



OSHA

REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 98-02V

EFFECTIVE DATE: October 1, 2016

SUBJECT: Region-wide Local Emphasis Program (LEP) on Falls, Scaffolds, and
Electrocutions from Overhead Power Lines in Construction

REGIONAL IDENTIFIER: Region VII

ABSTRACT

- Purpose:** Continues the inspection targeting system for the region-wide local emphasis program to reduce injuries and deaths resulting from falls, scaffolds, and electrocutions from overhead power lines in the construction industry.
- Scope:** This Notice applies to all Federal OSHA enforcement offices located in Region VII.
- References:** OSHA Instructions: CPL 04-00-001; OSHA Standards Interpretation and Compliance Letter, 08/22/1994, Guidance to Compliance Officers for Focused Inspections in the Construction Industry; CPL 02-00-160; CPL 02-00-025; CPL 02-00-155; and STD 03-11-002.
- Cancellations:** CPL 98-02U
- Expiration Date:** September 30, 2017
- State Impact:** None
- Action Offices:** Region VII (Area Offices)
- Originating Office:** Kansas City Regional Office
- Contact:** (816) 283-8745

By and Under the Authority of

Kimberly A. Stille
Regional Administrator

TABLE OF CONTENTS

	Page Number
I. Purpose.....	1
II. Scope.....	1
III. References.....	1
IV. Expiration.....	1
V. Background.....	1
VI. Procedures.....	2
VII. Recording in OSHA Information System (OIS)	10
VIII. Evaluation	10

- I. Purpose. The purpose of this Notice is to continue the enforcement element of the region-wide Local Emphasis Program (LEP) to reduce injuries and deaths resulting from falls, scaffolds, and electrocutions from overhead power lines in the construction industry.
- II. Scope. This Notice applies to all construction worksites, which are located within the jurisdiction of Federal OSHA in Region VII (Kansas, Missouri, and Nebraska; Iowa operates an OSHA-approved State plan and is encouraged, but not required, to adopt this initiative).
- III. References.
 - A. The Occupational Safety and Health Act of 1970 (OSH Act).
 - B. OSHA Instruction CPL 04-00-001, November 10, 1999, Procedures for Approval of Local Emphasis Programs (LEPs).
 - C. OSHA Standards Interpretation and Compliance Letter, August 22, 1994, Guidance to Compliance Officers for Focused Inspections in the Construction Industry.
 - D. OSHA Instruction CPL 02-00-160, August 2, 2016, Field Operations Manual (FOM).
 - E. OSHA Instruction CPL 02-00-025, January 4, 1995, Scheduling System for Programmed Inspections.
 - F. OSHA Instruction CPL 02-00-155, September 6, 2013, Inspection Scheduling for Construction.
 - G. OSHA Instruction STD 03-11-002, December 16, 2010, Compliance Guidance for Residential Construction.
 - H. Memorandum dated December 3, 2014 to Regional Administrators from Thomas Galassi entitled Procedures for Local and Regional Emphasis Programs.
 - I. Memorandum dated November 12, 2014 to Regional Administrators from Francis Yebesi entitled Establishment-Targeting Lists for Emphasis Programs.
 - J. OSHA Regional Notice CPL 2-15-01B, October 1, 2016, Region-wide Local Emphasis Program (LEP) for Powered Industrial Trucks and Other Material or Personnel Handling Motorized Equipment in Construction, General Industry, and Maritime.
- IV. Expiration. This Notice expires September 30, 2017.

V. Background.

1. Thirty-six percent or 433 of the 1,205 fatal and catastrophic Federal enforcement incidents in OSHA Region VII, during October 1, 1995 through July 31, 2016, were in the construction industry (i.e., Standard Industrial Classification, Division C. Construction; North American Industry Classification System (NAICS) 23, Construction)).
 - a. Forty-four percent or 191 of the 433 fatal and catastrophic Federal enforcement incidents were due to falls. Fourteen percent (62) of the 433 fatal and catastrophic Federal enforcement incidents in Region VII in construction were due to electrocutions.
 - b. Seventy-four percent or 47 of the 62 construction electrocutions in Region VII involved contact with overhead power lines.
 - c. Thirteen percent or 24 of the 191 fall, scaffold, or overhead power line fatalities, during January 1, 1998 through July 31, 2016, occurred on weekends.
 - d. For Fiscal Year (FY) 2017, emphasis on scaffolds will be continued. Of the top 10 most frequently cited standards, 29 CFR Section 1926.451 was ranked second (October 1, 2014 – September 30, 2015). From January 1, 2000 through July 31, 2016, there have been 12 fatalities, 8 hospitalizations, and 1 other injury related to scaffold use reported in the construction industry for this region. This speaks to a continued need for outreach and training in this area. Additionally, since not all hazards associated with scaffolds are fall hazards (e.g., a scaffold collapse on employees below, an object falling on employees below), it is presumed that not all hazards have been addressed.
2. The above data justifies the continuation of the region-wide problem solving initiative to reduce injuries and deaths resulting from falls, scaffolds, and electrocutions from overhead power lines in the construction industry.

