



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL-04-00-026 **EFFECTIVE DATE:** June 1, 2023

SUBJECT: Local Emphasis Program for the Seafood Processing Industry

REGIONAL IDENTIFIER: Region I

ABSTRACT

Purpose: This instruction establishes policies and strategies to be followed when scheduling and conducting programmed regional emphasis inspections of seafood processing operations and related merchant wholesaler operations in two targeted North American Industry Classification System codes (NAICS): 311710, 311711 and 311712 Seafood Product Preparation and Packaging, and 424460 Fish and Seafood Merchant Wholesalers.

Scope: This instruction covers Region I and includes employers under Federal OSHA jurisdiction only.

References: CPL 02-00-164, *Field Operations Manual* (FOM), April 14, 2020, or most recent version.

CPL 04-00-002, *Procedures for Approval of Local Emphasis Programs*, April 14, 2018.

CPL 02-00-025, *Scheduling System for Programmed Inspections*, January 4, 1995.

CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*, and Appendix A, change effective March 9, 2022, or most recent version.

Cancellations: None

Action Offices: Braintree Area Office, Andover Area Office, Augusta Area Office, Bangor District Office, and Providence Area Office.
Enforcement Programs & Technical Support

Cooperative and State Programs (CSP)
Whistleblower Protection Programs

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Executive Summary

This Regional Instruction is intended to reduce the number of fatalities, injuries, and serious safety hazards in the seafood processing industry and related merchant wholesaler operations. These industries use temporary labor and staffing agencies. These industries also use outside contractors to conduct highly dangerous cleaning and sanitizing operations. The instruction also focuses on informing workers and vulnerable workers of their rights under Section 11(c) of the Occupational Safety and Health Act of 1970 through various outreach resources and events.

This instruction establishes and implements a local emphasis program (LEP) for the purpose of scheduling and conducting inspections to address the hazards associated with seafood processing, including but not limited to machine guarding, lockout tagout, confined space, and other serious safety and health issues. Similar hazards are found in related merchant wholesaler operations in addition to powered industrial trucks (PIT) related hazards and falls. The LEP will ensure that employers establish adequate safety and health programs in accordance with applicable regulations.

The seafood industry in New England is a significant industry sector with high injury and illness rates. OSHA currently has no inspection targeting system that includes the seafood processing industry or related merchant wholesaler operations. Nationally, the published 2021 injury and illness rates for covered NAICS, are above the national averages. In the past seven fiscal years (FY16-FY22) in Region I, there have been two (2) fatalities and four (4) finger amputation injuries related to both seafood processing activities and related warehousing activities. Fall hazards continue to injure employees on and around the docks. Employees in these industries continue to be exposed to ammonia and cooling systems hazards, resulting in three (3) general duty clause violations and one hazard alert letter (HAL). The general duty clause violations included one Willful Serious and two Repeat Serious violations.

As a result, OSHA targets this industry for programmed inspections, emphasis programs, and compliance assistance and training. This instruction provides an inspection scheduling system to cover high-hazard activities [within the context of current law and OSHA policy.] Safety and health programmed inspections of employers engaged in the Seafood Processing Industry and Fish and Seafood merchant wholesaler operations are to be scheduled using this program notice.

Significant Changes

None.

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I. Purpose.

This Emphasis Program is intended to reduce the number of fatalities, injuries and serious safety hazards relating to seafood processing, packaging and warehousing activities, including machine guarding and amputations, lockout tagout, confined space, falls, the use of and maintenance of refrigeration systems, ice-makers, conveyors and food processing equipment, sawblades, knives and water jets for cutting, steam and sanitizing chemicals for cleaning, and material handling equipment (powered industrial trucks, pallet jacks). These activities involve exposures to hazards that are among OSHA's strategic emphasis areas, amputations, falls, struck-by, and crushed-by.

