



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: San Francisco Regional
Instruction CPL 04-00-06

EFFECTIVE DATE: October 1, 2015

SUBJECT: Local Emphasis Program for Inspections of Smelters

REGIONAL IDENTIFIER: Region IX

ABSTRACT

Purpose: In accordance with the OSHA Strategic Management Plan which describes agency priorities, including reducing the number of illnesses from lead and silica exposure, this instruction transmits policies and strategies to be followed when scheduling and conducting programmed local emphasis inspections of smelters.

References: See paragraph III.

Cancellation: Region IX Enforcement Programs Notice CPL 04-00-06, dated October 1, 2014.

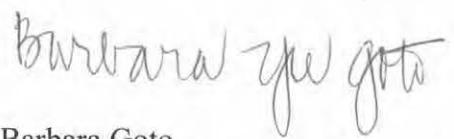
Significant Changes: None.

Action Offices: Office of Enforcement Programs (Enforcement)
Phoenix Area Office
Office of Cooperative and State Programs (CSP)

Originating Office: Office of Enforcement Programs (Enforcement)

Contact: David Shiraishi
Assistant Regional Administrator, Enforcement Programs

By and Under the Authority of

A handwritten signature in black ink, appearing to read "Barbara Goto".

Barbara Goto
Regional Administrator

Executive Summary

Smelters have been recognized as places of employment that have various physical and chemical hazards. Employees are exposed to high airborne concentrations of metals and other particulate matter. Employees working in smelters are also exposed to physical hazards such as noise and heat stress.

In accordance with the OSHA Strategic Management Plan which describes agency priorities, including reducing the number of illnesses from lead and silica exposure, this instruction transmits policies and strategies to be followed when scheduling and conducting programmed local emphasis inspections of smelters.

This instruction applies to the smelter industry in the state of Arizona. Furthermore, this instruction applies to contractors working in the smelting industry in the state of Arizona. The Arizona Department of Occupational Safety and Health (ADOSH) does not have the authority to inspect smelters due to a peculiarity in its State Plan. This has resulted in Federal OSHA assumption of jurisdiction to inspect and enforce safety and health regulations in smelters.

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- I. Purpose:** In accordance with the OSHA Strategic Management Plan which describes agency priorities, including reducing the number of illnesses from lead and silica exposure, this instruction transmits policies and strategies to be followed when scheduling and conducting programmed local emphasis inspections of smelters.
- II. Scope:** This instruction applies to the smelter industry in the state of Arizona. Furthermore, this instruction applies to contractors working in the smelting industry in the state of Arizona. The Arizona Department of Occupational Safety and Health (ADOSH) does not have the authority to inspect smelters due to a peculiarity in its State Plan. This has resulted in Federal OSHA assumption of jurisdiction to inspect and enforce safety and health regulations in smelters.
- III. References:**
 - A. OSHA Instruction CPL 02-00-159, October 1, 2015, 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 04-00-001, November 10, 1999, Procedures for Approval of Local Emphasis Programs (LEPs)
- IV. Cancellation:** Region IX Enforcement Programs Notice CPL 04-00-06, dated October 1, 2014.
- V. Expiration:** This LEP will expire no later than one year from the date of implementation, unless renewed.
- VI. Action:** Area Directors will ensure that the procedures contained in this instruction are followed in scheduling and conducting programmed inspections under this LEP. The goal of this instruction is to ensure employees are adequately protected from airborne lead, silica, arsenic, copper, cadmium, and sulfur dioxide exposures. Furthermore, the goal is to protect employees from safety hazards encountered in a smelter, such as but not limited to permit confined spaces, falls, lock out/tag out, amputations, electrical, powered industrial trucks, and noise, and to ensure compliance with standards in 29 CFR 1910.

VII. Definitions:

- A. Programmed Inspections: Programmed inspections are those selected and scheduled in accordance with a plan to employ OSHA's authority to identify, cite, compel corrections, and penalize those conditions that contribute to the hazards or potential hazards of the industry or workplace.
- B. Unprogrammed Inspections: Those that are not selected and scheduled as a direct or indirect result of a plan. Examples include investigations necessitated by fatalities, catastrophes, complaints, referrals, and media reports. Unprogrammed inspections also include follow-up and monitoring inspections.

