



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL-04-00-025	EFFECTIVE DATE: August 4, 2021
SUBJECT: Regional Emphasis Program (REP) - Tree and Landscape Operations	
REGIONAL IDENTIFIER: Region 1	

ABSTRACT

Purpose: This establishes a Regional Emphasis Program (REP) for programmed inspections to reduce workplace fatalities and injuries during tree removal, tree trimming and land clearing operations, targeting NAICS codes 561730 (Tree Trimming & Removal and Landscaping Service Industries) and 238910 (Site Preparation Contractors).

References: OSHA Instruction CPL 02-00-164, *Field Operations Manual* (FOM), April 14, 2020, or more recent version.

OSHA Instruction CPL 04-00-002, *Procedures for Approval of Local Emphasis Programs and Experimental Programs*, November 13, 2018.

OSHA Instruction CPL 02-00-025, *Scheduling System for Programmed Inspections*, January, 4, 1995.

OSHA Instruction CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*, and Appendix A, change effective January 8, 2021, or most recent version.

Cancellation: None.

State Impact: All 21(d) Consultation Programs throughout Region 1 will be informed of the Region-Wide Local Emphasis Program and will be invited to participate in outreach activities.

Action Offices: All Federal Area Offices, Region 1

Originating Office: Boston Regional Office

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By and Under the Authority of

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Executive Summary

This Emphasis Program is intended to reduce the number of fatalities, injuries, and serious safety and health hazards relating to tree trimming, tree removal, and landscaping service industries, including the use of heavy equipment (cranes, loaders and chippers), elevated work platforms (bucket trucks and aerial lifts), tree climbing equipment, and tree trimming equipment. These activities involve exposures to hazards that are among OSHA's strategic emphasis areas, such as struck-by hazards, amputations, falls, electrical, and noise.

Nationally, the published 2018 injury and illness rates for NAICS Code 561730 Tree Trimming & Removal and Landscaping Service Industries are above the national averages for fatalities; injuries or illnesses resulting in Days Away From Work, Restricted Work Activity, or Job Transfer for every 100 full-time workers (known as the DART rate); and for the total case rate (TCR). In Region I, throughout the past five fiscal years (FY16-FY20) there have been 25 fatalities and numerous other serious permanent disabling injuries related to tree and landscape work activities. These fatalities include 11 struck-by, nine falls, three "other fatalities, one electrocution, and one caught-in-between.

The purpose of this instruction is to provide an inspection scheduling system to cover high-hazard activities [within the context of current law and OSHA policy]. Safety and health programmed inspections of employers engaged in the Tree and Landscape Industry are to be scheduled using this program notice.

Significant Changes

None, this is the first OSHA instruction for Tree and Landscape industry within Region I.

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I. Purpose:

This REP is intended to reduce the number of fatalities, serious injuries, and serious safety and health hazards relating to tree trimming, tree removal, landscaping service activities, and site clearing operations. These activities include the use of heavy equipment (cranes, grapples, stump grinders, loaders and chippers); elevated work platforms (aerial devices); tree climbing, tree removal and trimming power equipment; and electrical hazards. Most of these activities involve exposures to hazards that are among OSHA's strategic emphasis areas, such as amputations, falls, electrical, and noise. This local emphasis program consists of three elements. One element pertains to alternative site targeting, which will rely heavily on referrals, especially referrals from OSHA compliance officers. Another element concerns a greater emphasis on fall and electrical hazards. The third element consists of various outreach activities that will cover all hazards associated with tree trimming and removal operations. Outreach activities will raise the awareness of employers and employees not only on these hazards, but also abatement approaches and compliance responsibilities.

II. Scope:

This notice applies to all Region 1 Federal area offices of OSHA.

III. Limitations and Exemptions:

None under CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*, and Appendix A, change effective January 28, 2021, or most recent version.

IV. References:

1. OSHA Instruction CPL 02-00-025, January 4, 1995, *Scheduling System for Programmed Inspections*.
2. OSHA Instruction CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriations Act*, and Appendix A, change effective January 28, 2021, or most recent version.
3. OSHA Instruction CPL 04-00-002, November 13, 2018, *Procedures for Approval of Local Emphasis Programs (LEPs)*.
4. OSHA Instruction CPL 02-00-164, April 14, 2020; *Field Operations Manual (FOM)*, or most recent version.
5. American National Standards for Arboricultural Operations – Safety requirements (ANSI Z133-2017), or most recent version.

