



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 2-08-07C

EFFECTIVE DATE: October 1, 2011

SUBJECT: Grain Handling Industry Local Emphasis Program (LEP)

REGIONAL IDENTIFIER: Region VII

ABSTRACT

Purpose: This Notice continues Local Emphasis Program (LEP) policies and procedures for the purpose of conducting inspections of grain handling facilities within the St. Louis Area Office jurisdiction. The targeted employers are in the grain handling industry (Standard Industry Code (SIC) codes 2041, 2044, 2048, and 5153) and (North American Industry Classification System (NAICS) 311211, 311212, and 311119).

References: OSHA Instructions: CPL 02-00-150, CPL 04-00-001, CPL 02-00-025, CPL 02-00-051, CPL 02-01-004, NIOSH Publications 83-126 and 95-109, and U.S. Department of Agriculture, Task Force Report from the Office of the Special Coordinator for Grain Elevator Safety and Security.

Expiration: September 30, 2012

Action Offices: St. Louis Area Office - Region VII

Originating Office: Kansas City Regional Office

Contact: Enforcement Programs (816) 283-8745

By and Under the Authority of:

Charles E. Adkins, CIH
Regional Administrator

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- I. Purpose. This Notice continues a local emphasis program (LEP) designed to reduce injury, illness, and death rates in the grain handling industry by increasing employers' knowledge in safety and health and promoting safety and health programs through a combination of outreach and enforcement activities.
- II. Scope. This Notice applies to the St. Louis Area Office jurisdiction. This LEP establishes OSHA's procedure for programmed partial safety and health inspections of establishments in SIC 2041/NAICS 311211 (flour mill products), SIC 2044/NAICS 311212 (rice milling), SIC 2048/NAICS 311119 (prepared feed for animals and fowls), and SIC 5153/NAICS 42251 (grain and field beans), for any grain handling or storage related activities performed at the establishment, pursuant to the provisions contained in the Field Operations Manual (FOM). The scope of the inspection will include only those areas where grain handling or storage occurs, "plain view" items, and safety and health programs.
- III. References.
 - A. OSHA Instruction CPL 04-00-001, November 10, 1999, Procedures for Approval of Local Emphasis Program (LEPs) and Experimental Programs.
 - B. OSHA Instruction CPL 02-00-150, April 22, 2011, Field Operations Manual (FOM).
 - C. OSHA Instruction CPL 02-00-025, January 4, 1995, Scheduling System for Programmed Inspections.
 - D. OSHA Instruction CPL 02-01-004, November 8, 1996, Inspection of Grain Handling Facilities, 29 CFR 1910.272.
 - E. OSHA Instruction CPL 02-00-051 May 28, 1998, Exemptions and Limitations under the Current Appropriations Act.
 - F. National Institute of Occupational Safety and Health (NIOSH) Publication No. 83-126, Occupational Safety in Grain Elevators and Feed Mills (1983).
 - G. NIOSH Publication 95-109, Safe Grain and Silage Handling (1995).
 - H. U.S. Department of Agriculture, Office of the Special Coordinator for Grain elevator Safety and Security, Task Force Report, "Prevention of Dust Explosions in Grain Elevators – An Achievable Goal", (1980).

- IV. Action. The Regional Administrator, through the Assistant Regional Administrator for Enforcement Programs, and the St. Louis Area Director shall ensure that the procedures outlined in this Notice are followed and adhered to in the scheduling of programmed inspections of grain handling facilities.
- V. Expiration. This LEP will expire September 30, 2012.
- VI. Background.

The grain handling facilities, as defined by the OSHA Grain Handling Standard, include: grain elevators, feed mills, flour mills, rice mills, dust pelletizing plants, dry corn mills, soybean flaking operations, and the dry grinding operations of soyflake. There are numerous safety and health hazards associated with grain handling operations according to the National Institute of Occupational Safety and Health (NIOSH, Safe Grain and Silage Handling, 1995). Suffocation and falls are the two leading causes of deaths at grain handling facilities. Other hazards include fires, explosions, electrocutions, and injuries from improperly guarded machinery. Exposures to grain dust and associated airborne contaminants can also occur according to the U.S. Department of Agriculture, Office of the Special Coordinator for Grain Elevator Safety and Security. In its report entitled "Prevention of Dust Explosions in Grain Elevators – An Achievable Goal" (1980), such contaminants include molds, chemical fumigants, and gases associated with decaying and fermenting silage. According to the U.S. Department of Labor Bureau of Labor Statistics, in 2004 the nationwide Days Away Restricted Time (DART) rate for NAICS group 311XXX was 5.3, compared to a DART rate of 2.5 for all private industry. Nationwide there were 12 fatalities in the same year for this group.

The St. Louis Area Office previously had a Grain Handling LEP from July 11, 2006 to July 11, 2008. Under that program, 33 inspections were conducted resulting in an average of 3.0 violations per inspection. There were 79 serious, willful, and/or repeat violations issued under the LEP during that time period.

Under the St. Louis Area Office's grain handling LEP, CPL 2-08-07 (10/01/08-09/30/09), 8 inspections were conducted, resulting in an average of 3.4 violations per inspection. There were 20 serious, willful, and/or repeat violations issued under the LEP during that time period.

Under the St. Louis Area Office's renewal of its grain handling LEP, CPL 2-08-07A (10/01/09-09/30/10), 6 inspections were conducted, resulting in an average of 4.5 violations per inspection. During this time period (FY 2010), 19 citations were issued that involved serious, willful, and/or repeat violations.

Under the St. Louis Area Office's next renewal of its grain handling LEP, CPL 2-08-07B (10/01/10-08/24/11), 1 inspection was completed, resulting in 1 serious violation.

