



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-09-2406

SUBJECT: Regional Emphasis Program for Federal Agencies

REGION: IX

SIGNATURE DATE: October 1, 2023

EFFECTIVE DATE: October 1, 2023

ABSTRACT

Purpose: This instruction renews policies and strategies for a Regional Emphasis Program for scheduling programmed inspections of Federal Agency sites.

References: See paragraph IV.

Cancellation: This instruction cancels Region IX Enforcement Programs Notice CPL 04-00-07, dated October 1, 2018.

Significant Changes: None.

Action Offices: All Region IX Regional and Area Offices

Originating Office: Region IX Enforcement Programs

Contact: Paul Leary, Assistant Regional Administrator
Enforcement Programs

By and Under the Authority of:

James D. Wulff

Regional Administrator

EXECUTIVE SUMMARY

This instruction renews policies and strategies to be followed in scheduling programmed inspections at Federal Agencies in Region IX. This instruction emphasizes the need to identify agencies with higher than average injury and illness rates, as well as targeting specific worksites which have experienced lost-time cases.

OSHA has jurisdiction over safety and health at Federal Agencies per Section 19 of the OSH Act, Federal Agency Safety Programs and Responsibilities; Executive Order 12196, Occupational Safety and Health Programs for Federal Employees, dated February 26, 1980; and 29 CFR 1960, Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters.

This instruction applies to all Federal Agency activities located within Region IX's jurisdiction. This scheduling system is independent of, but may overlap with, the national Federal Agency Targeting Inspection Program (OSHA Instruction FAP 01-00-008).

In accordance with CPL 02-00-122, April 16, 1999, Enforcement Guidance for the U.S. Postal Service, the USPS is not covered by this scheduling system.

TABLE OF CONTENTS

I.	Purpose:	1
II.	Scope:.....	1
III.	Limitations and Exemptions:	1
IV.	References:	1
V.	Cancellation:	2
VI:	Expiration:	2
VII.	Action:.....	2
VIII.	Selection and Scheduling of Sites for Inspection:.....	2
IX.	Inspection Procedures:.....	3
X.	Coding:	4
XI.	Evaluation:	4
XII.	Outreach:	4
	APPENDIX A: Agencies with Certified Safety and Health Committees.....	6
	APPENDIX B: Procedures for Scheduling Inspections	7

I. Purpose:

This instruction renews policies and strategies to be followed in scheduling programmed inspections at Federal Agencies in Region IX. This instruction emphasizes the need to identify agencies with higher than average injury and illness rates, as well as targeting specific worksites which have experienced lost-time cases.

II. Scope:

This instruction applies to all Federal Agency activities located within Region IX's jurisdiction. In accordance with CPL 02-00-122, April 16, 1999, Enforcement Guidance for the U.S. Postal Service, the USPS is not covered by this scheduling system.

III. Limitations and Exemptions:

As appropriate and in accordance with OSHA Instruction FAP 01-00-001 and the Field Operations Manual, agencies with Certified Safety and Health Committees will be given advance notice of inspections. Please note that while these directives contain procedures to be followed in working with agencies with Certified Safety and Health Committees, the lists contained in those directives may not be up to date. Please contact EP and OFAP for the most recent list. Appendix A of this regional instruction will be updated as new information becomes available.

IV. 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.
- G. OSHA Instruction FAP 01-00-001, September 11, 1985, A List of Federal Agencies with Certified Safety and Health Committees.
- H. OSH Act, Section 19, Federal Agency Safety Programs and Responsibilities
- I. Executive Order 12196, Occupational Safety and Health Programs for Federal Employees, dated February 26, 1980
- J. 29 CFR 1960, Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters.
- K. OSHA Instruction CPL 02-00-122, April 16, 1999, Enforcement Guidance for the U.S. Postal Service

V. Cancellation:

Region IX Enforcement Programs Notice CPL 04-00-07, dated October 1, 2018.

VI: Expiration:

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

VII. Action:

Area Directors shall use this instruction for selection and scheduling of sites for safety and health inspections at Federal Agencies.

VIII. Selection and Scheduling of Sites for Inspection:

The following procedures shall be followed for the scheduling and inspection of work sites under this program:

- A. A list of Federal Agencies with worksites in Region IX's jurisdiction is maintained by Enforcement Programs, and is available to the Area Offices for reference. This list is filed electronically on the regional shared drive. Area Offices are encouraged to coordinate with EP to update this list if they obtain information

on new sites, sites that were not previously identified, sites that have moved, or sites that are no longer operational.

- B. On an annual basis, the Assistant Regional Administrator for Enforcement Programs will obtain from the Office of Federal Agency Programs a list of agencies with lost workday incidents for the previous fiscal year, which will be forwarded to the Area Offices. This list can be used to rank the work sites by frequency of lost time cases. Agency-wide injury & illness rates, which can be found at <https://www.osha.gov/dep/fap/fap-inj-ill-stats.html>, will also be taken into consideration. Other factors such as complaint rate, occurrence of fatalities, nationwide history, prior activity at the site, referrals, media reports, and recent inspection activity by other OSHA offices at similar facilities, may also be used to adjust the rankings of installations, and to add sites to the master establishment list. All additions to or deletions from the list shall be documented with the reason for the change.
- C. Establishments will be scheduled for inspection based on the procedures outlined in Appendix A. No more than one programmed inspection will be conducted at each establishment at each site every 12 months, although additional unprogrammed inspections, including follow-ups, may be conducted.
- D. Follow-up and/or monitoring inspections shall be conducted according to criteria established in the FOM and area director discretion.