VIII. Background:

- A. Copper smelters have been recognized as places of employment that have various physical and chemical hazards. Employees are exposed to high airborne concentrations of metals and other particulate matter. Employees working in smelters are also exposed to physical hazards such as noise and heat stress.
- B. Injury and Illness rates (total recordable case rate and days away, restricted or transferred rate) for 2010 – 2012 were:

Total Recordable Case Rates:

Year	All Private Industry	Non-ferrous Metal Production and Processing (NAICS 3314)
2012	3.4	5.3
2011	3.5	4.7
2010	3.5	5.5

Days Away, Restricted or Transferred Rates:

Year	All Private Industry	Non-ferrous Metal Production and Processing (NAICS 3314)
2012	1.8	3.2
2011	1.8	2.7
2010	1.8	3.4

IX. Objectives:

- A. To conduct comprehensive inspections to ensure employees are protected from hazards associated with copper smelters.
- B. To ensure employees are protected from high airborne concentrations of lead, arsenic, silica, cadmium, copper, sulfur dioxide, and other metals which can significantly impact their health.
- C. To protect employees from hazards related to amputation, permit confined space entry, electrical, and other safety hazards which are causes of serious injuries.
- D. To reduce injury and illness rates in the copper smelters covered by this LEP.

X. Selection & Scheduling of Sites for Inspection: There are two copper smelters and one aluminum smelter in the state of Arizona. The copper smelters are in Federal OSHA jurisdiction due to lack of coverage of these facilities in the Arizona State OSHA plan. The aluminum smelter is on tribal land, and is therefore in Federal OSHA jurisdiction.

At least one smelter will be inspected per year; each smelter will be inspected at least once every three years. Any smelter which was subject to a programmed or comprehensive unprogrammed inspection during the previous fiscal year will not be subject to a programmed inspection under this LEP. Unprogrammed inspections, including follow-up inspections to ensure abatement, will still be conducted according to the inspection priorities established in the FOM.

XI. Conduct of Inspections: During the conduct of inspections under this LEP, CSHOs will:

- A. Review and analyze injury and illness records to determine whether employees have been overexposed to high airborne concentrations of metals.
- B. Review and analyze injury and illness records to determine whether there is a pattern of injuries occurring throughout the facility.
- C. Review injury and illness records for compliance with 29 CFR 1904. Injuries and illnesses recorded will be used to direct the focus of the inspection.
- D. Calculate the Days Away, Restricted or Transferred (DART) rate and the Days Away from Work Injury and Illness (DAFWII) case rate for the previous three years.
- E. Evaluate safety and health programs related to the smelters, such as but not limited to permit confined spaces, lock out/tag out, fall protection, noise, amputations, machine guarding, means of egress, and respiratory protection.

F. Review the most recent monitoring results and exposure records conducted by the establishment's industrial hygiene staff. Any discrepancies or insufficient documentation of monitoring of airborne contaminants or noise exposure by the establishment will be used to direct the focus of the inspection.

XII. Inspection Procedures:

- A. Once an inspection has been scheduled and assigned, the OSHA IMIS and OIS databases will be searched for the employer's citation and fatality/accident history prior to the opening conference.
- B. To prepare for inspections under this LEP, CSHOs shall become familiar with the OSHA standards and publications, including the eTools website, regarding smelters. The eTools website contains information on secondary lead smelters.
- C. CSHOs will review all relevant OSHA 300 logs at the establishment for injuries and illnesses, and all available industrial hygiene reports.
- D. CSHOs entering an establishment that has 10 or fewer employees shall check to determine if the establishment is exempt from inspection under CPL 02-00-051. If the establishment is exempt, end the inspection and leave the establishment.
- E. CSHOs discovering new locations to inspect, which are not on the inspection list, will bring the information back to be included in this LEP.
- F. Fatalities, catastrophes, complaints, referrals, and follow-up inspections shall be scheduled in accordance with existing procedures outlined in the FOM, CPL 02-00-150.

XIII. Recording in OIS:

In addition to recording information and entering data in OIS in accordance with all other relevant instructions and directives, for smelter inspections the following specific coding instructions apply:

- A. In the Inspection Type tab in OIS, the LEP code SMELTER will be used as the primary emphasis code, except as in paragraph B., below.

NOTE: Please remember to code ALL inspections done in smelters with the SMELTER code in the LEP field, whether or not these inspections are done as programmed inspections under the Local Emphasis Program. All programmed and unprogrammed inspections of smelters should be coded in this way to facilitate data retrieval.

- B. Where applicable, the National Emphasis Program codes AMPUTATE, LEAD and SILICA will be used. Where these codes are used, they will be entered as the primary

emphasis code. Any other LEP or NEP codes will be entered as non-primary emphasis codes.

C. Strategic Plan codes, including but not limited to AMPUTATIONS, ELECTRICAL, FALL FROM HEIGHT, LEAD, NOISE, POWERED IND VEHICLE, SILICA and STRUCK-BY should be entered where applicable.

XIV. Evaluation:

The Regional Administrator will direct staff to evaluate the LEP in accordance with the guidelines in Appendix A of CPL 04-00-001, November 10, 1999, Procedures for Approval of Local Emphasis Programs and Experimental Programs.

A. 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). 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.

B. 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.

XV. 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 associated with this industry 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.