



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-11-03H **EFFECTIVE DATE:** December 4, 2017

SUBJECT: *Local Emphasis Program (LEP) for Grain Handling Facilities*

REGIONAL IDENTIFIER: *Region VII*

ABSTRACT

Purpose: This Notice continues a local emphasis program for conducting programmed inspections at grain handling facilities in the State of Kansas in an effort to reduce injuries, illnesses, and deaths.

Scope: This Notice applies to the State of Kansas.

References: CPL 02-00-160, CPL 02-00-025, CPL 04-00-001, CPL 02-00-051, CPL 02-01-004, and CPL 02-02-073

Cancelation: CPL 02-11-03G

Action Office: Wichita Area Office

Originating Office: Kansas City Regional Office – Enforcement Programs

Contact: Assistant Regional Administrator for Enforcement Programs
(816) 283-8745

By and Under the Authority of:

Kimberly A. Stille
Regional Administrator

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- I. Purpose. This Notice continues a Local Emphasis Program (LEP) for conducting programmed inspections at grain handling facilities in the State of Kansas in an effort to reduce injuries, illnesses, and deaths.
- II. Scope. This Notice applies to the Wichita Area Office for grain handling locations throughout the State of Kansas. Specifically, North American Industry Classification System (NAICS) codes 311211, 311212, 311119, 311611, 493130, and 424510 will be targeted. Included in inspection activity are all operations controlled by the selected establishment such as grain elevators, grain storage, milling operations, fertilizer, feed, chemical and farm machinery and equipment repair and maintenance.
- III. Cancellation. This Notice cancels OSHA Regional Notice CPL 2-11-03G, Local Emphasis Program (LEP) for Grain Handling Facilities.
- IV. References.
 - A. OSHA instruction CPL 02-00-160, Field Operations Manual (FOM), August 2, 2016.
 - B. OSHA Instruction CPL 02-00-025, Scheduling Systems for Programmed Inspections, January 4, 1995.
 - C. OSHA Instruction CPL 04-00-001, Procedures for Approval of Local Emphasis Programs (LEPs) and Experimental Programs, March 28, 1994.
 - D. OSHA Instruction CPL 02-00-051, Enforcement Exemptions and Limitations Under the Appropriations Act, May 28, 1998 and Change (Appendix A) dated January 10, 2017, or current version.
 - E. OSHA Instruction CPL 02-01-004 Inspection of Grain Handling Facilities, 29 CFR 1910.272, November 8, 1996.
 - F. OSHA Instruction CPL 02-02-073, Inspection Procedures for 29 CFR 1910.120 and 1926.65 Paragraph (q): Emergency Response to Hazardous Substance Releases, August 27, 2007.
 - G. Memorandum from Thomas Galassi to Regional Administrators, Procedures for Local and Regional Emphasis Programs, December 3, 2014.
 - H. Memorandum from Francis Yebesi to Regional Administrators, Establishment-Targeting Lists for Emphasis Programs, November 12, 2014.
- V. Expiration Date. This Notice expires on September 30, 2018.

VI. Action. The Regional Administrator and the Area Director of the Wichita Area Office ensure adherence of procedures established in this instruction in the scheduling of programmed inspections.

VII. Background. The U. S. Department of Labor and specifically OSHA recognize the need to focus enforcement efforts at facilities where fatalities, injuries, and illnesses occur at higher rates. In Kansas, the grain handling industry experienced the highest number of workplace fatalities, which resulted in an OSHA inspection. From January 1, 2000 through September 30, 2015, the grain handling industry (NAICS 424510) reported 24 work-related deaths in Kansas. In FY 2012, a single incident in this industry claimed the lives of six (6) workers. In FY 2017, from October 1, 2016 through July 31, 2017, eighteen (18) inspections were conducted. One hundred percent (100%) of those inspections were unprogrammed inspections resulting from complaints, referrals, and employer-reported referrals alleging serious hazards. In FY 2017, this LEP improved the working conditions for 33,492 employees.

The hazards associated with grain handling facilities are well recognized. Employees are exposed to the potential of fires and explosions, and other significant hazards such as falls, grain bin entry, engulfment, confined spaces, and rail car operations. The Wichita Area Office determined a renewed OSHA enforcement presence is warranted due to the continuing incidences of fatalities in grain handling facilities throughout the State. Thereby, in accordance with the U.S. Department of Labor's Strategic Plan, this LEP addresses OSHA Strategic Objective 2.1: "Secure safe and healthful working conditions for America's workers."