6. OSHA Memorandum dated June 30, 2021, Interim Enforcement Inspection Guidance for Tree Care and Tree Removal Operations.
7. OSHA Memorandum dated December 3, 2014 Procedures for Local and Regional Enforcement Programs.
8. OSHA Memorandum dated November 13, 2014, Establishment Targeting Lists for Emphasis Programs.
9. 29 CFR 1910.67 Title: Vehicle-mounted elevating and work platforms
10. 29 CFR 1910.180 Title: Crawler locomotive and truck cranes.
11. 29 CFR 1910.269(a)(1)(i)(E) Line-clearance tree-trimming operations
12. 29 CFR 1910.269(x) Definitions: Line-clearance tree-trimmer
13. OSHA Instruction, CPL 02-02-035, 29 CFR 1910.95(b)(1), Guidelines for Noise Enforcement; Appendix A, December 19, 1983
http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVE&p_id=1548
14. OSHA Technical Manual, Section III: Chapter 5 Noise,
http://www.osha.gov/dts/osta/otm/new_noise/index.html

V. Cancellations:

None

VI. Expiration:

This REP will expire on August 4, 2026.

VII. Background:

Tree and landscape services industries are high hazard because of the nature of the hazards and the high injury and illness and fatality rates. It is OSHA policy that programmed inspections be conducted primarily in high-hazard sectors of employment.

For purposes of this REP, the Tree and Landscape Services Industry includes such activities as arborist services; ornamental tree and bush planting, pruning, bracing, spraying, removal, and surgery; and utility line tree trimming services. These employers work at heights where they are exposed to falls from trees, roofs, and ladders; exposed to being struck-by heavy equipment and trees; amputations from chain saws, brush chippers and stump grinders; safety hazards from other power tools; and electrocutions when workers (or a branch, or a tool or other piece of equipment that the worker was touching)

come in contact with energized power lines or electric transformers. Published occupational injury and illness data shows that the tree and landscape services industry have a high injury and illness rates. In the past four years (2015-2019) for which data are available from the Bureau of Labor Statistics (BLS) Census of Fatal Occupational Injuries (CFOI), there were 884 fatalities in the industry - an average of about 221 fatalities per year. There were 241 fatal occupational injuries in the landscaping and tree services industry nationwide in 2018 that included 53 transportation incidents, 67 falls, and 62 contact with objects and equipment, the last year that such data is available. Throughout Region I in the past five fiscal years (FY16-FY20), there have been 25 fatalities and other serious permanent disabling injuries related to tree and landscape work activities. These fatalities include 11 struck-by, nine falls, three “other,” fatalities, one electrocutions and one caught-in-between. Of the 25 fatalities, 11 occurred in Massachusetts, eight in Connecticut, two in New Hampshire, one in Maine and three in Rhode Island.

There were four types of events that led to most of the fatalities among workers in the landscape and tree services industry: 1) struck by an object (typically a tree); 2) fall to a lower level (typically out of a tree); 3) contact with electric current (such as when a tree limb or aerial device contacts a live electrical wire); and 4) transportation incidents (either a collision between vehicles or a worker struck by a vehicle in a work zone).

While these categories provide an overall view of the events leading to the fatality, some anecdotal evidence provides more details about the fatal events from the review of Tree and Landscape Industry fatality investigations:

- Those workers who were struck by a tree included cases where a tree they were cutting fell forward onto them. There were also instances where the tree that struck the decedent was being cut down by a co-worker.
- In several instances, workers were fatally injured when a portion of the tree fell while performing rope handling activities on the ground.
- In several instances, fatally injured workers were described as not wearing personal protective clothing or using protective equipment.
- Electrocutions occurred when workers (or a branch, tool or other piece of equipment that the worker was touching) came in contact with high voltage lines or electric transformers.
- Some transportation incidents involved vehicles that were being used during a landscaping operation, such as a tractor being used to remove stumps overturning onto the driver. Other incidents involved vehicles operated by others hitting a landscape worker, such as workers on the side of a road being struck by a motor vehicle. Crane and other heavy equipment used in landscape and tree operations turn-over frequently as a result of overloading and ground conditions, energized power line strikes, untrained equipment operators, and lack of equipment maintenance.

