



Utah Occupational Safety and Health Division (UOSH)

DIRECTIVE NUMBER: 2022-003	EFFECTIVE DATE: November 20, 2022
	ORIGINAL DATE: November 20, 2017 REVISED DATE: October 25, 2022
SUBJECT: Local Emphasis Program for the Public Sector	

ABSTRACT

- Purpose:** This instruction establishes policies and strategies for a Local Emphasis Program (LEP) that focuses on inspections of public sector employers which are comprised of counties, cities, school districts, colleges, technical schools, fire departments, police departments, correctional facilities, special service districts and Utah state agencies.
- References:** UOSH Field Operations Manual (UFOM).

Occupational Safety and Health Administration (OSHA) Instruction Compliance (CPL) 02-00-025, January 4, 1995, *Scheduling System for Programmed Inspections*.
- Distribution:** UOSH Staff, Region VIII Area Office, O-Drive Accessible, stakeholders and Internet Accessible.
- Expiration:** This LEP expires November 20, 2027. EXCEPTION: Any inspection opened prior to this date may continue until its conclusion.
- Originating Office:** State of Utah, Labor Commission, UOSH
- Contact:** Director, UOSH
160 East 300 South, 3rd Floor
P.O. Box 146650
Salt Lake City, UT 84114-6650

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I. Goal.

The goal of this Directive is to establish an enforcement initiative to remove workplace hazards and reduce the incidents of injury, illness and fatality among workers in the public sector by focusing on worksites where serious hazards with a substantial probability that death or serious physical harm could result, are likely to be present based on the nature of the operation. Such hazards in the public sector include, but are not limited to, falls from elevations, caught-in or between, struck-by, electrocution and exposures to chemical substances.

II. Scope.

This LEP applies to all public sector workplaces under the jurisdiction of UOSH.

III. Expiration.

This LEP expires on November 20, 2027, but may be renewed as necessary.

IV. Background.

There are more than 217,000 public sector employees in the state of Utah that fall under UOSH's jurisdiction. The total workforce under UOSH's jurisdiction is comprised of approximately 1,613,069 employees. At least 13% of the workers in Utah are employed by a public sector entity. Although public sector employees account for more than 13% of the workforce, a small percentage of occupational safety and health inspections have been conducted by UOSH at public sector worksites.

UOSH initiated this LEP to increase the number of inspections in the public sector in order to identify serious hazards to which public sector employees may be exposed and to solicit cooperation with state and local government agencies to achieve better and continuously effective safety and health programs.

UOSH will commit a number of resources to effectively implement this LEP, including enforcement, outreach, training and onsite consultation.

V. Action.

The Director or designee shall ensure that the procedures outlined herein are followed during the effective period of this LEP. This LEP is not to conflict with inspection priorities as established in the UFOM.

When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with the current procedures for handling such refusals.

VI. Selection and Scheduling of Sites for Inspection.

Inspections conducted under this LEP shall be scheduled as follows:

- A. Using local government sources, telephone directories and other available sources, UOSH will develop an inspection scheduling list of public sector entities that meet the requirements for inspection under this LEP. This list will be updated annually but may also be updated at any time as necessary.
- B. To help in developing the inspection scheduling list, UOSH has identified entities within the public sector that are likely to contain operations where workers may be exposed to serious hazards due to the nature of the operation (e.g., Utilities, Sewer, Water, Streets, Fleet Service, Parks and Recreation, Cemeteries, Facilities, Maintenance, Road Construction, Power, Bus Garages, Emergency Response, etc.) Such hazards include, but are not limited to, falls from elevations, caught-in or between, struck-by, electrocution and exposures to chemical substances. The list of state entities that were identified to be included on the inspection scheduling list include the following:
 - 1. Municipalities (Cities and Counties);
 - 2. Public Safety (Fire/Police/Correctional Facilities);
 - 3. Education (School Districts, Colleges and Technical Schools); and
 - 4. Utah State Agencies (Including Special Service Districts).

NOTE: There may be other portions of the public sector not listed above that could fall under the scope of this LEP.

