



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: 2019-06

EFFECTIVE DATE: 10/1/2018

SUBJECT: Regional Emphasis Program – Construction Work Sites – Local Targeting

REGIONAL IDENTIFIER: Region 2

ABSTRACT

- Purpose:** This regional instruction continues the implementation of a Regional Emphasis Program (REP) for programmed safety and health inspections of local construction projects.
- References:** CPL 02-00-160, Field Operations Manual (FOM), 8/2/2016; CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (LEPs), 11/13/2018; CPL 02-00-0025, 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 Regional Emphasis Program – Construction Worksites – Local Targeting Region II, 2018-06 (CPL 2).
- Expiration:** This instruction expires September 30, 2023.
EXCEPTION: Any inspection begun prior to September 30, 2023 may continue until its conclusion.
- State Impact:** None
- Action Offices:** All Region II Area Offices
- Originating Office:** Office of Regional Administrator
- Contact:** Office of Regional Administrator
201 Varick Street, Room 670, New York, NY 10014

By and Under the Authority of

For Robert D. Kulick

Regional Administrator

I. Purpose.

This regional instruction continues the implementation of a Regional Emphasis Program (REP) for programmed safety and health inspections of local construction projects. The REP will be conducted in accordance with the Field Operations Manual (FOM), CPL 02-00-160, dated August 2, 2016.

II. Scope. This instruction applies to all Region II Area Offices.

III. Expiration. This instruction expires on September 30, 2023.

EXCEPTION: Any inspection begun prior to September 30, 2023 may continue until its conclusion.

IV. Background.

Successful construction inspection targeting has always been challenging. Urban and suburban environments add their unique set of confounders to these challenges. Currently, construction safety and health inspections conducted by each respective Area Office are based primarily on the following triggers:

- Fall REP (Regional)
- Heavy Highway and Bridge (Regional)
- Gut-rehab REP (Regional)
- Unprogrammed activity, such as CSHO self-referrals, complaints, and accidents

Additionally, each Area Office conducts a small amount of programmed inspections based on lists provided by the Construction Inspection Targeting System (c-targeting).

Except for the relatively few programmed inspections, the major triggers for inspection rely on some hazardous condition to occur and either be observed by OSHA (Fall REP, Gut-rehab REP, self-referrals), be reported to OSHA (referrals and complaints), or else for an accident to occur and be reported to OSHA. The only truly random preventative inspections (i.e., those supplied by the Construction Inspection Targeting System) suffer from certain institutional drawbacks. These include reliance on bids, permits, and other filings to initiate tracking. Unfortunately, many of the construction projects within our office's jurisdiction do not appear on the Construction Inspection Targeting System lists. These are primarily smaller projects, often without permits, and usually conducted by small employers. Many of these projects are of a short duration. These projects also tend to employ many immigrant workers, who are traditionally reluctant to file formal complaints. All of these factors are associated with a higher risk of construction injuries and fatalities and hamper traditional targeting methods.

The Bureau of Labor Statistics reports for NAICS Code 23, establishments primarily engaged in the construction of buildings or engineering projects, in 2017 there was 971

fatalities and for 2017 a total recordable injury and illness case rate of 3.1 per 100 full time workers. In the area of jurisdiction covered by Region II, for FY 2018, there were 36 work related fatalities in the construction industry.

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.

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 the 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.

A. The Area Director shall be responsible for developing a list of establishments for inspections. The establishment list will be generated as follows. Based on local knowledge obtained from sources such as media, unions, community groups, building departments, etc., the Area Director will select a distinct geographic area within each respective Area Offices jurisdiction. The boundaries of the area will be defined based on the Postal ZIP code, police precinct, political district or neighborhood, or significant geographic features (e.g., bodies of water, main thoroughfares, etc.).

B. An OSHA employee will be assigned to travel throughout the selected geographic area. All ongoing construction projects observed will be listed by the OSHA staffer. This includes both active and inactive projects, whether or not hazards are observed. Cues for ongoing projects include actual construction work, scaffolding, sidewalk sheds, construction barricades and fencing, posted building permits, demolition dumpsters, and the presence cranes and heavy equipment. If possible, the entire selected geographic area will be surveyed the same business day.

C. The OSHA staffer will list each observed ongoing project according to street address, type of construction activity, and any other cues observed. If possible, the identity of the employer will also be listed. If hazards are observed, they shall be noted as well. The establishments will be listed sequentially in the order in which they are observed.

D. If hazards were observed by the OSHA staffer, they shall be reported to the AAD-Safety. If imminent danger conditions are observed, an inspection shall be initiated following appropriate protocols as described in the current Field

Operations Manual.

- E. When performing programmed inspections under this REP, 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*. Deletions and scheduling must be completed in accordance with CPL 02-00-155, *Inspection Scheduling for construction*.
 - F. If the Area Director determines that the list is no longer representative of the status of work in the defined area, or that sufficient inspection resources have been devoted to the selected geographic area, a new field survey shall be conducted using the same criteria defined above, and a new list will be generated. This new survey may be of the same geographic area or of any new one.
 - G. The scope of these inspections shall include both safety and health hazards, as well as a review of all applicable documentation and programs. Attention will be paid to hazards covered by OSHA's Strategic Management Plan and applicable emphasis programs. If hazards are observed in the opposite discipline (safety or health), a referral shall be made.
 - H. The Area Director will explore the feasibility of using the Construction Inspection Targeting System capabilities to enhance this Local Construction Targeting REP. This includes using key-word searches throughout their databases, or selecting geographic areas based on the volume and type of construction.
 - I. 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, CPL02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*.
- VII. Recording in OIS. Current instructions for completing the appropriate inspection classification boxes on the OSHA Inspection form, as found in the OIS manual shall be applied when recording inspections conducted under the REP, as follows:
- A. The OSHA Inspection form for any programmed inspection covered under this Regional Emphasis Program for Local Construction Targeting shall be marked "Program Planned" in the Initiating Type field and the value "LOCALTARG" shall be recorded in the Regional Emphasis Program field.
 - B. REP Combined with Unprogrammed Inspections. For all unprogrammed inspections conducted in conjunction with this REP inspection under this initiative, the OSHA Inspection form must be marked with the appropriate unprogrammed activity in the Initiating Type field. The value "LOCALTARG" shall be recorded in the Regional Emphasis Program field.

- C. REP Combined with other Emphasis Program Inspections. For all programmed inspections such as other NEPs/REP/LEPs conducted in conjunction with an REP inspection under this initiative, the OSHA Inspection form must be marked as "Program Planned" in the initiating Type field. In addition, the value "LOCALTARG" shall be recorded in the Regional Emphasis Program field along with all NEP and LEP OIS codes applicable to the inspection.

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 stake holders in the Area Office's jurisdiction as is practicable. Stakeholders which include groups such as professional organizations, the ASSP, AIHA, Unions, and Chambers of Commerce, will be notified of the existence, purpose and objectives of this emphasis program. The outreach will also 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. 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.