IX. Inspection Procedures:

- A. At the Area Director's discretion and based on the nature of the work performed at the site, inspections may be safety, health, or joint safety and health inspections.
- B. Inspections conducted under this REP will generally be comprehensive inspections. If an Area Director or CSHO becomes aware of a situation where a partial inspection might be appropriate, the Area Director can authorize the CSHO to limit the inspection (for example, an office environment with a shipping and warehouse facility attached, and the CSHO's review of the site's 300 log shows that all recorded injuries have occurred in the warehouse area). Note that per the FOM, a comprehensive inspection is a substantially complete and thorough inspection of all potentially hazardous areas of the establishment. An inspection can be deemed comprehensive even though, as a result of professional judgment, not all potentially hazardous conditions or practices within those areas are inspected.

- C. In accordance with OSHA policy, advance notice will be given to agencies with Certified Safety and Health Committees (see Appendix A).

X. Coding:

For all inspections scheduled under this REP, the Regional Emphasis Program code **FEDSAFE9** shall be entered as the primary emphasis code on the Inspection Type tab in OIS.

Any other applicable REP or NEP may be entered as a non-primary code.

XI. 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 REP.

XII. 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 REP when conducting outreach sessions and meetings. A copy of this REP will be provided to interested parties upon request.

APPENDIX A: Agencies with Certified Safety and Health Committees

Per OSHA Instruction FAP 01-00-001 and the Field Operations Manual, agencies with Certified Safety and Health Committees will be given advance notice of inspections. Please note that while these directives contain procedures to be followed in working with agencies with Certified Safety and Health Committees, the lists contained in those directives may not be up to date. Please contact EP and OFAP for the most recent list. Appendix A of this regional instruction will be updated as new information becomes available.

The following agencies are currently known to have Certified Safety and Health Committees:

- Central Intelligence Agency
- Department of Labor
- Tennessee Valley Authority
- U.S. Securities and Exchange Commission

APPENDIX B: Procedures for Scheduling Inspections

1. The Area Office will maintain a master list of sites eligible for inspection under this REP. The master list, all additions and deletions, the randomized list, and scheduling cycles created for this REP, shall be filed electronically on the regional shared drive or the regional Sharepoint site and retained for three years. Area Offices will coordinate with EP to ensure all documentation is filed at least annually.
 - a. Additions may be made to the master list based on local knowledge or other factors, including OSHA inspection history.
 - i. This should include annual OIS searches for establishments which have been coded with a secondary code, or under a related program. For example, a federal agency site that was inspected under the FORKLIFT REP may have led to high-gravity serious or willful hazard notices. This inspection could be coded with FEDSAFE9 as a secondary code, and should be considered for addition to the FEDSAFE9 list for the following year.
 - ii. ADs should cross-reference these lists, and CSHOs should check establishment history on OIS, to make sure that sites which are placed on multiple lists are not subject to multiple inspections within a 12-month period.
 - b. Establishments shall be deleted from the master list if, during the course of an inspection, it is determined that the site no longer falls within the parameters of the REP. This would primarily apply to sites which no longer perform the process or use the equipment targeted by the REP.
 - c. All additions and deletions must be documented.
2. At the beginning of each fiscal year (or on the REP's effective date), the Area Office shall create a randomly numbered list of all sites on the master list. Locations shall be randomly ordered using the RANDBETWEEN function in Excel or an equivalent randomization tool. AOs may also send their master list to EP for randomization. All steps in the randomization process should be documented and this documentation should be maintained and filed with the master list, cycles, reasons for deferrals, and any other related information.
3. If all sites on the master list are to be inspected during the fiscal year, the sites may be inspected in any order. If an Area Office is not able to complete all inspections on the master list within a fiscal year, the Area Office will complete the list as soon as possible in the first quarter of the next fiscal year, and shall develop and follow scheduling cycles for the remainder of that year and in subsequent years.

4. The Area Office will create scheduling cycles by selecting a number of establishments from the randomized master list. All scheduling cycles shall be filed electronically with the master list, as described in Paragraph 1.
 - a. Establishments selected in a cycle can be inspected in any order, but all establishments in a cycle must be completed before another cycle is created. Area Offices should take into account programming goals and available resources when setting the size of a cycle.
 - b. New cycles will be selected as required by the Area Office, upon completion of the previous cycle, but at least once per fiscal year. Cycles may be run more often if necessary. An uncompleted cycle may be carried over into the next fiscal year, but the Area Office should take this into account and adjust the number selected for subsequent cycles accordingly.
 - c. Selected establishments may be deferred to the next cycle if the site has been subject to a comprehensive programmed inspection (under this or any REP) within the previous 12 months, or if the process to be inspected is not active. All deferrals must be documented. Additional criteria for deferral include:
 - i. Necessary equipment or personnel with necessary experience are not available to perform the inspection.
 - ii. The establishment is the last remaining establishment in a cycle, the inspection would require travel in excess of 50 miles, and it cannot be combined with other inspection activity.
 - iii. The establishment was cited as the result of a previous comprehensive inspection, and the final abatement date has not yet passed.
 - iv. The establishment has appealed a previous hazard notice and it is still pending Regional or National Office review.

Approval for deferrals based on reasons other than those listed must be discussed with and approved by the ARA for EP.