VI. Procedures.

- A. During FY 2017, all compliance personnel shall be instructed to look for active construction sites where fall hazards exist and/or overhead power lines, and/or scaffolds are in use. The FY 2017 program will be region-wide. Fall hazards shall include any observed or reported conditions exposing employees to working at heights greater than six feet above the ground or greater than six feet above the next lower walking/working surface level (29 CFR 1926). Overhead power line hazards shall include any observed or reported employees or equipment used in proximity to overhead power lines. Scaffolds in use shall include scaffolds that one or more employees are erecting, dismantling, accessing, or engaged in working on or from a scaffold. Every observation and/or report of such worksite shall be handled as follows:

1. Whenever a Compliance Safety and Health Officer (CSHO) observes an active construction site where fall hazards and/or overhead power lines are observed, and/or where scaffolds are in use, or whenever an Area Office receives a report from any source of an active construction site where fall hazards and/or overhead power lines are observed, and/or where scaffolds in use are observed, OSHA shall:
 - a. Document the state and condition of the work operation in so far as it is known, including any apparent serious hazards.
 - b. Document the name and address or location of the worksite and the contractor performing the operation, if known.
2. All construction sites observed or reported to the Area Office to have fall hazards, overhead power lines, or scaffolds in use, shall be inspected as provided in Paragraph VI. A. 6., or shall be scheduled for inspection as follows:
 - a. All active construction sites where overhead power lines are observed, which have not been inspected within the last 30 days, will be scheduled for an inspection.
 - b. All active construction sites where fall and/or overhead power lines hazards, as defined in Paragraph VI. A., are observed or reported will be scheduled for an inspection.
 - c. All active construction sites where scaffolds in use are observed or reported will be scheduled for an inspection.
3. Sightings will be those which occur during the course of routine travel during duty or nonduty hours, not as a result of a specific search.
4. Documentation of the events leading up to the observation and/or the reporting of the active construction site(s) where fall hazards, and/or overhead power lines, and/or scaffolds in use are observed shall be maintained by the Area Office.
5. When an inspection is not conducted because entry has been denied, a warrant normally shall be sought in accordance with the current procedure for handling such cases. The FOM shall be followed for procedures to be used when the employer refuses to permit an inspection.
6. If the CSHO, during duty hours or authorized weekend duty (as provided in Paragraph VI. A. 8.), observes an active construction site(s) where fall hazards, and/or overhead power lines, and/or scaffolds in use are present, an inspection shall be conducted and the Area Office informed as soon as practical after the inspection has been completed.

7. Verification Inspections. If an employer and/or contractor has passed an OSHA verification inspection, as required by a signed construction partnership agreement, the employer would not be subject to an inspection under this initiative unless a plain view hazard is observed. If a plain view hazard is observed, an inspection will be conducted.

If the employer has not had a verification inspection, a verification inspection will be conducted by the CSHO while at the construction site.

8. Weekend inspections. During FY 2017, Region VII compliance staff will be given the authority on weekends to stop at active construction worksites if fall hazards, and/or overhead power lines, and/or scaffolds in use are observed and to conduct an inspection. Sightings will be those, which occur during the course of routine travel, not as result of a specific search.

- B. Scope of Inspections. The CSHO will conduct a walkthrough inspection of the construction sites that are covered under this program. The inspection will be limited to an inspection of fall hazards, and/or overhead power line hazards, and/or any potential violation of the scaffold standard(s) (i.e., 1926.450-.454), in accordance with paragraph VI. A. If the CSHO determines the construction site is in compliance with applicable 29 CFR 1926 fall protection, scaffolding, and overhead power line standards, the compliance officer will conclude the inspection, unless other serious violations are observed in plain view by the CSHO. If any other serious hazard(s) is/are observed (other than covered by this directive), the scope of the inspection will be expanded to a focused inspection. Focused inspections shall concentrate on the project safety and health program/plan and the four leading hazards that account for the most fatalities and serious injuries in the construction industry: falls; electrical hazards; caught in/between hazards (such as trenching); and "struck-by" hazards (such as materials handling equipment and construction vehicles). [Reference: FOM and OSHA Standards Interpretation and Compliance Letter, 08/22/1994 – Guidance to Compliance Officers for Focused Inspections in the Construction Industry]. Struck by vehicle hazards will be evaluated on each inspection conducted in accordance with OSHA Regional Notice CPL 2-15-01A. Any other hazards observed in plain view even if not one of the hazards covered by this directive or the focused inspection will be inspected.

