OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-16-04A **EFFECTIVE DATE:** October 1, 2016

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 Wichita Area Office jurisdiction.

References: OSHA Instructions: CPL 04-00-001; CPL 02-00-025; CPL 02-00-051; CPL 02-00-160; CPL 02-00-069; CPL 03-00-009, CPL 03-00-007, STD 03-11-002, and CPL 02-00-155; OSHA Regional Notice CPL 98-02V; OSHA memorandum, Subject: Guidance to Compliance Officers for Focused Inspections in the Construction Industry, and Populations of Kansas Cities as certified by U.S. Census Data Incorporated City Populations.

Expiration: September 30, 2017, or may be renewed at that time

Action Offices: Wichita Area Office

Originating Office: Kansas City Regional Office

Contact: Enforcement Programs (816) 283-8745

By and Under the Authority of:

Kimberly A. Stille
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 Kansas construction worksites.

II. Scope. This Notice applies to construction worksites within the jurisdictional boundaries of the Wichita Area Office.

III. Action. The Regional Administrator and the Area Director for the Wichita 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, 2017, 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 January 29, 2016, or most recent version.

D. OSHA Instruction CPL 02-00-155, Inspection Scheduling for Construction, September 6, 2013.

E. OSHA Instruction CPL 02-00-160, Field Operations Manual (FOM), August 2, 2016.

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: National Emphasis Program - 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 98-02V Region-wide Problem Solving Initiative on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction, October 1, 2016.

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 Kansas Cities as certified by the U.S. Census, as of 2010.

M. Memorandum from Thomas Galassi to Regional Administrators, Procedures for Local and Regional Emphasis Programs, December 3, 2014.

N. Memorandum from Francis Yebesi to Regional Administrators, Establishment-Targeting Lists for Emphasis Programs, November 12, 2014.

O. Kansas Roofing Registration Act (KRRA).

VI. Background. According to the National Oceanic and Atmospheric Administration (NOAA), between 1961 and 2014, Kansas averaged 36 tornadoes and 534 hail events per year. Severe Weather events such as these often cause structural damage prompting an increase in repair and re-construction activity. In April 2013, Fort Scott, Kansas, a community of approximately 8,000, experienced severe weather which resulted in 27 hail reports including reports of tennis ball sized hail (http://www.stormersite.com/showreport.cfm?rptID=377321). Subsequently, the Wichita Area Office responded to two complaints which resulted in seven construction inspections in two days, in the city limits. In April 2014, Baxter Springs, Kansas, a community of approximately 4,000, experienced severe weather including tornadic activity resulting in nearly 100 homes and business damaged (http://www.weather.com/storms/tornado/news/baxter-springs-kansas-tornado-20140428). The Wichita Area Office responded providing outreach to the approximately 40 contractors registered and working in the City. In April 2015, Independence, Kansas, a community of approximately 9,000, experienced severe weather which resulted in two brief tornadoes and large hail (http://www.weather.gov/ict/April_2_3_2015_WindEvent). Subsequently, the Wichita Area Office responded to a complaint which resulted in eight construction inspections in two days, in the city limits.

Between FY 2013 and FY 2015, as a result of severe weather events in these communities, the Wichita Area Office conducted 15 inspections with 93% of the inspections resulting in violations for the lack of fall protection

in construction. Other hazards observed at the time of inspection included ladder safety, personal protective equipment, and hazard communication.

Severe weather events such as thunderstorms, high winds, and large hail tend to create an increase in smaller construction projects, i.e., re-roofing and window replacement. Due to the sudden increased demand for construction labors following severe weather, transient contractors often infiltrate Kansas communities in search of work. These contractors follow the path of the storm and come from a wide array of states. The severe weather events occurring in Fort Scott, in 2011, and Independence, in 2015, included such contractors. Approximately 43% (7/15) of the contractors, issued citations by OSHA during this time period, were from Texas, Missouri, or Montana.

