ABSTRACT

Purpose: This instruction renews policies and strategies to be followed when making programmed safety and health regional emphasis inspections of construction sites, including marine construction sites.

References: See paragraph III.

Cancellation: This instruction cancels Region IX Enforcement Programs Notice CPL 04-00-02, dated October 1, 2018.

Significant Changes: None.

Action Offices: All Region IX Regional and Area Offices

Originating Office: Region IX Enforcement Programs

Contact: Paul Leary, Assistant Regional Administrator Enforcement Programs

By and Under the Authority of:

James D. Wulff
Regional Administrator
Executive Summary

This instruction renews policies and strategies to be followed when making programmed safety and health regional emphasis inspections of construction sites, including marine construction sites.

BLS data reveals construction employment as one of the most hazardous occupations in the United States. The construction industry had a fatal injury rate of 9.4 per 100,000 full-time workers in 2021, compared to 3.8 for all private industry.

Due to the hazardous nature of construction employment, OSHA has identified this industry as high-hazard in the FY 2023 Agency Management Plan.
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I. Purpose

This instruction renews policies and strategies to be followed when making programmed safety and health regional emphasis inspections of construction sites, including marine construction sites. The intent of this instruction is to reduce employee exposure to hazardous conditions, and to prevent injuries and illnesses and fatalities in this high-hazard industry.

II. Scope

This instruction applies to all Area Offices in Region IX.

III. References

A. OSHA Instruction CPL 02-00-164, April 14, 2020, Field Operations Manual
B. OSHA Instruction CPL 02-00-025, January 4, 1995, Scheduling System for Programmed Inspections
C. OSHA Instruction CPL 02-00-051, May 28, 1998, Enforcement Exemptions and Limitations under the Current Appropriations Act (Appendix A updated annually)
D. OSHA Instruction CPL 04-00-002, November 13, 2018, Procedures for the Approval of Local Emphasis Programs (LEPs)
E. Memorandum dated December 3, 2014 on Procedures for Local and Regional Emphasis Programs.
F. Memorandum dated November 12, 2014, on Establishment-Targeting Lists for Emphasis Programs.
G. OSHA Instruction CPL 02-00-155, September 6, 2013, Inspection Scheduling for Construction

IV. Cancellation

Region IX Enforcement Programs CPL 04-00-02, dated October 1, 2018.

V. Expiration
This REP will expire no later than five years from the date of implementation, unless renewed.

VI. Action

OSHA compliance personnel will ensure the procedures contained in this instruction are followed in scheduling and conducting inspections under the REP.

VII. Definitions

A. Programmed Inspections: Inspections of worksites which have been based upon objective or neutral selection criteria are programmed. The worksites are selected according to national scheduling plans for safety and health or regional or local emphasis programs.

B. Unprogrammed Inspections: Inspections scheduled in response to alleged hazardous working conditions that have been identified at a specific worksite are unprogrammed. These types of inspections result from imminent danger situations, fatalities/catastrophes, complaints, and referrals. They also include follow-up and monitoring inspections.

VIII. Background

A. BLS data reveals construction employment as one of the most hazardous occupations in the United States. The construction industry had a fatal injury rate of 9.4 per 100,000 full-time workers in 2021, compared to 3.8 for all private industry.

B. Due to the hazardous nature of construction employment, OSHA has identified this industry as high-hazard in the FY 2023 Agency Management Plan.

C. Construction is particularly hazardous and difficult to schedule due to the temporary nature of the worksites.

IX. Procedures

A. Unprogrammed Inspections

1. Unprogrammed construction inspections will be inspected in the following priority:
a. Imminent Danger Situations

b. Fatality/Catastrophe Investigations

c. Complaint/Referral Investigations

2. Self-referrals will be conducted only with prior notification of the Area Director or Team Leader, unless an imminent danger situation is observed. The AD will be notified of the imminent danger situation as soon as possible.

3. Based on observed site conditions, a determination of whether to expand the inspection will be made by the CSHO.

B. Programmed Inspections

1. This instruction will be used for scheduling all programmed construction inspections in Region IX.

2. Due to the mobility of employers in the construction industry, the transitory nature of construction sites, and the fact that sites often involve more than one employer, inspections shall be scheduled from a list of worksites rather than employers. Note: Scheduling of construction equipment yards will be under general schedule lists.

