



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: 2019-02

EFFECTIVE DATE: 10/1/2018

SUBJECT: Local Emphasis Program – Heavy Highway and Bridge Construction and Maintenance

REGIONAL IDENTIFIER: Region 2

ABSTRACT

Purpose: This regional instruction continues the implementation of the Local Emphasis Program (LEP) for programmed inspections of construction, maintenance, and demolition work on roadways, bridges and elevated highways. (NAICS codes: 237310, 237990, 237110, 237120, 237130, 238320, 238210, 238110, 238140, 238120, 238190, 238310, 238220, 238910, 236220, 238150, 238290, 238350, 238390, 238990, 561790 and 562910, covering general contractors, bridge painting contractors, structural steel erectors, wrecking and demolition work, and miscellaneous special trade contractors.)

References: CPL 02-00-160, Field Operations Manual (FOM), 8/2/16; CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (LEPs) 11/13/2018; CPL 02-00-025, Scheduling System for Programmed Inspections, 01/04/1995; CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, 5/28/1998.

Cancellations: This instruction cancels Local Emphasis Program (LEP), Heavy Highway and Bridge Construction and Maintenance, 2018-02 (CPL2).

Expiration: This instruction expires September 30, 2023.

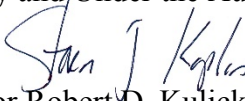
State Impact: None

Action Offices: All Region II Area Offices (Except Puerto Rico)

Originating Office: Office of Regional Administrator

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201 Varick Street Room 670, New York, NY 10014

By and Under the Authority of


For Robert D. Kulick
Regional Administrator

- I. Purpose: This instruction continues the implementation of a Local Emphasis Program (LEP) for safety and health inspections of contractors that perform Bridge, Highway and Street Construction, Maintenance and Demolition work under NAICS codes: 237310, 237990, 237110, 237120, 237130, 238320, 238210, 238110, 238140, 238120, 238190, 238310, 238220, 238910, 236220, 238150, 238290, 238350, 238390, 238990, 561790 and 562910. The LEP will be conducted in accordance with the provisions of the Field Operations Manual (FOM). These work sites cannot be successfully reached using the present targeting system due to the fact that work at each site is sporadic and is further influenced by weather, traffic and other factors.
- II. Scope: This instruction applies to all Region II Area Offices, except Puerto Rico.
- III. Expiration: This instruction expires September 30, 2023.
EXCEPTION: Any inspection begun prior to September 30, 2023 may continue until its conclusion.
- IV. Background: Work on and around highway, streets, and bridges is inherently dangerous. Hazards such as being struck by vehicular traffic and other heavy equipment within the work zone, falling from heights, falling into water, silica and lead exposure are all well known. Due to the consistent high rates of injury, illness and fatalities, OSHA has been focusing efforts on addressing these hazards in bridge, highway, and street construction.

The Bureau of Labor Statistics reports for the industries covered under this LEP the following: For NAICS code 236, Construction of Buildings, the final number of fatalities for 2017 was 196 with a total recordable injury and illness case rate for 2017 of 3.0 per 100 full-time workers; For NAICS code 237, Heavy and Civil Engineering, the final number of fatalities for 2017 was 152 with a total recordable injury and illness case rate for 2017 of 2.5 per 100 full-time workers; for NAICS code 238, Specialty Trade Contractors, the final number of fatalities for 2017 was 610 with a total recordable injury and illness case rate for 2017 of 4.3 per 100 full time workers; for NAICS code 5617, Services to Buildings and Dwellings, the final number of fatalities for 2017 was 279 with a total recordable injury and illness case rate for 2017 of 3.4 per 100 full-time workers; and for NAICS code 56291 the number of fatalities for 2017 was 11 with a total recordable case rate for 2017 of 2.5 per 100 full time workers. The total recordable injury and illness case rate for 2017 for all private industry employers was 2.8 cases per 100 full time workers.

This LEP is designed to establish a procedure to identify construction sites where bridge work is ongoing, and to specifically address the hazards listed above.

This emphasis program supports the DOL objective to secure safe and healthful working conditions for America's workers by implementing the OSHA Strategic Plan objective to target the most hazardous worksites for inspection by making efforts to prioritize its limited resources for inspections, compliance assistance and outreach efforts on specific industries that routinely experience injury, illness, or fatalities above the national average.

The inspections will be expanded to cover other hazards that are in plain view during the inspections.

- V. Action: The Area Director shall ensure that the procedures outlined in the instruction are followed during the effective period of this instruction. This instruction is not to conflict with inspection priorities as established in the Field Operations Manual (FOM).

When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with the current procedures for handling such refusals.

- VI. Procedures: The Area Directors for each Area Office shall be responsible for establishing and tracking sites to be inspected.

Selection of sites for inspection shall consist of a combination of sources, including but not limited to CSHO observation of active sites, complaints, referrals, the Construction Inspection Targeting System, and the Department of Transportation web sites or contacts. For each respective state, the websites of the New York State Department of Transportation (NYSDOT) or the New Jersey State Department of Transportation (NJDOT), shall also be reviewed for active or planned construction activities.

Sites obtained from imminent danger notifications, fatalities/catastrophes, complaints, referrals from outside agencies, follow-ups and monitoring visits are considered unprogrammed inspections and will be scheduled in accordance with the policies established in the FOM.

