OSHA REGIONAL NOTICE

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

DIRECTIVE NUMBER: 2017-05 (CPL 04)	**EFFECTIVE DATE:** October 1, 2016
SUBJECT: Regional Emphasis Program for Tree Trimming and Clearing Operations	
REGIONAL IDENTIFIER: Philadelphia Region III	

ABSTRACT

Purpose: The purpose of this Notice is to continue a Regional Emphasis Program to reduce workplace fatalities during tree trimming and clearing operations, targeting NAICS codes 561730 (Landscaping Services) and 238910 (Site Preparation Contractors).

References:

CPL 02-01-038, Enforcement of the Electrical Power Generation, Transmission and Distribution Standard, June 18, 2003

CSP 01-01-028, Electric Power Generation, Transmission and Distribution: Electrical Protective Equipment: Final Rule, April 15, 1994

STD 01-16-007, Electrical Safety- Related Work Practices—Inspection Procedures and Interpretation Guidelines, July 1, 1991

CPL 02-01-045, Citation Guidance Related to Tree Care and Tree Removal Operations, August 21, 2008

CPL 02-02-069, Enforcement of the Occupational Exposure to Bloodborne Pathogens, November 17, 2001

CPL 02-01-022, Logging Operations, Inspection Procedures and Interpretive Guidelines Including Twelve Previously Stayed Provisions, September 27, 1996

Enforcement Policy Regarding Arborists, SIC 0783 (Ornamental Shrub and Tree Services) memorandum, July1, 1998

OSHA's Industry Profile for Industry Group 078, Landscape and Horticultural Services
https://www.osha.gov/dep/industry_profiles/p_profile-078.html

CPL 02-00-051, Enforcement Exemptions and Limitations Under the Appropriations Act, February 21, 2013

CPL 04-00-001, Procedures for Approval of Regional Emphasis Programs(REPs), November 10, 1999

CPL 02-00-160, Field Operations Manual (FOM), April 22, 2011

OSHA Safety and Health Topics – Tree Care Industry

Action Offices: All Federal OSHA Area Offices in Region III

Originating Office: Philadelphia Regional Office

Contact: Michael Rivera, Deputy Regional Administrator
U.S. Department of Labor-OSHA
The Curtis Center, Suite 740 West
170 W. Independence Mall West
Philadelphia, PA 19106
(215) 861-4900

By and Under the Authority of:

Richard Mendelson
Regional Administrator

Table of Contents

I. Purpose.....4

II. Scope.....4

III. References.....4

IV. Expiration Date …….....4

V. Action.....4

VI. Background.....5

VII. Program Procedures…….....5

VIII. Compliance Officer Protection……...6

IX. Recording in OIS 7

X. Outreach.....8

XI. Evaluation Procedures.....8

Appendix A ……..10

Regional Emphasis Program to Reduce Workplace Fatalities in the Tree Trimming and Clearing Operations

I. **Purpose**. The purpose of this Notice is to continue a Regional Emphasis Program to reduce the fatal accident rate for tree trimming work.

II. **Scope**. All Federal Area Offices in Region III.

III. **References.**

1. CPL 02-01-038, Enforcement of the Electrical Power Generation, Transmission and Distribution Standard, June 18, 2003

2. CSP 01-01-028, Electric Power Generation, Transmission and Distribution: Electrical Protective Equipment: Final Rule, April 15, 1994

3. STD 01-16-007, Electrical Safety- Related Work Practices—Inspection Procedures and Interpretation Guidelines, July 1, 1991

4. CPL 02-01-045, Citation Guidance Related to Tree Care and Tree Removal Operations, August 21, 2008

5. CPL 02-02-069, Enforcement of the Occupational Exposure to Bloodborne Pathogens, November 17, 2001

6. CPL 02-01-022, Logging Operations, Inspection Procedures and Interpretive Guidelines Including Twelve Previously Stayed Provisions, September 27, 1996

7. Enforcement Policy Regarding Arborists, SIC 0783 (Ornamental Shrub and Tree Services) memorandum, July1, 1998

8. OSHA's Industry Profile for Industry Group 078, Landscape and Horticultural Services https://www.osha.gov/dep/industry_profiles/p_profile-078.html

9. CPL 02-00-051, Enforcement Exemptions and Limitations Under the Appropriations Act, February 21, 2013

10. CPL 04-00-001, Procedures for Approval of Regional Emphasis Programs(REPs), November 10, 1999

11. CPL 02-00-160, Field Operations Manual (FOM)

12. OSHA Safety and Health Topics – Tree Care Industry

IV. **Expiration Date.** This Notice expires September 30, 2017.

V. **Action.** OSHA compliance personnel shall follow the procedures contained in this Notice when conducting outreach and enforcement activities.

