



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-09-2408

SUBJECT: Regional Emphasis Program for Longshoring

REGION: IX

SIGNATURE DATE: October 1, 2023

EFFECTIVE DATE: October 1, 2023

ABSTRACT

Purpose: This instruction renews the policies and procedures to be followed when scheduling and conducting programmed safety and health inspections in longshoring.

References: See Paragraph III.

Cancellation: This instruction cancels Region IX Enforcement Programs Notice CPL 04-00-13, dated October 1, 2018.

Significant Changes: None.

Action Offices: All Region IX Regional and Area Offices

Originating Office: Region IX Enforcement Programs

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By and Under the Authority of:

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Regional Administrator

Executive Summary

Longshoring is a highly specialized and hazardous activity, covered by standards in 29 CFR 1917 and 1918. OSHA Region IX has jurisdiction over longshore employment for stevedoring companies in California (jurisdiction in California is shared with Cal/OSHA), Hawaii, American Samoa, Guam, and CNMI.

For 2021, the total recordable case rate (injuries and illnesses per 100 full-time workers) for NAICS 4883, which includes longshoring, was 3.3, compared to a TRC rate of 2.7 for all private industry. In the same year, the fatality injury rate (fatal occupational injuries per 100,000 full-time workers) was 15.6 for transportation support activities, which includes longshoring; the fatal injury rate for all private industry was 3.8.

This instruction renews the scheduling system currently in use in Region IX.

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I. Purpose:

This instruction renews the policies and procedures to be followed when scheduling and conducting programmed safety and health inspections in longshoring. The intent of this instruction is to reduce employee exposure to hazardous conditions, and to prevent injuries and illnesses and fatalities in this high-hazard industry.

II. Scope:

This instruction applies to all Federal OSHA Enforcement Offices located in Region IX for inspections of longshoring sites. OSHA Region IX has jurisdiction over longshore employment for stevedoring companies in California (jurisdiction in California is shared with Cal/OSHA), Hawaii, American Samoa, Guam, and CNMI.

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:

This instruction cancels Region IX Enforcement Programs Notice CPL 04-00-13, dated October 1, 2018.

V. Expiration:

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

VI. Background:

Longshoring is a highly specialized and hazardous activity, covered by standards in 29 CFR 1917 and 1918.

For 2021, the total recordable case rate (injuries and illnesses per 100 full-time workers) for NAICS 4883, which includes longshoring, was 3.3, compared to a TRC rate of 2.7 for all private industry. In the same year, the fatality injury rate (fatal occupational injuries per 100,000 full-time workers) was 15.6 for transportation support activities, which includes longshoring; the fatal injury rate for all private industry was 3.8.

VII. Jurisdiction:

Federal OSHA has jurisdiction in the following areas:

- California: Federal OSHA has jurisdiction over shipboard activity; Cal/OSHA has jurisdiction over all marine terminals, except the Naval Base at Port Hueneme and the Coast Guard Base Terminal Island (Los Angeles/Long Beach), which are under Federal jurisdiction.
- Hawaii: Federal OSHA has jurisdiction over all marine terminal and shipboard longshoring operations.
- Pacific Territories: Federal OSHA has jurisdiction over marine terminal and shipboard longshoring activities in Guam, CNMI, and American Samoa. However, in Guam, Federal OSHA does not have jurisdiction over local port authority personnel employed by the Government of Guam.

Federal OSHA does not have jurisdiction in the following areas:

- In California, Federal OSHA does not have jurisdiction over marine terminals except for the Naval Base at Port Hueneme and the Coast Guard Base Terminal Island.
- In most cases, the U.S. Coast Guard has jurisdiction over ships' crew members. If a CSHO encounters any situation involving the safety or health of ships' crew members, a referral may be made to the Coast Guard. CSHOs should consult with Regional Enforcement Programs and the Regional Solicitor to determine if OSHA has any jurisdiction.

- Federal OSHA does not have jurisdiction over employees of political subdivisions, such as Port Authorities.

