



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: 2018-07

EFFECTIVE DATE: 6/13/2017

SUBJECT: Local Emphasis Program- Virgin Island General Industry

REGIONAL IDENTIFIER: Region 2

ABSTRACT

Purpose: This regional notice continues the implementation of a Local Emphasis Program for programmed safety and health inspections (multiple NAICS Codes) of general industry worksites in the U.S. Virgin Islands.

References: CPL 02-00-160, Field Operations Manual (FOM), 8/2/2016.
CPL 04-00-001, Procedures for Approval of Local Emphasis Programs (LEPs), 11/10/1999.
CPL 02-00-0025, Scheduling System for Programmed Inspections, 01/04/1995.
CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, 5/28/1998.

Cancellations: This notice cancels Local Emphasis Program – Virgin Islands General Industry, 2017-07 (CPL 2).

Expiration: This notice expires September 30, 2018.
EXCEPTION: Any inspection begun prior to September 30, 2018 may continue until conclusion.

State Impact: None

Action Offices: Puerto Rico Area Office, Region II

Originating Office: Office of Regional Administrator

Contact: Office of Regional Administrator (212)337-2378
201 Varick Street, Rm 670
New York, NY 10014

By and Under the Authority of

Robert D. Kulick
Regional Administrator

I. Purpose.

This regional notice continues the implementation of a Local Emphasis Program (LEP) for programmed safety and health inspections of general industry worksites in the U.S. Virgin Islands (St. Thomas, St. Croix and St. John). The LEP will be implemented in accordance with the provisions of the Field Operations Manual (FOM). These work sites cannot be successfully reached using the present targeting system.

II. Scope. This notice applies to the Puerto Rico Area Office.

III. Expiration. This notice expires on September 30, 2018.

EXCEPTION: Any inspection begun prior to September 30, 2018 may continue until its conclusion.

IV. Background.

OSHA enforcement efforts are focused on targeting the most hazardous worksites. The agency identifies these worksites through several means. Un-programmed inspections are initiated as a result of complaints and referrals regarding unsafe conditions from outside sources, such as employees, labor organizations, buildings and health departments. Programmed inspections are initiated based on knowledge obtained from the evaluation of injury, illness and fatality data.

In the Virgin Islands, worker complaints and referrals are limited. Therefore, OSHA enforcement efforts predominantly rely upon programmed inspections. In the continental US, the agency utilizes information obtained from resources such as the Bureau of Labor Statistics. BLS collects and tabulates data which includes workplace Injury, Illness and fatality statistics. To develop the establishment universe, injury, illness and fatality rates are analyzed by industry and high hazard industries are identified. Unfortunately this data collection is limited or does not exist in the Virgin Islands. This Local Emphasis Program has been developed to create a neutral system to develop both the establishment universe and the inspection lists. To develop a representative inspection list of the most hazardous worksites in the Virgin Islands, the list of high-hazard industries identified by BLS in the continental U.S. (most recent full-year data, by NAICS code) is obtained. A master list of private sector establishments in the Virgin Islands is obtained from the OSHA Office of Statistics; this list may be supplemented with local knowledge. The master list is sorted by NAICS codes and establishments in high-hazard industries are placed in the universe. Randomized inspection lists are then drawn from this universe.

This LEP will also address focus areas targeted by OSHA's Strategic Management Plan such as youth, immigrant workers, temporary workers and workplace violence.

V. Action. The Area Director shall ensure that the procedure outlined in the notice is followed during the effective period of this notice. This notice is not to conflict with inspection priorities as established in the Field Operations Manual (FOM).

When an inspection is not conducted because the employer has refused entry, the CSHO shall document the reason for this refusal, EP shall be contacted immediately, and a warrant shall be sought in accordance with the current procedures for handling such refusals.