VIII. Program Procedures:

- A. Compliance Safety and Health Officers (CSHOs) shall, while traveling during the course of their work-day, be watchful for employee(s) performing tree removal, tree trimming, line-clearance tree-trimming operations, or other tree activities who are exposed to one or more unprotected serious hazard(s) (such as falls, electrical, and/or struck-by hazard(s)). Compliance officers seeing such unprotected exposures shall attempt to contact the area office either to obtain supervisory authorization to begin an immediate inspection; or, in cases where the CSHO is unable to begin an immediate inspection, to notify the area office of the CSHO's observations. Supervisory approval to start the inspection will normally be granted to the CSHO provided that this inspection activity does not conflict with higher priority inspection activity, and provided that the CSHO has the necessary training, expertise and equipment to conduct the inspection. In addition, many tree removal companies hire cranes with an operator through crane rental companies. The crane rental company shall be included in the inspection under this Emphasis Program.
- B. If the CSHO has no readily available means to contact the area office, or is otherwise unable to reach area office personnel who can authorize the inspection, the CSHO will begin an immediate limited scope inspection provided this activity will not interfere with higher priority inspections or assignments. In these cases, the CSHO will give highest priority to preventing further employee exposure to the fall hazards observed.
- C. Whenever an inspection is begun under this REP on the basis of a CSHO self-referral, the CSHO will include in the case file narrative, a description of the circumstances which resulted in discovery of the employee exposure that was the basis of the referral. The case file narrative shall also indicate if supervisory authorization for the inspection was obtained prior to the start of the inspection, or an explanation why this authorization was not obtained or sought.
- D. The scope of inspections scheduled under this REP will generally be partial safety inspections but may be expanded to address additional hazards based on information gathered by the CSHO during the inspection process, in accordance with the Field Operations Manual.
- E. During all programmed safety and health inspections (such as national or local emphasis programs), and during all unprogrammed inspections (accidents, complaints and referrals) involving alleged fall hazards, CSHOs will include the following activities as part of their inspections:
 - 1. CSHOs shall determine the scope of work and applicable OSHA standards (e.g., Vegetation Management for Power Transmission & Distribution 1910.269 or Logging 1910.266).

2. Application of §1910.132: CSHOs shall assess the employer's compliance with OSHA's personal protective equipment (PPE) requirements at 29 CFR Part 1910 Subpart I, which mandates that for most types of PPE, employers shall provide the equipment at no cost to employees (29 CFR 1910.132(h) (72 FR 64342 (11/15/2007))). Note that §1910.132(h) has certain exceptions from those requirements. In addition, CSHOs will determine the need for other PPE, such as, but not limited to: head protection, eye and face protection, hand and foot protection, hearing protection, and cut-resistant leg protection (e.g., chaps). Employers shall be cited under the relevant provisions of the PPE standard(s) if employees are not provided with appropriate protective measures.
3. Application of 1910.95, Occupational Noise Exposure. CSHOs will determine if noise levels exceed 90dBA (slow response) with a sound level meter to determine if 8-hour TWA (time-weighted-average) sampling is necessary and if a hearing conservation program is required and administered by the employer.
4. Application of 1910.180, Cranes, 1910.184 slings, other lifting equipment and rigging. CSHOs shall determine if the operator is qualified to operate the equipment, the cranes have a periodic inspection (written documentation required), load charts are available, weight charts or other method to determine the weight of materials being lifted are available, and whether the ground conditions are capable of supporting the crane and the load where it is set up. In addition, the CSHO shall determine if any employees are being hoisted by a crane. Although ANSI Z133-2017 5.7.11 allows the hoisting of a qualified arborist, the ANSI standard prohibits hoisting an individual on the crane load or hook unless the employer has determined that all reasonably possible alternative methods are inaccessible and attachment to the tree would create a greater hazard. If so, the CSHO will determine if another safer alternative method is available (e.g., aerial lift, adjacent tree, second crane, etc.). An employer's reliance on the ANSI standard is therefore not a defense of 1910.180(h)(3)(v). If an employer argues or implies that it will assert a greater hazard defense, the CSHO shall request in writing all documents from the employer concerning that alleged defense, including, for example, any forms or other documentation that the employer completed prior to commencing the work as a result of which the employer determined that hoisting an individual on the crane load or hook was allegedly the safest method.
5. CSHOs shall evaluate the proximity to overhead energized wires for material handling and hoisting equipment, personnel hoisting (bucket trucks, aerial lifts, etc.), and proximity of worker in relationship to tree climbing, and tools and equipment.

