



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: San Francisco Regional Instruction
CPL 04-00-15

EFFECTIVE DATE: October 1, 2015

SUBJECT: Local Emphasis Program for Retail Facilities

REGIONAL IDENTIFIER: Region IX

ABSTRACT

Purpose: This Notice describes the policies and procedures for implementing a Local Emphasis Program (LEP) within the Honolulu Area Office jurisdiction for compliance in the Retail Industry with the provisions of OSHA General Industry Standards focusing on Subpart E Means of Egress; Subpart N Material Handling and Storage; and Subpart S Electrical.

Scope: This Notice applies to establishments within the Honolulu Area Office jurisdiction in the general industry SIC codes listed in this directive.

References: See Paragraph III.

Cancellations: This instruction cancels Region IX Enforcement Programs Notice CPL 04-00-15, dated March 1, 2015.

Significant Changes: None.

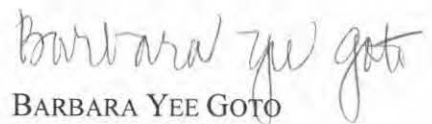
State Impact: None.

Action Offices: Honolulu Area Office

Originating Office: Honolulu Area Office

Contact: Roger Forstner
Area Director

By and Under the Authority of

A handwritten signature in dark ink, appearing to read "Barbara Yee Goto". The signature is written in a cursive, flowing style.

BARBARA YEE GOTO
Regional Administrator

Executive Summary

This Notice describes the policies and procedures for implementing a Local Emphasis Program (LEP) to identify and reduce or eliminate the incidence of workplace hazards in Retail facilities which are causing or likely to cause serious injury or death.

This Notice describes the policies and procedures for implementing a Local Emphasis Program (LEP) for programmed safety inspections of employers in the Retail industry with a North American Classification Industry Classification System (NAICS) codes of 4481 (Clothing Stores); 4521 (Department Stores); 4529 (Other General Merchandise Stores); and 4539 (Other Miscellaneous Store Retailers). Inspections will be conducted within the jurisdiction of the Honolulu Area Office. The inspections will be comprehensive safety inspections focusing on hazards associated with Subpart E Means of Egress, Subpart N Material Handling and Storage and Subpart S Electrical.

According to the Bureau of Labor Statistics the retail trade industry experienced 262 fatal occupational injuries and an injury and illness case rate of 4.0 per 100 full-time retail workers in 2012. Retail employees face significant risk of injury resulting from the improper handling and storage of materials; and obstruction of egress from places of employment. Violations of Subpart E Means of Egress; Subpart N Material Handling and Storage; and Subpart S Electrical; and Subpart Z Toxic and Hazardous Substances rank the highest during Federal inspections occurring at retail stores. For cases opened during the period of October 2011 through September 2012 IMIS reports show that 265 of the 741 violations cited by Federal OSHA in retail facilities were related to electrical hazards, powered industrial trucks and material handling hazards, and the design, construction and maintenance of exit routes.

TABLE OF CONTENTS

- I. Purpose
- II. Scope
- III. References
- IV. Expiration Date
- V. Action Office
- VI. Background
- VII. Inspection Scheduling
- VIII. Inspection Procedures
- IX. Outreach
- X. OIS Coding
- XI. Program Evaluation

I. Purpose.

This Notice describes the policies and procedures for implementing a Local Emphasis Program (LEP) for programmed safety inspections of employers in the Retail industry with a North American Industry Classification System (NAICS) codes of 4481 (Clothing Stores); 4521 (Department Stores); 4529 (Other General Merchandise Stores); and 4539 (Other Miscellaneous Store Retailers). Inspections will be conducted within the jurisdiction of the Honolulu Area Office. The inspections will be comprehensive safety inspections focusing on hazards associated with Subpart E *Means of Egress*, Subpart N *Material Handling and Storage* and Subpart S *Electrical*.

II. Scope.

This Notice applies to all Retailers within the Honolulu Area Office's jurisdiction in the NAICS codes listed in this directive.

III. References.

- A. OSHA Instruction CPL 02-00-159, October 1, 2015, Field Operations Manual.
- B. OSHA Instruction CPL 04-00-001, Procedures for Approval of Local Emphasis Program (LEPs), November 10, 1999.
- C. OSHA Instruction CPL 02-00-025I, Scheduling System for Programmed Inspections, January 4, 1995.
- D. OSHA Instruction CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, May 28, 1998; (Appendix A updated annually).

IV. Expiration Date.

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

V. Action Office.

Honolulu Area Office

VI. Background.

According to the Bureau of Labor Statistics the retail trade industry experienced 262 fatal occupational injuries and an injury and illness case rate of 4.0 per 100 full-time retail

workers in 2012. Retail employees face significant risk of injury resulting from the improper handling and storage of materials; and obstruction of egress from places of employment. Violations of Subpart E Means of Egress; Subpart N Material Handling and Storage; and Subpart S Electrical; and Subpart Z Toxic and Hazardous Substances rank the highest during Federal inspections occurring at retail stores. For cases opened during the period of October 2011 through September 2012 IMIS reports show that 265 of the 741 violations cited by Federal OSHA in retail facilities were related to electrical hazards, powered industrial trucks and material handling hazards, and the design, construction and maintenance of exit routes.

Properly maintained egress is essential for employees to escape in the case of an emergency. The 2012 Bureau of Labor Statistics' National Census of Fatal Occupational Injuries reported that fires and explosions accounted for 3% of all workplace fatalities and 156 occupational fatalities were the result of electrocution in 2012.

According to the Bureau of Labor Statistics' the total number of workers fatally injured after being struck by objects or equipment increased by 7 percent (to 509 fatal work injuries in 2012 from 476 in 2011). This total includes 233 workers struck by falling objects or equipment and 199 struck by powered vehicles or mobile equipment not in normal operation.

