



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 2-07-21D

EFFECTIVE DATE: October 1, 2011

SUBJECT: Grain Handling Industry Local Emphasis Program (LEP)

REGIONAL IDENTIFIER: Region VII

ABSTRACT

Purpose: This Notice continues the Local Emphasis Program (LEP) policies and procedures for the purpose of conducting inspections of grain handling facilities within the Omaha Area Office jurisdiction. The employers to be targeted are in the grain handling industry (Standard Industry Code (SIC) codes 2041, 2044, 2048, 4221, and 5153) and North American Industry Classification System (NAICS) 311211, 311212, 311119, 424510 and 493130).

References: OSHA Instructions: CPL 02-01-004, CPL 02-00-150, CPL 04-00-001, CPL 02-00-025, CPL 02-00-051, NIOSH Publications 83-126, 88-102 and 95-109.

State Impact: None

Expiration: September 30, 2012

Action Offices: Omaha 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 general industry establishments that are covered by 29 CFR 1910.272 within the jurisdictional boundaries of the Omaha Area Office. This LEP establishes OSHA's procedure for programmed comprehensive safety inspections of establishments in Standard Industrial Classification (SIC)/North American Industry Classification System (NAICS) codes 2041/311211 (flour mill products), 2044/311212 (rice milling), 2048/311119 (prepared feed for animals and fowls), 4221/424510 (grain and field bean merchant wholesalers) and 5153/493130 (grain and field beans warehousing and storage), for any grain handling or storage related activities performed at the establishment, pursuant to the provisions contained in the Field Operations Manual.

- 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 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 88-102, Preventing Entrapment and Suffocation Caused by the Unstable Surfaces of Stored Grain and Other Materials (1987).
 - H. NIOSH Publication 95-109, Safe Grain and Silage Handling (1995).

- IV. Action. The Regional Administrator, through the Assistant Regional Administrator for Enforcement Programs, and the Omaha 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 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, and rail car handling operations. In the late 1970s and early 1980s, OSHA implemented National Emphasis Programs covering grain handling facilities in order to focus its resources on these hazards. These programs have since been canceled. The Omaha Area Office has determined that a renewed OSHA enforcement presence is warranted due to continuing incidences of fatalities and injuries in these facilities.

Nationally, OSHA has determined a renewed focus on grain industries is necessary. Due to the hazardous nature of the grain industry and the fatalities that occurred during 2009, the Assistant Secretary for OSHA mailed letters to grain handling facilities in the United States warning those employers not to allow workers to enter grain storage facilities without proper equipment, precautions and training.

According to the National Institute for Occupational Safety and Health (NIOSH, 1995), suffocation under silage or grain was the leading cause of grain-handling fatalities between 1985 and 1989. Grain handling machinery is the second largest cause of farm machinery-related deaths and often causes severe disfiguring injuries and amputations (NIOSH, 1995). Falls from machinery and structures were the second most common cause of grain and silage handling fatalities between 1985 and 1989 (NIOSH, 1995). The grain handling industry also has confined spaces (entry into bins, silos, tanks, and other storage structures) and toxic atmospheres created by the decomposition of stored grain. According to the latest available U.S. Department of Labor Bureau of Labor Statistics, in 2009 the nationwide Total Case Incident Rate (TCIR) for Private Industry was 3.6. The TCIR for NAICS group 3112XX was 4.6 (28 % higher than all private industry). The TCIR for NAICS group 311119 was 5.8 (61% higher than all private industry). The TCIR for NAICS group 4245XX was 5.0 (39% higher than all private industry). The TCIR for NAICS group 4931XX was 5.9 (64% higher than all private industry).

Most Nebraska industry is related to agriculture, and Nebraska's primary agricultural crop is corn. According to the U.S. Department of Labor

Bureau of Labor Statistics, in Nebraska in 2009 the Total Case Incident Rate (TCIR) for Private Industry was 4.1. The TCIR for NAICS group 3112XX was 6.2 (51% higher than all private industry). The TCIR for NAICS group 3111XX was 4.9 (20% higher than all private industry). The TCIR for NAICS group 424XXX was 5.0 (22% higher than all private industry). The TCIR for NAICS group 48XXXX to 49XXXX was 4.7 (15% higher than all private industry). Between FY 2004 and FY 2011, the Omaha Area Office investigated 18 accidents involving grain or feed storage or handling. Twelve (12) of these incidents resulted in death. Even though the number of fatalities investigated in FY 11 has dropped significantly, a full one-third (33%) of the fatalities were still related to grain-handling.