VIII. Scheduling Procedures:

The Honolulu, Oakland and San Diego Area Offices will schedule longshoring inspections by random selection of port areas, using the procedures outlined in Appendix C.

Based on the random list of port areas, inspections of employers within each port area will be scheduled as follows:

- A. The order of inspection of employers within a port area is at the discretion of the compliance officer. Appendix B contains a list of current known employers. 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. Where Federal OSHA has jurisdiction over marine terminals, every terminal within a port area will be inspected.
- C. Employers may be subject to multiple inspections at a single port area within a quarter, if they are working at multiple ships or terminals when that port area comes up for inspection. Each ship will be counted as a separate worksite and a separate inspection; where Federal OSHA has jurisdiction over marine terminals, each terminal will be counted as a separate worksite and separate inspection.
- D. Employers will be scheduled for programmed inspections within the same port area no more than twice a year (once every other quarter).
- E. If a compliance officer observes imminent danger or serious hazards at an employer's site which is not scheduled for inspection, the CSHO may make a self-referral and conduct an inspection. This is not a programmed inspection, and as such is not covered by the proscription on inspections in consecutive quarters in paragraph D.

IX. Inspections

- F. Active loading or unloading of a vessel or barge will have priority over Marine Terminal inspections where no longshoring activity is underway.

- G. Programmed inspections will not be scheduled while an on-site fatality or catastrophe investigation is in progress.
- H. Complaints, reports of imminent danger, and unresolved complaint or referral inquiries will be scheduled for on-site inspection as appropriate, in accordance with the current FOM. All other complaints and referrals will be handled by inquiry in accordance with policy. Programmed inspections will not be scheduled while an on-site complaint or referral investigation is in progress.
- I. Whenever possible, CSHOs will verify abatement immediately, during the on-site inspection. On-site abatement is particularly important in longshoring inspections, where conditions can change quickly; therefore, CSHOs must make every attempt possible to compel immediate abatement, before inspections are completed. It is critical that compliance officers verify abatement before inspected ships leave port. A ship leaving port is not satisfactory abatement.
- J. Employer and employee involvement is expected on inspections. If an employee representative cannot accompany OSHA personnel during an inspection, compliance officers should thoroughly document in the case file the steps taken to request and encourage such involvement, and the reasons for continuing the inspection without the participation of the employee representative. If necessary, the compliance officer may delay the opening of the inspection for a reasonable period of time, until an employee representative becomes available.
- K. Programmed inspections will not be scheduled during a work stoppage, including strikes or lock-outs.
- L. In areas where Cal/OSHA has jurisdiction in marine terminals (all port areas in California outside of the federal jurisdiction area of Port Hueneme), the Area Director may need to contact Cal/OSHA to coordinate enforcement activity.

X. Coding:

- A. OIS codes shall be entered in accordance with all relevant instructions and directives.

- B. All inspections of longshoring operations, including programmed inspections scheduled under this LEP and unprogrammed inspections, shall be coded with the primary emphasis code **LNGSHR9**.
- C. For inspections under multiple emphasis programs or the Site Specific Targeting program, other applicable LEP or NEP codes may be entered as non-primary emphasis codes. Appropriate coding should be included for each program.

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 LEP.

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 LEP when conducting outreach sessions and meetings. Hazards, work practices, and machinery and equipment associated with longshoring operations 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.

APPENDIX A: Port Areas

Honolulu Area Office:

American Samoa

CNMI: Saipan

CNMI: Tinian

CNMI: Rota

Guam

Hawaii (Big Island): Hilo Harbor

Hawaii (Big Island): Kawaihae Harbor

Kauai: Nawiliwili Harbor

Lanai: Kaumalapau Harbor

Maui: Kahului Harbor

Molokai: Kaunakakai Harbor

Oahu: Honolulu (Honolulu, Barbers Point, Kewalo Basin, Marine Corp)

Oakland Area Office:

Benicia

Crockett

Eureka

Oakland/Alameda

Redwood City

Richmond

Sacramento

San Francisco

Stockton

San Diego Area Office:

Long Beach (excluding Terminal Island)

Los Angeles (excluding Terminal Island)

Terminal Island (separate Port Area)

San Diego

Port Hueneme

APPENDIX B: Known Employers by Port Area

Honolulu Area Office:

American Samoa

Feliciano Incorporated
Mother Pearl of the Pacific
Harbor Maritime & Stevedoring
Blue Angel Enterprises Inc.
Peter E. Reid Stevedoring, Inc.

