

FAQ SHEET

CHEMICAL FACILITIES PSM NATIONAL EMPHASIS PROGRAM (NEP)

OSHA DIRECTIVE CPL 03-00-014, NOVEMBER 29, 2011

Acronyms and Abbreviations Used

CSHO	-	Compliance Safety and Health Officer
EPA	-	US Environmental Protection Agency
HHC	-	Highly Hazardous Chemical
IMIS	-	Integrated Management Information System
NAICS	-	North American Industrial Classification System
NEP	-	National Emphasis Program
OSHA	-	Occupational Safety and Health Administration
PQV	-	Program, Quality, Verification
PSM	-	Process Safety Management
RMP	-	Risk Management Plan or Program (US EPA)
SHARP	-	Safety and Health Achievement Recognition Program
SST	-	Site-Specific Targeting
VPP	-	Voluntary Protection Program

What is a National Emphasis Program?

An OSHA inspection of a facility in high hazard industries that focuses efforts on specific hazards.

What is the chemical facility NEP?

A focused inspection program by OSHA to verify compliance with OSHA's Process Safety Management (PSM) standard (29 CFR 1910.119) at facilities randomly selected from a list of worksites likely to have highly hazardous chemicals (HHCs) in quantities covered by the PSM standard.

Why is this program being implemented?

In 1994, OSHA issued Instruction CPL 02-02-045, Process Safety Management of Highly Hazardous Chemicals - Compliance Guidelines and Enforcement Procedures, that

provided guidance for enforcement of the PSM standard including Program, Quality, Verification (PQV) inspections. Few PQV inspections were conducted by OSHA as they are resource intensive. The Chemical Safety Board criticized OSHA on these grounds when they were investigating the explosion and fire that occurred at the BP America Refinery in Texas City, TX on March 23, 2005 killing 15 employees and injuring another 170.

OSHA responded with the petroleum refinery PSM NEP (OSHA CPL 03-00-004, June 7, 2007) that was applied to all 81 US refineries under federal jurisdiction. Subsequently, OSHA developed the chemical facility pilot NEP for PSM-covered chemical facilities which covered three OSHA regions. The pilot program began in July 2009 and is now concluded. It used a new inspection approach that allowed for a greater number of inspections than PQV. Results from the pilot program were used to re-issue the chemical NEP in November, 2011 in a slightly modified form. The chemical NEP was effective immediately and, unlike the refinery and pilot chemical NEPs, it has no expiration date. It applies to all OSHA regions and involves all OSHA offices within each region.

States are also required to participate in the chemical NEP, unlike the refinery and pilot chemical NEPs. If the approved state OSHA plan already has some version of a chemical NEP or the state wants to implement its own version, it must demonstrate to federal OSHA that its program is at least as effective; otherwise, the states must adopt OSHA's chemical NEP.

Who will be inspected?

OSHA will target four types of facilities:

- EPA Risk Management Program (RMP) Program 3 facilities
- Explosives manufacturers
- Facilities from the OSHA Integrated Management Information System (IMIS) database that have previous PSM-related citations
- Local facilities identified by OSHA area offices

Note that facilities covered by EPA's RMP are considered to be Program 3 if they are covered by OSHA's PSM program.

The companies will be sorted into two lists:

- | | |
|------------|---|
| Category 1 | - NAICS codes for facilities likely to have ammonia used for refrigeration as the only HHC |
| Category 2 | - NAICS Codes for facilities likely to have ammonia used for other than refrigeration, or HHCs other than ammonia |

Both programmed and unprogrammed inspections are covered by the Chemical NEP and will occur nationwide. Programmed inspections are conducted for facilities that have been selected based on objective or neutral selection criteria. Unprogrammed inspections are scheduled in response to alleged hazardous working conditions at a specific site. Some facilities may be selected for inspection under OSHA's current Site-Specific Targeting (SST) Plan and CSHOs must use the chemical NEP in such cases.

Every OSHA area office is expected to complete 3 - 5 programmed chemical NEP inspections per year. The sites selected for inspections will consist of approximately 25% of workplaces that use ammonia refrigeration and 75% of all other workplaces with a PSM covered process.

Are any companies excluded?

Yes. Petroleum refineries (NAICS 32411) are not included since they were addressed by the refinery NEP. Also, any facility that is an approved participant in OSHA's Voluntary Protection Program (VPP) or OSHA Consultation's Safety and Health Achievement Recognition Program (SHARP) is excluded, as is any facility that has received a comprehensive PSM inspection within the last two years. However, unprogrammed inspections will occur regardless of whether a plant takes part in a Voluntary Protection Program (VPP).

What is involved in an inspection?

Inspections will emphasize verification of PSM program implementation based on OSHA's inspection experience with refineries and chemical plants in the refinery NEP and the chemical facility pilot NEP where insufficient program implementation was sometimes found even though extensive program documentation existed. CSHOs will verify that the company's actual program is consistent with the written program.

