



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR **Occupational Safety and Health Administration**

DIRECTIVE NUMBER: CPL 04-00-002

EFFECTIVE DATE: 11/13/2018

SUBJECT: Procedures for the Approval of Local Emphasis Programs (LEPs)

ABSTRACT

- Purpose:** This Instruction establishes policy and procedures for the approval of Local Emphasis Programs. For the purpose of this Instruction, these procedures also apply to the approval of Regional Emphasis Programs (REPs).
- Scope:** This instruction applies OSHA-wide.
- References:** OSHA Instruction CPL 02-00-025, *Scheduling System for Programmed Inspections*, January 4, 1995; OSHA Instruction CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*, May 28, 1998, or successor guidance; OSHA Instruction ADM 03-00-002, *OSHA Policy Issuances*, December 11, 2000; OSHA Instruction ADM 03-00-003, *OSHA Directives System*, December 11, 2000; OSHA Instruction CPL 02-00-160, *Field Operations Manual (FOM)*, August 2, 2016, and *Memorandum on Procedures for Local and Regional Emphasis Programs*, December 3, 2014.
- Cancellations:** This instruction cancels OSHA Instruction CPL 04-00-001, November 10, 1999.
- State Impact:** This instruction describes a Federal Program Change for which State adoption is not required.
- Action Offices:** National, Regional, and Area Offices.
- Originating Office:** Directorate of Enforcement Programs (DEP).

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By and Under the Authority of

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Executive Summary

This instruction provides updated information and guidance to the Occupational Safety and Health Administration (OSHA) national, regional, and area offices concerning OSHA's policy and procedures for the approval of Local Emphasis Programs (LEPs) and Regional Emphasis Programs (REPs).

Significant Changes

- Originating offices must demonstrate that a strategic hazard assessment was conducted (Section VIII.A.1).
- An outreach period of at least 90 days must be conducted prior to beginning enforcement (Section VIII.A.2.c).
- LEPs may now extend up to five years (Section VIII.B.3).
- A program report must be completed for each LEP (Section VIII.E).
- The approval process for new LEPs has been updated to include congressional review and the role of the LEP Review Team (Section VIII.D. and Appendix B).

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I. Purpose.

This instruction amends and updates the procedures for the development, approval, and implementation of Local Emphasis Programs (LEPs) and Regional Emphasis Programs (REPs).

II. Scope.

This instruction applies OSHA-wide.

III. References.

- A. OSHA Instruction [CPL 02-00-025](#), *Scheduling System for Programmed Inspections*, January 4, 1995.
- B. OSHA Instruction [CPL 02-00-051](#), *Enforcement Exemptions and Limitations under the Appropriations Act*, May 28, 1998.
- C. OSHA Instruction [ADM 03-00-002](#), *OSHA Policy Issuances*, December 11, 2000.
- D. OSHA Instruction [ADM 03-00-003](#), *OSHA Directives System*, December 11, 2000.
- E. OSHA Instruction [CPL 02-00-160](#), *Field Operations Manual (FOM)*, August 2, 2016.
- F. Memorandum dated December 3, 2014, on Procedures for Local and Regional Emphasis Programs.
- G. Memorandum dated November 12, 2014, on Establishment-Targeting Lists for Emphasis Programs.

IV. Cancellations.

This instruction cancels OSHA Instruction CPL 04-00-001, November 10, 1999.

V. Action Offices.

- A. Responsible Offices. Directorate of Enforcement Programs (DEP) and Directorate of Construction (DOC).
- B. Action Offices. National, Regional, and Area Offices. OSHA Regional Administrators (RAs), Area Directors and National Office Directors will ensure

that the guidelines and procedures for approval of LEPs set forth in this instruction are followed.

- C. Information Offices. State Plan States, Directorate of Training and Education, Consultation Project Managers, Voluntary Protection Programs Managers and Coordinators, Compliance Assistance Coordinators, and Compliance Assistance Specialists.

VI. Federal Program Change.

This instruction describes a Federal program change for which State Plan adoption is not required. State Plans are asked to keep their respective Regional Administrator (RA) informed of State-developed LEPs, experimental programs, local problem solving projects, including any that relate to State Plan Strategic goals; and to coordinate with their RA to request assignment of the appropriate OSHA Information System (OIS) identifier code.

VII. Definition.

LEPs provide for programmed inspections of establishments in industries with potentially high injury or illness rates which are not covered by current OSHA inspection scheduling systems or, have hazards that are not addressed adequately under existing targeting programs.