VI. **Background.**

The Landscaping Services and Site Preparation, Contractors North American Industry Classification System (NAICS) 561730 and 238910 respectively, have been identified as a focus for reducing the workplace fatality rate related to tree trimming and clearing operations based on statistics from U.S. Department of Labor, OSHA, Region III for Fiscal Years (FY) 2009 through 2013. There were 47 fatalities in Region III alone related to tree trimming and clearing, with 18 of those fatalities occurring in Federal jurisdictions of Pennsylvania, Delaware, and West Virginia, and 29 fatalities occurring in the state plan jurisdictions of Virginia and Maryland during this five year period. The four leading causes of these fatalities were listed as struck-by (49%), falls from elevations (26%), electrical shock (27%), and caught-in or between (3%). These accidents included, but were not limited to: workers being struck by falling trees and limbs;; workers struck by motorized equipment; falls from trees, lifts, and ladders; workers caught in chippers; and electrical shock suffered while working in the vicinity of overhead power lines. Fatal injuries were disproportionately suffered by workers in companies with 10 or less employees, with 79% of the fatalities during this 5 year period involving an employer with 10 or less employees.

An analysis of all fatality investigations conducted in FY2011 and FY2012 either by Federal OSHA or the State Plan States revealed that the NAICS code for landscaping services had the highest number of fatality investigations of all industries with 160 fatalities investigated. Falls hazards from bucket trucks and trees had the greatest number of fatalities followed by electrocution, crush and struck-by hazards from working around motor vehicles and falling trees/limbs, and heat stress from extended periods of time outdoors.

A review of inspections performed by OSHA during FY 2011 and 2012 of employers engaged in tree trimming work showed a large number of violations related to inadequate personal protective equipment use, electrical hazards such as contact with overhead electric lines, improper felling of trees, and improper injury/illness recordkeeping.

This data demonstrates that tree trimming and clearing operations is hazardous work which can result in worker fatalities. These hazards exist whether the work is performed as part of landscaping/horticultural services or site clearing by construction workers. Tree trimming and clearing work involves several hazards identified in OSHA's focus four (i.e., Falls, Caught-in or Between, Struck-by, and Electrocution). Based on this data, there is a need for Region III to increase its inspections of tree trimming and clearing operations, and to perform outreach to the industries that may perform such work, with the goal of reducing the number of fatal accidents and injuries occurring in these industries.

VII. **Program Procedures.**

A. An inspection targeting system which relies on systematic identification and listing of sites on a random list is not practical. Hazards related to fatalities at

such sites are normally transient and of limited duration. The Area Director shall determine, as part of the annual plan, the projected number of inspections to be conducted under this Regional Emphasis Program ("REP") during the fiscal year. Compliance Safety and Health Officers (CSHOs) shall, while traveling during the course of their work-day, be watchful for work activities where workers are performing tree trimming/removal operations. Upon seeing such work activity, the CSHO shall immediately notify the Area Office to obtain authorization from the Area Director, Assistant Area Director or designee to initiate an immediate inspection. Approval to start an inspection will normally be granted to the CSHO, provided the activity does not conflict with a higher priority inspection activity.

B. If the CSHO has no readily available means to contact the Area Office, or is otherwise unable to reach Area Office personnel who can authorize the inspection, the CSHO will initiate an inspection, provided the activity does not interfere with higher priority inspections or assignments. The CSHO shall notify the Area Office management of the inspection as soon as possible.