- C. UOSH may add to the inspection scheduling list public sector entities where serious work-related injuries or fatalities related to falls from elevations, caught-in or between, struck-by, electrocution and exposures to chemical substances have occurred in the last five years. Local evidence of such injuries will be based on OSHA Information System (OIS) accident data, Bureau of Labor Statistic (BLS) data, Utah Labor Commission Industrial Accidents Division (IAD) data, OSHA 300 Injury and Illness Log data, National Institute for Occupational Safety and Health (NIOSH) data and other reliable sources of information (e.g., reports of serious work-related injuries or fatalities from hospital admissions, emergency medical services, fire department, and police reports).
- D. Establishments which have had a comprehensive safety and health inspection in the previous 24 months and which have not had any employees sustain a significant injury while at work during this period will not be added to the inspection scheduling list until the 24 month time period has elapsed.

- E. No more than one public sector LEP inspection will be conducted at each establishment/site every 24 months. Unprogrammed inspections, including monitoring inspections, follow-up inspections, referral inspections, complaint inspections, and accident investigations may be conducted at any time as applicable.
- F. LEP inspections shall concentrate on areas within the entity where serious hazards to which employees may be exposed are likely to be present based on the nature of the operation as discussed in Paragraph B. of Section VI., *Selection and Scheduling of Sites for Inspection*, of this LEP.
- G. State entities identified under this LEP will be selected for inspection in accordance with the following guidelines:
 - 1. General.
 - a. UOSH will create a list of entities that will become the inspection pool and will be arranged alphabetically on the inspection scheduling list. Each entity on the list will be assigned a sequential number with the first entity on the list being number one (1). From the inspection scheduling list, a random list will then be developed using a random number list (see Appendix C of CPL-02-00-025, January 4, 1995, *Scheduling System for Programmed Inspections*, for guidance) or an internet-based randomized sequence generator.
 - b. The number of entities included in the scheduling cycle for inspections will be set in accordance with Subparagraph VI.G.2., *Entity Inspection List*, below. The first cycle, starting from the top of the randomized list, will be selected for inspection. Compliance Safety and Health Officers (CSHOs) will be assigned specific entities to inspect within the cycle of entities and will continue until all entities within the cycle have been inspected. Once a cycle is completed, the entities selected in that cycle will be removed from the inspection scheduling list and placed on the completed establishment list. The remaining inspection list will be randomized again and the next cycle of entities will be selected for the next inspection cycle. This process will be repeated until the entire scheduling list is complete.
 - c. All entities within a cycle must be inspected. Inspection of entities can be scheduled in any order to make efficient use of resources. After entities are inspected, they will be marked as completed on the original randomized list. Inspection cycles will be assigned until the original randomized list is complete.
 - d. Due to Utah's dispersed and rural population centers, the Director or designee may select other areas for inspection within a geographical region.

This will be done to reduce travel time to remote locations, improve efficiency of the inspection process and ensure effective coverage of the selected entities. The Director must ensure that all entities within UOSH's jurisdiction will be covered within a reasonable time period.

- e. If any changes in the selection process are necessary, the Director or designee must approve the change and document the justification for the desired change.

2. Entity Inspection List.

a. Municipalities.

- i. UOSH will use the 2020 census to create a list of cities and counties with populations of 1,000 or more people. UOSH believes that population centers of this size are more likely to have a higher number of public sector employees exposed to serious work-related hazards. This list will become the inspection pool for Municipalities.
- ii. The scheduling cycle for inspections of Municipalities is set to fifteen (15) entities per cycle.

b. Public Safety.

- i. A list of all police departments, fire departments and correctional facilities under UOSH's jurisdiction will become the inspection pool for Public Safety.
- ii. The scheduling cycle for inspections of Public Safety is set to fifteen (15) entities per cycle.

c. Education.

- i. A list of all public sector school districts, colleges and technical schools under UOSH's jurisdiction will become the inspection pool for Education.
- ii. The scheduling cycle for inspections of Education is set to five (5) entities per cycle.

d. Utah State Agencies.

