

Oregon Occupational Safety And Health Division
Department Of Consumer And Business Services

Program Directive

Program Directive A-301
Issued June 26, 2020
Revised _____

- Subject:** **Local Emphasis Program: Guidelines for Scheduling and Conducting COVID-19 Related Inspections of Food Processors.**
- Purpose:** To provide uniform policies, procedures, and guidance to Oregon Occupational Safety and Health Administration (OSHA) enforcement staff as it relates to inspections covered by this directive
- Scope:** This directive applies to all of Oregon OSHA.
- References:** Division 1, OAR 437-001-0057(9)
- State of Oregon Governor’s Executive Orders pertaining to Coronavirus/COVID19 Pandemic
- Oregon Health Authority (OHA) COVID-19 Pandemic Guidance
- Centers for Disease Control (CDC) COVID-19 Pandemic Guidance
- (See Appendix B)
- Background:** Infection with SARS-CoV-2, the virus that causes COVID-19, can cause illness ranging from mild to severe and, in some cases, can be fatal. Symptoms typically include fever, cough, and shortness of breath. Some people infected with the virus have reported experiencing other non-respiratory symptoms. Other people, referred to as *asymptomatic cases*, have experienced no symptoms at all. According to the CDC, symptoms of COVID-19 may appear in as few as 2 days or as long as 14 days after exposure. COVID-19 is a recognized health hazard, creating a world-wide pandemic.

As a result of the COVID-19 Pandemic, food processing facilities have experienced plant-specific COVID-19 outbreaks. Food processors across the country have also experienced similar high levels of employee exposure resulting in a disproportionate rate of workers contracting the virus as compared to other industries. In the food processing industry workers are often working side by side with little to no room between other workers, or working directly across from other workers. The work is typically very high paced and often includes sharing contact points on the product being processed or the tools and equipment being used. The work is done in a variety of environmental conditions that may increase the exposure to workers.

This Local Emphasis Program for Food Processors is designed to direct Oregon OSHA's limited resources to most effectively identify and address employer efforts to assess and implement public health and worker protection practices for limiting potential employee exposures to COVID-19.

Targeting/Site Selection:

Inspections conducted under this LEP will be scheduled and conducted in workplaces where:

- There are food processing operations in general industry or agriculture, or
- Complaints or referrals are received alleging employee exposure to COVID-19 hazards that are in the food processing operations

Developing Inspection Lists: A master list of establishments will be developed using the identified North American Industry Classification System (NAICS) codes in Appendix A of this directive.

Outreach:

Efforts will be made to contact and conduct an outreach program that includes industry groups, employers, safety and health associations, and safety and health councils that could be impacted by this Local Emphasis Program. The outreach program will attempt to provide the following:

- Notification to the affected NAICS employers of this LEP, providing references to guidance documents that would allow the employer to address the hazards.

- Provide contact information to Oregon OSHA technical and consultative sections which are available to provide assistance.
- Provide a press release, and social media campaign to help inform employers about this new LEP.

NOTE: In addition to this Limited Emphasis Program, Oregon OSHA consultants are also involved with a collaborative agreement along with Oregon Health Authority and Oregon Agriculture Department to offer educational opportunities for employers in the food processing industry. That collaboration is called **“Playbook for Joint Timely Response Protocol for COVID-19 Outbreak in Food Processing Establishments”** and is operated entirely separate from this Emphasis Program. (See Appendix B, References)

Safety And Health

Protection:

Compliance Safety Health Officer (CSHO)(s) will comply with all safety and health rules and practices at the job site and use the appropriate protective clothing and equipment required by the Oregon OSHA Personal Protection Equipment (PPE) Hazard Assessment for COVID-19, or by the employer for the protection of employees. If the employer’s provisions for employee protection does not meet the requirements of OSHA or OR-OSHA standards then the CSHO must comply with the most stringent standard. (See the FIRM, Chapter 3.)

Inspection

Procedures:

Inspections initiated as a result of this Local Emphasis Program will normally be restricted in scope to a partial inspection of the hazards relevant to this program unless other serious hazards are observed.

