OSHA NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: 02-03 (CPL 2) | **EFFECTIVE DATE:** July 17, 2002

SUBJECT: OSHA's National Emphasis Program-Nursing and Personal Care Facilities SIC 8051, 8052, 8059

ABSTRACT

Purpose: This notice implements a National Emphasis Program (NEP) for programmed inspections of nursing and personal care facilities (SIC Codes 8051-Skilled Nursing Care Facilities, 8052-Intermediate Care Facilities, and 8059-Nursing and Personal Care Facilities, Not Elsewhere Classified).

Scope: OSHA-wide**.**

References: OSHA Notice 02-02 (CPL 2), Site-Specific Targeting 2002 (SST-02) (4/15/2002); OSHA Instruction CPL 2.106, Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis (2/9/1996); OSHA Instruction CPL 2-2.69, Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens Standard (11/27/01); 29 CFR 1910.1030, includes revisions mandated by the Needlestick Safety and Prevention Act (11/27/2001).

Expiration Date: September 30, 2003, unless replaced earlier by a new Notice. Upon the expiration or replacement of this Notice, inspection cycles already underway shall be completed as provided in Paragraph X.B.3.

State Impact: State Adoption Not Required, See Paragraph V.

Action Offices: National, Regional, and Area Offices.

Originating Office: Directorate of Compliance Programs.

Contact: Directorate of Compliance Programs
200 Constitution Avenue, NW, N-3603
Washington, DC 20210
Phone: 202-693-2100

By and Under the Authority of

John L. Henshaw
Assistant Secretary

Abstract 2

Executive Summary

OSHA Notice 02-03 (CPL 2), National Emphasis Program for Programmed Inspections of Nursing and Personal Care Facilities, SIC Codes 8051-Skilled Nursing Care Facilities, 8052-Intermediate Care Facilities, and 8059-Nursing and Personal Care Facilities, Not Elsewhere Classified, sets forth policy and procedures for targeting and conducting programmed inspections in this industry.

Key terms are defined, the primary and secondary targeting lists are described, scheduling and inspection procedures are provided, and information on IMIS coding is given. There are four appendices which provide additional information: A quick reference for compliance safety and health officers (CSHOs); a Release and Consent form; information for Area Offices on how to use the software for the Nursing and Personal Care Facilities NEP; a list of resources available to CSHO and employers.

TABLE OF CONTENTS

I **Purpose**. This instruction describes policies and procedures for targeting and enforcement efforts to reduce occupational illness and injury in Nursing and Personal Care Facilities in SIC Codes 8051, 8052, and 8059.

II **Scope**. This Notice applies OSHA-wide.

III **References**.

A. Title 29 Code of Federal Regulations Part 1904.

B. Title 29 Code of Federal Regulations Part 1910.

C. Memorandum dated February 10, 1998 from Director, Compliance Programs, John B. Miles, Jr. to Regional Administrators regarding Nursing Home Initiative Inspections Policy and Procedures

D. OSHA Notice 02-02 (CPL 2), Site-Specific Targeting 2002 (SST-02), April 15, 2002.

E. Occupational Injuries and Illnesses; Recording and Reporting Requirements, published in the *Federal Register* on January 19, 2001 (66 FR 5915).

F. OSHA Instruction CPL 0-2.131, Recordkeeping Policies and Procedures Manual (RKM), January 1, 2002.

G. OSHA Instruction CPL 2.111, Citation Policy for Paperwork and Written Program Requirement Violations, November 27, 1995.

H. OSHA Instruction CPL 2-0.51J, Enforcement and Limitations under the Appropriations Act, May 28, 1998.

I. OSHA Instruction CPL 2.25I, Scheduling System for Programmed Inspections, January 4, 1995.

J. OSHA Instruction CPL 2.103, Field Inspection Reference Manual (FIRM), September 26, 1994.

K. OSHA Instruction STP 2-0.22B, State Plan Policies and Procedures Manual, March 21, 2001.

L. OSHA Instruction TED 8-0.2, OSHA Strategic Partnerships for Worker Safety and Health, November 13, 1998.

M. OSHA Instruction TED 3.5, Interim Guidance for Voluntary Protection Programs, May 10, 2002.

N. OSHA Instruction TED 8.1a, Revised Voluntary Protection Programs (VPP) Policies and Procedures Manual (May 24, 1996).

O. Log Data Collection System Procedures Manual, Version 6.0: 2000 Log Data Collection Initiative.

P. Bureau of Labor Statistics (BLS), Table 1. Incidence Rates of Nonfatal Occupational Injuries and Illnesses by Industry and Selected Case Types, 2000.

Q. OSHA Instruction CPL 2.106, Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis, February 9, 1996.

R. OSHA Instruction CPL 2-2.69, Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens Standard, 29 CFR 1910.1030, includes revisions mandated by the Needlestick Safety and Prevention Act (2001, November 27)

S. OSHA Instruction STD 1-1.13, Fall Protection in General Industry 29 CFR 1910.23(c)(1)(c)(3), and 29 CFR 1910.132(a)

T. OSHA Instruction CPL 2.90, Guidelines for Administrating of Corporate-Wide Settlement Agreements, June 3, 1991.

U. 45 CFR Subtitle A, Subchapter C, Part 164 -- Security and Privacy, Subpart E - Privacy of Individually Identifiable Health Information, Section 164.512.

V. Reported Tuberculosis in the United States, 2000. Centers for Disease Control and Prevention. Division of TB Elimination. August 2001.

W. Tuberculosis in the Workplace. Institute of Medicine. Marilyn J. Field, Editor. Committee on Regulating Occupational Exposure to Tuberculosis. Division of Health Promotion and Disease Prevention. National Academy Press 2001.