C. Programmed Inspections.

1. During FY 2017, each Area Office will designate at least two separate "Construction Inspection Emphasis" weeks. The purpose of each "Construction Inspection Emphasis" week is to saturate areas of known or expected construction activity within a specific geographical area.
2. Each Area Director will choose a minimum of two separate "Construction Inspection Emphasis" weeks where CSHOs will be given specified area(s) with high construction activity. The CSHOs will stop at all construction sites

within that specified area where fall hazards, overhead power line hazards and jobsites with active scaffolds exist. The Area Director will assign all CSHOs not performing complaint and/or fatality inspections during that week. The CSHOs will perform construction site inspections focusing on these hazards primarily. The CSHOs will drive to the selected area(s) looking for these hazards as well as those covered by other National, Local, and Special Emphasis Programs.

3. Each Area Director can choose which weeks will be chosen for the "Construction Inspection Emphasis" as resources and construction activity dictate for their respective jurisdictions. The Area Director must use statistical data to determine where the construction inspections will be conducted. The data used will be described in each Area Office targeting plan.
4. Area Office targeting plans:
 - a. Kansas City Area Office.
 - (1) The Kansas City Area Office has evaluated the Fiscal Year (FY) 2015 construction inspection data from the OSHA Information System (OIS) database. The Clay County Area had the most construction inspections in FY 2015 (approximately 114). Using the same FY 2015 construction data from the OIS database, the Kansas City Area Office was able to determine that construction inspections in Jackson County totaled approximately 86 in FY 2015. This was clearly the next highest number. The Kansas City Area Office has therefore, identified these two counties for the geographical emphasis construction inspections.
 - (2) Relative to the dates of the geographical emphasis construction inspections, the same FY 2015 construction inspection data from the OIS database indicated that the largest number of construction inspections occurred during the months of March, April, June, July and October. The Area Director will select when the "construction emphasis week" will occur and inspection activity will begin on the following Monday for five straight working days.
 - (3) The Area Director will pick one of the two counties for the first week of construction inspections. Once that county is selected, the Kansas City Area Office will divide that county into grids demarcated by major roads and streets. The grids will be used to assign areas to CSHOs to prevent overlap and multiple inspections of the same jobsite. The CSHOs will drive the major roads looking for active construction sites. Major roads are roads and streets that contain commercial business activity and may also have mixed commercial and residential sections. If an active construction site is seen from or along these roads where fall hazards, overhead power

line hazards, and jobsites with active scaffolds exist or observe hazards covered by other National, Local, and Special Emphasis Programs, they will conduct the inspections within the scope of the FOM and other appropriate directives.

- (4) Only complaint, referral, fatality and catastrophe inspections will take precedence during the respective emphasis weeks as per the FOM. Otherwise, the Area Director will assign all CSHOs to the construction emphasis inspections of construction sites. Unprogrammed inspections of construction sites will be expanded to include the issues addressed by this program.

b. Omaha Area Office.

- (1) The Omaha Area Office has evaluated the Fiscal Year (FY) 2014 and 2015 construction inspection data from the OIS database. The data clearly shows that the Omaha/Douglas/Sarpy County area had the most construction inspections in that time period (approximately 150). Using the same timeframe construction inspection data from the OIS database, the Omaha Area Office was able to note that construction inspections in Lancaster County, which includes Lincoln, totaled about 50. Aside from purely weather related inspections, this was clearly the next highest number. The Omaha Area Office has, therefore, identified these three counties for the geographical emphasis construction inspections.
- (2) Relative to the dates of the geographical emphasis construction inspections, the construction fatality inspection data from FY 2009 through FY 2011 indicated that the largest number of construction fatality inspections occurred during the months of April - May and July - August. To make the best use of Omaha CSHO resources and limit the efficacy of the "temporarily stopping work" avoidance behavior of some construction contractors, the Omaha Area Office will define "week" as any 7 or 8 consecutive calendar days which encompass 5 business days, i.e., Sunday through Saturday, Wednesday through Tuesday, etc. Relative to the method of "emphasis," the major streets in the cities of Omaha, and Lincoln form a natural grid which will be used for the emphasis construction inspections. Major streets are roads and streets that contain commercial business activity and may also have mixed commercial and residential sections. If an active construction site is seen from or along these roads where fall hazards, overhead power line hazards, and jobsites with active scaffolds exist, or observe hazards covered by other National, Local, and Special Emphasis Programs, they will conduct the inspections within the scope of the FOM and other appropriate directives.