When Oregon OSHA receives a complaint related to this directive the procedures outlined in Program Directive A-219 (Complaint Policies and Procedures) will be followed. When Oregon OSHA receives a referral related to this directive the procedures outlined in the Field Inspection Reference Manual will be followed. Where feasible, attempts will be made to conduct follow up inspections for those inspections that resulted in willful, repeat, or serious violations.

NOTE: In the unique situation relating to COVID-19, Oregon OSHA will not automatically treat notification of positive COVID-19 cases received from a public health department or the Oregon Health Authority as a referral unless instructed to do so by the entity.

All inspections (scheduled, complaint, or referral) must be planned and conducted in accordance with EG 2020-1 Guidance for Inspection Activity During the State Recognized COVID-19 Emergency, and will include, but are not limited to, the following actions:

1. Pre-Inspection:

- a. CSHOs will be selected and assigned COVID-19 emphasis inspections based on their experience, training, expertise, and availability. The need for conducting work in language(s) other than English and available resource(s) may affect the selection of compliance officer(s) assigned these inspections.

NOTE: Do not rely on the employer, employer representative or an employee as an interpreter. Only use Oregon OSHA approved interpreters.

- b. CSHOs will work with their enforcement manager to ensure that EG 2020-1 Guidance for Inspection Activity During the State Recognized COVID-19 Emergency will be followed.

Enforcement managers will discuss with the CSHO(s) before going into the field the following:

- Scope of the inspection,
 - Safety of the CSHO and required PPE.
 - Anticipated on-site complications, and
 - CSHO's level of comfort in conducting the on-site inspection and steps that can be taken to address those concerns.
- c. COVID-19 related inspections that are anticipated to be high profile or contentious such as when a business is required to be closed but is still operating may be conducted in pairs if agreed upon by both the Enforcement Manager and the CSHO.

- d. State vehicles will be used for all inspections, and will be wiped down with sanitizing wipes after use. Oregon OSHA staff will drive separate vehicles to comply with DCBS social distancing direction.

2. During Inspection:

- a. Inspections must be conducted in accordance with all other applicable rules and Oregon OSHA Program Directives.
- b. Social Distancing: DCBS social distancing (minimum of 6-feet between each person) will be maintained at all times until such direction is modified or rescinded.

NOTE: Properly prepared CSHO(s) may encroach closer than the Department of Consumer and Business Services (DCBS) social distancing direction during critical field inspection activities such as when it is absolutely necessary to hang sampling equipment on an employee. These situations are expected to be very rare and cannot occur without first gaining approval from a field office Enforcement Manager or a member of the core management team.

- c. An Opening Conference will be conducted as normal with an emphasis being placed on COVID-19 personal protection and prevention strategies. It is acceptable to hold the opening conference in areas that reduces the opportunity for COVID-19 transmission such as outside or in a large room. It is also acceptable to hold the opening conference by phone or video link if suggested or requested.
- d. During the opening conference, CSHO's will verify that the location North American Industrial Classification System (NAICS) code applies to the operation being inspected to determine what rules apply to the employer.
 - If the operation being inspected falls into a NAICS listed in OAR 437-004-0002, Division 4 would apply.

- For all other NAICS not listed in OAR 437-004-0002, Division 2 would apply.

CSHO's should discuss efforts made to comply the Governor's most current Executive Orders in effect and the associated OHA statewide or sector guidance with the employer and offer clarification if necessary.

- e. Document through photographs, video recordings and measurements the employer's efforts to comply with the Governor's most current Executive Orders in effect and applicable OHA guidance as well as the Oregon Safe Employment Act while following the staff safety guidelines identified in EG 2020-1 and the Division's PPE Hazard Assessment for COVID-19.

When possible, observe processes and activity from locations that make the inspection process less intrusive such as upstairs offices or viewing areas, surveillance cameras or video footage, etc.

- f. CSHO's should pay special attention to areas where employees may work in close quarters and/or congregate in groups such as production and sorting lines, breakrooms, changing areas, toilet facilities, outside smoking areas, time clocks, etc.
- g. Evaluate how the employer is encouraging or enforcing social distancing, face coverings, and sanitation policies or procedures. Factors to consider could be, but are not limited to wiping down surfaces and common use equipment between work stations or shift changes, staggering of work shifts or rest periods, informing employees about how COVID-19 is spread and ways to avoid contracting the virus, etc.
- h. Conduct interviews onsite with employees and supervisors following social distancing guidelines, or arrange for phone or video link interviews. Use an interpreter if necessary.