VII. Inspection Scheduling:

A. Selection of Sites:

1. A search of Business Directories will be used to identify all worksites in the Honolulu Area Office's jurisdiction in North American Industry Classification System (NAICS) codes of 4481 (Clothing Stores); 4521 (Department Stores); 4529 (Other General Merchandise Stores); and 4539 (Other Miscellaneous Store Retailers).
2. Separate lists of such identified establishments will be compiled, for each of the areas of Hawaii, Guam, CNMI and American Samoa, and updated annually.
3. The resulting establishment list for each area will be randomly ordered using the RANDBETWEEN function in Excel. AOs may also send their master list to EP for randomization. The master list, randomized lists, and all scheduling cycles including additions and deletions, will be filed electronically on the regional shared drive.
4. Cycles of 10 establishments will be created.
5. Reports of imminent danger, fatality/catastrophe, complaints and referrals shall be scheduled as unprogrammed inspections and shall be inspected in accordance with the applicable provisions of the FOM. This does not,

however, limit the Area Office's authority to conduct an inspection pursuant to this LEP. If an unprogrammed inspection or investigation is to be conducted at a facility that contains hazards addressed by this LEP, the Area Office may also conduct the inspections of those areas covered by this LEP.

B. Deletions:

Establishments with ten or fewer employees will not be inspected under this LEP and will be deleted from the list. Deletion Criteria as outlined in the Enforcement Exemptions and Limitations under the Appropriations Act directive CPL 01-00-051 will be followed with respect to any establishments. The Area Office will also delete facilities known to be out of business, establishments out of the Area Office's jurisdiction, and/or establishments that have received a comprehensive safety inspection, within the previous 12 months of the creation of the current inspection cycle.

VIII. Inspection Procedures:

The Area Director will ensure that Compliance personnel follow the procedures contained in this instruction in scheduling and conducting inspections under the LEP.

A. Inspection Targeting and Scheduling.

Inspections will be scheduled using the cycle lists. Establishments on the cycle list may be inspected in any order, so that Area Office resources are efficiently used. However, once a cycle has begun, all establishments in the cycle will be inspected before a new cycle is begun, except that carryovers will be allowed as provided for in OSHA Instruction CPL 02-00-025.

B. Programmed Inspections – Focus of Inspections.

1. Although programmed inspections may be comprehensive, primary inspection efforts should be placed on significant hazards that are likely to cause death or serious injury. Typically this includes the following hazards for retail establishments:
 - a. Blocked Exits
 - b. Electrical conditions (that would lead to electrocution)
 - c. Powered Industrial Trucks
 - d. Material Handling and Storage
2. Minimal time will be spent on in-compliance inspections.

C. Re-Inspection.

1. Any company at any worksite that has been inspected based on this LEP may be subject to re-inspection.
2. Re-inspection may be based on unprogrammed events such as fatalities, catastrophes, complaints, referrals, and follow-up inspections. Inspections in these categories will be scheduled for inspection in accordance with existing procedures outlined in OSHA Instruction CPL 02-00-148, the Field Operations Manual (FOM).
3. Re-inspection may also occur on an annual basis because the mechanism of identifying worksites/projects is repeated. Therefore, if an establishment is still active, the location may be subject to another inspection.
4. Re-inspection may also occur based on the need to verify abatement per the Abatement Verification Standard (29 CFR 1903.19).

IX. Outreach:

The establishments identified in Paragraph VII, Inspection Scheduling, of this directive will be notified through public outreach and news releases. Information on the hazards routinely encountered in retail establishments and the requirements for compliance will be provided. Employers will be encouraged to contact the Honolulu Area Office, the Consultation 21(d) program, or other third party entities that can offer abatement assistance.

X. OIS Coding:

- A. On the OIS Inspection Form, inspections which are targeted pursuant to the selection criteria in Sections VII.A.1. through 3. of this LEP shall be coded as RETAIL in the *Local Emphasis Program* block and as "Programmed Planned" in the *Initiating Type* block.
- B. On the OIS Inspection Form, unprogrammed inspections involving retail industry safety issues shall be coded as RETAIL in the *Local Emphasis Program* block and as the appropriate unprogrammed activity in the *Initiating Type* block regardless of whether they are listed on a cycle list.
- C. The RETAIL code shall be used as the primary emphasis code for all inspections scheduled under this LEP, and for all unprogrammed inspections addressing this industry. Any other applicable LEP or NEP code may be entered as a non-primary code.
- D. Unprogrammed inspections or inspections conducted under other scheduling systems which also meet the criteria specified in the LEP shall have the RETAIL code entered as a non-primary LEP code.

XI. Program Evaluation.

- A.** The Regional Administrator will direct staff to evaluate the LEP in accordance with the guidelines in Appendix A of CPL 04-00-001 (previously CPL 2-0.102A), November 10, 1999, Procedures for Approval of Local Emphasis Programs and Experimental Programs.
- B.** For LEPs which have been renewed from a previous year, the evaluation will use data for the period covering from the beginning of the 4th quarter of the previous fiscal year through the end of the 3rd quarter of the current fiscal year (i.e., the FY16 LEP evaluation will include data from July 1, 2015 – June 30, 2016). The narrative sections of the evaluation should cover the same time frame, although significant issues arising in the 4th quarter, which may affect a decision on renewal of the LEP may also be discussed.
- C.** This evaluation shall be submitted to the Regional Administrator for review by November 1, at which time a decision will be made to renew or discontinue the LEP. On the approval of the Regional Administrator, the evaluation report shall be submitted to the Directorate of Enforcement Programs no later than November 30.