X. Section 5(a)(1) of the Occupational Safety and Health Act of 1970.

IV **Expiration Date**. This Notice will terminate September 30, 2003, unless replaced earlier by a new Notice. Upon the expiration or replacement of this Notice, inspection cycles already underway shall be completed as provided in X.B.3.

V **Federal Program Change**. This Notice describes a Federal Program Change for which State adoption is not required. States with a similar Strategic Plan goal or emphasis programs focusing on nursing homes or otherwise targeting and conducting programmed inspections in Nursing and Personal Care Facilities may wish to implement procedures comparable to those contained in this directive, especially as they relate to resident handling, slips, trips and falls, tuberculosis, and bloodborne pathogens. States are asked to keep their Regional Administrators informed of State-developed emphasis programs, experimental programs, local problem solving projects, or other targeting initiatives directed at Nursing and Personal Care Facilities. They should also coordinate with their Regional Administrator and Office of Management Data Systems (OMDS) as to the proper IMIS identifier code for such program(s).

VI **Significant Changes**. In August 1996, OSHA implemented a Seven State Nursing Home Initiative to address hazards and "protect workers in one of the nation's fastest growing industries" (OSHA National News Release, August 8, 1996). This initiative was terminated by John B. Miles, Director, Compliance Programs, to the Regional Administrators in a letter dated February 10, 1998. All enforcement policies for the Initiative were subsequently superseded and replaced by the Site Specific Targeting Inspection Plan (April, 1999). In April 2002, Nursing and Personal Care Facilities were removed from the Site Specific Targeting Plan and will be addressed by the policies and procedures described herein.

VII **Action Information**.

A. Responsible Office. Directorate of Compliance Programs (DCP).

B. Action Offices. National, Regional, and Area Offices.

C. Information Offices. State Plan States, OSHA Office of Training and Education, Consultation Project Managers, VPP Managers, Partnership Coordinators, Compliance Assistance Coordinator, and Compliance Assistance Specialists.

VIII **Background**. Nursing and Personal Care Facilities have one of the highest rates of injury and illness among industries for which nationwide lost workday injury and illness (LWDII) rates were calculated for Calendar Year 2000 (CY2000). According to data from the Bureau of Labor Statistics (BLS), the national average LWDII rate for private industry for CY2000 was 3.0. Nursing and Personal Care Facilities (employers within SIC codes 8051, 8052, and 8059) experienced an average LWDII rate of 7.9, despite the availability of feasible controls which have been identified to address hazards within this industry.

This NEP will focus primarily on the hazards which are prevalent in Nursing and Personal Care Facilities, specifically, ergonomic stressors relating to resident handling; exposure to blood and other potentially infectious materials; exposure to tuberculosis; and slips, trips, and falls. As detailed in the FIRM, when additional hazards come to the attention of the CSHO, the scope of the inspection may be expanded to include those hazards. This NEP addresses only enforcement-related procedures. Voluntary guidelines published by OSHA will not be used as a basis for citations issued under this NEP.

CY 2000 data from BLS indicate that overexertion and injuries from slips, trips, and falls account for a high percentage of total nonfatal occupational injury and illness cases with days away from work in Nursing and Personal Care Facilities. Taken together, these account for 72% of all cases involving days away from work (53.4% from overexertion and 18.6% from slips, trips, and falls).

OSHA enforcement data (from the Integrated Management Information System or IMIS) indicate that the most frequently cited standard in Nursing and Personal Care Facilities is 29 CFR 1910.1030, the Bloodborne Pathogens Standard.

Employees working in Nursing and Personal Care Facilities have been identified by the Centers for Disease Control and Prevention (CDC) as having a high incidence of exposure to Tuberculosis (TB). In CY 2000, the CDC reported a total of 16,377 cases of TB in the United States. Persons over the age of 65 have the highest TB case rates and

constitute a large proportion of the TB cases in the United States (CDC, 2001).[1] In addition, the age-specific case rate for persons older than 65 years living in nursing homes has been estimated to be 1.8 times that of older persons not in nursing homes (IOM, 2001).[2]

Workplace violence is a recognized hazard in Nursing and Personal Care Facilities. Section XIII of this NEP addresses outreach, training, and information for the purpose of advancing awareness of this hazard. In the year 2000, BLS data recorded 3,702 occupational injuries and illnesses involving days away from work in Nursing and Personal Care Facilities (SIC 805) that were attributable to violence inflicted on staff. During the period from 1992-2000, there were 29 homicides in this industry from violence toward staff.

The efforts set forth herein are designed to meet the Department of Labor's Strategic Plan goals and OSHA's Strategic Plan (1999-2004) goals in addressing the requirements of Government Performance and Results Act (GPRA), as this industry group was identified in OSHA's Strategic Plan goal 1.1. Under this Strategic Plan goal, the Agency committed to reducing the number of worker injuries, illnesses, and fatalities by 15% in industries characterized by high-hazard workplaces. This goal is to be achieved by focusing nation-wide attention and Agency resources on the most prevalent types of workplace injuries and illnesses and the most hazardous workplaces.

IX **Definitions**.

A. *Data Initiative (a.k.a. Data Survey):* The Data Initiative is a nationwide collection of establishment-specific injury and illness data from approximately 80,000 establishments. It collects data from establishments by using the "OSHA Occupational Injury and Illness Data Collection Form." The Data Initiative is OSHA's Annual Survey Form that is referred to in 29 Code of Federal Regulations 1904.41.

Note: The **2000** injury and illness data that was collected by the **2001** Data Initiative is used in the **2002** Site-Specific Targeting program and will also be used in this NEP.

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[1]CDC, 2001. Reported Tuberculosis in the United States, 2000. Centers for Disease Control and Prevention. Division of TB Elimination. August 2001.