NOTE: Do not rely on the employer, employer representative or an employee as an interpreter. Only use Oregon OSHA approved interpreters.

- i. As in all inspections, OSHA 300 Logs, safety committee meeting minutes, etc. will be reviewed. If feasible, review records and programs electronically while off site.
 - j. If alleged violations of the Governor's most current Executive Orders in effect, associated OHA and CDC guidance, or the Oregon Safe Employment Act are identified, ensure abatement is completed if possible, or discuss abatement methods and timeline for abatement with the employer before leaving the site.
3. Post-Inspection:
- a. CSHO's will wipe down state vehicles and equipment/devices with sanitizing wipes after returning to the field office or home location. Launder reusable face coverings. Properly disinfect or dispose of PPE in accordance with Oregon OSHA policies.
 - b. CSHO's will consult with their Enforcement Manager to report completion of on-site activity and for guidance on rule violation and penalty amounts in accordance with the FIRM should an alleged violation of the Governor's most current Executive Orders in effect, associated OHA and CDC guidance, or the Oregon Safe Employment Act be recommended.
 - c. Complete all inspection activity, verify abatement, and issue citations within 5 working days when feasible. Complete paperwork in accordance with all applicable rules and directives.

**Recording In
Otis:**

- a. All Food Processing COVID-19 emphasis inspections must be marked as type "Programmed Planned." Enter "LEP FPCOVID" in the Local Emphasis box under the Emphasis tab. Enter the

National Optional Code "N-16 COVID-19" in the Optional Report Information box under the Related/Optional tab.

- b. The scope of Food Processing COVID-19 emphasis only inspections, complaint and referral inspections must be marked as Partial.
- c. All scheduled inspections conducted in conjunction with a Food Processing COVID-19 emphasis inspection must be marked as type "Programmed Planned" and the scope marked as Partial.

Effective

Date: This directive is effective immediately and will remain in effect until cancelled or superseded.

Appendices: A - 2007 NAICS codes covered in this LEP
B – References

History: Issued 06-26-2020

Appendix A

2007 NAICS Covered In This LEP

115114	Postharvest Crop Activity (except Cotton Ginning)
311111	Dog and Cat Food Manufacturing
311119	Other Animal Food Manufacturing
311211	Flour Milling
311212	Rice Milling
311213	Malt Manufacturing
311221	Wet Corn Milling
311222	Soybean Processing
311223	Other Oilseed Processing
311225	Fats and Oils Refining and Blending
311230	Breakfast Cereal Manufacturing
311311	Sugar Cane Mills
311312	Cane Sugar Refining
311313	Beet Sugar Manufacturing
311320	Chocolate and Confectionery Manufacturing from Cacao Beans
311330	Confectionery Manufacturing from Purchased Chocolate
311340	Non-chocolate Confectionery Manufacturing
311411	Frozen Fruit, Juice, and Vegetable Manufacturing
311412	Frozen Specialty Food Manufacturing
311421	Fruit and Vegetable Canning
311422	Specialty Canning
311423	Dried and Dehydrated Food Manufacturing
311511	Fluid Milk Manufacturing
311512	Creamery Butter Manufacturing
311513	Cheese Manufacturing
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing

311520 Ice Cream and Frozen Dessert Manufacturing
311611 Animal (except Poultry) Slaughtering
311612 Meat Processed from Carcasses
311613 Rendering and Meat Byproduct Processing
311615 Poultry Processing
311711 Seafood Canning
311712 Fresh and Frozen Seafood Processing
311811 Retail Bakeries
311812 Commercial Bakeries
311813 Frozen Cakes, Pies, and Other Pastries Manufacturing
311821 Cooking and Cracker Manufacturing
311822 Flour Mixes and Dough Manufacturing from Purchased Flour
311823 Dry Pasta Manufacturing
311830 Tortilla Manufacturing
311911 Roasted Nuts and Peanut Butter Manufacturing
311919 Other Snack Food Manufacturing
311920 Coffee and Tea Manufacturing
311930 Flavoring Syrup and Concentrate Manufacturing
311941 Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing
311942 Spice and Extract Manufacturing
311991 Perishable Prepared Food Manufacturing
311999 All Other Miscellaneous Food Manufacturing
312210 Tobacco Stemming and Redrying
312221 Cigarette Manufacturing
312229 Other Tobacco Product Manufacturing