The Bureau of Labor and Statistics (BLS) defines the Seafood Product Preparation and Packaging industries as establishments primarily engaged in one or more of the following: (1) canning seafood (including soup); (2) smoking, salting, and drying seafood; (3) eviscerating fresh fish by removing heads, fins, scales, bones, and entrails; (4) shucking and packing fresh shellfish; (5) processing marine fats and oils; (6) freezing seafood and (7) floating factory ships. Establishments known as "floating factory ships" although included by BLS definition, are not included or covered by this LEP. BLS defines Fish and Seafood Wholesale Merchants as establishments primarily engaged in merchant wholesale distribution of fish and seafood (except canned or packaged frozen) for example, docks, warehouses and ice-making facilities related to unloading, storing and distributing fish and seafood from fishing vessels.

This local emphasis program consists of two elements. The first element targets facilities and high hazard activities in the covered NAICS for comprehensive safety inspections. The second element consists of outreach activities to raise awareness of employers and employees to common safety and health hazards, abatement approaches, and compliance responsibilities including but not limited to employee protections under Section 11(c) of the OSH Act.

II. Scope.

This notice applies to the following Region I Federal area offices of the Occupational Safety and Health Administration (OSHA): Braintree Area Office, Andover Area Office, Augusta Area Office, Bangor District Office, and Providence Area Office.

III. Limitations and Exemptions.

None under CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*, and Appendix A, change effective March 9, 2022.

IV. References.

- A. OSHA Instruction CPL 02-00-025, January 4, 1995, *Scheduling System for Programmed Inspections.*

- B. OSHA Memorandum, *Establishment-Targeting Lists for Emphasis Programs*, November 12, 2014.
- C. OSHA Instruction CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*, and Appendix A, change effective February 13, 2023, or most recent version.
- D. OSHA Instruction CPL 04-00-002, November 13, 2018, *Procedures for Approval of Local Emphasis Programs (LEPs)*
- E. CPL 02-00-164, *Field Operations Manual (FOM)*, April 14, 2020, or most recent version.
- F. CPL 02-02-035, 29 CFR 1910.95(b)(1), *Guidelines for Noise Enforcement*; Appendix A.
- G. OSHA Technical Manual Noise Chapter
<https://www.osha.gov/otm/section-3-health-hazards/chapter-5>

V. Cancellation.
None

VI. Expiration.

This LEP will expire no later than five years from the effective date, unless renewed.

VII. Background.

In accordance with Department of Labor’s FY 2022 – 2026 Strategic Plan which requires OSHA to “secure safe and healthy workplaces, particularly in high-risk industries,” this LEP targets the seafood processing industry, which meets the definition of a high-risk industry. It does so by reason of its injury and illness statistics and the serious safety hazards, such as amputation hazards, that exist within these facilities. The NAICS codes included in this LEP are 311710 Seafood Product Preparation and Packaging and 424460 Fish and Seafood Merchant Wholesalers. The term ‘seafood’ includes fish, shellfish, crabs, lobsters, shrimp, scallops, clams, and mussels.

Hazards associated with the seafood processing industry (NAICS codes 311710, 311711 and 311712) and merchant wholesale distribution of fish and seafood (NAICS 424460) continue to be a major source of severe injury and death to employees and include the following: lockout tagout, point of operation guarding confined spaces, operation of powered industrial trucks, falls in general industry, electrical hazards posed by working in wet environments, emergency response issues related to the storage and handling of anhydrous ammonia, respirator hazards related to emergency response, noise exposure, emergency egress, fire prevention, use of compressed air, welding hazards, personal protective equipment, lack of hazard communication program where hazardous chemicals

are used, exposure to pressurized steam, and exposure to caustic chemicals. Hazardous chemicals associated with seafood processing include, but are not limited to, ammonia, bleach, caustic cleaner, foaming caustic cleaner, iodine, chlorinated foaming detergent and hydraulic oil.