Although the St. Louis Area Office conducted limited inspection activity under this LEP during FY 2011 due to resource allocations and emphasis on other high hazard areas, historical as well as nation-wide data shows that grain facilities still pose a great danger to employees of such facilities. As a result, the St. Louis Area Office will continue this local emphasis program for the grain handling industry.

- VII. Procedures. The following procedures will be utilized to notify affected employers about the program.
- A. Outreach. Prior to the initiation of inspection activity under the previous LEPs, the St. Louis Area Office mailed information to the targeted establishments. The information, which will continue to be made available to requestors, included a letter explaining the purpose of the program and materials related to the industry. Information packages were also made available to employers, professional organizations and labor organizations.
- B. Selection and Scheduling. Inspections under this program shall be scheduled and conducted pursuant to the following:
- (1) Establishment targeting/selection.
- (i) Any grain handling or storage related activities performed at the establishments in the identified SICs/NAICS [i.e., 2041/311211 (flour mill products), 2044/311212 (rice milling), 2048/311119 (prepared feed for animals and fowls, and 5153/42251 (grain and field beans)], will be subject to inspection.
- (ii) A listing of Missouri establishments with SIC/NAICS 2041/311211 (flour mill products), 2044/311212 (rice milling), 2048/311119 (prepared feed for animals and fowls), and 5153/42251 (grain and field beans) within the jurisdiction of the St. Louis Area Office was developed under the prior LEP using the 2007 Missouri Manufacturers Directory and cross referenced with www.smartpages.com, a web-based version of the Yellow Pages. Key words such as "Flour Milling Facilities, Rice Milling Facilities, Feed Manufacturing Facilities, and Grain Handling Facilities" were used to develop a complete list of all known Missouri establishments within the SIC codes listed in the LEP. The basis for the addition of an establishment was documented. The master list was first sorted by county and secondly by establishment within the counties.

(iii) Inspection cycles were created through the Random Sample Function of Microsoft Access, a relational database program, to develop inspection cycles from the master list. Since the original grain local emphasis program was initiated, the St. Louis Area Office completed inspections of all known grain handling facilities in the following counties: Bollinger, Butler, Clark, Dunklin, Gasconade, Jefferson, Knox, Lewis, Lincoln, Mississippi, Monroe, Montgomery, New Madrid, Oregon, Pemiscot, Phelps, Pike, Ralls, Shelby, and Stoddard . Accordingly, those counties will not be included in the master list for the current LEP. The Random Sample Function of Microsoft Access will be used to select a random county from the master list of counties. All establishments located in this randomly selected county will constitute the first inspection cycle. Subsequent cycles will be developed in the same manner until all establishments on the master list are placed in a cycle. Establishments within a cycle may be inspected in any order that makes efficient use of resources; however, all establishments within a cycle must be inspected prior to initiating a new cycle. Carry-overs will be allowed, as provided in OSHA Instruction CPL 02-00-025, paragraph B.1.b.(1)(e).

(iv) While in the process of conducting inspections under this LEP, if a CSHO observes a grain handling facility that is not on their current county inspection cycle, but it is in the county covered by their current county inspection cycle, the site will be added and an inspection will be conducted if that establishment falls in one of the SIC codes covered by this LEP.

While in the process of conducting inspections under this LEP, if a CSHO observes a grain handling establishment that is not on their current county inspection cycle, and it is not in the county covered by their current county inspection cycle, the establishment will be added to the appropriate county inspection cycle upon their return to the office. If the county inspection cycle involved has already been completed, the establishment will not be added.

(2) Deletion Criteria.

Establishments that have had a comprehensive safety and health inspection within the past 24 months or that was inspected under the previous grain LEP will be removed from the list.

(3) Inspection Procedures.

- (i) Inspections will be conducted in accordance with CPL 02-00-051, Enforcement Exemption and Limitations under the Appropriation Act.
- (ii) Inspections conducted at grain handling establishments under this program will include an evaluation of the employer's efforts at adopting protective measures and its efforts toward the abatement of hazards relating to grain handling hazards. Special attention will be paid to engulfment hazards and fire/explosion hazards created by combustible dust. Other hazards addressed will include noise, confined spaces, machine guarding, and falls.
- (iii) Inspections will be joint safety and health. If area office resources are not available, an inspection will begin as safety only or health only and appropriate referrals will be initiated.
- (iv) 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. A single inspection will be conducted to address the unprogrammed event as well as to conduct an inspection described in this program for establishments selected in accordance with paragraph VIII.B.1.
- (v) When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with procedures in the FOM.
- (vi) To the extent possible, all settlement agreements entered into as a result of citations issued under this program will include provisions that commit the employer to implement/improve safety and health programs for their employees.

VIII. Recording in IMIS.

A. Inspections that are targeted as a result of this LEP will be coded as "GRAIN" in block 25c and as Programmed Planned in block 24.

B. Inspections that are conducted as a CSHO referral and inspected during the current inspection cycle will be coded as "GRAIN" in block 25c and Programmed Related in block 24.

C. Inspections that are conducted as a result of a complaint, referral by another agency, or fatality/catastrophe will be coded as "GRAIN" in block 25c and appropriate unprogrammed activity in block 24.

D. Where "program related" inspections are conducted, they will be so indicated on the OSHA 1.

IX. Evaluation. Annual evaluations of the program will be submitted in accordance with CPL 04-00-001 (CPL 2.102A). This evaluation will be forwarded to the Regional Administrator no later than October 31, 2012.

Charles E. Adkins, CIH
Regional Administrator, Region VII

Date

Office of the Solicitor Concurrence
U.S Department of Labor
Office of the Solicitor, Region VII

Date

Distribution: Regional Solicitor
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