HIOSH DIRECTIVE

DIRECTIVE NO.: CPL 03-00-016	EFFECTIVE DATE: August 31, 2012
SUBJECT: National Emphasis Program – Nursing and Residential Care Facilities (NAICS 623110, 623210 and 623311)	

This CPL is adopted by HIOSH in its entirety.

OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR — Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 03-00-016	EFFECTIVE DATE: April 5, 2012

SUBJECT: National Emphasis Program – Nursing and Residential Care Facilities (NAICS 623110, 623210 and 623311)

ABSTRACT

Purpose: This Instruction implements a National Emphasis Program (NEP) for programmed inspections of nursing and residential care facilities [NAICS 623110, 623210, and 623311 (formerly SIC codes 8051-Skilled Nursing Care Facilities, 8052-Intermediate Care Facilities, and 8059-Nursing and Residential Care Facilities, Not Elsewhere Classified)].

Scope: OSHA-wide.

References: OSHA Instruction CPL 02-00-150, *Field Operations Manual*, April 22, 2011.

OSHA Instruction CPL 02-00-144, *Ergonomic Hazard Alert Letter Follow-up Policy*, April 11, 2007.

OSHA Instruction CPL 02-01-052, *Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents*, September 8, 2011.

OSHA Instruction CPL 02-00-106, *Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis*, February 9, 1996.

OSHA Instruction CPL 02-02-069, *Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens Standard*, November 27, 2001.

Cancellations: None.

State Impact: Notice of Intent and Adoption Required, See Section VI.

Action Offices: National, Regional, Area Offices and State Plan Offices.

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By and Under the Authority of

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Executive Summary

OSHA Instruction, National Emphasis Program for Programmed Inspections of Nursing and Residential Care Facilities, NAICS 623110, 623210 and 623311 (formerly SIC codes 8051-Skilled Nursing Care Facilities, 8052-Intermediate Care Facilities, and 8059-Nursing and Residential Care Facilities, Not Elsewhere Classified), sets forth policy and procedures for targeting and conducting programmed inspections in this industry. The specific hazards being addressed include ergonomic stressors in patient lifting, bloodborne pathogens, tuberculosis, workplace violence, and slips, trips and falls.

Key terms are defined, the targeting lists are described, scheduling and inspection procedures are provided, and information on Integrated Management Infromation System (IMIS)/OSHA Information System (OIS) coding is given. There are five appendices that provide additional information: a quick reference for compliance safety and health officers (CSHOs); a release and consent form; a list of resources available to CSHOs and employers; a sample alleged violation description (AVD) for resident handling hazards; and a sample AVD for MRSA exposure.

Significant Changes

There are no significant changes compared to the earlier program (i.e., 2002 NEP, which concluded in 2003), except that this new NEP also addresses workplace violence.

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I. Purpose.

This Instruction describes policies and procedures for targeting and enforcement efforts to reduce occupational illness and injury in nursing and residential care facilities in North American Industrial Classification Sytem (NAICS) codes 623110, 623210 and 623311 (formerly Standard Industrial Classification (SIC) codes 8051-Skilled Nursing Care Facilities, 8052-Intermediate Care Facilities, and 8059-Nursing and Residential Care Facilities, Not Elsewhere Classified).

II. Scope.

This Instruction applies OSHA-wide.

III. References. (see additional references at Appendix C)

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

B. Bureau of Labor Statistics (BLS), Table 1. Incidence Rates of Nonfatal Occupational Injuries and Illnesses by Industry and Selected Case Types, 2010.

C. OSHA Instruction CPL 02-00-025, *Scheduling System for Programmed Inspections*, January 4, 1995.

D. OSHA Instruction CPL 02-02-069, *Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens*, November 27, 2001.

E. OSHA Instruction CPL 02-00-106, *Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis*, February 9, 1996.

F. OSHA Instruction CPL 02-00-135, *Recordkeeping Policies and Procedures Manual (RKM)*, December 30, 2004.

G. OSHA Instruction CPL 02-00-144, *Ergonomic Hazard Alert Letter Follow-up Policy*, April 11, 2007.

H. OSHA Instruction CPL 02-00-150, *Field Operations Manual (FOM)*, April 22, 2011, and subsequent changes.

I. OSHA Instruction CPL 02-02-038, *Inspection Procedures for the Hazard Communication Standard*, March 20, 1998.

J. OSHA Instruction CPL 02-02-072, *Rule of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records*, August 22, 2007.

K. OSHA Instruction CPL 02-01-052, *Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents*, September 8, 2011.

L. OSHA Instruction CPL 04-00-001, *Procedures for Approval of Local Emphasis Programs* (LEPs), November 10, 1999.

M. OSHA Instruction CSP 03-02-002, *OSHA Strategic Partnership Program for Worker Safety and Health*, December 9, 2004.

N. OSHA Notice 11-03 (CPL 02), Site-Specific Targeting 2011 (SST-11), September 9, 2011, and successive annual notices.

O. OSHA Instruction STD 01-01-013, *Fall Protection in General Industry*, April 16, 1984.

IV. Cancellations.

None.

V. Action Offices.

A. Responsible Office.
Directorate of Enforcement Programs (DEP), Office of Health Enforcement.

B. Action Office.
National, Regional, Area Offices and State Plan Offices.

C. Information Offices.
OSHA Directorate of Training and Education, Consultation Project Managers, Voluntary Protection Program (VPP) Managers, Partnership Coordinators, Compliance Assistance Coordinator, and Compliance Assistance Specialists.