VIII. Outreach. The Wichita Area Office will continue to make available outreach programs that support the purpose of this LEP to identify and reduce workplace hazards associated with grain handling and their associated work operations. Outreach programs with employers, professional associations, and local unions may include meetings, training, education, mailings, speeches or other activities designed to involve employee and management stakeholders in the identification and elimination of hazards at grain handling establishments. A News Release was issued to announce the commencement of this LEP on November 8, 2010.

IX. Inspection Targeting/Site Selection.

A. OSHA's Office of Statistics provided a listing of establishments with NAICS codes 311211, 311212, 311119, 311611, 493130, and 424510 based on Dun & Bradstreet information. Other sources have been consulted to identify additional establishments with the above-listed NAICS codes that may not be included in the list provided. These sources include United States Department of Agriculture (USDA) grain handling inspection locations, OSHA IMIS/OIS data for grain handling facilities, as well as private sources such as industry listings and the 'yellow pages'.

- B. All identified establishments have been combined to make one master list. The list is arranged alphabetically, then random number assignment using the most current version of Microsoft Excel's Random Sample Function, i.e., RANDBETWEEN function in Microsoft Excel to determine the order of inspections. To prevent duplicate random numbers from being generated for multiple records each time the file is opened, the entire worksheet is highlighted, copied, and pasted into a blank worksheet as "Values (V)". The new worksheet will have each random number saved as a value not a formula, which will allow the worksheet to be opened without the possibility of changing the already assigned random numbers. This Notice will continue the use of this master list, as developed from the initial listing of establishments provided by OSHA's Office of Statistics, for cycle development.
- C. Cycles of ten (10) will be generated from the master list. Each inspection cycle must be completed before another cycle is generated from that list. An establishment may be carried over to another cycle for any of the reasons set forth in CPL 02-00-025.
- D. All compliance personnel shall also be instructed to be on the lookout for grain handling worksites. If an establishment (with one of the targeted SIC codes) is identified after the development of the master list, an inspection will be scheduled. Deletion criteria (outlined below) will be applied.

X. Deletion Criteria

- A. Delete establishments receiving a comprehensive safety and health inspection within the last twelve (12) months from the date the inspection cycle was generated.
- B. If a selected establishment has received a comprehensive safety inspection within the last twelve (12) months but not a comprehensive health inspection, a comprehensive health inspection will be initiated and vice versa.

XI. Inspection Procedures

- A. Inspections will be conducted in accordance with all applicable provisions of the FOM.
- B. All inspections will be comprehensive. Conduct joint safety and health inspections simultaneously as resources permit. When not possible, either the safety or a health inspection will be initiated with the opposite discipline to follow as resources become available, or the Area Director allows a cross-trained CSHO to address both safety and health hazards.
- C. All inspections will include an evaluation of hazards related to grain handling, paying special attention to engulfment hazards and fire/explosion hazards created by combustible dust. Other hazards addressed will include noise, confined spaces, machine guarding, and falls.

D. Unprogrammed events such as fatalities, catastrophes, complaints, follow-up inspections and referrals shall be scheduled for inspection in accordance with existing procedures outlined in the FOM. If an establishment identified in the Scope (II. above) receives an unprogrammed inspection, a comprehensive safety and/or health inspection will be initiated (as stated in XI.B. above) in conjunction with the unprogrammed activity, unless that establishment meets the deletion criteria in X. above.

XII. Recording in OIS

- A. All inspections conducted under this program (programmed and unprogrammed) shall be coded *Local Emphasis Program*, with the designation "GRAIN" on the appropriate OIS forms.
- B. If it is determined that an inspection will not commence, at an establishment due to the process not active or incorrect NAICS code, the appropriate OIS forms shall be coded "No Inspection".
- C. Code all consultation activities (requests, visits, and compliance assistance) conducted at establishments in the NAICS codes included in this LEP with "GRAIN" in the Local Emphasis Program field on the appropriate forms.

XIII. Evaluation Procedures. No later than October 30 of each year, this program remains in effect; the Wichita Area Office will prepare a formal written evaluation of this LEP in the format specified by OSHA Instruction CPL 04-00-001, Appendix A.

Kimberly A. Stille
Regional Administrator

Date

Office of the Solicitor Concurrence

Date

Distribution:

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