- i. Divisions of state agency departments and special service districts will be selected and placed on an inspection scheduling list based on the likelihood of employee exposure to serious hazards due to the nature of the division's operations. The list of divisions will become the inspection pool for Utah State Agencies.
 - ii. The scheduling cycle for inspections of Utah State Agencies is set to fifteen (15) entities per cycle.
- H. Prior to assigning an unprogrammed inspection (complaint, referral or accident) of a public sector entity to a CSHO, the Compliance Field Operations Manager or Compliance Supervisor must determine if a public sector LEP or comprehensive safety and health inspection of this public sector entity has been conducted within the previous 24 months. If such an inspection has not been conducted, the unprogrammed inspection will be expanded to include a public sector LEP inspection and the entity will be removed from the public sector LEP inspection scheduling list (if included on the list) for a period of 24 months from the date of the opening conference. The public sector entity does not have to be included on the inspection scheduling list in order to expand the unprogrammed inspection to a programmed LEP inspection.

VII. Inspection Procedures.

- A. The primary purpose of inspections conducted under this LEP is to identify serious hazards in the public sector such as, but not limited to, falls from elevations, caught-in or between, struck-by, electrocution and exposures to chemical substances based on the type of operations that are conducted by the public sector entities.
- B. Once an inspection has been assigned, the CSHO shall search the Federal OSHA website and OIS for the employer's inspection history to ascertain whether the establishment has received a public sector LEP or comprehensive safety and health inspection within the last 24 months. If an inspection has been conducted within the previous 24 months, the CSHO will inform the Compliance Field Operations Manager or designee and will not proceed with the inspection. The Compliance Field Operations Manager or designee will ensure that the inspection list is updated with the current information.
- C. If a public sector LEP or comprehensive safety and health inspection has not been conducted in the previous 24 months, the CSHO will conduct an inspection in accordance with the UFOM.
- D. Information obtained prior to opening an LEP inspection will help the CSHO identify high hazard areas to focus on as part of the inspection. Prior to opening the inspection, the CSHO must utilize the Utah Labor Commission Industrial Accidents Claims System (IAC) database to run injury and illness reports for the current and previous three (3) years of the assigned entity to help identify high

hazard areas where injuries have occurred. The CSHO must also utilize the internet and resources from the State of Utah Department of Commerce to determine the structure of the entity assigned in order to be able to identify the areas within that entity that are likely to contain serious hazards based on the nature of the operations. Refer to Paragraph B. of Section VI., *Selection and Scheduling of Sites for Inspections*, of this LEP for guidance on site selection.

- E. During the opening conference, the CSHO shall request and review the establishment's OSHA 300 and 300A logs for the current and prior three (3) years, looking for injuries and illnesses that may direct the focus of the inspection. CSHOs must enter injury and illness information into OIS in accordance with the UFOM.
- F. After the CSHO identifies areas of focus based on injury/illness data, the CSHO will proceed with inspecting those areas and will review required safety and health records (inspection, training, fit test, etc.) and programs (e.g., hazard communication, lockout/tagout, permit required confined space, forklift certification, bloodborne pathogen, etc.) in accordance with the UFOM. The CSHO will create one (1) inspection report for the entity that was assigned. All hazards observed will be included in the violation worksheets of that inspection, ensuring that the location of each identified hazard is included in the worksheet and alleged citation.
- G. During the walkaround portion of the inspection, the CSHO will conduct a thorough inspection of those areas where serious hazards, such as, but not limited to, falls from elevations, caught-in or between, struck-by, electrocution and exposures to chemical substances, may be present. If the CSHO discovers that employees may be exposed to a health hazard, he or she must assess the hazard and evaluate as necessary to determine levels of employee exposure. If health hazards are identified during the inspection (e.g., noise, hazard communication, bloodborne pathogens, etc.), the CSHO will categorize the inspection as a health inspection in OIS and will include the identified safety and health hazards on this inspection report. If a CSHO needs assistance with determining employee exposure to health hazards, such determination may be conducted by a health CSHO as assigned by the Compliance Field Operations Manager or designee.
- H. Where the Compliance Field Operations Manager or designee assigns a health CSHO to assess and evaluate health hazards (see Paragraph G. above), such CSHO will open a separate inspection and create a new inspection report that will be categorized as a health inspection in OIS. All health hazards identified by the CSHOs will be included on the health inspection report. Safety hazards identified will be included on the CSHOs original inspection report and will be categorized as a safety inspection in OIS.
- I. CSHOs will evaluate, inspect and address other serious hazards that are discovered or witnessed during the inspection.