3. It is anticipated that each Area Office will schedule construction inspections in each fiscal year, based on staff and travel budget availability.

4. Worksite/Project Identification: Once per quarter, the Area Directors will identify construction worksites/projects in the Area Office’s jurisdiction. OSHA will use the best available sources including: commerce directories, commercial telephone listings, internet searches, local permits, contractual schedules with Dodge Reports, University of Tennessee reports, the C-Target scheduling system, and local knowledge. OSHA may augment this identification process with field surveys.

C-Target lists should be run monthly, but the sites identified may not be imminently active. ADs should incorporate these sites into the quarterly lists as appropriate, based on expected levels of activity for these projects.

5. Worksite/Project Selection and Scheduling
a. At the beginning of each quarter, each Area Director will
determine how many construction inspections are planned during
the quarter. The number of programmed inspections will depend
on factors such as program priorities, staff availability, and travel
budget.

b. The Area Director will create a randomly numbered list of all
available worksites. Worksites shall be randomly ordered using
the RANDBETWEEN function in Excel or an equivalent
randomization tool. AOs may also send their master list to EP for
randomization. All steps in the randomization process should be
documented and this documentation should be maintained and
filed with the master list, cycles, reasons for deferrals, and any
other related information.

c. If the number of sites determined is the same or greater than the
number of worksites/projects on the scheduling list, all worksites
on the list will be scheduled for inspection during that quarter.

d. If the number of sites available exceeds the number determined,
the AD will create a scheduling cycle by choosing a number of
worksites from the top of the randomized list that will match the
number of construction inspections planned for that quarter.

e. Once the cycle has been selected, the AD may schedule
inspections in any order depending on personnel and travel
budget availability.

f. Construction worksites identified will be inspected only once
during each quarter, except for unprogrammed activity such as
imminent danger situation, accidents, complaints, referrals, and
follow-up inspections.

g. It is important that the number of worksites requested by the AD
is subsequently inspected. If a large number remain uninspected,
the AD should either increase their resource commitment or
lower the requested number of worksites in the next quarter.

h. All quarterly lists, randomized lists, and cycles, including additions
and deletions, shall be filed electronically on the regional shared
drive or the regional Sharepoint site and retained for three years.
Area Offices will coordinate with EP to ensure all documentation
is filed quarterly.
6. Deletions from the Programmed Inspection Lists: Deletions from the worksites/projects list will be made in the following circumstances, and shall be documented on the master list in the shared drive:

a. There is little or no activity at a worksite.

b. During the current quarter, a substantially complete inspection has been conducted as a result of an unprogrammed activity (i.e., complaint).

c. The worksite/project has been approved for exemption from inspection through consultation or participation in the voluntary protection program.

C. Inspection Limitations

1. All Inspections:

a. When an on-site employer is inspected and there are items at that worksite that are under contest, or with an abatement date that is still open, those items shall be excluded from the scope of the inspection, unless monitoring of abatement is required (e.g., pursuant to a settlement agreement), or a potential imminent danger is involved. However, all other contractors without an open contested case at the site shall be inspected.

b. When the general contractor has invited on-site consultation, and the consultant is on-site, no inspection shall be conducted, unless a fatality, follow-up, imminent danger, complaint, or referral inspection is to be conducted. These inspections shall be limited to the subject items.

c. After the NAICS code for an employer is obtained, compare the number with the NAICS codes listed in Appendix A to CPL 02-00-051, Enforcement Exemptions and Limitations Under the Current Appropriations Act. In some cases, an employer with 10 or fewer employees may be exempt from an OSHA programmed safety inspection.

2. Unprogrammed Inspections: Limit the inspection to the items in the complaint, referral, or other unprogrammed issue, unless the compliance officer determines a cause to expand the inspection.
Expansion of the inspection must receive concurrence of the Area Director.

3. Programmed Inspections – Focus of Inspections: Although programmed inspections may be comprehensive, primary inspection efforts should be placed on significant hazards that are likely to cause death or serious injury. Typically this includes fall hazards, electrical hazards that would lead to electrocution, trenching hazards, crushing, or vehicular hazards.

4. As appropriate, when a CSHO identifies a site where employees are not exposed to hazards, the CSHO shall provide the employer’s on-site representatives with appropriate training and outreach materials which address potential hazards at construction sites. This action shall be entered in OIS as a Compliance Assistance activity.

