

VOSH PROGRAM DIRECTIVE: 01-010

ISSUED: 15 February 2014

SUBJECT: **Local Emphasis Programs: Development and Approval of Special Targeting Activities**

Purpose This Directive defines internal policy and procedures for the development and adoption of Local Emphasis Programs (LEPs) for use by the VOSH Program.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.

Scope This directive applies to VOSH-Wide.

Reference OSHA Instruction CPL 04-00-001 (CPL 2-0.102A) (November 10, 1999).

Cancellation Not Applicable.

Effective Date 15 February 2014

Action Directors and Managers shall follow the guidelines for LEPs as set forth in this Directive.

William P. Burge
Acting Commissioner

Distribution: Commissioner of Labor and Industry
 Assistant Commissioner - Programs
 VOSH Directors and Managers
 Legal Support and IMIS Staffs

Cooperative Programs Director
VOSH Compliance and Cooperative Programs Staffs
OSHA Regional III and Norfolk Area Offices

I. Background and Purpose

Local Emphasis Programs (LEPs) are a type of special targeting for programmed inspections, in which one or more VOSH regions are included for participation. Such focused targeting inspection efforts are generally based either on:

1. Similar programs adopted by federal OSHA either nationally or by Region III;
2. Initiated by VOSH based on familiarity with local industry or existing hazards;
3. Knowledge of local or statewide or regional LWDI rate(s), frequency or probability of an event occurrence that is such that VOSH seeks to reduce; or,
4. Being otherwise defined or targeted in the VOSH's strategic plan, or annual operational goals or objectives

In order to optimize program effectiveness and promote the best use of program resources, VOSH compliance and consultation staff may choose to target both inspection activities and the marketing of consultation program services. LEP programs are part of VOSH's ongoing operational plan, developed as part of its state plan agreement with the federal OSHA and VOSH remains committed to the efficacy of such targeted activities. The overall targeting strategy holds that a percentage of each region's planned activities include one or more local emphasis programs developed and implemented to address specific issues that are resident in the particular region.

Local Emphasis Programs may also include targeting of employers with 10 or fewer employees, as long as they do not conflict with restrictions under Congressional Appropriations Act riders as described in VOSH Program Directive 02-003M, or successor guidance, for use under normal 50/50 23g grant/state funded programmed inspection activities.

Any targeting exception to the Congressional restrictions will be made on an individual basis and be specifically approved by the Assistant Commissioner and/or the applicable VOSH Program Director who must authorize in advance any use of 100% state funding.

Note: Such programs defined as "pilot programs" may now be redefined as LEPs.

II. Development

A. Purpose

The idea or concept for an LEP may originate at the field, regional, or HQ office level or duplicate an existing federal program. It must be approved and adopted as a VOSH Series 14 Program Directive (14-xxx) prior to any implementation. An LEP is to be used whenever it is desirable to target inspections to one or more specifically identified hazards or targeted industries or other existing workplace characteristics which are not adequately addressed within the regular operation of the programmed inspection selection process.

B. LEP Protocols and Requirements

The following requirements must be addressed in the development of any LEP and be reflected in the concept statement submitted:

1. The required criteria for the local emphasis program include:
 - **Basis** for why the specific targeting is needed;
 - **Purpose** for the proposed targeting;
 - **Rational** for the targeting, i.e., what is the expected result; and
 - **Strategy** involves what specific methodology is to be used.

2. Program factors to be considered include but are not limited to:
 - Does it parallel a federal OSHA emphasis program?
 - Does it include, or should it include, opportunities for local partnership with other enforcement or safety related entities, local businesses, and/or labor organizations?
 - Are there unique local conditions, specific regional expertise in relation to certain hazards or types of hazards, etc.?

C. Targeting

Targeting under the LEP shall include a list of potential establishments within the area to be covered or a method of generating such a list of worksites from available sources; e.g., federal, state, and/or local agencies, business or other directories, or applicable NAICS/SIC codes.

A documented selection process of administratively neutral criteria, e.g., OSHA's random numbering system or a software program equivalent, will be used to identify and order establishments for an inspection queue. (*See OSHA Instr. CPL 2.251 or successor*) Where an LEP will target employers with 10 or fewer employees, and there is potentiality for conflict with restrictions under Congressional Appropriations Act riders, the Directive must contain a statement explaining why such targeting is appropriate for an LEP.

III. Review and Approval Process

- A. Requests for LEPs development/adoption/implementation shall be sent to the Office of Policy and Planning.

- B. The written proposal shall address the following issues:
 - Rationale or justification for the LEP;
 - Planned duration;
 - Manner and frequency of evaluation of results;

- How inspections will be tracked in the inspection database (IMIS/OIS);
- How the inspection list will be generated;
- Complete criteria for selection of employers, e.g., NAICS, injury/illness rate, etc.);
- Impact on unprogrammed inspections of the same employer;
- In what manner and how often the list of employers will be updated; and
- How flexible the region's use of the list will be (opportunity for supervisory exclusions based on recency, number of employee, etc.).

C. Considerations in the evaluation process for LEP approval:

Step 1. For new LEPs, approval to move forward must be first obtained from the VOSH Division of Legal Support (DLS) with regard to the legal sufficiency of the proposed targeting system and procedures, i.e., whether neutrality requirements for inspection scheduling are met. DLS may address additional issues reflecting local experience in obtaining and enforcing compulsory process. LEPs proposed for renewal must also be approved by DLS for concurrence, unless the renewed LEP is identical to its predecessor.

Step 2. Evaluation for each affected region in regard to:

- Determination of the percentage of resources available for discretionary inspections, i.e., those inspections that are not planned or scheduled inspections, complaints, or responses to injury or fatality notifications. This does not include LEPs that operate with the existing targeting protocols (for example, an emphasis *within* a high-hazard industry such as agriculture or construction).
- How much of that region's compliance resources are devoted to existing "local emphasis" programs, excluding those within a high-hazard industry, and the impact of the addition of this LEP specifically.

Step 3. The evaluation must, at a minimum, address the LEP's role in meeting goals of OSHA's Strategic Plan, such as:

- The number of employees covered;
- Reduction in the number of injuries and illnesses;
- The number of workers removed from hazards;
- Reductions in employee exposures;
- Abatement measures implemented; and
- Number of violations related to specific targeted hazards.

D. LEPs must be reviewed and approved by the applicable VOSH Program Director, the Division of Legal Support and then the Assistant Commissioner prior to submission to the Commissioner for signature and implementation.

IV. Program Maintenance

The Office of Policy and Planning shall:

- Draft the applicable VOSH program directive;
- Upon approval of LEP, contact OMDS at federal OSHA to request assignment of an IMIS/OIS identifier code for the LEP (*item 25 code in IMIS*);
- Function as custodian for all LEPs for the VOSH Program;
- Provide copies of LEP Program Directives and required documentation to federal OSHA;
- Provide technical assistance as requested to VOSH Program Directors and advice to field offices in preparing LEP evaluation criteria and/or reports;
- Provide information on LEPs and LEP evaluation reports from other regions to Regional Administrators for their review regarding possible applications within the region; and
- Provide overall direction and guidance in establishing Agency procedures for LEPs.