C. Whenever an inspection is begun under this REP, the CSHO will include in the case file narrative a description of the circumstances which resulted in discovery of the work activity that was the basis of the inspection. For example, the CSHO would describe the tree trimming activities where a crew was removing a tree at a particular address while in route to the Area Office from a previous inspection. In cases where authorization was not obtained, an explanation shall be included as to the circumstances that prevented communication with the Area Director or designee.

D. Because the majority of fatality inspections within NAICS 561730 (Landscape and Horticultural Services) involved employers with 10 or less employees, inspections in this industry code will be conducted regardless of the number of employees. However, note that NAICS 238910 is listed in Appendix A of *CPL 02-00-051, Enforcement Exemptions and Limitations Under the Appropriations Act, February 21, 2013* as a low rate employer, so inspections in that NAICS must be limited to employers with greater than 10 employees. For employers with 10 employees or less, the CSHO is to provide compliance assistance information and exit the job site, unless an imminent danger is observed. If the CSHO observes a condition that poses an imminent danger, the CSHO must immediately open an inspection, in accordance with the Field Operations Manual and CPL 02-00-051.

E. Health Referrals: Sources of potential health hazards include but are not limited to hazardous noise levels, chemicals, defoliants, and carbon monoxide. CSHOs will be on the lookout for potential health hazards while conducting the inspections of worksites that fall under this REP. A health referral will be submitted through supervisory personnel if the CSHO suspects the presence of potential health hazards.

VIII. **Compliance Officer Protection**.

A. Prior to conducting the inspection, the Area Director shall ensure the CSHO has the necessary safety and health expertise to evaluate safety and health hazards which they may potentially be exposed to during their inspections. Compliance Officers should review the OSHA fact sheet for Tree Trimming Safety to familiarize themselves with the common hazards associated with this industry.

B. The Area Director will also ensure the Compliance Officer has the necessary personal protective equipment ("PPE") to conduct the inspection, including but not limited to: hard hat, safety glasses, hearing protection, safety footwear and reflective vest.

C. Prior to initiating the walk around, the Compliance Officer will ask the employer about any unusual hazards or special circumstances that would require specific PPE beyond that addressed in the OSHA fact sheet for Tree Trimming Safety.

D. CSHOs will not place themselves in potentially hazardous situations or perform any activities which would require them to perform lockout/tagout of equipment. **Under no circumstances is a CSHO to enter the area immediately below active tree trimming activities.** In cases where such conditions are encountered, all necessary information should be sought in other manners, including private employee interviews, witness statements, engineering drawings, manufacturing specifications/manuals, video, photo, etc.

IX. **Recording in OIS**.

Instructions for completing the appropriate inspection classification on the OSHA Information System (OIS) Inspection form (formerly the OSHA 1) shall be applied when recording inspections conducted under the REP as follows:

A. Under the OIS Inspection tab: Initiating Type shall be marked as "Programmed Planned".

B. Under the OIS Inspection tab: Regional Emphasis Program shall be marked as "TREETRIM".

C. Compliance Officer referrals are to be recorded as "Programmed Planned" inspections, based on our "line of sight" targeting, as established in this REP. Complaints, referrals from sources such as police departments or fire departments, fatality/catastrophe, and follow-up inspections shall be appropriately recorded as "Unprogrammed Activity" and marked as "TREETRIM" in the Regional Emphasis Program pull down menu.

D. Upon entry, if it was determined the employees are not exposed to hazards or the employer has a NAICS of 238910 with 10 employees or less, an intervention will be performed and a Compliance Assistance Activity Form is to be completed to

account for the time spent on site with the employer and represent the compliance assistance information provided to that employer**.**

X. **Outreach.**

The Regional and Area Offices will identify and target stakeholders to provide information on this REP and the hazards of tree trimming and clearing operations. Outreach activities will be conducted for at least one month prior to the initiation of enforcement activities. An outreach letter will be sent to the targeted stakeholders. Information and outreach materials will be provided, as appropriate, during all compliance assistance activities, such as speeches and training sessions where tree trimming and clearing is relevant. The outreach will inform stakeholders of the existence, purpose and objectives of this REP, and will promote employer and employee awareness of hazards associated with tree trimming operations. A press release will be issued outlining Region III's REP on tree trimming and clearing and it will also be posted on social media. The Regional and Area Offices will look for opportunities to establish partnerships or alliances with associations and organizations in this industry, where appropriate.