VI. Procedures.

- A. The Area Director will review the establishment list provided by the National Office of Statistics to insure all known establishments are included and to insure that the data appears to be accurate. Next, any known sites that meet the criteria for this LEP and found to have been omitted will be added back onto the master list.
- B. The Area Director shall insure that all establishments who have received a comprehensive inspection within the last 2 fiscal years will be deleted. The final master list shall then be forwarded back to the National Office for their final review and randomization of the worksites.
- C. Establishments shall then be randomly selected for inspection by the National Office of Statistics. This selection process sets forth administratively neutral criteria to identify establishments for inspection. When performing programmed inspections under this LEP, the Area Office shall develop an inspection master list of establishments. The National Office policy on List Generation and Randomization shall be followed in accordance with the National Office memorandum to Regional Administrators dated November 12, 2014, *Establishment-Targeting Lists for Emphasis Programs*. Inspection scheduling and deletions shall be done in accordance with CPL02-00- 025, *Scheduling System for Programmed Inspections*.
- D. The Area Director will select a reasonable cycle size that is appropriate based on existing resources and must ensure that all selected sites are inspected. Before a new cycle is initiated all sites on the previous cycle need to be completed. Open cycles should be carried into the next fiscal year if the LEP is renewed. An establishment list from the National Office shall be obtained at least every three years to ensure that the list is current.
- E. All inspections conducted under this LEP will have the same priority as other LEP inspections.
- F. Under this LEP all inspections will be comprehensive in scope. (Please see comprehensive in scope as defined in the Field Operations Manual (FOM): “Comprehensive - A substantially complete inspection of the potentially high hazard areas of the establishment. An inspection may be deemed comprehensive even though, as a result of the exercise of professional judgment, not all potentially hazardous conditions, operations and practices within those areas are inspected.”
- G. If there are less than 11 employees at the site and the site NAICS is exempt, the CSHO shall proceed with only a health inspection, however, please be aware of the limitations imposed by CPL-02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act.

VII. Recording in OIS. Current instructions for completing the appropriate inspection classification boxes on the OSHA inspection Report, as found in the OIS manual shall be applied when recording inspections conducted under this LEP, as follows:

- A. The OSHA Inspection Report for any programmed inspections covered under this Local Emphasis Program for V.I. General Industry shall be marked "Program Planned" in the Initiating Type field and insert "VIGENIND" in the Local Emphasis Program field.
- B. LEP Combined with Unprogrammed Inspections. For all unprogrammed inspections conducted in conjunction with this LEP inspection under this initiative, the OSHA Inspection form must be marked with the appropriate un-programmed activity in the Initiating Type field. In addition, the value "VIGENIND" shall be recorded in the local Emphasis Program field.
- C. LEP Combined with other Emphasis Program Inspections. For all programmed inspections such as other NEPs/LEPs conducted in conjunction with an LEP inspection under this initiative, the OSHA inspection form must be marked as "Program Planned" in the Initiating Type field. In addition, the value "VIGENIND" recorded in Local Emphasis Program field along with all NEP and LEP OIS codes applicable to the inspection.

VIII. Outreach:

During the course of this renewal LEP/REP the Area Director will continue to ensure that the ongoing outreach program will remain in effect during the enforcement phase of the program. Outreach activities will continue to be directed to reach as many stake holders in the Area Office's jurisdiction as is practicable. Stakeholder such as members of the ASSE, AIHA, Unions, and Chambers of Commerce, will be notified and the purpose of the outreach will be to inform interested parties of the existence, purpose and objectives of this emphasis program as well as promote employer knowledge and employee awareness of the hazards and acceptable methods of abatement to prevent illness and injuries. The method of outreach is at the Area Director's discretion and can consist of one or more of the following components:

- 1. Broadcast mail-outs or program information.
- 2. Stakeholder meetings.
- 3. Targeted training sessions.
- 4. Presentations to the affected group(s).
- 5. Media press release or e-blast

IX. Evaluation.

- A. Abatement documentation/verification will be submitted to or otherwise collected by the Area Office for all violations. The abatement information must be included in the case file in a timely manner.

- B. Each Region II Office participating in the LEP will prepare a written evaluation of this LEP in the format specified by OSHA Instruction CPL 04-00-001. The evaluation must respond to the questions outlined in Appendix A of the Instruction. Evaluations will be submitted to EP no later than September 15, 2018. The evaluation will include a recommendation for the continuation or elimination of this program. In addition, the evaluation will include the following evaluation factors:

1. The goal of the program and the Area Office's opinion of how effective the program was in meeting its goals.

2. Data and information used to support the conclusions stated above such as enforcement statistics, serious hazards eliminated, any impact on covered, non-inspected employers, and the number of employees affected by enforcement activities covered by the LEP. Data to be evaluated may also include:

- a. Number and percentage of serious, repeat, 5(a)(1) and willful violations cited
- b. Number and type of violations issued directly related to hazards targeted by the LEP
- c. Number of fatality inspections
- d. Number of visits coded as "No Inspection"
- e. Number and type of referrals made to other agencies
- f. Number of outreach activities conducted
- g. Number of employers contacted through outreach
- h. Number of individuals affected through outreach