



OSHA

REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 2-13-009B

EFFECTIVE DATE: October 1, 2014

SUBJECT: Local Emphasis Program – Commercial and Residential Construction
Following a Severe Weather Event

REGIONAL IDENTIFIER: Region VII

ABSTRACT

Purpose: This Notice continues a local emphasis program to target commercial and residential construction worksites.

Scope: This Notice applies to construction worksites throughout the Omaha Area Office jurisdiction.

References: OSHA Instructions: CPL 04-00-001; CPL 02-00-025; CPL 02-00-051; CPL 02-00-150; CPL 02-00-069; CPL 03-00-009, CPL 03-00-007, STD 03-11-002, CPL 98-02Q, CPL 02-00-155; OSHA memorandum, Subject: Guidance to Compliance Officers for Focused Inspections in the Construction Industry, and Populations of Nebraska Cities as certified by the Nebraska Department of Revenue.

Expiration: September 30, 2015, or may be renewed at that time

Action Offices: Omaha Area Office

Originating Office: Kansas City Regional Office

Contact: Enforcement Programs (816) 283-8745

By and Under the Authority of:

Marcia P. Drumm
Acting Regional Administrator

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- I. Purpose. This Notice describes policies and procedures for continuing a Local Emphasis Program (LEP) for programmed safety and health inspections of Nebraska construction worksites.
- II. Scope. This Notice applies to construction worksites within the jurisdictional boundaries of the Omaha Area Office.
- III. Action. The Acting Regional Administrator and the Area Director for the Omaha Area Office shall ensure that the procedures established in this notice are adhered to in the scheduling of programmed inspections.
- IV. Expiration. The Notice will expire on September 30, 2015, and may be renewed based on the program's evaluation at that time.
- V. References.
 - A. OSHA Instruction CPL 04-00-001 (CPL 2-0.102A), Procedures for Approval of Local Emphasis Programs (LEPs), November 10, 1999
 - B. OSHA Instruction CPL 02-00-025 (CPL 2.25I), Scheduling System for Programmed Inspections, January 4, 1995
 - C. OSHA Instruction CPL 02-00-051 (CPL 2-0.51J) Enforcement Exemptions and Limitations Under the Appropriations Act, May 28, 1998, and Appendix A, change dated May 27, 2014, or most recent version
 - D. OSHA Instruction CPL 02-00-155, Inspection Scheduling for Construction, September 6, 2013
 - E. OSHA Instruction CPL 02-00-150 Field Operations Manual (FOM), April 22, 2011
 - F. OSHA Instruction CPL 02-00-069 (CPL 2.69), Special Emphasis: Trenching and Excavation, September 19, 1985
 - G. OSHA Instruction CPL 03-00-009, OSHA Instruction: NEP - Lead, August 14, 2008
 - H. OSHA Instruction CPL 03-00-007, National Emphasis Program - Crystalline Silica, January 24, 2008
 - I. OSHA Instruction STD 03-11-002, Compliance Guidance for Residential Construction, June 16, 2011
 - J. OSHA Regional Notice CPL 98-02T Region-wide Problem Solving Initiative on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction, October 1, 2014

- K. OSHA memorandum from James W. Stanley, Subject: Guidance to Compliance Officers for Focused Inspections in the Construction Industry, August 22, 1994, (Rev. (2) 9/20/95)
- L. Populations of Nebraska Cities as certified by the Nebraska Department of Revenue as of 12/18/2012

VI. Background. Successful construction inspection targeting has always been challenging. Currently, construction safety and health inspections conducted by the Omaha Area Office have been based primarily on the following triggers:

- Unprogrammed activity, such as fatalities, complaints, and Compliance Safety & Health Officer (CSHO) self-referrals
- Falls/OHPL/Scaffolding (CPL 98-02T Region-wide Problem Solving Initiative on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction)
- Inspection lists provided by the Construction Industry Research & Policy Center of the University of Tennessee (hereinafter “University of Tennessee”)

Except for the relatively few programmed inspections, the major triggers for inspection rely on a hazardous condition to occur and be observed by or reported to OSHA, or else for an accident to occur and be reported to OSHA. Programmed (not response-initiated) inspections (i.e., those supplied by the University of Tennessee) are subject to institutional drawbacks. These include reliance on bids, permits, and other filings to initiate tracking by the University of Tennessee. Many of the construction projects within the Omaha Area Office’s jurisdiction do not appear on the University of Tennessee lists.

