



July 6, 2023

MEMORANDUM FOR: REGIONAL ADMINISTRATORS
EXECUTIVE STAFF

FROM: JAMES S. FREDERICK
Deputy Assistant Secretary

A handwritten signature in blue ink, appearing to read "J.S. Frederick", written over a horizontal line.

SUBJECT: Recission of Temporary Policies Contained in May 12, 2020 and October 27, 2020 Memoranda to Regional Administrators and Executive Staff from Loren Sweatt, then Principal Deputy Assistant Secretary

This memorandum rescinds temporary policies contained in the following memoranda to Regional Administrators and Executive Staff from Loren Sweatt, then-Principal Deputy Assistant Secretary:

- The May 12, 2020 memorandum, “Temporary Revision to Policy Impacting Factory Surveillance for Nationally Recognized Testing Laboratories During the Coronavirus Disease 2019 (COVID-19) Pandemic,” which established a temporary policy allowing for the remote conduct of factory surveillance, including initial factory inspections, by Nationally Recognized Testing Laboratories (NRTLs) due to the travel and safety limitations associated with the COVID-19 pandemic.
- The October 27, 2020 memorandum, “Temporary Revision to Policy Impacting Conducting Remote Audits of Satellite Notification and Acceptance Program sites within Nationally Recognized Testing Laboratories,” which established a temporary policy allowing for remote assessments of locations approved for the Satellite Notification and Acceptance Program (SNAP) within NRTLs due to the travel and safety limitations associated with the COVID-19 pandemic.

These temporary policies were issued in response to the COVID-19 pandemic. On May 5, 2023, the US Centers for Disease Control (CDC) and the World Health Organization (WHO) declared an end to the global Public Health Emergency. The US Department of State and other governments have also removed travel and safety limitations associated with the COVID-19 pandemic restrictions.

OSHA hereby rescinds these temporary policies, with certain limitations, as described below. This rescission will become effective 30 days after the publication of this memorandum. Beginning on that date, NRTLs may no longer follow the temporary policies contained in the May 12, 2020 or October 27, 2020 memoranda.

With respect to the temporary policies contained in the May 12, 2020 memorandum:

Beginning 30 days after the publication of this memorandum, NRTLs may no longer perform factory surveillance of manufacturing facilities, including initial factory surveillance, remotely. The temporary revisions to Annex B, Sections 7.9A and 7.9C of the NRTL Program Policies, Procedures, and Guidelines, OSHA Instruction CPL 01-00-004 (Oct. 1, 2019) (the NRTL Program Directive, available at https://www.osha.gov/sites/default/files/enforcement/directives/CPL_01-00-004.pdf) are hereby rescinded. For the current NRTL Factory Surveillance Policy, please refer to the NRTL Program Directive only.

Notwithstanding the rescission of the temporary policies contained in the May 12, 2020 memorandum, as provided in that memorandum, any NRTL that chose to perform factory surveillance remotely under the temporary policy must:

- **Ensure that a physical, on-site factory surveillance inspection is conducted at each manufacturing facility that received remote surveillance inspections at the next regularly scheduled surveillance inspection, but no later than five months after this temporary policy is rescinded (the five-month period begins 30 days after publication of this memorandum); and**
- **Maintain a list of all remote factory surveillance inspections performed during the period the temporary surveillance policy was in effect, and make this record available to OSHA upon request.**

With respect to the temporary policies contained in the October 27, 2020 memorandum:

Beginning 30 days after the publication of this memorandum, NRTLs may no longer perform remote assessments of each individual SNAP site in lieu of performing the physical on-site assessments that would otherwise be required under SNAP. For current OSHA audit policy for SNAP, please refer to 74 FR 923 (May 11, 2009) and 85 FR 75042 (Nov. 24, 2020). With the rescission of the temporary policy, NRTLs must:

- “perform an initial [on-site] audit to qualify a site for the SNAP;” and
- “perform a minimum of two [on-site] audits of each SNAP site on a yearly (12-month) cycle, provided that each audit reviews all of the site’s SNAP operations, both technical (e.g., staff competence, equipment, facilities) and programmatic (e.g., quality-control procedures, internal audits, control of the certification mark);” and
- “perform a minimum of one [on-site] audit of the SNAP site, provided that the audit reviews all of a SNAP sites testing activities” if “the site only performs SNAP product testing and no ‘SNAP function’” (74 FR at 925).

Notwithstanding the rescission of the temporary policies contained in the October 27, 2020 memorandum, as provided in that memorandum, any NRTL that chose to perform remote assessments of each individual SNAP site in lieu of performing the on-site assessments that would otherwise be required under SNAP must maintain a list of all remote SNAP assessments performed during the period the temporary policy was in effect, and make this record available to OSHA upon request.

Moreover, it should be noted that in a November 24, 2020 *Federal Register* Notice, OSHA finalized a policy for transitioning to SNAP termination, the conversion of existing SNAP sites to Recognized Sites, and the interim performance of SNAP activities at SNAP sites (85 FR 75042, available at <https://www.osha.gov/laws-regs/federalregister/2020-11-24>). This memorandum does not in any way modify or affect this final SNAP transition/conversion/interim performance policy.

If you have questions about this memorandum, please contact Kevin Robinson, Director, Office of Technical Programs and Coordination Activities at 202-693-2110 or robinson.kevin@dol.gov.