One or more Area Offices in a Region may participate in an LEP. If an LEP is developed by the Regional Office and available for participation by all offices within a Region, it should be identified as a Regional Emphasis Program (REP). In many cases, it may be more expedient to develop an REP available for any Area Office, rather than developing two or more LEPs.

LEPs are generally based on knowledge of local industry hazards or knowledge of local injury/illness experience (enforcement data). Whenever one or more Area Offices in a Region focuses inspections on one or more specific industries, hazards, or other workplace characteristics (e.g., as part of or in conjunction with a local initiative or problem-solving project), an LEP must be developed and approved. LEPs may be initiated at the Area Office/District Office level or by the Regional Office.

LEPs may include targeting of employers with 10 or fewer employees, as long as they do not conflict with restrictions under Congressional Appropriations Act riders described in OSHA Instruction CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*, or any successor guidance. All LEPs advance the Department of Labor's strategic goal of promoting safe jobs and fair workplaces and align with Agency goals.

VIII. Approval Procedures for new LEPs.

RAs are authorized to approve LEPs, with the concurrence of the Regional Solicitor of Labor (RSOL), OSHA's Office of the Assistant Secretary, and shall be subject to a 10 day Congressional review. The following procedures will apply:

- A. Area/District Office. For LEPs developed for a limited number of offices within a Region; i.e., some but not all of the offices in a Region, Area Directors will submit LEP requests to the RA after completing the following:
1. Conduct a Strategic Hazard Assessment. Demonstrate that a strategic review of targeted hazards was conducted and document the methodology used for the assessment. Documentation should show a clear rationale and include the data used to conduct the assessment and the potential hazards for the selected industries.
 2. Develop a Regional Notice for the LEP (if effective for one year) or a Regional Instruction (if effective between two to five years). The directive must conform to the guidelines for directives in OSHA Instruction [ADM 03-00-002, OSHA Policy Issuances](#) and [ADM 03-00-003, OSHA Directives System](#). The Regional Notice or Instruction must contain:
 - a. Appropriate documentation and rationales for initiating the LEP and how it supports OSHA's Strategic Plan, including but not limited to the use of data to define the hazard(s) to be addressed. The Bureau of Labor Statistics (BLS) should be included in any evaluation. Other sources of information include OSHA enforcement data, the National Institute for Occupational Safety and Health (NIOSH), Environmental Protection Agency (EPA), County Business Patterns (CBP), State public health agencies, Poison Control Centers, State workers' compensation agencies, and any other public sector database.
 - b. A list of establishments or a method of generating a list of worksites, and a process for establishing objective and neutral criteria to select establishments for inspection. An acceptable method for generation and randomization of inspection targeting lists can be found in the memorandum "Establishment-Targeting Lists for Emphasis Programs," November 12, 2014.

- c. Criteria for robust and comprehensive outreach activities and the process for conducting those activities for at least 90 days prior to initiating inspections. Outreach activities include, but are not limited to: outreach to identified industries, workers and other stakeholders; use of existing OSHA resources and outreach tools; and leveraging of community knowledge and local institutions as defined by the memorandum on “Procedures for Local and Regional Emphasis Programs” (December 3, 2014). Letters and other outreach materials may be in hard copy or electronic format, and may be disseminated through press releases, social media, or other outlets consistent with current media policy.
 - d. A program report component for determining the relative success/impact of the LEP. See Section IX.E for program reports.
3. If an LEP targets employers with 10 or fewer employees, then the directive must contain a statement explaining why their inclusion is appropriate and consistent with OSHA Instruction [CPL 02-00-051](#).

B. Regional Office. Once the appropriate approvals are obtained and notifications provided (union, congressional), RAs are authorized to approve LEPs. The RA must ensure that the LEP meets the criteria outlined above at A.1 through A.3.

The RA shall ensure that:

1. The RSOL has provided concurrence with regard to the legal sufficiency of the proposed inspection program and procedures, including, but not limited to, neutral administrative plan criteria for selecting establishments for the inspection. The RSOL may address additional issues based on local experience in obtaining and enforcing compulsory process. (See Additional Program Components in Appendix A of this instruction).
2. The LEP is assigned an OIS identifier code. Regional Offices have the ability to create their own codes in OIS. If assistance is needed in creating the codes the Directorate of Administrative Programs/OIS Team can be contacted for assistance. The request will be initiated through the OIS Helpdesk. The assigned code must be included in the LEP directive and shall be used to code each LEP inspection.
3. The LEP effective period is specified in the directive and will not exceed five years. LEPs may be renewed at the end of the defined effective period (using a Regional Notice or Regional Instruction), subject to the findings and recommendations of the LEP reports. LEPs may be terminated prior to the end of their effective dates (using a Regional

Notice), subject to the findings and recommendations of associated reports and/or additional relevant facts and circumstances as determined by the RA. LEPs expiring at the end of their effective dates do not require any actions other than to request OSHA's WebAdmin to archive the posted LEP.