Appendix B

References

1. State of Oregon Governor's Executive Orders pertaining to Coronavirus/COVID19 Pandemic: <https://govstatus.egov.com/or-covid-19#executiveOrders>
2. Oregon Health Authority (OHA) COVID-19 Pandemic Guidance: <https://govstatus.egov.com/OR-OHA-COVID-19>
3. Centers for Disease Control (CDC) COVID-19 Pandemic Guidance: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>
4. Oregon OSHA Field Inspection Reference Manual (FIRM)
5. 5Playbook for Joint Timely Response Protocol for COVID-19 Outbreak in Food Processing Establishments: <https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/DISEASESAZ/Emerging%20Respiratory%20Infections/Playbook-COVID-19-Outbreak-Food-Processing-Establishments.pdf>
6. Oregon OSHA PPE Hazard Assessment for COVID-19: <http://inside.cbs.state.or.us/osha/policies/memos/enforcement/EM-COVID-19-ppe-hazard-assessment.pdf>
7. Division 1 OAR 437-001-0057(9) (for reference only)

Emphasis Inspections – An inspection may be made if the place of employment is included in a national or local safety or health emphasis program. Emphasis programs are established by identifying the most hazardous industries and processes through information obtained from the Department of Consumer and Business Services claim files, the Bureau of Labor Statistics Occupational Injury and Illness Survey, the Oregon Employment Department, and knowledge of recognized hazards associated with certain processes. Program directives will be issued to establish and describe emphasis programs and the written neutral administrative standards that will be used to schedule the inspections.

Oregon OSHA's understanding that Oregon OSHA's rule on the subject (OAR 437-001-0057(9)) does not require each emphasis program to involve all four of the listed sources of information is not a new understanding. A brief review of the existing emphasis programs (without even considering those that were previously adopted but are no longer in place) confirms that historic understanding. Of the 17 current emphasis programs described in an Oregon OSHA Program Directive (both those

initiated by Oregon and those based on a federal OSHA emphasis program), only three appear to rely upon all the listed information sources. The following 14 existing emphasis programs appear to rely upon three or fewer of the sources included in the rule:

PD A-174 (issued January 2, 1993 and revised August 11, 2011): *Field Sanitation*

PD A-177 (issued April 5, 1993 and revised September 12, 2018): *Process Safety Management of Highly Hazardous Chemicals*

PD A-235 (issued March 30, 2000 and revised February 28, 2018): *Pesticides*

PD A-239 (issued July 19, 2000 and revised January 29, 2003): *Falls In Construction*

PD A-253 (issued January 13, 2003 and revised October 17, 2008): *Silicosis*

PD A-256 (issued May 1, 2006 and revised January 20, 2017): *Occupational Exposures to Isocyanates*

PD A-265 (issued February 21, 2008 and revised January 3, 2019): *Trenching and Excavation*

PD A-273 (issued February 14, 2009 and revised June 29, 2017): *Lead in general industry and construction*

PD A-275 (issued March 23, 2010 and revised October 18, 2012): *Diacetyl (Flavoring Chemicals)*

PD A-277 (issued December 9, 2010 and revised February 22, 2019): *Severe Violator Enforcement Program (SVEP)*

PD A-278 (issued August 18, 2010): *Hexavalent Chromium*

PD A-284 (issued December 15, 2011 and revised November 27, 2017): *Hospitals and nursing and residential care facilities*

PD A-298 (issued October 28, 2016 and revised June 19, 2019): *Tethered Logging*

PD A-299 (issued July 11, 2017 and revised June 6, 2019): *Preventing Heat Related Illness*