According to the Bureau of Labor Statistics (BLS), injury and illness rates, as demonstrated by the Total Recordable Cases (TRC) rate, for NAICS code 311710 is 6.8 per 100 equivalent full time (FTE) workers, which is 2.5 times higher than the national TRC average of 2.7 among private industry employers. For NAICS 424460, the TRC of 4.5 is 1.6 times higher than that of private industry employers. Additionally, the average DART rate for all private industry employers was 1.2 per 100 FTE workers, while the DART for the seafood packaging and processing industry was 4 or 3.3 times higher than the national average. For NAICS 424460, the DART of 2.3 is almost twice that of private employers (1.2). [*Source BLS TABLE 1, Incidence rates of nonfatal occupational injuries and illnesses by industry and case types, 2021.*](#)

Fatalities and amputations have occurred at seafood processing facilities in New England. On January 2, 2019, a fatality occurred at a fish processing plant in New Bedford, Massachusetts where the company had not implemented lockout procedures prior to a maintenance employee being exposed to active machinery. The sleeve of the employee's jacket was caught in a rotating shaft, which tightened his jacket and shirt around his neck. The employee suffered cerebral anoxia, asphyxia, strangulation resulting in death. On November 14, 2019, a fatality occurred at a fish processing plant in Braintree, Massachusetts where the host employer had not maintained the exit route doors within the spiral freezer and the owner of the cleaning company was unable to exit when the hot water and steam cleaning cycle started. On October 24, 2019, a severe laceration and/or amputation occurred at a seafood processing facility in Gloucester, Massachusetts. An employment agency employee was attempting to clear a jam on the Bag Sealer machine when his finger got caught in the pulley. The job made guard had been removed by a mechanic for at least a week before accident and was never put back on. These are just a few examples of where employees suffered serious injury or death resulting from exposure to safety hazards in this industry.

The seafood processing industry frequently utilizes temporary employees, many of whom do not use English as their primary language. According to BLS, Hispanic or Latino workers make up 26.3 percent of all seafood and other miscellaneous foods manufacturing, compared to 18 percent of workers nationally. Hispanic or Latino workers make up 27 percent of all grocery and related product merchant wholesalers [[BLS, Current Population Survey](#)]. Safety training is crucial for these employees, particularly training in the safe operation of powered industrial trucks, safe operation of machinery, lockout-tagout and sanitizing chemicals and procedures. Seafood processing facilities may also use cleaning contractors for the required cleaning and sanitizing of equipment. Safety training is also critical for outside contractors so that they are notified of permit confined spaces onsite prior to entry, the hazards associated with the permit spaces, any precautions or procedures implemented to protect employees working in or near the confined spaces, equipment needing lockout/tagout procedures, coordination of

lockout/tagout with host employer, hazardous chemicals used on site and type of personal protective equipment required to protect employees from the hazardous chemicals.

OSHA currently has no inspection targeting system that includes the seafood processing industry or associated warehouses and distribution facilities. OSHA Instruction CPL 03-00-0021 *PSM Covered Chemical Facilities National Emphasis Program* addresses anhydrous ammonia refrigeration systems within these establishments, but these inspections are focused on process safety management (PSM) covered hazards. Although establishments with NAICS code 311710 were included in the Site-Specific Targeting Program, only two facilities were selected and inspected within the past seven fiscal years. Further, enforcement activity conducted through mostly unprogrammed activity (such as complaints, referrals, accidents, and fatalities) show that hazards continue to exist within these facilities. From FY2016 to FY2022, Region I conducted 50 inspections with the Braintree Area Office conducting eighteen (18) inspections and the next highest, Maine with ten (10) inspections.

Inspections during this timeframe identified a significant number of high severity hazards issuing 82 serious citations, five repeat citations, and one willful general duty clause citation. The inspections also resulted in 13 other-than-serious violations related to recordkeeping deficiencies. The most frequently cited citations issued to this industry in Region I inspection data are §1910.147 related (18) for failure to follow elements of the lockout-tagout standard, and §1910.212 related (14) for inadequate or missing machine guarding. Unsafe operation of powered industrial trucks and failure to follow elements of the confined space standard were both cited seven (7) times.

The intent of this local emphasis program is to increase awareness of the significant health and safety hazards in this industry that can cause or have caused severe injury or death to employees, and to encourage employers to take steps to correct these hazards, thus reducing potential injuries and deaths.