[2]IOM, 2001. Tuberculosis in the Workplace. Institute of Medicine. Marilyn J. Field, Editor. Committee on Regulating Occupational Exposure to Tuberculosis. Division of Health Promotion and Disease Prevention. National Academy Press 2001.

B. *Days Away, Restricted, or Transferred (DART) Rate:* (The DART rate is the same calculation as the Lost Workday Injury and Illness (LWDII) rate and has replaced the LWDII rate, see CPL 0-2.131 - Recordkeeping Policies and Procedures Manual) This includes cases involving days away from work, restricted work activity, and transfers to another job. It is calculated using the formula (N ÷ EH) x (200,000) where N is the number of cases involving days away and/or restricted work activity, and/or job transfer; EH is the total number of hours worked by all employees during the calendar year; and 200,000 is the base number of hours for 100 full-time equivalent employees.

For example: Employees of an establishment (XYZ Company) worked 645,089 hours at this XYZ company. There were 22 injury and illness cases involving days away and/or restricted work activity and/or job transfer from the OSHA-300 Log (total of column H plus column I). The DART rate would be (22 ÷ 645,089) x (200,000) = 6.8.

Note: The DART rate has replaced the Lost Workday Injury and Illness (LWDII) rate, but for this NEP the DART rate will only be used in limited circumstances in new ownership cases. See XI.B., below.

C. *Establishment:* An establishment is a single physical location where business is conducted or where services are performed.

For a more detailed definition of Establishment see Chapter 2, paragraph VII.B. of CPL 2-0.131, Recordkeeping Policies and Procedures Manual.

D. *Lost Workday Injury and Illness (LWDII) Rate:* This includes cases involving days away from work and restricted work activity and is calculated based on (N ÷ EH) x (200,000) where N is the number of lost work day injuries and illnesses combined, EH is the total number of hours worked by all workers during the calendar year and 200,000 is the base number of hours for 100 full-time equivalent workers. For example: Workers of an establishment including management, temporary, and leased workers worked 645,089 hours at this worksite. There were 22 lost workday injuries and illnesses from the OSHA-200 (totals in columns 2 and 9). The LWDII rate would be (22 ÷ 645,089) x (200,000) = 6.8.

E. *Partnership:* In this Notice "partnership" refers only to those agreements in which establishments participate in a partnership with OSHA in accordance with OSHA Instruction TED 8-0.2, and for which there is a signed partnership agreement.

X **Application**. This instruction applies to all general industry Nursing and Personal Care Facilities covered under SICs 8051,8052, and 8059.

XI Program Procedures

A. Site Selection.

1. **Primary Inspection List.** This National Emphasis Program selects for inspection individual worksites as identified through the 2001 Data Initiative as defined and referenced in OSHA Notice 02-02 (CPL 2), Site-Specific Targeting 2002 (SST-02). The national average LWDII rate for private industry for 2000 was 3.0. This NEP shall initially select for inspection all worksites within SIC codes 8051, 8052, and 8059 with a LWDII rate at or above 14.0.
2. **Secondary Inspection List.** If an Area Office completes its inspections of all establishments with LWDII rates at or above 14.0 (i.e., the Primary Inspection List in X.A.1., above) before the expiration of this NEP, it should identify additional establishments reporting an LWDII rate of 8.0 or greater but less than 14.0 in the 2001 Data Initiative. These establishments will then be inspected using the procedures in this Notice.
3. **Establishments with Fewer than 40 Workers.** If an establishment to be inspected under this NEP has fewer than 40 workers at the time the CSHO arrives on site to begin the inspection, the inspection will still be conducted, provided that the establishment has more than 10 workers and either its recalculated LWDII rate is at or above 8.0 or records are not available. See XI..C., below for more details.

B. **Scheduling**. The National Office will provide each Area Office with access to software and databases containing the establishments on the Primary Inspection List for its coverage area. As discussed in X.A.2, the National Office will also provide each Area Office with a Secondary Inspection List. The software and databases will be available on OSHA's website for Nursing and Personal Care Facilities; only OSHA Regional Offices and Area Offices will be able to access this website.

1. **Cycle Size.** Inspection cycles for the Primary and the Secondary Inspection Lists will be generated using OSHA's NEP for Nursing and Personal Care Facilities software that randomly selects the establishments (see Appendix C). Area Offices will base their determination of cycle size (i.e., 5 to 50 establishments) on considerations of available resources and geographic range of the office. Larger cycle sizes may allow greater flexibility and efficiency of scheduling, but once begun, the cycle must be completed. If a cycle larger than 50 would provide the Area Office with more efficient use of staff, the office should request written approval from the Regional Office for a larger cycle size.
2. Within a cycle, the establishments may be scheduled and inspected in any order that makes efficient use of available resources.

3. When a cycle is completed, the Area Office may generate a new cycle using OSHA's NEP for Nursing and Personal Care Facilities software (see Appendix C).
4. All of the establishments in a cycle must be inspected before any establishments in a new cycle may be inspected. The exceptions are provided in OSHA Instruction CPL 2.25I, Scheduling System for Programmed Inspections, January 4, 1995, at paragraph B.1.b.(1)(e)1, which lists when carry-overs will be allowed. In addition, the establishments, in any cycle begun but not yet completed by the expiration date of this Notice, must be inspected even if the inspection is initiated after the expiration date.
5. An establishment participating in a partnership in accordance with OSHA Instruction TED 8-0.2, OSHA Strategic Partnerships for Worker Safety and Health, and for which there is a signed agreement, may be carried over to a future cycle to allow the NEP inspection to be deferred up to six months from the signing of the partnership agreement. The Regional Partnership Coordinator should be contacted if there are questions regarding a specific workplace. Also see Deletions at X D.2.ii.
6. Programmed inspections will be deferred for establishments applying to OSHA's Voluntary Protection Program (VPP), if an application has been received and **accepted** by the Regional VPP Manager. This deferral should commence no more than 75 days prior to the scheduled VPP onsite review and continue until a decision concerning VPP participation has been made (see Chapter 2, paragraphs B.3.b. and D.12.b of TED 8.1a, Revised Voluntary Protection Programs (VPP) Policies and Procedures Manual). Also see Deletions at X.D.

