programs.

IV. Cancellation

Region IX Enforcement Programs Notice CPL 04-00-06, dated October 1, 2018.

V. Expiration

This LEP will expire no later than five years from the date of implementation, unless renewed.

VI. Action

The Area Director will ensure that the procedures contained in this instruction are followed in scheduling and conducting programmed inspections under this LEP. The goal of this instruction is to ensure employees are adequately protected from airborne lead, silica, arsenic, copper, cadmium, and sulfur dioxide exposures. Furthermore, the goal is to protect employees from safety hazards encountered in a smelter, such as but not limited to permit confined spaces, falls, lock out/tag out, amputations, electrical, powered industrial trucks, and noise, and to ensure compliance with standards in 29 CFR 1910.

VII. Definitions

- A. Programmed Inspections: Programmed inspections are those selected and scheduled in accordance with a plan to employ OSHA's authority to identify, cite, compel corrections, and penalize those conditions that contribute to the hazards or potential hazards of the industry or workplace.
- B. Unprogrammed Inspections: Those that are not selected and scheduled as a direct or indirect result of a plan. Examples include investigations necessitated by fatalities, catastrophes, complaints, referrals, and media reports. Unprogrammed inspections also include follow-up and monitoring inspections.

VIII. Background

Copper smelters have been recognized as places of employment that have various physical and chemical hazards. Employees are exposed to high airborne concentrations of metals and other particulate matter. Employees working in smelters are also exposed to physical hazards such as noise and heat stress.

IX. Objectives

- A. To conduct comprehensive inspections to ensure employees are protected from hazards associated with copper smelters.

- B. To ensure employees are protected from high airborne concentrations of lead, arsenic, silica, cadmium, copper, sulfur dioxide, and other metals which can significantly impact their health.
- C. To protect employees from hazards related to amputation, permit confined space entry, electrical, and other safety hazards which are causes of serious injuries.
- D. To reduce injury and illness rates in the copper smelters covered by this LEP.

X. Selection & Scheduling of Sites for Inspection

There are two copper smelters and one aluminum smelter in the state of Arizona. The copper smelters are in Federal OSHA jurisdiction due to lack of coverage of these facilities in the Arizona State OSHA plan. The aluminum smelter is on tribal land, and is therefore in Federal OSHA jurisdiction.

At least one smelter will be inspected per year; each smelter will be inspected at least once every three years. Any smelter which was subject to a programmed or comprehensive unprogrammed inspection during the previous fiscal year will not be subject to a programmed inspection under this LEP. Unprogrammed inspections, including follow-up inspections to ensure abatement, will still be conducted according to the inspection priorities established in the FOM.

XI. Conduct of Inspections

During the conduct of inspections under this LEP, CSHOs will:

- A. Review and analyze injury and illness records to determine whether employees have been overexposed to high airborne concentrations of metals.
- B. Review and analyze injury and illness records to determine whether there is a pattern of injuries occurring throughout the facility.
- C. Review injury and illness records for compliance with 29 CFR 1904.
- D. Calculate the Days Away, Restricted or Transferred (DART) rate and the Days Away from Work Injury and Illness (DAFWII) case rate for the previous three years.
- E. Evaluate safety and health programs related to the smelters, such as but not limited to permit confined spaces, lock out/tag out, fall protection, noise, amputations, machine guarding, means of egress, and respiratory protection.

- F. Review the most recent monitoring results and exposure records conducted by the establishment's industrial hygiene staff. Any discrepancies or insufficient documentation of monitoring of airborne contaminants or noise exposure by the establishment will be used to direct the focus of the inspection.

XII. Inspection Procedures

- A. Once an inspection has been scheduled and assigned, the OSHA IMIS and OIS databases will be searched for the employer's citation and fatality/accident history prior to the opening conference.
- B. To prepare for inspections under this LEP, CSHOs shall become familiar with the OSHA standards and publications, including the eTools website, regarding smelters. The eTools website contains information on secondary lead smelters.
- C. CSHOs entering an establishment that has 10 or fewer employees shall check to determine if the establishment is exempt from inspection under CPL 02-00-051. If the establishment is exempt, end the inspection and leave the establishment.
- D. CSHOs discovering new locations to inspect, which are not on the inspection list, will bring the information back to be included in this LEP.
- E. Fatalities, catastrophes, complaints, referrals, and follow-up inspections shall be scheduled in accordance with existing procedures outlined in the FOM, CPL 02-00-164.

XIII. Coding

In addition to recording information and entering data in OIS in accordance with all other relevant instructions and directives, for smelter inspections the following specific coding instructions apply:

- A. In the Inspection Type tab in OIS, the LEP code SMELTER will be used as the primary emphasis code, except as in paragraph B., below.

NOTE: Please remember to code ALL inspections done in smelters with the SMELTER code in the LEP field, whether or not these inspections are done as programmed inspections under the Local Emphasis Program. All programmed and unprogrammed inspections of smelters should be coded in this way to facilitate data retrieval.

- B. Where applicable, the National Emphasis Program codes AMPUTATE and LEAD will be used. Where these codes are used, they will be entered as the primary emphasis code. Any other LEP or NEP codes will be entered as non-primary emphasis codes.

XIV. Evaluation

- A. At the midpoint of the effective period of this REP (two and a half years from the implementation date) and at the end of the effective period, evaluation reports will be completed that shall include the following elements:
 - 1. The goal of the program.
 - 2. A determination of how effective the program was in meeting its goal.
 - 3. Data and information to support the conclusions stated in the goal, including enforcement statistics, as required in CPL 04-00-002, Procedures for the Approval of Local Emphasis Programs.
 - 4. Statement of whether the program should be continued, accompanied by a brief rationale.
 - 5. Description of any legal issues that arose which would necessitate a review by the Solicitor before renewal of the program could be approved.
 - 6. Any other comments or recommendations, including findings which might have an impact on how OSHA or the industry does business.
- B. This evaluation shall be submitted to the Regional Administrator for review, at which time a decision will be made to continue, amend, renew or discontinue the LEP.

XV. Outreach

The Assistant Regional Administrator for Cooperative and State Programs and the Assistant Regional Administrator for Enforcement Programs will ensure the Area Directors and all Outreach staff are familiar with this directive and actively promote the LEP when conducting outreach sessions and meetings. Hazards, work practices, and machinery associated with this industry and covered by this LEP will be pointed out and discussed during outreach sessions and meetings. Handouts and publications that address these hazards, which are already developed and available,

will be provided at outreach sessions and meetings. A copy of this LEP will be provided to interested parties upon request.