VI. Federal Program Change. Notice of Intent and Adoption Required.

This Instruction describes a Federal program change which establishes a National Emphasis Program (NEP) to reduce occupational illness and injury in nursing and residential care facilities (NAICS codes 623110, 623210 and 623311) with specific emphasis on ergonomic stressors relating to resident handling, exposure to blood and other potentially infectious materials, exposure to tuberculosis, workplace violence, and slips, trips, and falls. Because the seriousness and prevalence of the hazards in these facilities are nationwide, States are required to participate in this national emphasis effort. Targeting will focus on establishments in NAICS codes 623110, 623210, and 623311, with a DART rate at or above 10.0. The NEP contemplates at least three (3) inspections per year, per State or field office.

The State's notice of intent, due within 60 days, must indicate whether the State's emphasis program will be identical to or different from the Federal program. If a State is already implementing an emphasis program in this area, or if it adopts a new initiative in response to this Federal program change, its implementing policies and procedures are expected to be at least as effective as those in this instruction.

If a State adopts or maintains an emphasis program on nursing and residential care facilities which differs from the Federal program, the State must identify the differences and may either post its different procedures on its State Plan's website and provide the link to OSHA, or provide an electronic copy to OSHA with information on how the public may obtain a copy. If the State's emphasis program is identical to the Federal, it must provide the date of adoption to OSHA. State adoption must be accomplished within six months, with posting or submission of documentation within 60 days thereafter. OSHA will provide summary information on the State's response to this instruction on its website.

The OSHA Office of Statistical Analysis will provide targeting lists to States upon request. States may make appropriate additions and deletions to this list as discussed in Section XII but should not delete public sector establishments within their jurisdiction. States must code any inspections (programmed or unprogrammed) and related compliance assistance activity conducted under this NEP as directed in Section XVI.

VII. Expiration.

This Instruction will expire three (3) years from the date of issuance. Upon the expiration or replacement of this Instruction, inspection cycles already underway shall be completed as provided in XII.B.3.

VIII. Significant Changes.

There are no significant changes compared to the earlier program (i.e., 2002 NEP, which concluded in 2003), except that this new NEP also addresses workplace violence.

IX. Application.

This instruction applies to all general industry nursing and residential care facilities covered under NAICS codes 623110, 623210 and 623311.

X. Background.

Nursing and residential care facilities continue to have one of the highest rates of injury and illness among industries for which nationwide days away, restricted work activity and job transfer (DART) injury and illness rates were calculated for Calendar Year 2010 (CY 2010). According to data from the Bureau of Labor Statistics (BLS), the national average DART rate for private industry for CY 2010 was 1.8. Nursing and residential care facilities (i.e., employers within NAICS 6231, 6232 and 6233) experienced average

DART rates of 5.6, 3.9 and 4.7, respectively, despite the availability of feasible controls which have been identified to address hazards within this industry. The sectors within the chosen NAICS codes which ordinarily provide medical/nursing care to residents (i.e., NAICS codes 623110, 623210 and 623311) will be the establishments chosen for inspection under this NEP.

Note: BLS data for NAICS 6232 contain data for establishments within NAICS 623210, which will be a focus sector for this NEP, and for NAICS 623220 (i.e., residential mental health and substance abuse facilities; settings that do not ordinarily include medical services). The latter, NAICS 623220, will NOT be a focus of this NEP. Data separating the two sectors in NAICS 6232 are currently unavailable. Additionally, BLS data for NAICS 6233 contains data for establishments that fall within NAICS 623311, which will be a focus sector for this NEP, and also for NAICS 623312 (i.e., assisted-living facilities without on-site nursing care facilities), which will NOT be a focus of this NEP. Data separating the two sectors in NAICS 6233 are also currently unavailable.

Because of the large number of establishments in this industry that reported high rates in the OSHA Data Initiative survey, higher DART and DAFWII rates are generally used to select a limited number (e.g., 300 for the SST-11) of the highest rated establishments in this SIC Code. The Agency is initiating this NEP to supplement the annual Site Specific Targeting (SST) inspections in an effort to identify and address hazards in additional facilities within this industry. In so doing, OSHA will be able to initiate inspections in nursing and residential care settings at sites that have elevated DART and DAFWII rates but do not meet the strict criteria applied for eligibility in the selection under the SST. Section XII.A of this instruction offers additional information.

This NEP will focus primarily on the hazards which are prevalent in nursing and residential care facilities, specifically, ergonomic stressors relating to resident handling; exposure to blood and other potentially infectious materials; exposure to tuberculosis; workplace violence; and slips, trips, and falls. As detailed in the FOM, when additional hazards come to the attention of the CSHO, the scope of the inspection may be expanded to include those hazards. Calendar Year (CY) 2010 data from the BLS indicate that an overwhelming proportion of the injuries within this industry were attributed to overexertion-related incidents. As an example, 48% of all reported injuries in nursing care facilities for CY 2010 were due to overexertion. Injuries from slips, trips, and falls were also very commonly reported among the nonfatal occupational injury and illness cases reported in nursing and residential care facilities. Taken together, overexertion and slips, trips, and falls accounted for 51.4% of all reported cases with days away from work within this industry for CY 2010.

OSHA enforcement data from the IMIS/OIS indicate that the most frequently cited standard in nursing and residential care facilities is 29 CFR 1910.1030, the Bloodborne Pathogens Standard. Additionally, employees working in nursing and residential care facilities have been identified by the Centers for Disease Control and Prevention (CDC) as being among the occupational groups with the highest risk for exposure to tuberculosis

(TB) due to the case rate of disease among persons ≥ 65 years of age. In CY 2009, for example, the CDC reported an overall TB case rate of 3.8 per 100,000 population across all age groups. The corresponding case rate for persons ≥ 65 years of age was 5.8 per 100,000 in 2009. [1, CDC]

Workplace violence (WPV) is a recognized hazard in nursing and residential care facilities. The National Institute for Occupational Safety and Health (NIOSH) defines WPV as violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty. [10, CDC] In 2010, BLS data reported approximately 2,130 assaults by persons in nursing and residential care facilities. OSHA Instruction CPL 02-01-052 , *Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents*, directs OSHA officials [e.g., Compliance Safety and Health Officers (CSHOs)] who conduct inspections in response to programmed inspections at worksites that are in industries with high incidence of workplace violence (e.g., health care) to include investigation of incidents related to workplace violence.