C. **Inspection Priority**. Normally, the first inspection priority for Area Offices is to conduct unprogrammed inspections, and the inspection priorities as described in the FIRM (OSHA Instruction CPL 2.103) will be followed, with the following additional guidance:

1. All establishments on the NEP Inspection List must be inspected unless, in view of resource considerations, the Regional Administrator has received special approval (generally in advance) from the Deputy Assistant Secretary to conduct a smaller number of inspections, or this Notice is replaced before all the establishments on the list are inspected. Approval will normally require the Area Office to complete all inspections in the current cycle. This NEP Inspection List has the same inspection priority as the SST 02-02 Primary Inspection List.
2. The Secondary Inspection List does not have to be completed before the expiration date of this Notice. This NEP Secondary List has the same inspection priority as the SST 02-02 Secondary Inspection List.
3. Area Offices will continue to conduct other programmed inspections under national emphasis programs, or under local emphasis/initiative programs as the Area Office and Regional goals dictate.

D. **Deletions**.

1. Area Offices will be responsible for making appropriate deletions from the inspection list in accordance with CPL 2.25I at B.1.b.(1)(b)6.d., except that the criteria for H# and S# have been modified by this NEP. The coding originally was defined to determine deletion from an inspection list if the establishment had a substantially complete or focused health (H) or safety (S) inspection conducted within the previous five (5) fiscal years. This NEP provides that an establishment is deleted from the inspection list if it has received a **comprehensive safety and health inspection** after January 1, 2000 (based on the opening conference).
2. Additionally, establishments will be deleted if:
   a. The establishment is a public sector employer (i.e., Federal, State, or local government).
   b. The establishment is implementing an OSHA Strategic Partnership (see TED 8-0.2), has had an OSHA strategic partnership verification inspection, the partnership agreement targets the hazards addressed in this NEP, and the verification inspection addressed these targeted hazards. The Regional Partnership Coordinator should be contacted if there are questions regarding a specific workplace.
   c. The establishment is an approved participant in OSHA's Voluntary Protection Programs (VPP), or in OSHA Consultation's Safety and Health Achievement Recognition Program (SHARP).

XII **Inspection Procedures**. Inspections initiated under this NEP will be scheduled and conducted in accordance with provisions of the FIRM, except as noted below.

A. **SIC Verification**. At the opening conference the CSHO will verify the establishment's SIC code. As needed, determine the activities which occur at the workplace before determining the appropriate SIC code. If the establishment does not fall within SIC 805, the inspection will be terminated.

B. **Ownership**

1. Determine the corporate name of the employer as well as the name being used by the company for the local facility.
2. If the establishment changed ownership since December 31, 2000 and has been under new ownership for more than six months, recalculate the rate for the period of new ownership. If the recalculated LWDII rate or Days Away, Restricted, or Transferred (DART) rate is below 8.0, do not continue with the inspection. If it is at or above 8.0, continue with the inspection. Note: when calculating the LWDII or DART for the

period of the new ownership, which may be less than a year, be sure both the number of incidents and the employee work hours are for the new ownership period.

3. If all of the new ownership period occurred under the new recordkeeping rule (after January 1, 2002), calculate the DART rate based on OSHA-300 data.
4. In establishments where the ownership has changed, CSHOs can enter into the IMIS the Dun & Bradstreet (DUNS) number of the new owner in the appropriate field on the Establishment Detail Screen. If the new owner does not have a new DUNS number, enter the old DUNS (see XIV.D.).

C. **Recalculate LWDII**

1. During inspections under this Notice, the OSHA-200 logs for 1999, 2000, and 2001 will be reviewed. The CSHO will recalculate the LWDII rates for all three years and record them on the OSHA-1 Form. The LWDII rate for 2000 (recalculated by the CSHO) will be compared to the LWDII rate reported by the employer in the OSHA 2001 Data Initiative data collection. A recalculation will not be performed if, for any reason, the relevant records are not immediately available. CSHOs will check OSHA-101 Forms, or equivalent, as they deem appropriate to validate the OSHA-200 Forms.
2. If records are not available for CSHOs to make this determination, proceed with the focused safety and health inspection.
3. If the establishment's recalculated LWDII rate for 2000 is below 14.0, but the 2000 or 2001 LWDII rate is at or above 8.0, proceed with the inspection.
4. If the establishment's recalculated LWDII rate using the establishment's records is less than 8.0 for both 2000 and 2001, do a records review (not a records audit which requires the use of an audit software program) for 2001 only, and then recalculate the establishment's LWDII rate for 2001. Classify the inspection as a "records only" inspection and end the inspection if the rate for 2001 is still below 8.0.

D. **Privacy**

1. Residents:
   a. Respect for residents' privacy must be a priority during any inspection.
   b. In evaluating resident handling or other hazards (e.g., BBP, tuberculosis) **DO NOT** review any resident records that include personally identifiable health information, including diagnoses, laboratory test results, etc., provided by the employer.
   c. Evaluations of workplace health and safety issues in this NEP may involve assessment of resident handling. Resident handling activities may take place in resident rooms, restrooms, shower and bathing areas or other areas where the privacy of residents could be compromised. Documenting resident handling

activities by videotaping or photography requires the resident's informed, written consent. Family members or guardians may give consent for those residents who are incapable of giving informed consent (see Appendix B).