- (3) During the Douglas/Sarpy County week, the CSHOs or teams of CSHOs will drive through each grid established by the east/west traveled major streets, e.g. Harrison Street, "Q" Street, West Center Road, etc., and the north/south traveled streets, e.g. 204th, 192nd, 180th, 168th, etc. If they observe construction sites within that specified area where fall hazards, overhead power line hazards and jobsites with active scaffolds exist or observe hazards covered by other National, Local, and Special Emphasis Programs, they will conduct the inspections within the scope of the FOM and other appropriate directives. The CSHOs will coordinate within the Omaha Office so that each grid is traveled. The intent is to complete travel of all grids by the end of the week.
- (4) During the Lancaster County week, the CSHOs or teams of CSHOs will drive through each grid established by the east/west traveled major streets, e.g. Hallam Road, Sprague Road, Saltillo Road, Waverly Road, Davey Road, Superior Street etc., and the north/south traveled streets, e.g. W100th, W12th, 14th, 162nd, etc. If they observe construction sites within that specified area where fall hazards, overhead power line hazards and jobsites with active scaffolds exist or observe hazards covered by other National, Local, and Special Emphasis Programs, they will conduct the inspections within the scope of the FOM and other appropriate directives. The CSHOs will coordinate within the Omaha Office so that each grid is traveled. The intent is to complete travel of all grids by the end of the week.
- (5) Only complaint, referral, fatality, and catastrophe inspections will take precedence during the respective emphasis weeks as per the FOM. Otherwise, the Area Director will assign all CSHOs to the construction emphasis inspections during the respective weeks. Unprogrammed inspections of construction sites will be expanded to include the issues addressed by this program.

c. St. Louis Area Office.

- (1) The St. Louis Area Office has evaluated the construction fall inspection data from the OIS database. The data range was October 1, 2015 through August 22, 2016. There were 13 inspections performed within the limits of St. Louis, 30 inspections performed in St. Louis County, and 62 inspections performed in St. Charles County. Twenty-eight inspections were conducted elsewhere. The data clearly shows that St. Louis City, St. Louis County, and St. Charles County had the most construction inspections during this timeframe. Relative to the dates of the geographical emphasis construction inspections, the same construction inspection data from the OIS database indicated that the largest number of construction inspections occurred during the

months of April, May, June, July, and August. The Area Director will select when the "construction emphasis week" will occur and inspection activity will begin on the following Monday for five straight, working days.

- (2) This LEP will utilize maps of St. Louis County, the City of St. Louis, and St. Charles County. Each map will be broken up into an even number of sectors of approximately the same physical dimensions based on major roadway/streets acting as boundaries.
- (3) After the maps are broken up into sectors as described above, the sectors will be numbered sequentially in each county/city, beginning with the number (1), until all sectors have been numbered.
- (4) After the sector numbering, one sector per county/city to be inspected, will be selected for an inspection cycle using the random number function of the Microsoft Access Relational Database software. Subsequent cycles will be selected in the same manner. Each county/city to be inspected will have a set of inspection cycles independent of cycles developed for other counties/city to be inspected.
- (5) Each sector as it comes up on a cycle will be searched for active construction sites in which scaffold, fall, or overhead power line hazards may be present. This will be accomplished by driving down every road within the sector. An inspection will be conducted at each active construction site observed that meets the criteria prescribed in this paragraph. The section of the sector may be searched in any order so that Area Office resources are efficiently used. Once a cycle of a sector has begun, the search shall be completed before beginning a new cycle of a sector.
- (6) Only complaint, referral, fatality, and catastrophe inspections will take precedent during the respective emphasis weeks as per the FOM. Otherwise, the Area Director will assign all CSHOs to the construction emphasis inspections during the respective weeks. Unprogrammed inspections of construction sites will be expanded to include the issues addressed by this program.

d. Wichita Area Office.