VIII. Selection and Scheduling of Sites for Inspection.

- A. The Area Director shall be responsible for developing the final list of inspection sites for this initiative. The Area Director shall follow CPL 02-00-025, *Scheduling System for Programmed Inspections* (January 4, 1995) and the memorandum dated November 12, 2014, *Establishment-Targeting Lists for Emphasis Programs* for additions, deletions, and generating cycles.
 1. A randomized Master List shall be obtained from the OSHA Office of Statistical Analysis (OSA) [[Establishment Targeting List-Generation System](#)] which includes establishment in the covered NAICS in the respective Area Office jurisdiction. The Area Director will then add or delete other sites for inspection based on local knowledge and/or gathered from available sources, e.g., OIS data, internet business listings, sightings, and other relevant literature or data sets. Compliance Officers assigned to conduct inspections in a location will notify the Area Director of establishments which are no longer in

business, or previously unidentified establishments which fall under this LEP, so that the list may be updated. Prior to use, the revised Master List must be re-randomized -- either by the Office of Statistical Analysis or by the Area Office using the RANDBETWEEN function in Microsoft Excel.

2. Deletions: Any establishment sites which have had a previous comprehensive safety and health inspection within the past 12 months will be deleted prior to finalizing the inspection list. After deleting establishments inspected (comprehensive) within the last 12 months, all remaining establishments shall be randomly selected for inspection using a random number table or other appropriate random number generator applied to the final list. This selection process sets forth administratively neutral criteria to identify establishments for inspection.
 3. Cycles: The Area Director can generate randomly selected cycle(s) of reasonable cycle size, based on existing resources. The Area Office can inspect those establishments in any order but must finish the cycle prior to beginning a second cycle.
- B. Other Programmed Emphasis Programs: Local and national programmed inspections initiated at an establishment with the NAICS codes targeted under this LEP will be expanded to a comprehensive safety inspection, unless one was conducted within the past 12 months.
- C. Unprogrammed Inspections: Unprogrammed inspections initiated at an establishment with the NAICS codes targeted under this LEP will be expanded to a comprehensive safety inspection, unless one was conducted within the past 12 months and may be conducted without regard to the subject establishment being on the current cycle for programmed inspection.
- D. A minimum of one inspection cycle per year will be conducted by each area office. All selected establishments will be inspected.

IX. Inspection Procedures.

- A. The scope of inspections scheduled under this LEP will be in accordance with the Field Operations Manual and shall generally be comprehensive safety inspections. Any potentially serious health hazards or PSM related safety hazards will be appropriately referred to the area office. All guidelines in the current FOM regarding compliance officer referrals shall be followed.
- B. During all inspections conducted under this LEP, compliance officers will include the following activities as part of their inspections:
1. At the opening conference, compliance officers shall verify the NAICS code of the facility. If the establishment NAICS code is not on the list for site

selection, compliance officers shall leave the site and code the inspection as a “No Inspection.”

2. Temporary Workers: At the opening conference, compliance officers shall obtain the necessary information regarding the presence and/or use of temporary workers. If temporary workers are present or utilized at the establishment, the compliance officer shall obtain all the necessary documentation and information required to evaluate the safety and health program relating to temporary workers and determine compliance with OSHA regulations in providing a safe and healthful workplace for these workers. The compliance officer shall refer to the current OSHA guidance found on the [Temporary Worker Page](#) to address issues related to temporary workers during these inspections.
3. Outside contractors performing cleaning and/or sanitizing of processing equipment: At the opening conference, compliance officers shall obtain the necessary information regarding the presence and/or use of outside contractors who perform cleaning and sanitizing of processing equipment. If outside contractors are present or utilized, the compliance officer shall obtain all the necessary documentation and information required to evaluate their safety and programs and determine compliance with OSHA regulations in providing a safe and healthful workplace for their workers. The compliance officer shall follow FOM procedures in determining whether to open a separate inspection for the outside contractor.
4. Compliance officers will review the establishment’s injury and illness records for compliance with 29 CFR § 1904 including, where appropriate, compliance with Injury Tracking Application submission in accordance with 29 CFR § 1910.41.
5. Compliance officers will also review hazards associated with means of egress and fire suppression. For additional guidance reference NFPA 101-2009, Life Safety Code, 2009 edition which is incorporated by reference and approved for §§1910.34, 1910.35, 1910.36, and 1910.37.
6. All hazards observed or discovered during any inspection conducted under this LEP shall be appropriately addressed. Evaluate application of the following standards (keeping in mind that others may also apply):
 - a. 29 CFR §1910 Subpart I Personal Protective Equipment.
 - b. 29 CFR §1910 Subpart O Machinery and Machine Guarding.
 - c. §1910.146 Permit-required confined spaces.
 - d. §1910.147 The control of hazardous energy (lockout/tagout).
 - e. §1910.178 Powered industrial trucks.