This directive is intended to provide a targeting scheme with a broader range of coverage of inspection sites throughout the State of Kansas and is intended to focus OSHA's enforcement resources on construction sites in geographical areas following a severe weather event. By doing so, this directive provides a mechanism for OSHA to more quickly address hazards at jobsites that are of a relatively short duration and protect vulnerable populations such as transient, often immigrant, laborers.

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.

The Kansas Roofing Registration Act (KRRA) is a set of statutes enacted by the Kansas State Legislature in 2013. Generally, the KRRA requires roofing contractors to apply for and receive a roofing contractor registration certificate before performing commercial or residential roofing services for a fee in Kansas. The Compliance Assistance Specialist (CAS) will provide the LEP by e-mail to roofing companies with available e-mail addresses that are registered with the State of Kansas. Contact information for the Wichita Area Office will be provided for any questions the recipients may have concerning the LEP. There are currently 1,201 companies on the list, most of which are active and in good standing.

In addition, the CAS will develop a list of establishments by using the North American Industry Classification System (NAICS) codes, for businesses in the State of Kansas which sell roofing materials and related supplies and equipment. The CAS will also provide industry-specific outreach to other targeted stakeholders that may include industry associations, labor organizations, and consultants working in the

construction industry. This outreach may continue after the initiation of inspection activity and each weather event.

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

A. The Wichita Area Office will monitor the (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 Kansas. 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 Wichita 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 Wichita Area Office will use the Populations of Kansas Cities as certified by the U.S. Department of Commerce Census Bureau, as of April 2010, (https://www.census.gov/) 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 six 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 Compliance Safety and Health Officer (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 98-02U (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 (four 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 Wichita Area Office will prepare a formal written evaluation of this LEP in the format specified by OSHA Instruction CPL 04-00-001, Appendix A.

_____ _____

Kimberly A. Stille Date
Regional Administrator

_____ _____

Office of the Solicitor Concurrence Date

Distribution:

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

Appendix A

Severe Weather as Defined by NOAA

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

Kansas Towns/Cities with Populations Greater than 3000

Wichita	382,368
Overland Park	173,372
Kansas City	145,786
Topeka	127,473
Olathe	125,872
Lawrence	87,643
Shawnee	62,209
Manhattan	52,281
Lenexa	48,190
Salina	47,707
Hutchinson	42,080
Leavenworth	35,251
Leawood	31,867
Dodge City	27,340
Garden City	26,658
Emporia	24,916
Junction City	23,353
Derby	22,158
Prairie Village	21,447
Liberal	20,525
Hays	20,510
Pittsburg	20,233
Newton	19,132
Gardner	19,123
Great Bend	15,995
McPherson	13,155
El Dorado	13,021
Ottawa	12,649
Winfield	12,301
Lansing	11,265
Merriam	11,003
Haysville	10,826
Parsons	10,500
Coffeyville	10,295

Independence	9,483
Mission	9,323
Augusta	9,274
Chanute	9,119
Wellington	8,172
Fort Scott	8,087
Bonner Springs	7,314
Park City	7,297
Pratt	6,835
Valley Center	6,822
Bel Aire	6,769
Roeland Park	6,731
Ulysses	6,161
Eudora	6,136
Mulvane	6,111
De Soto	5,720
Iola	5,704
Paola	5,602
Spring Hill	5,437
Concordia	5,395
Colby	5,387
Tonganoxie	4,996
Basehor	4,613
Baldwin City	4,515
Russell	4,506
Goodland	4,489
Osawatomie	4,447
Wamego	4,372
Goddard	4,344
Edwardsville	4,340
Clay Center	4,334
Louisburg	4,315
Baxter Springs	4,238
Larned	4,054
Rose Hill	3,931
Hugoton	3,904
Fairway	3,882
Beloit	3,835
Scott City	3,816
Lyons	3,739

Hesston	3,709
Mission Hills	3,498
Lindsborg	3,458
Frontenac	3,437
Maize	3,420
Garnett	3,415
Holton	3,329
Columbus	3,312
Marysville	3,294
Kingman	3,177
Hiawatha	3,172
Ellsworth	3,120
Galena	3,085