XI**.** **Evaluation Procedures.**

The Area Director of each Area Office covered by this REP will evaluate this REP annually by preparing a brief description of the inspections and interventions conducted, a summary of the results of the inspections and interventions, based in part on OSHA Instruction CPL 04-00-001, Appendix A. Program evaluations must be submitted to the Regional Administrator by October 15th of each year. The evaluation must address the REP's role in meeting goals of OSHA's Strategic Plan, such as:

- Change in the number of fatalities related to tree trimming and clearing operations on a Fiscal Year basis
- The number of outreach sessions conducted by OSHA concerning landscaping/tree trimming operations hazards
- The number of Partnerships and/or Alliances established dealing with landscaping/tree trimming operations hazards
- The number of outreach sessions conducted by Partnered Employers concerning landscaping/tree trimming operations hazards

Other enforcement statistics will include the following:

1. Number of REP inspections
2. Number of REP interventions
3. Number of REP in-compliance inspections
4. Number of violations related to specific REP targeted hazards
5. Percent of total violations cited serious, repeat, and willful

6. Total penalties assessed during REP inspections
7. Percent of REP inspections that were contested
8. Number of significant REP cases
9. Average violations per REP inspection

DISTRIBUTION:
Area Offices
Enforcement Programs
Cooperative and State Programs
Administrative Programs
Regional Solicitor

Appendix A

Dear Employer:

The purpose of this letter is to inform you that your industry is the focus of an initiative by the Occupational Safety and Health Administration (OSHA) to reduce exposures to hazards from tree trimming and clearing, and to invite you to take advantage of resources available to employers in addressing these health and safety hazards. This letter has been sent to establishments in the state of [STATE] similar to yours who potentially perform tree trimming and clearing work.

Based on a review of fatality investigation data in OSHA's Region III (Pennsylvania, Delaware, Maryland, West Virginia, and Virginia), there were 47 fatalities occurring in this region over the past five year period related to tree trimming and clearing. The four leading causes of these fatalities were listed as struck-by, falls from elevations, electrical shock, and caught-in or between. These accidents involved workers being struck by falling trees and limbs in addition to motorized equipment; falls from trees, lifts, and ladders; caught in chippers; and electrical shock while working in the vicinity of overhead power lines. Fatal injuries were disproportionately suffered by workers in companies of 10 or less with 79% of the fatalities during this five year period involving an employer with 10 or less employees.

According to the Bureau of Labor Statistics, injury and illness rates in this industry are also higher than in other industry sectors, and include sprains and sprains from manual handling of tools and materials, electrical hazards from working in close proximity to power lines, falls from bucket trucks and trees, struck-by from working around motor vehicles and falling trees/limbs, and heat stress from extended periods of time outdoors.

As a result, OSHA will begin conducting inspections of employers performing tree trimming and clearing work under this initiative on or about [DATE]. While receipt of this letter does not guarantee that your company will be inspected by OSHA, the initiative does increase the probability that it could occur. To prepare for an inspection, and to protect employees from hazards associated with tree trimming and clearing, it is important that you have an effective safety and health program in place.

You are eligible for assistance from the [STATE] Occupational Safety & Health Consultation Program. This program is administered through [AGENCY] and is operated separately from OSHA's enforcement program. The service is free and confidential, and there are no citations or proposed penalties. Designed primarily for smaller employers, the consultation program can help you identify hazards in your workplace and find effective and economical solutions for eliminating or controlling them. A OSHA consultant can assist you in developing and implementing an effective safety and health management system for your workplace. You can reach the consultation program at [NUMBER].

Another source of useful information is OSHA's Web site resources for the tree care industry at https://www.osha.gov/SLTC/treecare/index.html

We hope you will take this opportunity to develop or improve your health and safety program so that hazards related to tree trimming and clearing work can be reduced or eliminated at your job sites. If you have questions or concerns or about OSHA's tree trimming and clearing initiative, contact this office at [NUMBER].

Sincerely,

[NAME]
Area Director