D. Construction Companies that Provide Employee Housing:

Temporary labor barracks associated with the construction worksite/project will be referred for separate scheduling, unless otherwise directed by the AD.

E. Re-inspection: Any company at any worksite that has been inspected based on this REP may be subject to re-inspection.

1. Re-inspection may be based on unprogrammed events such as fatalities, catastrophes, complaints, referrals, and follow-up inspections. Inspections in these categories will be scheduled for inspection in accordance with existing procedures outlined in the Field Operations Manual, OSHA Instruction CPL 02-00-164.

2. Re-inspection may also occur on a quarterly basis because the mechanism of identifying worksites/projects within an AO jurisdiction is repeated. Therefore, if a worksite/project is still active, the location may be subject to another inspection.

3. Re-inspection may also occur based on the need to verify abatement per the Abatement Verification Standard (29 CFR 1903.19).
X. Coding

In addition to recording information and entering data in OIS in accordance with all other relevant instructions and directives, for all construction inspections (programmed and unprogrammed) the following specific coding instructions apply:

A. Inspection Type: Regional Emphasis Program code = PROGCON

NOTE: Please remember to code ALL inspections done in the construction industry with the PROGCON code in the REP field, whether or not these inspections are done as programmed inspections under the Regional Emphasis Program. All programmed and unprogrammed inspections of construction sites should be coded in this way to facilitate data retrieval.

For inspections conducted under this REP, or unprogrammed construction inspections, the PROGCON code shall be entered as the primary emphasis code. Other applicable REP or NEP codes may be entered as non-primary codes.

B. Additional Codes:

R 05 [Location]

A specific location should also be entered in the optional information field. See Appendix A for a list of locations (note: the location should be entered exactly as it is listed in Appendix A; if no location is applicable for an inspection, do not create an R 05 location entry for that inspection without first confirming with EP).

C. Programmed vs. Unprogrammed:

Sites which have been previously added to a scheduling list will be coded as programmed inspections. Self-referrals will be coded as unprogrammed activities. Referrals of current activity from other entities (base safety offices, tribal safety managers, etc.) will be coded as unprogrammed; notifications from these entities of upcoming projects will be added to the scheduling lists and coded as programmed.

XI. Evaluation

A. At the midpoint of the effective period of this REP (two and a half years from the implementation date) and at the end of the effective period, evaluation reports will be completed that shall include the following elements:
1. The goal of the program.

2. A determination of how effective the program was in meeting its goal.

3. Data and information to support the conclusions stated in the goal, including enforcement statistics, as required in CPL 04-00-002, Procedures for the Approval of Local Emphasis Programs.

4. Statement of whether the program should be continued, accompanied by a brief rationale.

5. Description of any legal issues that arose which would necessitate a review by the Solicitor before renewal of the program could be approved.

6. Any other comments or recommendations, including findings which might have an impact on how OSHA or the industry does business.

B. This evaluation shall be submitted to the Regional Administrator for review, at which time a decision will be made to continue, amend, renew or discontinue the REP.

XII. Outreach

The Assistant Regional Administrator for Cooperative and State Programs and the Assistant Regional Administrator for Enforcement Programs will ensure the Area Directors and all Outreach staff are familiar with this directive and actively promote the REP when conducting outreach sessions and meetings. Hazards, work practices, and machinery associated with the construction industry and covered by this REP will be pointed out and discussed during outreach sessions and meetings. Handouts and publications that address these hazards, which are already developed and available, will be provided at outreach sessions and meetings. A copy of this REP will be provided to interested parties upon request.
Appendix A: Locations

The following list contains specific locations to be used in the Additional Codes field in OIS. Be sure to enter each location as shown in this Appendix, using all capital letters, to allow for consistent data retrieval:

**Indian Lands**

- AGUA CALIENTE BAND OF CAHUILLA INDIANS
- AK CHIN INDIAN COMMUNITY
- ALTURAS RANCHERIA
- AUBURN INDIAN COMMUNITY
- AUGUSTINE RESERVATION
- BARONA BAND OF MISSION INDIANS
- BATTLE MOUNTAIN BAND COUNCIL
- BEAR RIVER BAND OF THE ROHN EVILLE RANCHERIA
- BEPTOH PAIUTE RESERVATION
- BERRY CREEK RANCHERIA
- BIG LAGOON RANCHERIA
- BIG PINE RESERVATION
- BIG SANDY RANCHERIA
- BIG VALLEY RANCHERIA
- BISHOP RESERVATION
- BLUE LAKE RANCHERIA
- BRIDGEPORT INDIAN COLONY
- BUENA VISTA RANCHERIA
- CABAZON RESERVATION
- CAHUILLA BAND OF MISSION INDIANS
- CALIFORNIA VALLEY MIWOK TRIBE
- CAMPO BAND OF MISSION INDIANS
- CEDARVILLE RANCHERIA
- CHEMEHUEVI RESERVATION
- CHICKEN RANCH RANCHERIA
- CLOVERDALE RANCHERIA
- COCOPAH TRIBE
- COLD SPRINGS RANCHERIA
- COLORADO RIVER TRIBE
- COLUSA RANCHERIA
- CORTINA RANCHERIA
- COYOTE VALLEY RESERVATION
- CUYAPAPE BAND OF MISSION INDIANS
- DRY CREEK RANCHERIA
- DUCKWATER SHOSHONE TRIBE
- ELEM INDIAN COLONY
- ELK VALLEY RANCHERIA
- ELKO BAND COUNCIL
- ELY SHOSHONE TRIBE
- ENTERPRISE RANCHERIA
- EWIIAPAAYP INDIAN BAND
- FALLON BUSINESS COUNCIL
- FORT BIDWELL
<table>
<thead>
<tr>
<th>Tribe Name</th>
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<tbody>
<tr>
<td>INDIANS</td>
<td>SCOTTS VALLEY RANCHERIA</td>
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<td>PINOLEVILLE RANCHERIA</td>
<td>SHEEP RANCH RANCHERIA</td>
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<td>PIT RIVER TRIBE</td>
<td>SHERWOOD VALLEY RANCHERIA</td>
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<td>PRESIDIO TRUST CORPORATION</td>
<td>SHOSHONE PAIUTE BUSINESS COUNCIL</td>
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<td>PYRAMID LAKE TRIBAL COUNCIL</td>
<td>SMITH RIVER RANCHERIA</td>
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<td>QUARTZ VALLEY RESERVATION</td>
<td>SOBOBA BAND OF LUISENO INDIANS</td>
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<td>QUECHAN TRIBE</td>
<td>SOUTH FORK BAND COUNCIL</td>
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<td>RAMONA BAND OF MISSION INDIANS</td>
<td>STEWARDS POINT RANCHERIA</td>
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<td>REDDING RANCHERIA</td>
<td>SUMMIT LAKE PAIUTE COUNCIL</td>
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<td>RENO SPARKS TRIBAL COUNCIL</td>
<td>SYCUAN RESERVATION</td>
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<td>TABLE BLUFF RESERVATION</td>
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<td>RINCON BAND OF MISSION INDIANS</td>
<td>TABLE MOUNTAIN RANCHERIA</td>
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<td>ROBINSON RANCHERIA</td>
<td>TE-MOAK TRIBE OF WESTERN SHOSHONE</td>
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<tr>
<td>ROUND VALLEY RANCHERIA</td>
<td>TIMBI-SHA SHOSHONE TRIBE</td>
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<tr>
<td>RUMSEY RANCHERIA</td>
<td>TOHONO O ODHAM NATION (please do not use the ‘</td>
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<tr>
<td>SALT RIVER PIMA – MARICOPA INDIAN COMMUNITY</td>
<td>in this tribe’s name, OIS will not accept it)</td>
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<tr>
<td>SAN CARLOS APACHE TRIBE</td>
<td>TONTO APACHE TRIBE</td>
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<td>SAN JUAN SOUTHERN PAIUTE TRIBE</td>
<td>TORREZ-MARTINEZ DESERT CAHUILLA RESERVATION</td>
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<td>SAN MANUEL BAND OF MISSION INDIANS</td>
<td>TRINIDAD RANCHERIA</td>
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<td>SAN PASQUAL BAND OF DIEGUENO INDIANS</td>
<td>TULE RIVER RESERVATION</td>
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<td>SANTA ROSA BAND OF MISSION INDIANS</td>
<td>TUOLUMNE RANCHERIA</td>
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<td>SANTA ROSA RANCHERIA</td>
<td>TWENTYNINE PALMS BAND OF MISSION INDIANS</td>