2. Employees' Records:

   a. If employee medical records are needed that are not specifically required by an OSHA standard (e.g., the results of medical examinations, laboratory tests, medical opinions, diagnoses, first aid records, reports from physicians or other health care providers), they must be obtained and kept in accordance with 29 CFR 1913.10 - Rules of agency practice and procedure concerning OSHA access to employee medical records **and** 29 CFR 1910.1020 - Access to Employee Exposure and Medical Records.

   b. Health and Human Services' Standards for Privacy of Individually Identifiable Health Information 45 CFR 164.512 (b)(1)(v), state that an employer (or its health care provider) can disclose and use confidential employee health information when conducting or evaluating workplace medical surveillance; or to evaluate whether an employee has a work-related illness or injury; or to comply with OSHA requirements under 29 CFR parts 1904 through 1928, 30 CFR parts 50 through 90, or under state law having a similar purpose.

NOTE: Questions regarding privacy protections should be directed to the Regional Nursing Home Coordinator (consultation on these issues is available through the Offices of Occupational Health Nursing or Occupational Medicine in Directorate of Technical Support, National Office).

E. **Prior Settlement Agreements**

1. Prior to the start of any inspection conducted under this NEP, the Area Office will determine if the establishment is subject to a settlement agreement. Facilities covered by a corporate wide settlement agreement will be posted on the website listed in Appendix C. If the establishment is subject to a settlement agreement, the Area Office will issue appropriate instructions to the CSHO.
2. The inspection of an establishment covered by a settlement agreement may be used as a monitoring inspection as the terms of the agreement dictate. The Area Office will contact the Regional Nursing Home Coordinator for appropriate action.

F. **Recordkeeping.** Recordkeeping issues must be handled in accordance with OSHA Instruction CPL 2-0.131, Recordkeeping Policies and Procedures Manual, CPL 2-2.69 - *Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens*, or other relevant field guidance. A partial walkthrough may be conducted to interview workers in order to confirm and verify the injury and illness experience. Any serious violations that are observed in the vicinity or brought to the attention of the CSHO must be investigated and may be cited.

G. **Ergonomic Risk Factors Relating to Resident Handling** This section provides guidance to OSHA personnel for conducting inspections in accordance with this NEP as it relates to ergonomic risk factors associated with resident handling. These inspections shall be conducted in accordance with the FIRM, as well as with other OSHA instructions intended to identify case outcomes as early as possible in the inspection process, allowing resources to be allocated efficiently.

1. **Employers with Multiple Facilities.** In some cases, inspections of a number of establishments operated by the same corporate entity will demonstrate the existence of an effective corporate-wide policy to address resident handling hazards. To maximize efficient allocation of agency resources, resident handling will be addressed during future NEP inspections of establishments operated by that employer by verifying that the establishment is implementing the corporate policy to address these hazards. This policy will apply when (1) OSHA has conducted NEP inspections of at least six of the corporation's establishments, (2) OSHA has not issued either a citation or a hazard alert letter because of resident handling hazards at any of these establishments, and (3) the CSHO verifies that the subsequently inspected establishment is implementing the corporate policy to reduce ergonomic hazards.

   The Area Office will determine whether an establishment qualifies for this treatment based on information received from the National Office and the Regional Ergonomic Coordinator (REC).

   The National Office will notify the RECs whenever a decision is made to issue an ergonomics citation to a nursing home corporation operating at multiple sites. When conducting inspections of other establishments of the corporation, OSHA will consult with SOL before performing the ergonomic portion of the inspection. Visits to sites that are covered by a corporate-wide settlement will be conducted in accord with that settlement. In other cases, inspections of facilities owned by a corporation that received a citation that has become a final order may be conducted

in accord with the procedures in this NEP. If a corporation has a citation that is currently under contest, individualized guidance will be provided.

2. **Establishment Evaluation.** Inspections of resident handling risk factors will begin with an initial process designed to determine the extent of resident handling hazards and the manner in which they are addressed. This will be accomplished by an assessment of establishment incidence and severity rates, whether such rates are increasing or decreasing over a three year period, and whether the establishment has implemented a process to address these conditions in a manner which can be expected to have a useful effect. When assessing an employer's efforts to address these conditions, the Compliance Officer should evaluate program elements, such as the following:

a. Program Management

(1) Whether there is a system for hazard identification and analysis.

(2) Who has the responsibility and authority for compliance with this system.

(3) Whether employees have provided input in the development of the establishment's lifting procedures.

(4) Whether there is a system for monitoring compliance with the establishment's policies and procedures and following up on deficiencies.

(5) If there have been recent changes in policies/procedures and what effect they have had (positive or negative) on injuries and illnesses.

b. Program Implementation

(1) How resident mobility is determined.

(2) The decision logic for using lift assist devices, and how often and under what circumstances manual lifts occur.

(3) Who decides how to lift patients.

(4) Whether there is an adequate quantity and variety of appropriate lift assist devices available and operational. Note that no single lift assist device is appropriate in all circumstances. Manual pump devices may create additional hazards.

(5) Whether there are an adequate number of slings for lift assist devices, double handled gait belts, or other transfer assist devices (such as but not limited to slip sheets, pivot transfer devices) available and maintained in a sanitary condition.

(6) Whether the policies and procedures are appropriate to reduce exposure to the lifting hazards at the establishment.

c. Employee Training

Whether employees have been trained in the recognition of hazards associated with resident handling, the early reporting of injuries and in the establishment's process for abating those hazards.

3. Occupational Health Management

Whether there is a process to ensure that disorders are identified and treated early to prevent the occurrence of more serious problems and whether this process includes restricted or accommodated work assignments.