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. The efforts set forth herein are designed to meet the Department of Labor's Strategic Plan goals (2011-2016) in addressing the requirements of safe and healthy workplaces, in high-risk industries and as identified in OSHA's Strategic Plan goal 2.1, to improve workplace safety and health through the enforcement of occupational safety and health regulations and standards.

Hazards other than those selected as the target of this Instruction are likely to exist in nursing and residential care facilities. For example, a commonly recognized hazard in these settings is the exposure to multi-drug resistant organisms (MDROs) such as methicillin-resistant *Staphlycoccus aureus* (MRSA). The CDC has identified residents of nursing care facilities among those at increased risk for colonization with MRSA and recommends that employers institute standard precautions and contact precautions to protect workers who must provide care and services to residents colonized with MRSA or other MDROs. [10, CDC] Employee exposures to hazardous chemicals, such as sanitizers, disinfectants and hazardous drugs are also among the other hazards that are commonly encountered in nursing and residential care facilities.

As detailed in the FOM (OSHA Instruction CPL 02-00-150), when additional hazards come to the attention of the compliance officer, the scope of the inspection may be expanded to include those hazards. As such, unprotected exposures to hazardous chemicals or MDROs such as MRSA should be addressed if these become known during the course of an inspection conducted under this NEP.

Outreach and training efforts in these settings should include information on commonly recognized hazards (e.g., WPV and MDRO exposures) for the purpose of advancing awareness of those hazards (See Section XIV of this NEP for some additional information).

XI. Definitions.

A. Data Initiative.

The OSHA 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 CFR 1904.41.

Note: The 2010 injury and illness data collected by the 2011 Data Initiative will be used in this NEP.

B. Days Away, Restricted, or Transferred (DART) Rate.

To calculate the DART, use 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.

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 02-00-135, *Recordkeeping Policies and Procedures Manual.*

XII. Program Procedures.

A. Site Selection - Targeting Source.

Establishments in NAICS 623110, 623210 and 623311 (formerly SIC codes 8051-Skilled Nursing Care Facilities, 8052-Intermediate Care Facilities, and 8059-Nursing and Residential Care Facilities, Not Elsewhere Classified) with a DART rate at or above 10.0 as indicated by CY 2010 OSHA Data Initiative (ODI) data will be the targeting source. This DART rate cut-off was used to select at

least 700 sites in the pool of facilities eligible for inspection. A list of establishments in NAICS codes 623110, 623210 and 623311 (i.e., an NEP-Specific Inspection List) will be provided by the Office of Statistical Analysis (OSA). See Section XII.B.1 below.

1. Although a list of nursing and personal care establishments may have been selected on an Area Office's (AO) Site Specific Targeting (SST) Primary Inspection list, AOs will be expected to select sites for inspection under this NEP from the Nursing Home NEP-Specific Inspection list. Residential nursing care facilities (SIC code 805) that have been randomly selected on an AO's SST-11 Primary Inspection List use a DART rate at or above 16.0, whereas the sites selected under this NEP will use a rate at or above 10.0.

   The inspection procedures outlined in the SST directive [e.g., OSHA Notice 11-03 (CPL 02) established inspection procedures for SST-11] must be followed when initiating inspections of residential nursing facilities selected from the SST list. However, if a health referral is made or a combined safety and health inspections is done at a site that was initially selected from the SST list, and the items on the referral (or combined safety and health inspection) are related to hazards targeted under this NEP (e.g., ergonomics), then the health portion of the inspection should follow the inspection procedures outlined in this NEP. Please refer to sections XIII.A.1-5 of OSHA Notice 11-03 (CPL 02) for further instructions on inspections done under SST-11.

2. Verify the SIC/NAICS codes of any site selected for inspection under this NEP. As needed, establish what activities occur at the worksite before determining the appropriate SIC/NAICS code.

   Note: Please note that in accordance with existing OSHA policy, where work performed at Federally operated worksites are similar to what is covered under this NEP and criteria for this NEP are met, an inspection must be conducted.

B. <u>Inspection Scheduling.</u>

Inspections conducted under this NEP will focus on establishments classified in the following sectors within the selected NAICS codes 623110, 623210 and 623311. Settings in these specific NAICS codes ordinarily provide medical/nursing care to residents.

1. Using the most recently available ODI data, the OSA will prepare an NEP-Specific Inspection List of establishments in the NAICS codes

623110, 623210 and 623311. The OSA will then provide to each AO a list of establishments within the Area Office's geographical jurisdiction. Each establishment on the resulting establishment list will be assigned a random number by the OSA. The National Office (NO) will make the list available on the Directorate of Enforcement Program's (DEP's) Intranet website.

2. Each AO shall inspect at least three (3) facilities each year under this NEP, unless there are fewer facilities in its jurisdiction. Inspections will be scheduled in the order called for by the random number assigned.

3. If an AO initiates an unprogrammed inspection (e.g., complaint or referral) in a facility within the covered NAICS codes, and the inspection criteria of this Instruction are met (i.e., the DART rate for 2009, 2010, or 2011 is at or above 10), then the procedures set forth in this Instruction must be followed and the inspection may be coded under this NEP.

4. Although an AO will be permitted to use the nursing home NEP code on certain inspections initiated as unprogrammed or SST activities, the Area Office would still be responsible for conducting at least 3 inspections from the list provided by the OSA.