- C. For establishments covered by this LEP, other hazards that may arise include, but are not limited to:
1. 1910.95, Occupational Noise Exposure. Compliance officers will determine if noise levels exceed 85 dBA (slow response) with a sound level meter or equivalent (for example NIOSH SLM phone app) to determine if a referral to a health compliance officer should be made. Documentation should include photos, noise levels, location, time/date and work activity.
 2. 1910.119, Process Safety Management of highly hazardous chemicals. Hazardous conditions related to the cooling system should be noted and documented for discussion with supervisor and/or referral to PSM trained compliance officer: strong odors, illegible or missing pipe labels, refrigerant lines with non-intact, damaged or missing insulation, ice buildup on lines, physical damage to pipes, physical damage to evaporator coils on ceiling, damaged ceiling hangers from the extra weight of the ice buildup, uncontrolled release, employees are unsure or unaware of emergency procedures to take during a release event, recent rescue or hospitalization of employees, and recent use of emergency respirators or equipment. The compliance officer should document these conditions and discuss with supervisor to determine if a referral to PSM trained compliance officer should be made. Documentation should include description, photos, location, and time/date.

X. Inspection Considerations.

- A. Compliance Officers should be aware that workers may not use English as their primary language and be prepared to contact translation services if needed. Compliance Officers should ask the employer what languages are spoken at the facility and what measures are in place to ensure that employees understand instructions and training. When interviewing employees, Compliance Officers should follow-up and ask about their understanding of instructions and trainings.
- B. Safety and Health Considerations for compliance officers: Inspections under this LEP are to be conducted by compliance officers who have received the necessary training on the LEP and the hazards associated with these industries. The Area Director will ensure that appropriate training is provided to the Area Office staff. Compliance officers' personal protective equipment such as gloves, eye-protection, hearing protection, respiratory protection, steel-toed shoes, etc., will be selected based on the above information and will be worn during the inspection.
1. Entry into areas where respirators are required is not anticipated in this LEP. However, if the need for respirators arises, compliance officers should leave the area and contact their supervisor

immediately. Information to discuss: name of chemical, expected levels, the location i.e., outdoors or large room, length of exposure, work activity being conducted, and compliance reason for entry into the area.

2. Compliance officers should be aware that cooling agents such as anhydrous ammonia may be onsite in large quantities in order to maintain freezers and coolers. Anhydrous ammonia and other cooling agents are hazardous chemicals. In case of a leak/spill/release evacuate immediately, avoid contact and follow instructions of the host employer. When safe to do so, notify your supervisor.
3. Infectious Diseases especially when airborne, can impact food processing facilities where employees may work side by side. If appropriate, before the start of the inspection, the compliance officer and supervisor should review infectious disease levels (for example Community COVID levels) and ways to reduce the risk for example: N95 face filtering respirator, conducting the opening conference outdoors (if weather allows), or conducting employee interviews by phone.