After evaluating the facility's incidence and severity rates and the extent of the employer's program, a decision will be made as to the need to continue the ergonomic portion of the inspection. Where there is a need to address these issues, the Area Office will follow OSHA instructions in determining whether to send an Ergonomic Hazard Alert Letter, other communication, or issue citations. In all cases, the Area Office will notify the REC of the result of the inspection.

OSHA will contact a significant percentage of employers who receive an ergonomic hazard alert letter after 9 to 12 months to determine whether the deficiencies identified in the letter have been addressed. During this contact, OSHA will again provide information on available consultation and compliance assistance. In appropriate cases, OSHA will consider conducting another compliance inspection.

Citation Guidance: Refer to the FIRM and other OSHA reference documents prior to proceeding with citation issuance.

H. **Slip, Trips, and Falls**. This section provides general guidance related to these types of hazards when conducting inspections in a Nursing and Personal Care Facility.

1. Evaluate the general work environments (i.e., dietary, hallways, laundry, shower/bathing areas, points of access, and egress) and document hazards likely to cause slips, trips, and falls such as but not limited to:
   a. Slippery or wet floors; uneven floor surfaces; cluttered or obstructed work areas/passageways; poorly maintained walkways; broken equipment; or inadequate lighting.
   b. Unguarded floor openings and holes.
   c. Damaged or inadequate stairs and/or stairways.
   d. Elevated work surfaces which do not have standard guardrails.
   e. Inadequate aisles for moving residents.

2. Note any policies, procedures and/or engineering controls used to deal with wet surfaces. These would include but are not limited to ensuring spills are reported and immediately cleaned up, posting signs/barriers alerting employees to wet floors, passageways/aisles kept clear of clutter, and using appropriate footgear. Where appropriate, evaluate the use of no-skid waxes or other types of coated surfaces designed to enhance surface friction.

Citation Guidance: Where hazards are noted, the CSHO should cite the applicable standard (relevant standards can be found in subparts D and J of 29 CFR 1910 and other applicable standards related to slips, trips, and falls).

If employees are exposed to falling hazards while performing various tasks including maintenance from elevated surfaces, then OSHA Instruction STD 1-1.13, *Fall Protection in General Industry*, should be reviewed to determine the applicability of 29 CFR 1910.23(c)(1), (c)(3) and 1910.132(a).

I. **Bloodborne Pathogens** - This section describes procedures for conducting inspections and preparing citations for occupational exposure to blood and other potentially infectious materials (OPIM) in Nursing and Personal Care Facilities. This is not an exhaustive list. For further detailed guidance, CSHOs should refer to OSHA Instruction CPL 2-2.69, *Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens*. In addition, outreach and educational materials are available on the Internet and other references are provided in the appendices to this document.

1. Evaluate the employer's written Exposure Control Plan (ECP).
2. Assess the implementation of appropriate engineering and work practice controls.

a. Determine which procedures require the use of a sharp medical device (e.g., use of a syringe for the administration of insulin) and determine whether the employer has evaluated, selected, and is using sharps with engineered sharps injury protection (SESIPs) and needleless systems.

b. Confirm that all tasks involving sharps have been evaluated for the implementation of safer devices. For example, determine whether the employer has implemented a policy requiring use of safety engineered needles for pre-filled syringes and single-use safety engineered blood tube holders.

c. Determine whether the selection of safer devices was based on feedback from non-managerial employees responsible for resident medical care and documented in the plan.

d. If a safer device is not being used, determine if the use of a safer device would compromise patient safety or the outcome of a medical procedure.

e. Ensure that this is documented in the employer's ECP.

3. Ensure that proper work practices and personal protective equipment are in place.
4. Assess whether regulated waste disposal is performed properly.
5. Evaluate and document the availability of handwashing facilities. If immediate access to handwashing facilities is not feasible, ascertain whether skin cleansers are used (e.g., alcohol gels).
6. Assess the use of appropriate personal protective equipment (e.g., masks, eye protection, face shields, gowns and disposable gloves, including latex free gloves where appropriate).
7. Ensure that a program is in place for immediate and proper clean-up of spills, and disposal of contaminated materials, specifically for spills of blood or other body fluids.
8. Ensure that the employer has chosen an EPA-approved appropriate disinfectant to clean contaminated work surfaces.
9. Determine that the employer has made available to all employees with occupational exposure to blood and OPIM the hepatitis B virus (HBV) vaccination series within 10 working days of initial assignment.
10. Ensure that healthcare workers who have contact with residents or blood and are at ongoing risk for percutaneous injuries are offered an antibody test, in accordance with the U.S. Public Health Service Guidelines.
11. Investigate procedures implemented for post-exposure evaluation and follow-up following an exposure incident:

    a. Determine if establishment-specific post-exposure protocols are in place (i.e., where and when to report immediately after an exposure incident).

b. Determine if medical attention is immediately available, including administration of a rapid HIV test, as currently recommended by the U.S. Public Health Service Guidelines.

c. Ensure that information provided to the employer following an exposure incident is limited to those elements defined in paragraph (f)(5) of the standard.

12. Observe whether appropriate warning labels and signs are present.

13. Determine whether employees receive training in accordance with the standard.

14. Evaluate the employer's Sharps Injury Log (Note: An employer may use the OSHA 300, as long as the additional fields are included on a separable page and any identifiers are removed. However, CSHOs may suggest that employers simply use a separate sharps-injury log. A sample log is available in CPL 2-2.69)

15. Determine whether the log includes the required fields.

16. Ensure that employee's names are not on the log, but that a case or report number indicates an exposure incident.

17. Determine whether the employer uses the information on the Sharps Injury Log when reviewing and updating its ECP.

Citation Guidance: If an employer is in violation with the Bloodborne Pathogens Standard, the employer will be cited in accordance with CPL 2-2.69.