The refinery NEP used static and dynamic lists of questions. The static list was publicly-available and did not change. The dynamic list was restricted to OSHA personnel and changed periodically. In the chemical NEP, CSHOs will select one or more units at a facility and use dynamic lists of questions similar to those used in the refinery NEP to review PSM compliance. OSHA will continuously develop dynamic lists in three categories: PSM general, ammonia refrigeration, and chemical processing. OSHA will likely adjust the dynamic lists based on the results and citations from inspections. The dynamic lists will not be disclosed publicly. CSHOs must evaluate compliance with each item on the dynamic list.

Dynamic list questions are used to conduct a gap analysis and assess and verify the facility's PSM compliance with specific issues such as design, fabrication, installation, start-up, operation, maintenance, change, controls (engineering and administrative), safe work practices, contractor safety, etc. Guidelines for assessing and verifying compliance

with provisions of the PSM standard are provided in the dynamic list including documents to request, interview topics, questions to cover, and potential citations to issue. Each dynamic list includes 10-15 primary and 5 secondary questions. Questions are designed to elicit a “Yes,” “No” or “N/A” determination for PSM compliance, and any “No” will normally result in a citation.

The program also includes inspection of contractors and subcontractors performing work at the facility.

Will the inspection focus on particular PSM elements?

Probably. These PSM elements likely will be the focus of the inspection:

- Mechanical integrity
- Process safety information
- Operating procedures
- Process Hazard Analysis
- Management of change

Who will conduct the inspection?

Inspections may be conducted by either a single OSHA employee or a team. CSHOs must meet OSHA competence requirements in terms of training and experience.

Are there any differences from the pilot program?

Yes, there are several differences:

- It is expanded nationwide to all OSHA Regions and State Plans.
- Facility categories have been reduced from three to two. The category of facilities likely to have chlorine used for water treatment as the only HHC was eliminated as a separate category.
- The number of programmed inspections required per area office has been reduced.
- Significant industry and/or OSHA experience has been recognized for CSHO qualifications to conduct PSM inspections.
- A requirement to verify abatement of previous OSHA PSM citations has been added.
- Instructions for preparing targeting lists have been clarified.
- Program evaluation requirements have been reduced. Dynamic list questions that were difficult for CSHOs to use or that were inappropriate will be addressed.

How does a chemical NEP inspection differ from a PQV inspection?

Inspections using the PQV approach are broad and open-ended, while chemical NEP inspections rely on specific investigative questions. The investigative questions are designed to gather facts related to requirements of the PSM standard, and include guidance for reviewing documents, interviewing workers, and verifying full implementation. The goal of the chemical NEP is to conduct a large number of focused inspections with relatively low resources.

Are there limits to a chemical NEP inspection?

CSHOs can expand the inspection if they determine that PSM deficiencies may exist either outside of the selected unit or beyond the scope of the dynamic list questions.

Can I be cited and fined?

Yes. OSHA's NEP for petroleum refineries issued a large number of serious, willful, and repeat citations of the PSM standard. In all, more than 1,000 citations and fines exceeding \$4M resulted. The release of the chemical NEP coincided with the first increase in penalties that OSHA has instituted since 1990, and only the second increase in the 40 years since OSHA came into existence.

Are there other possible impacts?

Yes. Citations can be used in civil cases, and, in some states, there may be criminal liability. Abatement costs can be significant and negative publicity resulting from OSHA press releases can be damaging. OSHA likely will conduct follow-up inspections if they have issued citations. Companies could also be placed in the onerous "Severe Violator Enforcement Program" depending on the nature and severity of the violations that are issued.

Is there anything else I should know?

If the CSHO determines that deficiencies exist in the company's PSM compliance outside the selected unit or dynamic list of questions, the inspection may be expanded to other units or areas. Also, CSHOs may recommend citations for hazardous conditions or violations of other OSHA standards, such as lockout / tagout, hazard communication, confined space, etc., or the General Duty Clause, that are found during the inspection regardless of whether they are specifically addressed by the chemical NEP. Approximately, 25% of refinery NEP citations were for non-PSM, occupational safety

issues.

CSHOs will review past PSM-related citations issued to the same employer and identify potential failures to abate and possibly repeat and willful violations.

Abatement verification and documentation is now mandatory.

Where can I get a copy of the Chemical Facility NEP?

From OSHA at www.osha.gov or from Primatech at www.primatech.com.

What should I do now?

Get the jump on OSHA! Prepare for an inspection:

- Ensure your PSM program is not only documented but also implemented
- Orient management and employees regarding the chemical NEP
- Ensure your PSM documents and files are organized and readily available
- Close out aging PSM action items
- Ensure PSM projects are on schedule
- Arrange for an independent review and gap analysis and institute any needed remedial measures before you are visited by OSHA

Where can I get more information?

Contact Primatech at:

50 Northwoods Blvd.
Columbus, OH 43235
Tel 614-841-9800
Fax 614-841-9805
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- **S84 – Safety Instrumented Systems**
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