XI. Coding.

- A. Recording in OIS: Current instructions for completing the inspection, investigation or other UPA sections shall be followed when recording inspections under this LEP.
- B. Inspections scheduled under this LEP shall be marked as "Program Planned" in the Initiating Type field and the value "SEAFOOD" in the Local Emphasis Program field.
- C. Program related inspections (for example a cleaning contractor, or a health referral) will also include the value "SEAFOOD" in the Local Emphasis Program field code.
- D. LEP Combined with Unprogrammed Inspections. For all unprogrammed inspections conducted in conjunction with this LEP, included under this initiative, the OSHA Inspection Report must be marked with the appropriate unprogrammed activity in the Initiating Type field. In addition, the value "SEAFOOD", as appropriate, shall be recorded in the Local Emphasis Program field.
- E. LEP Combined with other Emphasis Program Inspections. For all programmed inspections such as other NEPs/REP/LEPs conducted in conjunction with an LEP inspection under this initiative, the OSHA Inspection Report must be

marked as "Program Planned" in the Initiating Type field. In addition, the value "SEAFOOD" shall be recorded in the Local Emphasis Program field along with all NEP and LEP OIS codes applicable to the inspection.

- F. All compliance assistance associated with this LEP shall be entered into OIS and coded as "SEAFOOD" in the Tasks section-Emphasis Programs-Local Emphasis Programs box.

XII. Evaluation.

- A. The LEP will be evaluated in accordance with the guidelines in Appendix A of CPL 04-00-002, November 13, 2018, *Procedures for Approval of Local Emphasis Programs*. The Assistant Regional Administrator for Enforcement Programs will request input from the Area Directors for this evaluation.
- B. The Regional Office will complete a program report at the midpoint and completion of the LEP. The midpoint assessment will take place no later than September 30, 2026. The midpoint and final program report will include quantitative and qualitative measures, including recommendations regarding the continuation of this LEP. In addition to activity and impact measures, the report will include the following:
 - 1. An evaluation of how effective the program was in meeting its goal of reducing the number of fatalities, serious injuries, and serious safety and health hazards in this industry.
 - 2. Data and information used to support the conclusions stated above:
 - (a) Data shall include enforcement statistics such as number of fatalities and serious injuries in this industry, number of inspections conducted, number of serious hazards identified, the number of employees removed from hazards, and the total number of employees affected by enforcement activities covered by the LEP.
 - (b) Data shall also include outreach statistics such as the number of outreach activities conducted, and the number of employees participating in or affected by these outreach activities.
 - 3. Statement and rationale of whether the emphasis program should be continued.
 - 4. Description of any legal issues that arose which would necessitate a review by the Solicitor before renewal of the program.

5. Any other comments or recommendations, including findings or novel abatement measures, which might have an impact on how the industry conducts business.

XIII. Outreach.

- A. Initial Outreach: Area Offices subject to this LEP will provide initial outreach to stakeholders for a period of three months from the effective date of the LEP to the enforcement date. Outreach activities will be directed to as many stakeholders in the affected jurisdictions as is practicable. Among others, stakeholders may include employers associated with the affected NAICS codes, employer associations, professional groups, and employee groups. Outreach will address the existence, purpose, and objectives of this emphasis program. In addition, outreach will promote employer knowledge and employee awareness of the hazards of fish and seafood processing and related wholesale merchant warehousing and acceptable methods of abatement to prevent illness and injuries as well as employee rights. Further, outreach will promote and provide employer and employee knowledge of the employee protections under Section 11(c) of the OSH Act. Compliance assistance activities will also explain services available to employers through state 21(d) Consultation services. Outreach during this period may include but is not limited to, media press releases, informational meetings, stakeholder mailings, e-mails blasts, fact sheets, quick cards, and other pertinent information.
- B. Ongoing Outreach: Area Offices will continue outreach activities to stakeholders throughout the duration of this LEP, with a goal of at least four outreach activities annually. Region 1 Whistleblower Protection Program will conduct at least one outreach activity with a primary focus of Section 11(c) of the OSH Act rights annually.

All 21(d) Consultation Programs throughout Region I will be informed of the Region-Wide Local Emphasis Program and will be invited to participate in outreach activities.