- VII. Procedures. The following procedures will be utilized to notify affected employers about the program and to implement enforcement activity.
- A. Outreach. The Omaha Area Office has worked with the Nebraska Grain and Feed Association (NGFA) and Nebraska Workforce Development 21(d) OSHA Consultation Project to provide outreach to affected employers. This will continue to be performed through newsletter articles, e-mail updates, presentations and other sources identified throughout the year. The Omaha Area Office has used the OSHA National Office mailing list to notify employers within the state of the LEP and provide resources to assist with the elimination of known hazards in the grain industry.
- B. Targeting/Selection. Inspections conducted under this program shall be scheduled and conducted pursuant to the following criteria. Inspections shall concentrate on grain handling establishments as defined by 29 CFR 1910.272(b). Following is a list of sources for obtaining information to develop a roster from which inspections will be conducted.
1. The following SIC/NAICS codes list the industries within the State of Nebraska that are covered by 29 CFR 1910.272: Standard Industrial Classification (SIC)/North American Industry Classification System (NAICS) codes 2041/311211 (flour mill products), 2044/311212 (rice milling), 2048/311119 (prepared feed for animals and fowls), 4221/424510 (grain and field bean merchant wholesalers) and 5153/493130 (grain and field beans warehousing and storage).

NOTE: Small employers with fewer than ten employees in SIC codes that are listed in OSHA Instruction CPL 02-00-051 as exempt from programmed OSHA safety inspections will not be inspected. Area Office staff will consult the appropriation riders each fiscal year for exempt employers in

any given SIC. However, other establishments with fewer than ten employees are to be included in this program.

2. A listing of establishments within the above SIC codes will be provided by OSHA's Office of Statistics based on Dun & Bradstreet information for the office's area of jurisdiction. Establishments included on the OSHA National Office mailing list for grain facilities will be added to the listing of establishments.
3. Establishments that have had a comprehensive safety or health inspection within the past 24 months will be removed from the list. Deletion criteria in OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections, Paragraph B.1.b.(1)(b)6.d., will be applied to the list of establishments with the exception of deletion criteria H#, S# and T#.
4. Each establishment remaining on the list shall be placed in alphabetical order and assigned a sequential number. The table of random numbers found in OSHA Instruction CPL 02-00-025 shall be applied to identify individual establishments to be inspected. The establishments with the first five random numbers listed will be assigned to the first inspection cycle. All subsequent inspection cycles will be developed in the same manner, using cycles of five, in accordance with OSHA Instruction CPL 02-00-025, Paragraph B.1.b.(1)(c).
5. All compliance personnel shall be instructed to be on the lookout for grain handling worksites. Every observation of such operations shall be handled as follows:
 - a. Regardless of whether or not a violation is observed, whenever a CSHO sights or receives any other notice of a grain handling worksite (including nonformal complaints, other government agency referrals, and reports from members of the public) the CSHO shall:
 1. Make note of the state and condition of the work operation insofar as it is known, including any apparent serious hazards.
 2. Note the company name and address or location of the worksite, if known.
 3. Contact the Area Office supervisor for a decision as to whether an inspection is required.

- b All grain handling worksites brought to the attention of the Area Office shall be inspected as follows:
 - 1 If the worksite has been inspected within the last 5 years, no inspection is necessary unless the current observations of the CSHO indicate serious hazard(s).
 - 2 If the worksite has not been inspected within the last 5 years, an inspection shall be conducted.
- c Complaint, referral, fatality, catastrophe and follow-up inspections will be handled according to the Field Operations Manual (FOM). Unprogrammed inspections of establishments identified in Paragraph VII. B. above will be expanded to include the issues addressed by this program. An inspection scheduled under this LEP does not necessarily need to be inspected by the compliance personnel making the original observation.

C. Inspection Procedures.

- 1. Inspections will be conducted in accordance with CPL 02-00-051, Enforcement Exemption and Limitations under the Appropriation Act, and shall be conducted in accordance with provisions of the FOM.
- 2. All inspections will comply with guidelines established in OSHA Instruction CPL 02-01-004, Inspection of Grain Handling Facilities, and 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, especially combustible dust and engulfment hazards.
- 3. Un-programmed 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. When possible, a single inspection will be conducted to address the un-programmed event as well as to conduct an inspection described in this program for establishments selected in accordance with paragraph VIII.B.
- 4. When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with procedures in the FOM.

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. The Omaha Area Office shall collect data relevant to the effectiveness of this program and submit it to the Regional Office at the end of each fiscal year (no later than November 15). At a minimum the evaluation should respond to the requirements of OSHA Instruction CPL 04-00-001, Procedure for Approval of Local Emphasis Programs and Experimental Programs, Paragraph G.4. Evaluations.

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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