C. Inspection Priority.

Normally, the first inspection priority for Area Offices is to conduct unprogrammed inspections, and the inspection priorities as described in the FOM (OSHA Instruction CPL 02-00-150) will be followed, with the following additional guidance:

1. Each AO shall inspect at least three (3) residential nursing care establishments each year from the nursing home NEP-Specific Inspection List 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 NEP is replaced before all the establishments on the list are inspected. Approval will normally require the AO to complete all inspections in the current cycle.

2. Inspections conducted under this NEP have the same priority as inspections conducted under SST. Other than as specified in section XII.A.1 of this instruction (i.e., regarding inspections generated from SST lists), when possible, inspections conducted under this NEP will be combined with other programmed and unprogrammed inspections. This NEP may be combined with other existing initiatives, such as Local Emphasis Programs which identify targets on a different basis.

3. AO will continue to conduct other programmed inspections under national emphasis programs, or under local emphasis/initiative programs as the AO and Regional goals dictate.

D. Deletions.

1. Area Offices will be responsible for making appropriate deletions from the inspection list in accordance with CPL 02-00-025 at B.1.b.(1)(b)6.d.**Deletions**, except that the criteria for H# and S# *(note: H = health; S = safety; and # = digit of the fiscal year)* 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/or health inspection within the two (2) years prior to the effective date of this NEP.

2. Additionally, establishments will be deleted if:

a. The establishment is known to be out of business, or it is determined to not be applicable to this NEP (e.g., wrong NAICS code, address cannot be confirmed, etc.). Before deleting any establishment, the AO must perform a reasonably diligent search of local business directories, the internet, or other sources). The AO should document the basis for such determinations.

b. The establishment has received a comprehensive inspection (safety and/or health) within the two (2) years prior to the effective date of this NEP, provided either that no citations were issued for hazards covered by this NEP or that a citation(s) was issued but a follow-up inspection documented tangible appropriate and effective efforts to abate the serious hazards cited or OSHA received abatement verification that the hazards have been abated. An establishment with a pending contest of a citation related to the hazards will not be deleted, but the inspection will be deferred during the contest.

c. The establishment is a public sector employer (i.e., State or local government) in a Federal OSHA state. Note: State Plan States may not automatically delete public sector facilities.

XIII. Inspection Procedures.

A. NAICS Verification.

At the opening conference the compliance safety and health officer (CSHO) will verify the establishment's NAICS code. As needed, determine the activities which occur at the workplace before determining the appropriate NAICS code. If the establishment does not fall within NAICS 623110, 623210 or 623311, the inspection will be terminated as part of this NEP.

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 chosen from the NEP-specific inspection list has changed ownership since December 31, 2009, and has been under new ownership for more than six months, recalculate the rate for the period of new ownership. If the recalculated DART rate is below 10.0, do not continue with the inspection. If it is at or above 10.0, continue with the inspection.

   When calculating the DART rate 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 the establishment has changed ownership after December 31, 2009, and has been under new ownership for less than six months, calculate the DART rate using available records. If the CSHO is unable to calculate the DART rate because the new owner does not have records from the previous owner, continue with the inspection.

4. In establishments where the ownership has changed, CSHOs can enter into the IMIS/OIS 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 XVI.D.).

C. Recalculate DART.

1. During inspections under this Instruction, the OSHA-300 logs for the previous three years will be reviewed. The CSHO will recalculate the DART rates for all three years and record them on the OSHA-1 Form. The DART rate for 2010 (recalculated by the CSHO) will be compared to the DART rate reported by the employer in the OSHA 2011 Data Initiative data collection. A recalculation will not be performed if, for any reason, the relevant records are not readily available. CSHOs will check OSHA-

301 Forms, or equivalent, as they deem appropriate to confirm the OSHA-300 Forms.

2. If records are not available for CSHOs to make this determination, proceed with the focused safety and health inspection.

3. If upon initial review of the OSHA-300 logs, it becomes apparent that the employer has over-recorded on the log cases that are not recordable, these cases shall be removed prior to calculating the DART rate.

4. If the establishment's recalculated DART rate for 2010 is below 10.0, but the DART rate for either of the other two years being reviewed is at or above 10.0, proceed with the inspection. For example, if DART rates for 2009, 2010 and 2011 are being reviewed and the recalculated DART rate for 2010 is below 10.0, but the DART rate calculated for either 2009 or 2011 is greater than 10.0, proceed with the inspection.

5. As described in the scenario above, if the establishment's recalculated DART rate using the establishment's records is less than 10.0 for 2009, 2010 and 2011, conduct a records review for 2010 only, and then recalculate the establishment's DART rate for 2010. At the CSHO's discretion, an abbreviated walk-around for the purposes of interviewing employees may be conducted to verify that the information on the OSHA 300 is accurate. In this case, the CSHO should focus interviews on those employees most likely to have an injury (e.g., certified nursing assistants and dietary staff). Classify the inspection as a "records only" inspection and end the inspection if the rate for 2010 is still below 10.0.

   Note: The 2010 DART rate will be the basis for the initial NEP-Specific inspection list provided by the OSA. An updated NEP-Specific inspection list will be generated and provided for use with the corresponding DART rate as a reference point for each of the subsequent two years following initiation of this NEP. As an example, an establishment's injury and illness records for 2010, 2011, and 2012, would be reviewed during the second year of this NEP (i.e., inspections conducted in 2013). At that time, instead of the 2010 data, the 2011 injury and illness data provided by an ODI conducted in 2012 will become the reference point.

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*. Medical access orders must be obtained through the Office of Occupational Medicine. See OSHA Directive CPL 02-02-072, *Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records*, dated August 22, 2007, for further information and inspection guidance on obtaining medical access orders.

b. The Department of Health and Human Services' Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.512 (b)(1)(i), provides that protected health information may be disclosed to a public health authority (e.g., OSHA) which has the authority to collect or receive such information for the purpose of preventing or controlling disease, injury, or to be used in public health investigations (e.g., OSHA inspection activities to determine compliance with safety and health regulations).