6. CSHOs will evaluate the application of the Manual of Uniform Traffic Control Devices (MUTCD) for work being performed where arborists and workers are exposed to moving roadway traffic that requires a temporary traffic control zone with the appropriate high-visibility safety apparel, advance warning signs and vehicular traffic directional signage.
- F. When a complaint alleging a fall hazard within the tree industry is received at the area office, which previously would have been handled in accordance with the phone/fax procedures for off-site interventions, under this REP the area director has the option, resources permitting, of scheduling an inspection to investigate the complaint.

IX. Coding:

- A. Recording in OIS: Current instructions for completing the inspection, investigation or other UPA sections shall be followed when recording inspections under this REP. Additionally, the following instructions will be followed to ensure inspections and compliance assistance activities are done as part of this REP are properly recorded.
- B. Inspections scheduled under this REP shall be marked "Initiating Type - Programmed Planned" and "TREELAND" selected from the Local Emphasis Program drop-down menu. Complaints and referrals from sources such as police departments or fire departments, and inspections scheduled in response to reports of fatalities or a catastrophe shall be appropriately coded as with the applicable unprogrammed activity type (Referral, Complaint, FAT/CAT) and "TREELAND" selected from the Local Emphasis Program drop-down menu.
- C. All compliance assistance associated with this REP shall be entered into OIS and coded as "TREELAND" in the Tasks section-Emphasis Programs-Local Emphasis Programs box.

X. Program Reports:

- A. The REP will be evaluated in accordance with the guidelines in Appendix A of CPL 04-00-002, November 13, 2018, *Procedures for Approval of Local Emphasis Programs*. The Assistant Regional Administrator for Enforcement Programs will request input from the Area Directors for this evaluation.
- B. The Regional Office will complete a program report at the midpoint and completion of the REP. The midpoint assessment will take place no later than September 30, 2023. The midpoint and final program report will include quantitative and qualitative measures, including recommendations regarding the continuation of this REP. In addition to activity and impact measures, the report will include the following:

1. An evaluation of how effective the program was in meeting its goal of reducing the number of fatalities, serious injuries, and serious safety and health hazards in this industry.
2. Data and information used to support the conclusions stated above:
 - (a) Data shall include enforcement statistics such as number of fatalities and serious injuries in this industry, number of inspections conducted, number of serious hazards identified, the number of employees removed from hazards, and the total number of employees affected by enforcement activities covered by the REP.
 - (b) Data shall also include outreach statistics such as the number of outreach activities conducted and the number of employees participating in or affected by these outreach activities.
3. Statement and rationale of whether the emphasis program should be continued.
4. Description of any legal issues that arose which would necessitate a review by the Solicitor before renewal of the program.
5. Any other comments or recommendations, including findings or novel abatement measures, which might have an impact on how the industry conducts business.

XI. Outreach:

- A. Initial Outreach: Area Offices will provide initial outreach to stakeholders for a period of three months from the effective date of the REP to the enforcement date. Stakeholders may include local landscape and tree associations, members of OSHA partnerships, and alliances or other entities identified by the office. The Region I REP will be announced to stakeholders during the initial outreach period and stakeholders will be apprised of the concentrated inspection effort planned in an effort to reduce occupational fatalities, injuries, and illnesses associated with tree trimming, tree removal, and landscaping services. The notification will also explain services available to employers through state 21(d) Consultation services. Outreach during this period may include but is not limited to, media press releases; and stakeholder mailings with OSHA website information, fact sheets, quick cards, and other pertinent information.
- B. Ongoing Outreach: Area Offices will continue outreach activities to stakeholders throughout the duration of this REP. A total of at least twelve outreach activities

to promote this REP will be conducted throughout the Region each fiscal year. Each Area Office will annually develop and implement at least one outreach activity involving a tree care association, oversight authority, or other appropriate group. (Examples: nursery & landscape associations, tree warden associations, state university cooperative extensions, state arborist licensing office, etc.) Offices located in the same state may collaborate on the annual outreach activity. This outreach can take many forms such as presentations, informational mailings, articles in trade newsletters, and other activities.