4. An electronic copy of all LEPs shall be provided to DEP for review, and, if it applies to the construction industry, to DOC, prior to signature. When submitting the electronic copy to DEP and to DOC, the LEP may be emailed as an attachment to the "zzOSHA-LEP" email group. Electronic submissions should include answers to the questions in Appendix A.
5. After addressing issues identified by DEP or DOC, the LEP is signed by the RA, and then a web-ready electronic copy shall be forwarded to the Office of Management Systems and Organization (OMSO) for posting to the OSHA Directives System.
6. No LEP/REP inspection will be conducted until the applicable directive is posted on OSHA's public webpage.

C. National Office Units.

1. DEP and DOC shall:
 - a. Provide overall direction and guidance in establishing Agency procedures for LEPs.
 - b. Track all LEPs submitted.
 - c. Share all new LEPs with the LEP Review Team (see Appendix B) for processing.
 - d. Forward new LEP directives to the Office of the Assistant Secretary for review, Congressional notification, and final approval.
 - e. Provide approval to Regional offices of LEPs submitted prior to signature by the RAs.
 - f. Provide technical assistance and advice to field offices in preparing LEP report criteria.

- g. Review LEP reports submitted by the RAs and identify possible national applications of LEPs.
 - 2. The Directorate of Administrative Programs (DAP) shall:
 - a. Through the Office of Information Technology Solutions (OITS), provide guidance if needed on how to create LEP codes to RAs.
 - b. Through OMSO, submit approved LEPs for posting on OSHA's public Directives page.
 - c. Through OITS/OSHA WebAdmin, post approved LEPs forwarded by OMSO.
- D. LEP Review Team. A field group consisting of five Deputy RAs and Assistant Regional Administrators (ARAs) for Enforcement, will conduct a peer review of all new proposed LEPs and provide feedback to the originating region. Team members will serve for one year, with replacement members being introduced on a rotating basis. Deputy RA members will rotate serving as short term leads for the group, and DEP will serve in an advisory supporting role.

See Appendix B for a description of the LEP Review Team process.

- E. Program Reports. The RA must ensure that a program report is 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 should 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.
 - 1. The program report must, at a minimum, address whether the LEP advances OSHA's goals and initiatives. Ideally, the program report should address both quantitative and qualitative measures. Types of measures that may be considered include:
 - a. The number of employees and/or establishments impacted by outreach activities;
 - b. Number of hazards abated;
 - c. The number of workers removed from hazards;

- d. Impact on illness and injury rates (note: due to lag in available BLS data, this measure may not be suited for shorter termed programs);
 - e. Reductions in the number of complaints or severe injury reports within affected industries, and;
 - f. Any indices that relate directly to measures included in the DOL Strategic Plan, the OSHA Operating Plan, and/or additional goals of the LEP.
2. The RA will ensure that the Region:
- a. Manages the LEPs using OIS data and other information to develop the program, and determine if continuation of the LEP is appropriate; and
 - b. Addresses all questions outlined in Appendix A as part of each initial LEP review and approval.

IX. Renewal of Existing LEPs.

- A. If an Area or Regional Office decides to renew an existing LEP or REP, the RA shall ensure that the following updates have been made:
- 1. Text within document has been changed from “implementing” to “continues” or “renews” to clarify that the LEP is a renewal and not a new program.
 - 2. References to documents, such as the FOM, are updated, including new CPL number, internet links (if provided), and publication date.
 - 3. The Instruction follows the correct format, such as the inclusion of cancellations in the Abstract, and use of correct masthead.
 - 4. The data used to analyze risk is the most recent available through BLS (or appropriate source).
- B. Upon renewal, the LEP shall be updated on OSHA’s public *Directives* webpage (See Section VIII.B.5).

Appendix A

Internal Review Sheet for Processing Local Emphasis Programs (LEPs)

This form may be used to ensure that LEPs follow the requirements of this Instruction and address all key program areas.