J. **Tuberculosis (TB)** - This section provides guidance for conducting inspections and preparing citations for the occupational exposure to Tuberculosis specific to Nursing and Personal Care Facilities. This is not an exhaustive list. For further detailed guidance, CSHOs should refer to OSHA Instruction CPL 2.106, *Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis*.

1. Determine whether the establishment has had a suspected or confirmed TB case within the previous 6 months prior to the date of the opening conference. If not, do not proceed with this section of the inspection. If a case has been documented or suspected, proceed with inspection according to the guidance document, CPL 2.106, referenced above.

2. Determine whether the establishment has procedures in place to promptly isolate and manage the care of a resident with suspected or confirmed TB, including an isolation room and other abatement procedures.

3. Determine whether the establishment offers tuberculin skin tests for employees responsible for resident care, specifically those described in CPL 2.106, referenced above.

Citation Guidance: The CSHO should refer to CPL 2.106, *Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis (TB)* for enforcement procedures including citation guidance for:

a. Respiratory Protection (Note: CPL 2.106 references 29 CFR 1910.134 - Respiratory Protection, however, this reference is out of date. All respiratory protection citations must be cited under 29 CFR 1910.139 - Respiratory Protection for Tuberculosis.)

b. Accident prevention signs, 29 CFR 1910.145.

c. Access to employee medical records, 29 CFR 1910.1020.

d. Recordkeeping, 29 CFR 1904.

XIII **Outreach**.

A. Each Area Office/Region/Consultation Program Office is encouraged to develop outreach programs that will support the efforts of the Agency in meeting the Strategic Plan goals outlined in this NEP. Such programs could include letters to employers, professional associations, local unions, local safety councils, apprenticeship programs, local hospitals and occupational health clinics, and/or other industry employer organizations.

B. Speeches, training sessions, and/or news releases through the local newspapers, safety councils and/or industrial hygiene organizations can provide another avenue for dissemination of information. A news release will be prepared by the National Office and made available to each Region. Additionally, the Directorate of Technical Support has prepared training materials which will be of assistance in this outreach effort.

C. A copy of the OSHA website's (www.osha.gov) Nursing Home Technical Links page including the Nursing Home eCAT (electronic Compliance Assistance Tool) will be available on a CD-ROM and will be distributed to all OSHA Regional and Area Offices as well as State Designees and 21(d) Project Managers. These sources have numerous links, including reference materials related to violence.

D. For additional outreach information or guidance on participation in partnerships, alliances or VPP, please contact the Directorate of Federal/State Operations at 200 Constitution Avenue, NW, Room N3700, Washington, DC, 20210, (202) 693-2200.

XIV **Relationship to Other Programs**.

A. Unprogrammed Inspections. Unprogrammed inspections will be conducted according to the FIRM (OSHA Instruction CPL 2.103) or other guidance documents. If the occasion for an unprogrammed (e.g., complaint, fatality) inspection arises with respect to an establishment that is also in the current inspection cycle to receive a programmed inspection under this NEP, the two inspections may be conducted either concurrently or separately. See XIV.B.

B. Partnerships. If an OSHA Strategic Partnership verification inspection is scheduled close (in time) to an inspection under this NEP, the two inspections may be conducted concurrently or separately.

XV **Recording and Tracking**.

A. Nursing and Personal Care Facilities Inspections. The OSHA-1 forms must be marked as "programmed planned" in Item 24. The "NEP" box is to be checked and the value "NURSING" recorded in item 25d. Select 'Strategic Plan Activity' and enter the value "NURSING" in Item 25f. Issuance of a 5(a)(1) citation alleging ergonomic hazards or an Ergonomic Hazard Alert Letter (note: this does not include letters which are written in recognition of an employers efforts) must be recorded in Optional Information, Item 42, using the following format:

	TYPE - ID	VALUE
1. 5(a)(1) Citations:	N - 03	ERGO-CIT

	TYPE - ID	VALUE
2. Hazard Alert Letters:	N - 03	ERGO-LTR

B. Nursing and Personal Care Facilities Inspections Combined with Unprogrammed Inspections. For all unprogrammed inspections conducted in conjunction with a Nursing and Personal Care Facilities NEP inspection, the OSHA-1 forms must be marked as "unprogrammed" in Item 24 with the appropriate unprogrammed activity identified. In addition, the "NEP" box is to be checked and the value "NURSING" recorded in item 25d. Select 'Strategic Plan Activity' and enter the value "NURSING" in Item 25f. Issuance of a

5(a)(1) citation or an Ergonomic Hazard Alert Letter (note: this does not include letters which are written in recognition of an employer's efforts) must be recorded in Optional Information, Item 42, using the following format:

1. 5(a)(1) Citations:	TYPE - ID	VALUE
	N - 03	ERGO-CIT

2. Hazard Alert Letters:	TYPE - ID	VALUE
	N - 03	ERGO-LTR

C. Nursing and Personal Care Facilities Inspections Combined with NEP or LEP Inspections. For all programmed inspections pursuant to other NEPs and LEPs conducted in conjunction with a Nursing and Personal Care Facilities inspection, the OSHA-1 forms must be marked as "programmed planned" in item 24. In addition, the "NEP" box is to be checked and the value "NURSING" recorded in Item 25d along with all NEP and LEP IMIS codes applicable to the inspection. Select 'Strategic Plan Activity' and enter the value "NURSING" in Item 25f. Issuance of a 5(a)(1) citation or a Hazard Alert Letter (note: this does not include letters which are written in recognition of an employer's efforts) must be recorded in Optional Information, Item 42, using the following format:

1. 5(a)(1) Citations:	TYPE - ID	VALUE
	N - 03	ERGO-CIT

2. Hazard Alert Letters:	TYPE - ID	VALUE
	N - 03	ERGO-LTR

D. Dun & Bradstreet's Number. The Data Universal Numbering System (DUNS) number, which is a required entry for all Nursing and Personal Care Facilities inspections, must be recorded in the appropriate field on the Establishment Detail Screen. In establishments where ownership has changed, enter the DUNS number for the new owner. If, however, the new owner does not have a new DUNS number, enter the old DUNS. Since the DUNS number is site-sensitive the old number will give some useful data. The field on the Establishment Detail Screen can be accessed by pressing F5 in Item 8 to access establishment processing. Once establishment processing is completed, the DUNS number will appear in Item 9b.