Smaller projects, which do not appear on the University of Tennessee lists, are often done without permits, and are frequently conducted by small employers. Many of these projects are of short duration. These projects also tend to employ many immigrant workers, who historically are less likely to file complaints with OSHA.

Following severe weather events that cause structural damage, repair activity and re-construction begin to take place. Extreme examples of this phenomenon can be seen in the construction activity that occurred following the May 2011 tornado in Joplin, Missouri and the May 2004 tornado in Hallam, Nebraska. Less extreme events tend to create an increase in smaller projects, i.e., re-roofing and window replacement, following severe weather events such as severe thunderstorms, high winds, and large hail.

This directive is intended to provide a targeting scheme with a broader range of coverage of inspection sites throughout the state of Nebraska and is intended to focus OSHA’s enforcement resources on construction sites in geographical areas following a severe weather event.

- VII. Outreach. An information package, including a copy of the directive, will be made available upon request to employers, professional associations, and labor organizations. As an additional resource for achieving compliance, employers will be encouraged to utilize the 21(d) Consultation Program.

In addition, the Compliance Assistance Specialist will develop and provide industry-specific outreach. The targeted stakeholders may include industry associations or labor organizations. This outreach may continue after the initiation of inspection activity.

- VIII. Scheduling. Selection of construction sites for programmed inspections.

- A. The Omaha Area Office will monitor the National Oceanic and Atmospheric Administration (NOAA) - National Weather Service website (<http://www.weather.gov/>) and similar information sources, such as local broadcast and web-based news sources, for severe weather alerts in the state of Nebraska. Specifically, severe weather involves severe thunderstorm, high wind and tornado warnings, as defined on the NOAA website glossary (<http://w1.weather.gov/glossary/>), found in Appendix A of this directive.
- B. In the week following such an alert, the Omaha Area Office will check the NOAA website's past weather page (<http://www.nws.noaa.gov/climate/>) or similar information source and verify that the severe weather occurred and met the defined severe weather conditions.
- C. The Omaha Area Office will use the Populations of Nebraska Cities as certified by the Nebraska Department of Revenue as of 12/18/2012 (<http://www.revenue.ne.gov/research/CertPop201212.html>) to create a list of towns/cities with a population of 3,000 people and greater. (Appendix B)
- D. Any city with a population of 3,000 people and greater (See above) in which a severe weather event has occurred will be placed on an inspection cycle list. Each weather event will constitute an inspection cycle. If the inspection procedure for a city, on an inspection cycle list, has not been initiated within 6 months of the severe weather event, that city will be removed from the inspection cycle. If a subsequent severe weather event occurs prior to completion of an inspection cycle, the cycles will be completed in accordance with CPL 02-00-025 and CPL 02-00-155.

- IX. Inspection Procedures.

- A. This LEP will focus on both commercial and residential work sites. When a CSHO is assigned a town or city for inspection, the CSHO will attempt to narrow the focus of the search by using local news and law enforcement information concerning the path of the severe weather within the town and will drive the major roads of that town or city searching for active construction sites for purposes of this LEP. Major roads are roads and streets that contain commercial business activity and may also have mixed commercial and residential sections.

- B. When the CSHO finds an active construction site, the CSHO will enter the site and determine if the site meets the inspection criteria of any national emphasis program (NEP), such as CPL 02-00-069 (Trenching), CPL 03-00-007 (Silica), CPL 03-00-009 (Lead), or any local emphasis program (LEP), such as CPL 98-02T (Falls), or hazards are observed. If any inspection criteria listed herein is met, the CSHO will conduct the inspection.
 - C. All inspections conducted under this LEP will be comprehensive unless the criteria set in "OSHA memorandum from James W. Stanley, Subject: Guidance to Compliance Officers for Focused Inspections in the Construction Industry, August 22, 1994, (Rev. (2) 9/20/95)" is met. In those cases, the safety inspection will be focused. The CSHO will document all hazardous work exposures as well as review safety and health programs, training records, air monitoring surveys, noise surveys, etc., as applicable. If health hazards are identified (such as noise, silica, hexavalent chromium, etc.) and cannot be adequately addressed by the inspecting CSHO, a referral will be made to adequately address the health hazards identified.
 - D. If adequate programs exist and no hazards are identified by the CSHO, the inspection will be considered in compliance.
 - E. When the town or city is completed, it will be removed from the list.
- X. Deletion Criteria. Inspections at selected jobsites, or, as to C., below, of specific employers on selected jobsites, will not commence if one of the following conditions exists:
- A. The jobsite has had a comprehensive safety inspection within the last trimester (4 months).
 - B. An employer on a jobsite is currently a participant in the OSHA Voluntary Protection Program (VPP), unless a serious hazard or imminent danger relative to that employer is observed.
 - C. The jobsite is a construction site where all work is being performed inside the dwelling on the premises of an occupied residence. (Note: Worksites such as re-roofing, guttering, trenching and other outside construction projects that are viewed from public access will be inspected. These sites may require entry onto the owner's property but not inside their residence).
- XI. Recording in OIS. Forms for all enforcement activities (inspections, complaints, and referrals) and compliance assistance conducted under this LEP must be coded with the LEP code, as follows:
- A. The "Inspection Type" tab on the OIS Inspection web-form (formerly OSHA-1) for all inspections conducted under this LEP shall be marked