Directive Number:	Effective Date:
Regional Identifier:	Expiration Date:
OIS Identifier/Coding:	Action Offices:
Subject:	
Regional Contact:	
Strategic Hazard Assessment	
<ul style="list-style-type: none"> Does the LEP support OSHA's Strategic Plan and annual performance goals? Is there a clear purpose (e.g., eliminate dangerous processes, exposure to safety and health hazards, injuries/illnesses, or fatalities)? Is the underlying data included and does it support the initiative (e.g., BLS Data, NIOSH, EPA, County Business Patterns (CBP), OSHA enforcement/anecdotal data, State public health agencies; State workers compensation agencies, etc.)? 	
Establishment Selection	
<ul style="list-style-type: none"> Does the LEP adhere to proper generation and randomization of inspection targeting list? Is there a list of establishments generated based on administratively neutral criteria that selects establishments for inspection in compliance with the memorandum dated November 12, 2014, on "Establishment-Targeting Lists for Emphasis Programs." (See also Appendix C of OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections.) Does the LEP comply with CPL 02-00-051, Exemptions and Limitations Under the Current Appropriations Act? 	

Outreach

- Is there a process for conducting robust and comprehensive outreach activities for at least three months prior to initiating inspections?
- Do the outreach activities effectively target the appropriate industry (ies)?

Program Reports

- Is there a component for determining the program’s relative success?
- Is there a defined mechanism for assessing progress at the midpoint and at the completion of the program?

Additional Program Components

- Did the RA receive RSOL concurrence with regard to the legal sufficiency of the proposed inspection program and procedures?
- Does the LEP have a well-defined effective period not exceeding 5 years?
- Are the LEP Notice references complete and accurate?

Additional Comments/Recommendations

Appendix B

The LEP Review Team Process

A field group of five members, consisting of Deputy RAs and ARAs for Enforcement, will conduct a peer review of all new proposed LEPs and provide feedback to the originating region. Team members will serve for one year, with replacement members being introduced on a rotating basis. Deputy RA members will rotate as short term leads for the group. DEP will serve in an advisory role to in support the team.

Meetings should be held as needed to conduct reviews of new LEPs, but should not be scheduled any later than 21 days after the submittal of an LEP for consideration.

DEP's role will include:

- Tracking the status of LEPs and reporting periodically to the regions.
- Developing template language to facilitate quicker drafting and review of LEPs and NEPs.
- Along with DOC, providing tools on the intranet pages to assist field staff in developing, implementing, and evaluating LEPs.

Processing LEPs

1. Regions will share proposed LEPs with DEP/DOC. DEP will track the incoming proposals.
2. The DEP Liaison will post the proposed LEP on the LEP Group's SharePoint site and an automated notice will be sent to the group.
3. Members of the group will rotate as the lead for an individual LEP. The lead is responsible for scheduling meetings related to that LEP, communicating concerns/questions to the originating Region, and notifying the DEP Liaison when an LEP is in final draft.
4. Review Team members will review the proposed LEP to determine conformance with the current Directive on LEPs, then meet to discuss their comments and resolve outstanding issues. Review Team members should also address any issues that may have an impact on other program areas, or conflict with other OSHA policies. When reviewing the LEP, members should post their comments/edits within the shared document on SharePoint.
5. Within 5 days of meeting, the LEP lead will share final comments with the originating Region. Unless otherwise requested, the contact listed in the LEP abstract will be used as the POC for the Review Team. Upon receipt of those comments, the Region will update the LEP accordingly and resubmit the proposal to the LEP lead.
6. The Review Team will conduct a final review, then notify the DEP Liaison when the LEP

is ready to put in clearance for congressional review.

In the event that the Region disagrees with the Review Team and they are not able to resolve all issues, the Review Team and/or RA should consult with the Director of DEP for next steps.

7. Upon notification from the Review Team, DEP will prepare the document for clearance (through CCU to the OAS) and track completion.
8. The OAS shall be responsible for sharing the document with DOL's Office of Congressional and Intergovernmental Affairs (OCIA).
9. DEP will notify the Region and the LEP Review Team once the proposed LEP has completed clearance and the Congressional review period has passed.
10. The Region will sign the LEP and then submit a web-ready electronic copy to the DAP/Office of Management Systems and Organization (OMSO) for posting to the OSHA Directives System.
11. OMSO will post the LEP to OSHA's public website at <https://www.osha.gov/enforcement/directives/lep>.