VIII. OSHA Information System Coding.

- A. For any inspection conducted under this LEP, "PubSecLEP" will be selected in the Inspection Emphasis Programs Field in OIS under State Emphasis Program.

- B. In the Inspection Emphasis Programs Field in OIS, select all National and State Emphasis Programs codes applicable to the inspection.

IX. Program Evaluation.

- A. Abatement documentation/verification will be submitted to or otherwise collected by UOSH for all violations. Proof of abatement must be placed in the case file immediately upon verification.
- B. UOSH will prepare a written evaluation of this LEP; the evaluation should include a response to the questions outlined in Appendix A, *Internal Review Sheet for Processing Local Emphasis Programs*, of this LEP. Evaluations will be conducted at least annually and submitted to the Director or designee. The evaluation will include a recommendation for the continuation or elimination of this program.

X. Outreach and Education.

The Director or designee will assure that Consultation and Education Services Section staff are familiar with this LEP and actively promote the program when conducting outreach sessions and meetings. Handouts and publications that address hazards found in the public sector, which are already developed and available, will be provided at outreach sessions and meetings. A link to this LEP will be provided on UOSH's website and a copy will be provided to interested parties upon request.

APPENDIX A

Program Evaluation Items for Local Emphasis Programs (LEPs)

This form may be used to ensure that LEPs follow the requirements of this Instruction and address all key program areas.

The program evaluations of LEPs required by this instruction should address the following items:

1. What is the goal of the LEP? Briefly describe the purpose of the LEP (e.g. eliminate dangerous process(es), exposure to safety and health hazards, injuries/illnesses or fatalities) and include any specifics that caused you to choose this program. How does it support UOSH's Strategic Plan?
2. In your opinion, did the LEP meet its goal?

Indicate if the program was:

- highly effective;
- effective;
- less than effective; or
- ineffective.

If this determination is not possible, indicate accordingly and briefly explain.

3. What data and information do you have to support your conclusion(s)?

At a minimum, consider the following areas of information in making your response. Note that some of the subjects listed at 3.a. through g. will not apply to every LEP. Where a subject is clearly not applicable or no responsive information can be ascertained, this should be so noted in the evaluation.

- a. Enforcement statistics. Include:
 - Number of inspections;
 - Number of inspections in compliance;
 - Number of "no inspection" cases;
 - Percent of violations cited that are serious;
 - Number of employees covered by inspection;
 - Percent of citations contested;
 - Number of significant cases;
 - Average violations per inspection; and
 - Any other data which may be relevant to supporting your conclusion.

- b. Significant and egregious cases:

List and briefly describe all significant and egregious cases, if any.

- c. Serious hazards eliminated.

In responding, consider important:

- Repeat violations.
 - Hazards cited for a given employer that do not reappear once abated, such as hazardous airborne substances in an unventilated workplace area.
- d. Evaluate and briefly comment on the overall list of standards cited to determine whether the LEP is addressing the goal.
- e. Decline in occupational injuries, illnesses, and fatalities for the establishments covered by the LEP:
- Have injuries, illnesses, and/or fatalities declined in the State of Utah because of the program?
 - Did the program cause a reduction of specific injuries, illnesses and/or fatalities that are common to the covered industries?
- f. Impact on covered, non-inspected employers (deterrent effect on employers): Were covered employers who were not inspected aware of the LEP, and did they eliminate serious hazards targeted by the program? If so, briefly describe significant example(s).

NOTE: Information regarding a deterrent effect might be detected from outreach sessions, new constituency groups, informal conferences, and speech and information requests.

- g. Impact on suppliers of production equipment (shadow effect on suppliers): Were manufacturers of production equipment aware of the LEP, and did they respond by modifying their products to minimize employee exposure to occupational hazards? If so, briefly describe significant example(s).

4. Should the LEP be continued?

Answer "yes" or "no" and give a brief rationale.

5. Have any legal issues arisen that should be brought to the attention of the State of Utah Labor Commission's Assistant Attorney General (AAG) if the LEP is proposed for renewal?

If "yes," describe them in sufficient detail for the AAG to make a determination.

6. Are there any other comments or recommendations?

Consider any findings which might influence UOSH programs and policies. Also, consider economic and technological factors impacting industries covered under the LEP, which could only be changed by revising the production process and would be beyond the employer's current financial capabilities.