"Program Planned" (Initiating Type) and "Inspection Emphasis Programs" record "STORMCON" in (Local Emphasis Program).

XII. Evaluation. No later than October 30 of each year that this program remains in effect, the Omaha Area Office will prepare a formal written evaluation of this LEP in the format specified by OSHA Instruction CPL 04-00-001, Appendix A.



Marcia P. Drumm
Acting Regional Administrator

9/15/14
Date



Office of the Solicitor Concurrence

09-15-2014
Date

Distribution:

Regional Solicitor
Directorate of Enforcement Programs
Acting Regional Administrator
Acting Deputy Regional Administrator
Assistant Regional Administrators
Area Directors
Supervisory Investigator
Field Review Program Coordinator

Appendix A

Severe Thunderstorm Warning - A thunderstorm with winds measuring 50 knots (58 mph) or greater, 1 inch hail or larger, or tornadoes. Severe thunderstorms may also produce torrential rain and frequent lightning.

Tornado Warning - A violently rotating column of air in contact with and extending between a convective cloud and the surface of the earth. It is the most destructive of all storm-scale atmospheric phenomena. A warning is issued when a tornado is indicated by the WSR-88D radar or sighted by spotters; therefore, people in the affected area should seek safe shelter immediately. They can be issued without a Tornado Watch being already in effect. They are usually issued for duration of around 30 minutes.

High Wind Warning - This product is issued by the National Weather Service when high wind speeds may pose a hazard or is life threatening.

Appendix B

CITY	COUNTY	POPULATION	CITY	COUNTY	POPULATION
OMAHA	DOUGLAS	423,192	SEWARD	SEWARD	6,964
LINCOLN	LANCASTER	258,469	CRETE	SALINE	6,960
BELLEVUE	SARPY	51,032	SIDNEY	CHEYENNE	6,757
GRAND ISLAND	HALL	48,648	PLATTSMOUTH	CASS	6,502
KEARNEY	BUFFALO	30,789	SCHUYLER	COLFAX	6,211
FREMONT	DODGE	26,397	RALSTON	DOUGLAS	5,943
HASTINGS	ADAMS	25,224	CHADRON	DAWES	5,851
NORTH PLATTE	LINCOLN	24,733	WAYNE	WAYNE	5,663
NORFOLK	MADISON	24,210	HOLDREGE	PHELPS	5,495
COLUMBUS	PLATTE	22,111	GRETNA	SARPY	4,905
PAPILLION	SARPY	19,143	OGALLALA	KEITH	4,737
LAVISTA	SARPY	15,993	WAHOO	SAUNDERS	4,510
SCOTTSBLUFF	SCOTTS BLUFF	15,039	AURORA	HAMILTON	4,479
SOUTH SIOUX	DAKOTA	13,353	FALLS CITY	RICHARDSON	4,325
BEATRICE	GAGE	12,459	COZAD	DAWSON	3,977
LEXINGTON	DAWSON	10,230	FAIRBURY	JEFFERSON	3,942
GERING	SCOTTS BLUFF	8,500	O'NEILL	HOLT	3,705
ALLIANCE	BOX BUTTE	8,491	GOTHENBURG	DAWSON	3,574
BLAIR	WASHINGTON	7,990	BROKEN BOW	CUSTER	3,559
YORK	YORK	7,766	AUBURN	NEMAHA	3,460
MCCOOK	RED WILLOW	7,698	WEST POINT	CUMING	3,364
NEBRASKA CITY	OTOE	7,289	WAVERLY	LANCASTER	3,277