NOTE: Questions regarding privacy protections should be directed to the Regional Offices (consultation on these issues is available through the OSHA

Offices of Occupational Health Nursing or Occupational Medicine in the Directorate of Technical Support and Emergency Management).

E. Prior Settlement Agreements.

1. Currently, there are no corporate-wide settlement agreements in effect for facilities in the covered NAICS codes. Prior to the start of any inspection conducted under this NEP, the AO will determine if the establishment is subject to any locally established settlement agreement. If the establishment is subject to a settlement agreement, the AO 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 AO will contact the Regional Office for appropriate action.

F. Recordkeeping.

Recordkeeping issues must be handled in accordance with OSHA Instructions CPL 02-00-135, *Recordkeeping Policies and Procedures Manual*, and CPL 02-02-069, *Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens*, or other relevant field guidance. A partial walkthrough should be conducted to interview workers in order to 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. Ergonomics: MSD 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 risk factors for musculoskeletal disorders (MSDs) associated with resident handling. These inspections shall be conducted in accordance with the FOM, and other relevant OSHA reference documents.

1. Employers with Multiple Facilities. In some cases, inspections of a number of establishments operated by the same corporate entity will demonstrate effectiveness of an existing 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 resident handling hazards.

The AO will determine whether an establishment qualifies for this treatment based on information received from the NO and the Regional Ergonomic Coordinator (REC).

The NO will notify the RECs whenever a decision is made to issue an ergonomics citation to a nursing home corporation operating at multiple sites. Inspections of facilities owned by a corporation that received a citation that has become a final order may be conducted in accordance with the procedures in this NEP. If a corporation has a citation that is currently under contest, individual guidance will be provided.

2. Establishment Evaluation. Inspections of MSD 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 hazards in a manner which can be expected to have a useful effect.

   CSHOs should ask for the maximum census of residents permitted and the current census during the inspection. Additionally, CSHOs should inquire about the degree of ambulation of the residents, as this information may provide some indication of the level of assistance given to residents or the degree of hazards that may be present.

   Note: If there is indication from injury records, or from employer or employee interviews that other sources of ergonomics-related injuries exist (e.g., MSDs related to office work, laundry, kitchen, or maintenance duties), the compliance officer must include the identified work area and affected employees in the assessment.

3. When assessing an employer's efforts to address resident handling hazards, the compliance officer should evaluate program elements, such as the following:

   a. Program Management.

      Whether there is a system for hazard identification and analysis.

      Who has the responsibility and authority for compliance with this system?

Whether employees have provided input in the development of the establishment's lifting, transferring, or repositioning procedures.

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

If there have been recent changes in policies/procedures and an evaluation of the effect they have had (positive or negative) on resident handling injuries and illnesses.

b. Program Implementation.

How resident mobility is determined?

The decision logic for using lift, transfer, or repositioning devices, and how often and under what circumstances manual lift, transfer, or reposition occurs.

Who decides how to lift, transfer, or reposition residents?

Whether there is an adequate quantity and variety of appropriate lift, transfer, or reposition assistive devices available and operational. Note that no single lift assist device is appropriate in all circumstances. Manual pump or crank devices may create additional hazards.

Whether there are adequate numbers of slings for lifting devices, appropriate types and sizes of slings specific for all residents, and appropriate quantities and types of the assistive devices (such as but not limited to slip sheets, transfer devices, repositioning devices) available within close proximity and maintained in a usable and sanitary condition.

Whether the policies and procedures are appropriate to eliminate or reduce exposure to the manual lifting, transferring, or repositioning hazards at the establishment.

c. Employee Training.

Whether employees (nursing and therapy) have been trained in the recognition of hazards associated with manual resident lifting, transferring, or repositioning, the early reporting of injuries, and

the establishment's process for abating those hazards.

Whether the employees (nursing and therapy) can demonstrate competency in performing the lift, transfer, or repositioning using the assistive device.

4. Occupational Health Management.

Whether there is a process to ensure that work-related 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 about the need to continue the ergonomic portion of the inspection. Where there is a need to address these issues, the AO will follow OSHA instructions in determining whether to send an Ergonomic Hazard Alert Letter (EHAL), other communication, or issue citations. In all cases, the AO will notify the REC of the result of the inspection.

OSHA will contact all employers who receive an ergonomic hazard alert letter to determine whether the deficiencies identified in the letter have been addressed. Please refer to CPL 02-00-144, *Ergonomic Hazard Alert Letter Follow-up Policy,* for the process for contacting employers who received an ergonomic hazard alert letter. During this contact, OSHA will again provide information on available consultation and compliance assistance. In appropriate cases, OSHA will consider conducting another compliance inspection.

Some states (e.g., California, Alaska, Minnesota, Washington, and Oregon) have existing regulations or codes that can be applied to ergonomics-related injuries. In these cases, State or local regulations may support the 5(a)(1) element of industry recognition.

5. Citation Guidance.

Refer to the FOM and other OSHA reference documents prior to proceeding with citation issuance. When conditions indicate that a General Duty Clause citation relating to resident handling may be warranted, the Area Office will contact the REC and collaborate with the Regional Solicitor (RSOL) on the case prior to issuing a citation. Appendix D is provided only as an example of the language that may be used in an Alleged Violation Description (AVD) for resident handling-related incidents.

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 (e.g., kitchens, dining rooms, hallways, laundries, 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.

   f. Improper use of ladders and/or stepstools.

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, keeping passageways/aisles 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.

3. 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 Part 1910; there are other standards related to slips, trips, and falls).