XVI **Program Evaluation**.

A. Area Offices will collect data and information relevant to the effectiveness of this NEP and approved LEPs, and submit it to the Regional Office. Data and information on effectiveness includes, but is not limited to: reductions in the LWDII/DART rate, safety and health programs implemented, employees trained, and outreach activities.

B. At the end of each fiscal year (September 30th), after summarizing the data and information, the Regional Office will forward the Nursing and Personal Care Facilities NEP evaluation to the National Office, Directorate of Compliance Programs (DCP) December 31. At a minimum, the evaluation should meet the requirements of CPL 2.102A, Section D. DCP will serve in a coordinating role, collecting information from the applicable field offices on best practices in improving safety and health in establishments within SIC 805 and, after review and evaluation, disseminating necessary information back to field offices and to the OSHA Office of Training and Education.

APPENDIX A

Compliance Safety and Health Officer Quick Reference for Data Collection

✓ Confirm that facility employs more than 10 employees and that it is required to keep injury and illness records under 29 CFR 1904 (See Establishments with Fewer than 40 Workers: Section XI.A.3 of this Notice).

✓ Determine duration of current ownership and proceed accordingly (See Ownership: Section XII.B. of this Notice).

✓ Verify Lost Work Day Injury and Illness (LWDII) rate from OSHA 200 logs, recalculate for 1999, 2000, and 2001 (See Recalculate LWDII: Section XII.C of this Notice).

$$\text{LWDI Rate} = \frac{N}{EH} \times 200{,}000$$

[N = The number of incidents which result in a lost or restricted workday]

[EH = Total number of employee work hours]

[200,000 = base for 100 full-time workers, working 40 hours per week, 50 weeks per year]

✓ Review OSHA 101s and supporting documents where appropriate (See Recalculate LWDII: Section XII.C of this Notice).

✓ Input appropriate IMIS information

✓ Record DUNS Number (See Ownership: Section XII.B. of this Notice).

✓ Enter valid inspection type, classification, and industry code.

APPENDIX B

Release and Consent

I hereby consent and release to the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), the right to use my picture and sound being videotaped or photographed during an OSHA inspection of _____ (name of facility) commenced on _____ (date). I understand that this videotape or photograph will be used solely to document employee safety and health conditions at the facility, and may be used as evidence in legal proceedings related to those conditions.

_____ _____

Signature of Resident Date

In the event that there has been a medical or legal determination that a resident can not give informed consent to be videotaped or photographed, the following shall be used:

On behalf of _____ (name of resident), I hereby grant to the U.S. Department of Labor, Occupational Safety and Health Administration, the right stated above.

_____ _____

Signature of person authorized to give informed consent on resident's behalf

Date

_____ _____

Signature of Witness Date

APPENDIX C

Nursing and Personal Care facilities NEP Web Site

Enter Web Site with ID and password.

From the main page, select **Create**

The next page will display the total number of establishment in your database and the total number of establishments that are available for selection in the next cycle. For the cycle selection, there are two steps.

Step 1 Enter a name for the cycle. This will allow you to return to list of establishments chosen in this cycle.

Step 2 Enter the number required for this cycle.

Or

Enter the percent of those available that is required for this cycle.

Then click on the "create cycle" button and the cycle will be created by randomly selecting the desired number of establishments from those available.

The establishments selected will be displayed next. There are three branches from this page. The lower right corner of the page has a print cycle button which will open a window with the establishments listed in a format for printing.

The DUNS # and Name columns are highlighted in blue. Clicking on the name of the establishment will send you to the IMIS establishment search with this establishment name entered. Clicking on the DUNS # will open a page with other print options for more data on this establishment or the industry of the establishment.

APPENDIX D

Reference Material for Nursing Home National Emphasis Program

Publications:

NIOSH, Musculoskeletal Disorders and Workplace Factors, 2nd printing, USDHHS, CDC, NIOSH Pub No. 97-141

Musculoskeletal Disorders and the Workplace: Low Back and Upper Extremities National Academy of Science, Institute of Medicine (2001).

Back Injury Prevention Guide in the Health Care Industry for Health Care Providers, CalOSHA (11/97)

NIOSH, Elements of Ergonomic Programs: A Primer based on Workplace Evaluations of Musculoskeletal Disorders, DHHS/NIOSH Pub. No. 97-117 [Note: There are links on the Ergonomics Tech Links page to the NIOSH documents]

Guidelines For Preventing Workplace Violence For Health Care And Social Service Workers, OSHA # 3148

Web links:

http://www.cdc.gov/niosh/homepage.html

http://www.cdc.gov/niosh/healthpg.html

http://www.cdc.gov/niosh/ergopage.html

http://www.dir.ca.gov/dosh/dosh_publications/backinj.pdf

http://www.osha.gov/SLTC/ergonomics/ergonomicreports_pub/index.html#80

http://www.osha.gov/SLTC/workplaceviolence/guideline.html

http://www.osha.gov/SLTC/workplaceviolence/index.html

http://www.osha.gov/SLTC/nursinghome/index.html

http://www.osha.gov/SLTC/nursinghome_ecat/index.html

http://www.osha.gov/SLTC/tuberculosis/index.html

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