When performing programmed inspections under this LEP, each Area Office shall develop an inspection master list of establishments. The National Office policy on List Generation and Randomization shall be followed in accordance with the National Office memorandum to Regional Administrators dated November 12, 2014, *Establishment-Targeting Lists for Emphasis Programs*. Inspection scheduling and deletions shall be done in accordance with CPL02-00-155, *Inspection Scheduling for Construction*.

If during assigned inspection activities, a CSHO observes an active highway, bridge, or street construction site where the potential for exposure to the hazards listed in Section IV above are observed, an inspection shall be conducted. If the CSHO is not qualified to conduct an inspection of the present activity, or if inspection priorities dictate otherwise, the information shall be reported to the Area Office and an inspection shall be scheduled and conducted.

If the CSHO observes an active highway, bridge, or street construction site but no potential hazards are observed, the CSHO shall stop and ascertain the name of the employer. If the employer is not on the Area Office list and does not meet the deletion criteria in CPL 02-00-155, the site shall be added to the list and randomized in accordance with the directions in the National Office Policy on Randomization referenced above.

Establishments for inspection may fall within the scope of the current Appropriations Act. If so, inspection activities must be done and completed in accordance with the directive, CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*.

Sites will receive safety inspections. Safety CSHOs will make silica, lead, noise, or other referrals as appropriate, and health inspections will be opened accordingly. All inspections conducted under this LEP will be comprehensive unless the site qualifies for a Focused Inspection. Inspections conducted under this LEP shall not conflict with inspections conducted at the same site under other enforcement programs.

VII. Coding in OIS:

A. In the Inspection Report, for any programmed inspection, under the Inspection Field, in the Inspection Types tab, the initiating type will be marked as “programmed planned” and in the Inspection Emphasis Programs Field under Local Emphasis Program select “BRIDGE” for Bridge Construction and Maintenance, “RDSILICA” for Silica, and/or “HIGHWAY” for highway and/or road construction and maintenance.

B. In the Inspection Report for any unprogrammed inspection (i.e. Accidents, Complaints, Outside Referrals, Fatalities/Catastrophes), conducted in conjunction with this REP, under the Inspection Field, in the Inspection Types tab, the initiating type will be marked with the appropriate unplanned activity and in the Inspection Emphasis Programs Field under Local Emphasis Program select “BRIDGE” for Bridge Construction and Maintenance, “RDSILICA” for Silica, and/or “HIGHWAY” for highway and/or road construction and maintenance.

C. In the Inspection Report, for all programmed inspections such as other NEP/LEP’s conducted in conjunction with an LEP inspection under this initiative, under the Inspection Field, in the Inspection Types tab, the initiating type will be marked “program planned” and in the Inspection Emphasis Programs Field select all NEP/LEP OIS codes applicable to the inspection.

D. Complaints and referrals from outside sources, such as the Police Department, Highway Department are coded as unprogrammed inspections on the Inspection Report. Referrals made as a result of CSHO observation are coded programmed inspections on the Inspection Report.

E. For any inspection under this LEP, in the Unplanned Activity Report, in the Program Info Field, under LEP select “BRIDGE”, “RDSILICA”, “HIGHWAY”, as appropriate.

VIII. Outreach:

During the course of this renewal LEP the Area Director will continue to ensure that the ongoing outreach program will remain in effect during the enforcement phase of the program. Outreach activities will continue to be directed to reach as many stakeholders in the Area Office’s jurisdiction as is practicable. Stakeholders, which would include professional organizations, members of the ASSP, AIHA, Unions, and Chambers of Commerce, will be notified and the purpose of the outreach will be to inform the interested parties of the existence, purpose and objectives of this emphasis program as well as promote employer knowledge and employee awareness of the hazards and acceptable methods of abatement to prevent illness and injuries. The method of outreach is at the Area Director’s discretion and can consist of one or more of the following components:

1. Broadcast mail-outs or program information.
2. Stakeholder meetings.
3. Targeted training sessions.
4. Presentations to the affected group(s).
5. Media press release or e-blast

IX. Program Evaluation:

A. Abatement documentation/verification will be submitted to or otherwise collected by the Area Office for all violations. The abatement information must be included in the case file in a timely manner.

B. The RA will ensure that each Region II area office participating in the REP/LEP will prepare and submit to EP a program report. The program report is to be conducted at the midpoint and completion of each REP/LEP. At the RA’s discretion, additional reports may be required, based on the length, complexity, and coverage of the program. The midpoint assessment will take place no later than the end of the fiscal year following the calendar midpoint between the program effective and expiration dates (e.g., 2 ½ years into a 5 year program). The midpoint assessment will allow for revisions to the LEP where necessary, along with an assessment of whether continuation of the LEP is appropriate.

1. The program report will, at a minimum, address whether the LEP advances OSHA’s goals and initiatives. The program report will address, as appropriate, both quantitative and qualitative measures. Types of measures that may be considered include:

- a. The number of employees and/or establishments impacted by outreach activities;
- b. Number of hazards abated;
- c. The number of workers removed from hazards;
- d. Impact on illness and injury rates (note: due to lag in available BLS data, this measure may not be suited for shorter termed programs);
- e. Reductions in the number of complaints or severe injury reports within affected industries, and;
- f. Any indices that relate directly to measures included in the DOL Strategic Plan, the OSHA Operating Plan, and/or additional goals of the LEP.