   If employees are exposed to hazards from falling while performing various tasks including maintenance from elevated surfaces, then OSHA Instruction STD 01-01-013, *Fall Protection in General Industry*, should be reviewed to determine the applicability of 29 CFR 1910.23(c)(1), 1910.23(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 residential care facilities. This is not an exhaustive list. For further detailed guidance, CSHOs should refer to OSHA Instruction CPL 02-02-069, *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) to determine if it contains all the elements required by the standard.

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) or 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 blood tube holders.

    c. Determine whether the employer solicited feedback from non-managerial employees responsible for direct resident care who are potentially exposed to injuries from contaminated sharps in the identification, evaluation, and selection of effective engineering and work practice controls and whether the employer documented solicitation in the ECP.

3. Ensure that proper work practices and personal protective equipment are in place.

4. Assess whether containment of regulated waste 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 appropriate EPA-approved disinfectant to clean contaminated work surfaces and that the product is being used in accordance with the manufacturer's recommendations.

9. Determine that the employer has made available to all employees with occupational exposure to blood or OPIM the hepatitis B virus (HBV) vaccination series within 10 working days of initial assignment at no cost to the employee and that any declinations are documented.

10. Ensure that healthcare workers who have contact with residents or blood and are at ongoing risk for percutaneous injuries are offered a test for antibody to the HBV surface antigen in accordance with the U.S. Public Health Service guidelines. (See CPL 02-02-069, Section XIII.F.)

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, in accordance with current U.S. Public Health Service guidelines.

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. Ensure that all injuries that appear on the sharps injury log are also recorded on the OSHA-300 log. (Note: As outlined in chapter 2, paragraph II.D. of CPL 02-00-135, *Recordkeeping Policies and Procedures Manual*, an employer may use the OSHA-300 as long as the type and brand of the device causing the sharps injury is entered on the log, records are maintained in a way that segregates sharps injuries from other types of work-related injuries and

illnesses, or allows sharps injuries to be easily separated, and personal identifiers are removed from the log. However, CSHOs may suggest that employers simply use a separate sharps injury log.) A sample log is available in Appendix D of CPL 02-02-069.

15. Determine whether the log includes the required fields.

16. Ensure that employees' 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. Failure to use this information is not a violation, but the CSHO should recommend that the information be used for these purposes.

18. Citation Guidance. If an employer is in violation of the Bloodborne Pathogens Standard, the employer will be cited in accordance with CPL 02-02-069.

J. Tuberculosis (TB).

This section provides guidance for conducting inspections and preparing citations for the occupational exposure to tuberculosis specific to nursing and residential care facilities. This is not an exhaustive list. For further detailed guidance, CSHOs should refer to OSHA Instruction CPL 02-00-106, *Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis.*

1. Determine whether the establishment has had a suspected or confirmed TB case among residents 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 the inspection according to the guidance document, CPL 02-00-106, 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 02-00-106, referenced above.

4. Citation Guidance. The CSHO should refer to CPL 02-00-106, for enforcement procedures including citation guidance for:

a. Respiratory Protection (Note: All respiratory protection citations must be cited under 29 CFR 1910.134 - Respiratory Protection).

b. Accident prevention signs and tags, 29 CFR 1910.145.

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

d. Recordkeeping, 29 CFR Part 1904.

K. Workplace Violence.

Workplace violence (WPV) is a recognized hazard in nursing and residential care facilities. NIOSH defines workplace violence as violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty. [10, CDC] *Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents,* CPL 02-01-052, establishes agency enforcement policies and provides uniform procedures which apply when conducting inspections in response to incidents of workplace violence. OSHA Instruction, CPL 02-01-052, directs CSHOs, who conduct programmed inspections at worksites that are in industries with high incidence of workplace violence such as health and residential care facilities, to investigate for the potential or existence of this hazard.

Citation Guidance. In accordance with the FOM's general guidance on 5(a)(1) citations (see CPL 02-00-150, starting on page 4-14), and specific guidance in CPL 02-01-052, citations should focus on the specific hazard employees are exposed to, not the events that caused the incident or the lack of a particular abatement method. The workplace violence directive also contains sample language for hazard alert letters.

Some states have existing regulations or codes on workplace violence, for example, New Jersey, Rhode Island, Minnesota, Washington, and New York public sector. In these cases, State or local regulations may support the 5(a)(1) element of industry recognition.

If it is determined that the hazard may not be cited under Section 5(a)(1), but there is a State or local code that addresses this hazard and a local agency actively enforces the code, the RA shall refer this to the local enforcement agency.

L. Other Hazards.

As detailed in the CPL 02-00-150, when additional hazards come to the attention of the compliance officer, the scope of the inspection may be expanded to include those hazards. Although unprotected occupational exposures to MRSA and other

multi-drug resistant organisms or exposure to hazardous chemicals (i.e., hazard communication) are not included in the target hazards under this NEP, if these or other hazards become known during the course of an inspection conducted under this NEP, they should be investigated.

1. Methicillin-resistant *Staphylococcus aureus* (MRSA) and other multi-drug resistant organisms (MDROs).

   Nursing and residential care facilities are among the settings at increased risk of potential transmission of MRSA and other MDROs. Compliance officers are expected to investigate situations where it is determined during inspections conducted under this NEP that employees are not protected from potential transmission of MDROs such as MRSA.

   Refer to the FOM and other OSHA reference documents prior to proceeding with citation issuance. Recommendations for standard precautions and contact precautions to reduce or eliminate exposure to MRSA and other MDROs are outlined in CDC guidelines, including the *Guidelines for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, 2007.* [11, CDC] Appendix E contains information that is provided only as an example of language that may be used in an Alleged Violation Description (AVD) for unprotected occupational exposure to MRSA specific to nursing and residential care facilities.

   Note: Violations of applicable OSHA standards (e.g., PPE standards) must be documented in accordance with the FOM. In General Duty Clause citations the recognized hazard must be described in terms of the danger to which employees are exposed, e.g. the danger of being infected by MRSA, not the lack of a particular abatement method. Feasible abatement methods that are available and likely to correct the hazard must be identified.