CNMI, Saipan
CNMI, Tinian
CNMI, Rota

Saipan Stevedoring
Tinian Stevedoring

Guam

International Bridge
Casamar Guam Inc.
Michael Corp
Ocean Care
Horizon Lines
Fung Li Fisheries
Hourki Pacific Warehouse # 1
Matson Facilities & Maintenance Shop
RRG International Inc.
J.T. Angoco & Sons
Tide Water Distributors
SN-5 Shipping
Mariana Steamship Agency

Hawaii (Big Island), Hilo Harbor
Hawaii (Big Island), Kawaihae Harbor
Kauai, Nawiliwili Harbor
Lanai, Kaunalapau Harbor
Maui, Kahului Harbor
Molokai, Kaunakakai Harbor
Oahu, Honolulu

DHX – Pier 21 Honolulu
Hawaii Stevedores Inc. – Barbers Point
Aloha Cargo Transport – Barbers Point
McCabe, Hamilton & Renny Co., Ltd. –
Barbers Point
Aes Kalaeloa – Barbers Point

Oakland Area Office:

Benicia	Stevedoring Services of America
Crockett	Metropolitan Stevedore Co.
Eureka	
Oakland/Alameda	APM Terminals
	TRAPAC
	SSA Terminals
	Ports America
Redwood City	
Richmond	Marine Terminals Corp.
	SSA Terminals
Sacramento	
San Francisco	
Stockton	Ports America
	SSA Pacific
	Metropolitan Stevedore Co.
	Marine Terminals Corp.

San Diego Area Office:

Long Beach (excluding Terminal Island)	SSA Marine
	Crescent City Marine Ways
	Long Beach Container Terminal
	California United Terminals
Los Angeles (excluding Terminal Island)	Metropolitan Stevedore Co.
	TRAPAC
	Pasha Stevedoring
	International Transportation Services
Terminal Island (separate Port Area)	Pasha Stevedoring
	Yusen Terminals Inc.
	Ports America
	Eagle Marine Service
San Diego	Pasha Stevedoring & Terminals L.P. –
	National City
Port Hueneme	Ports America

APPENDIX C: Procedures for Scheduling Inspections

1. The Area Office will maintain a master list of port areas eligible for inspection under this LEP. The master list, all additions and deletions, the randomized list, and scheduling cycles created for this LEP, 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.
 - b. Port areas 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 LEP. This would primarily apply to sites which no longer perform the process or use the equipment targeted by the LEP.
 - c. All additions and deletions must be documented.
2. At the beginning of each fiscal year (or on the LEP's effective date), the Area Office shall create a randomly numbered list of all port areas on the master list. Port areas 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 port areas 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 port areas from the randomized master list. All scheduling cycles shall be filed electronically with the master list, as described in Paragraph 1.
 - a. Port areas selected in a cycle can be inspected in any order, but the 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. 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. Employers within a port area may be deferred to the next cycle if the process to be inspected is not active, or if the employer has been subject to a comprehensive programmed inspection (under this or any LEP) within the previous quarter, at this port area. Area Directors are not required to defer an employer based on this criteria; an employer working on different ships or using different processes at a single port area may be subject to re-inspection. 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 port area is the last remaining area in a cycle, the inspection would require travel in excess of 50 miles, and it cannot be combined with other inspection activity.
 - iii. The employer was cited as the result of a previous comprehensive inspection, and the final abatement date has not yet passed.
 - iv. The employer has contested a previous citation and it is still pending before the Review Commission.

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