- (1) The Wichita Area Office evaluated local OIS reports to determine where the most construction activity occurred. The data was run for FY 2016, for the entire state of Kansas. The data clearly shows that there were two counties that have the most construction activity in FY 2016. Based upon this information, the Wichita Area

Office has determined that Johnson (62 inspections) and Sedgwick (51 inspections) Counties are where the most construction activity is taking place. There were approximately 179 total construction inspections conducted during FY 2016.

- (2) The Wichita Area Office will pick one of the two counties for the first week of construction inspections. Once that county is selected, the WAO will divide that county into grids demarcated by major roads and streets. The grids will be used to assign areas to CSHOs to prevent overlap and multiple inspections of the same jobsite. The CSHOs will drive the major roads looking for active construction sites. Major roads are roads and streets that contain commercial business activity and may also have mixed commercial and residential sections. If an active construction site is seen from or along these roads where fall hazards, overhead power line hazards, and jobsites with active scaffolds exist, or observe hazards covered by other National, Local, and Special Emphasis Programs, they will conduct the inspections within the scope of the FOM and other appropriate directives.
- (3) Only complaint, referral, fatality, and catastrophic inspections will take precedent during the respective emphasis weeks as per the FOM. Otherwise, the Area Director will assign all CSHOs to the construction emphasis inspections during the respective weeks. Unprogrammed inspections of construction sites will be expanded to include the issues addressed by this program.

D. Unprogrammed events such as fatalities, catastrophes, complaints, referrals, and follow-up inspections shall be scheduled in accordance with procedures in the FOM. Warrants will be pursued in accordance with the FOM.

E. Follow-up Site Visit.

1. Definitions. Onsite Visits: Procedures for Abatement Verification and Monitoring of the Field Operations Manual states:
 - a. Follow-up Site Visit. The primary purpose is to determine whether the previously cited violations have been corrected.
 - b. If serious violations and/or hazards are observed during the initial inspection, the Area Director may assign a CSHO to return to the site to determine if the hazards still exist, are on-going, or if the employees continue to be exposed to the hazards
 - c. General Construction Activities. All construction activities not defined as residential construction.

- d. Residential Construction. The Agency's interpretation of "residential construction" for purposes of 1926.501(b)(13) combines two elements – both of which must be satisfied for a project to fall under that provision: (1) the end-use of the structure being built must be as a home, i.e., a dwelling; and (2) the structure being built must be constructed using traditional wood frame construction materials and methods (although the limited use of structural steel in a predominantly wood-framed home, such as a steel I-beam to help support wood framing, does not disqualify a structure from being considered residential construction). Reference: OSHA Instruction STD 03-11-002, Compliance Guidance for Residential Construction.
2. Action. XFALLELEC Informal Follow-up Inspections. For any inspection opened after October 1, 2014, deemed to be general construction activities that includes Falls/OHPL/Scaffold hazards and results in alleged high severity violations related to falls and overhead power lines that are substantially similar to violations that have caused fatalities within the immediate past five calendar years (CYs) in Region VII, an informal follow-up inspection will occur within five (5) days of the initial inspection in order to verify that all applicable alleged hazards relating to the above hazards have been abated.
 3. Procedure. All inspection activities pertaining to the "Follow-up Site Visit" process will be carried out as instructed in FOM.

VII. Recording in OIS.

- A. Inspections that are conducted as a result of a complaint; referral from media, police, or other Agency; accident; or fatality/catastrophe will be coded "XFALLELEC" in the *Local Emphasis Program* tab and the appropriate Unprogrammed Activity selected in the *Inspection Type* tab. All other inspections initiated under this program, including CSHO referrals, will be marked as "Programmed Planned" under the *Inspection Type* tab and will include the "XFALLELEC" code on the *Local Emphasis Program* tab.
- B. Inspections evaluated for struck by vehicle hazards should be coded "REPVEHICLE".
- C. Area Offices shall check their OIS database on a quarterly basis to verify the accuracy of their data for the falls/overhead power lines program by running the appropriate Inspection Summary Report(s).
- D. All consultation activities (requests, visits, and compliance assistance) conducted at sites where vehicle-related standards are evaluated regarding powered industrial trucks and other material or personnel handling motorized equipment in construction, general industry, and maritime will be coded with "XFALLELEC" in the Local Emphasis Program field on the appropriate forms.

VIII. Evaluation. Annual reviews of each program for the previous Fiscal year are due by October 30. Evaluations will be conducted annually for the duration of the program. Interim evaluations will be conducted as needed.

Kimberly A. Stille
Regional Administrator

Date

Office of the Solicitor Concurrence

Date

Distribution: Regional Solicitor
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