2. Hazard Communication.

   Employee exposures to hazardous chemicals, such as sanitizers, disinfectants, and hazardous drugs may be encountered in nursing and residential care facilities. Employers are required to implement a written program that meets the requirements of the Hazard Communication standard (HCS) to provide worker training, warning labels and access to Material Safety Data Sheets (MSDSs).

   NOTE: Inspection and citation guidance are contained in OSHA Instruction, CPL 02-02-038*, Inspection Procedures for the Hazard Communication Standard.*

XIV. Outreach.

Each AO/Region/State 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. OSHA Regional and Area Offices can work with Alliance Program and other OSHA cooperative program participants to provide outreach.

A. Rollout Campaign.

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 NO and made available to each Region. Additionally, the Directorate of Training and Education (DTE) has prepared training materials which will be of assistance in this outreach effort.

B. Components of Training.

For the purpose of advancing awareness and abatement of these hazards outreach and training efforts should include information on commonly recognized hazards, like patient handling, WPV, occupational exposures to bloodborne pathogens, TB, and MDROs such as MRSA. The OSHA Nursing Home eTool is designed to assist employers and employees in identifying and controlling the hazards associated with nursing homes and residential care facilities. The OSHA Hospital eTool contains information on occupational exposures to MDROs at http://www.osha.gov/SLTC/etools/hospital/hazards/mro/mro.html. *Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents*, CPL 02-01-052, establishes agency enforcement policies and provides uniform procedures which apply when conducting inspections in response to incidents of WPV. OSHA's Nursing Homes and Personal Care Facilities Safety and Health Topics webpage has numerous links, including reference materials related to workplace violence, and is located at http://www.osha.gov/SLTC/nursinghome/index.html. Additional useful references and web links are listed in Appendix C of this Instruction.

C. Additional Information.

For information on participation in or resources available from OSHA's cooperative programs [including Alliance Program, Strategic Partnership Program, VPP, OSHA On-site Consultation or Safety and Health Achievement Recognition Program (SHARP)], please visit OSHA's Cooperative Program web site at http://www.osha.gov/dcsp/compliance_assistance/index_programs.html or

contact the Directorate of Cooperative and State Programs (DCSP) at 200 Constitution Avenue, NW, Room N3700, Washington, DC 20210, (202) 693-2200.

XV. Relationship to Other Programs.

A. Unprogrammed Inspections.

Unprogrammed inspections will be conducted according to the FOM CPL 02-00-150 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 Section XVI.B. below.

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; refer to CSP 03-02-002.

XVI. Recording and Tracking.

A. Coding Inspection Under this NEP.

1. 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 then select the value "NURSING" in Item 25f.

2. 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 employer's efforts) must be recorded in Optional Information, Item 42, using the following format:

	TYPE - ID	VALUE
• 5(a)(1) Citations:	N - 03	ERGO-CIT
• Hazard Alert Letters:	N - 03	ERGO-LTR

B. Combined with Unprogrammed Inspections.

For all unprogrammed inspections conducted in conjunction with a nursing and residential 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 then select the value "NURSING" in Item 25f.

C. Combined with SST, other NEP, or LEP Inspections.

For all programmed inspections pursuant to other NEPs and LEPs conducted in conjunction with a nursing and residential 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 SST, NEP and LEP IMIS/OIS codes applicable to the inspection. Select 'Strategic Plan Activity' and then select the value "NURSING" in Item 25f.

Note: When a health referral is made or a combined safety and health inspection is performed at a residential nursing care site that was initiated from the SST list, and the items on the referral are related to hazards targeted under this NEP (e.g., ergonomics), the health portion of the inspection should follow the inspection procedures outlined in this NEP and only such SST-related inspections should have the combined SST coding along with the coding under this NEP. Residential nursing care facilities selected from the SST lists and are considered to be safety-related inspections should include SST coding, but should not be considered an inspection under this NEP. The NEP coding will only apply to health-related inspections.

D. DUNS Number.

The Dun & Bradstreet Data Universal Numbering System (DUNS) number, which is a required entry for all nursing and residential 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.

XVII. Program Evaluation.

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

At the end of each fiscal year (September 30), after summarizing the data and information, the Regional Office will forward the Nursing and Residential Care Facilities

NEP evaluation to the NO, Directorate of Enforcement Programs (DEP). At a minimum, the evaluation should meet the requirements of CPL 04-00-001, Section D. DEP will serve in a coordinating role, collecting information from the applicable field offices on best practices in improving safety and health in establishments in the NAICS codes covered by this NEP. After review and evaluation, the DEP will disseminate necessary information back to the field offices and to the OSHA DTE.

Appendix A

Compliance Safety and Health Officer Quick Reference for Data Collection

1. Confirm that facility employs more than 10 employees and that it is required to keep injury and illness records under 29 CFR 1904.

2. Determine duration of current ownership and proceed accordingly (See Ownership: Section XIII.B. of this Instruction).

3. Verify DART rate from OSHA-300 logs, recalculate for 2009, 2010, and 2011 (See Recalculate DART: Section XIII.C of this Instruction).

4. DART Rate = $(N \div EH) \times (200{,}000)$

   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

5. Review OSHA-301s and supporting documents where appropriate (See Recalculate DART: Section XIII.C of this Instruction).

6. Input appropriate IMIS/OIS information.

7. Record DUNS Number (See Sections XIII.B. and XVI.D. of this Instruction).

8. 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 cannot 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

_____

Relationship to resident (spouse, child, etc.)

_____ _____

Signature of Witness Date

Appendix C

Reference Material for Nursing Home National Emphasis Program

Publications:

1. Centers for Disease Control and Prevention, *Reported Tuberculosis in the United States, 2009.* Atlanta, GA: U.S. Department of Health and Human Services, CDC, October 2010.

2. Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, *Safe Lifting and Movement of Nursing Home Residents*, USDHHS, CDC, NIOSH Pub. No. 2006-117. http://www.cdc.gov/niosh/docs/2006-117/pdfs/2006-117.pdf

3. Association for Occupational Health Professionals (AOHP), *Beyond Getting Started: A Resource Guide for Implementing a Safe Patient Handling Program in the Acute Care Setting* (2006). AOHP-OSHA Alliance Implementation Team. http://www.aohp.org/documents/about_aohp/BGS_Summer2011.pdf

4. Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, *Musculoskeletal Disorders and Workplace Factors*, 2nd printing, U.S. DHHS, CDC, NIOSH Pub. No. 97-141. http://www.cdc.gov/niosh/docs/97-141/pdfs/97-141.pdf

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

6. *Back Injury Prevention Guide in the Health Care Industry for Health Care Providers,* CalOSHA (11/97). http://www.dir.ca.gov/dosh/dosh_publications/backinj.pdf

7. Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, *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]

8. OSHA Publication 3182, *Guidelines for Nursing Homes: Ergonomics for the Prevention of Musculoskeletal Disorders.* http://www.osha.gov/ergonomics/guidelines/nursinghome/final_nh_guidelines.html

9. OSHA Publication 3148, *Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers.* https://www.osha.gov/Publications/OSHA3148/osha3148.html

10. Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health. (2002). *Violence Occupational Hazards in Hospitals*. DHHS (NIOSH) Pub. No. 2002-101. http://www.cdc.gov/niosh/docs/2002-101/#5

11. Centers for Disease Control and Prevention, *Guidelines for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, 2007*, www.cdc.gov/hicpac/pdf/isolation/Isolation2007.pdf

12. OSHA Publication 3186, *Model Plans and Programs for the OSHA Bloodborne Pathogens and Hazard Communication Standards.* http://www.osha.gov/Publications/osha3186.html

13. OSHA Publication 3245, *OSHA Recordkeeping Handbook.* http://www.osha.gov/recordkeeping/handbook/index.html

14. Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report (MMWR): "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005," December 30, 2005/Vol. 54/No. RR-17.

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

Additional Web links:

http://www.cdc.gov/tb

http://www.cdc.gov/MMWR/preview/MMWRhtml/rr5210a1.htm

http://www.cdc.gov/mrsa

http://www.cdc.gov/ncidod/dhqp/gl_hcpersonnel.html

http://www.cdc.gov/ncidod/dhqp/gl_longterm_care.html

http://www.cdc.gov/ncidod/eid/vol7no2/nicolle.htm

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

http://www.cdc.gov/niosh/docs/2006-117

http://www.cdc.gov/niosh/topics/ergonomics

http://www.cdc.gov/niosh/topics/healthcare

http://www.cdc.gov/HAI/organisms/visa_vrsa/visa_vrsa.html

http://www.cdcnpin.org/scripts/tb/program.asp

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

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

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

http://www.osha.gov/SLTC/etools/hospital/index.html

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

http://www.osha.gov/SLTC/etools/hospital/hazards/slips/slips.html

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

http://www.osha.gov/SLTC/etools/hospital/hazards/tb/tb.html

Oregon Coalition for Healthcare Ergonomics: http://hcergo.org

Appendix D

Sample 5(a)(1) AVD for Resident Handling Hazards

NOTE: Refer to the FOM and other OSHA reference documents prior to proceeding with citation issuance. The following is provided ONLY as an example of the language that may be used in an Alleged Violation Description (AVD) for resident handling-related incidents.

The General Duty Clause.

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause serious physical harm to employees, in that employees were required to perform lifting tasks resulting in stressors that have caused or were likely to cause musculoskeletal disorders (MSDs):

a). Location – Address:
On or about *Date* employees were exposed to _____ hazards which were causing or likely to cause _____ . Employees were required to transfer non-weight bearing and partial weight bearing residents manually by lifting or partially lifting them, exposing employees to lifting-related hazards resulting in injuries and disorders such as lumbar or back strain/sprain/pain, herniated/ruptured disk, injury to the L5/S1 disc, and various shoulder injuries.

Abatement.

Feasible means of abatement include but are not limited to implementing a safe patient handling and movement policy for transferring and lifting of non-weight bearing and partial weight bearing residents. This necessitates the use of mechanical lift assist and transfer devices. *Note: AVD must be adapted to the specific circumstances noted in each inspection. The AVD above is an example that will be appropriate in some circumstances.*

Appendix E

Sample 5(a)(1) AVD for MRSA Exposure

NOTE: Refer to the FOM and other OSHA reference documents prior to proceeding with citation issuance. The following is provided ONLY as an example of the language that may be used in an Alleged Violation Description (AVD) for unprotected MRSA exposure.

General duty clause, Section 5(a)(1) – refer to the CDC guidelines: *Guidelines for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, 2007*, which recommends standard precautions and contact precautions to reduce or eliminate exposure to MRSA. Abatement would include handwashing, cohorting of patients/residents, device and laundry handling.

The General Duty Clause.

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to communicable diseases:

a). Location – Address:
On or about *Date* employees were exposed to drug-resistant infections while providing care to residents with infections such as, but not limited to, Methicillin-Resistant *Staphylococcus aureus* (MRSA).

Abatement.

Feasible means of abatement include, but are not limited to: a) providing training on all routes of transmission of infections, the proper personal protective equipment to be used, and infection control practices to be utilized; b) notifying employees about status of any resident with infection prior to beginning care assignments for every shift; c) cohorting patients/residents; and d) using administrative controls, such as limiting access to patients/residents with MRSA infections by non-essential personnel.