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<td>SANTA YNEZ BAND OF MISSION INDIANS</td>
<td>UPPER LAKE RANCHERIA</td>
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<td>SANTA YSABEL BAND OF MISSION INDIANS</td>
<td>VIEJAS (BARON LONG) RESERVATION</td>
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WALKER RIVER TRIBAL COUNCIL
WASHOE TRIBAL COUNCIL
WELLS BAND COUNCIL
WHITE MOUNTAIN TRIBE
WINNEMUCCA TRIBAL COUNCIL
YAVAPAI-APACHE INDIAN COMMUNITY
YAVAPAI-PREScott COMMUNITY
YERINGTON PAIUTE COUNCIL
YOMBA TRIBAL COUNCIL
YUROK RESERVATION
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<th>Military Facilities</th>
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<tr>
<td>US AIR FORCE, ANDERSEN AFB</td>
<td>US NAVY, NAVAL AIR STATION, NORTH ISLAND</td>
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<td>US AIR FORCE, BEALE AFB</td>
<td>US NAVY, NAVAL AIR STATION, OLF IMPERIAL BEACH</td>
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<td>US AIR FORCE, EDWARDS AFB</td>
<td>US NAVY, NAVAL BASE GUAM</td>
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<td>US AIR FORCE, FORT MACARTHUR AFS</td>
<td>US NAVY, NAVAL BASE VENTURA COUNTY - PORT HUENEME</td>
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<td>US AIR FORCE, LOS ANGELES AFB</td>
<td>US NAVY, NAVAL BASE VENTURA COUNTY - NAVAL AIR MISSILE TEST CENTER, POINT MUGU</td>
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<td>US AIR FORCE, MARCH ARB</td>
<td>US NAVY, NAVAL BASE VENTURA COUNTY - SAN NICOLAS ISLAND</td>
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<td>US AIR FORCE, McCLELLAN AFB</td>
<td>US NAVY, NAVAL DEGASSING STATION, POINT LOMA</td>
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<td>US AIR FORCE, TRAVIS AFB</td>
<td>US NAVY, NAVAL OCEAN CENTER-NAB, CORONADO</td>
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<td>US AIR FORCE, VANDENBERG AFB</td>
<td>US NAVY, NAVAL STATION, SAN DIEGO</td>
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<td>US ARMY, CAMP HAAN</td>
<td>US NAVY, NAVAL SUBMARINE BASE, POINT LOMA</td>
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<td>US ARMY, CAMP PARKS</td>
<td>US NAVY, NAVAL SUPPLY CENTER, POINT LOMA ANNEX</td>
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<td>US ARMY, CAMP ROBERTS</td>
<td>US NAVY, NAVAL SUPPLY CENTER, SAN DIEGO</td>
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<td>US ARMY, CAMP SAN LUIS OBISPO</td>
<td>US NAVY, NAVAL WEAPONS CENTER, CHINA LAKE</td>
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<td>US NAVY, NAVAL WEAPONS CENTER, SEAL BEACH, FALLBROOK ANNEX</td>
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<td>US ARMY, FORT HUNTER LIGGETT</td>
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<td>US ARMY, JOINT FORCES TRAINING BASE</td>
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<td>US ARMY, NATIONAL GUARD MARANA</td>
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<td>US MARINE CORPS, AIR STATION MIRAMAR</td>
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<td>US MARINE CORPS, MARINE CORPS LOGISTICS BASE, YERMO</td>
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<td>US MARINE CORPS, MARINE CORPS RECRUIT DEPOT, SAN DIEGO</td>
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US NAVY, NAVAL WEAPONS STATION, CONCORD

US NAVY, POSTGRADUATE SCHOOL

US NAVY, SAN CLEMENTE ISLAND
Other Locations with Exclusive or Partial Federal Jurisdiction

HAWAII MARITIME CONSTRUCTION PROJECTS
GOLDEN GATE NATIONAL RECREATION AREA
   (unspecified locations in GGNRA)
GOLDEN GATE NATIONAL RECREATION AREA, ALCATRAZ
GOLDEN GATE NATIONAL RECREATION AREA, FORT MASON
GOLDEN GATE NATIONAL RECREATION AREA, PRESIDIO
METROPOLITAN TRANSPORTATION COMMISSION
   (bridge and transportation projects in the 9 county San Francisco Bay Area)
NASA AMES MOFFETT FIELD
NATIONAL PARK SERVICE, CABRILLO NATIONAL MONUMENT
NATIONAL PARK SERVICE, HALEAKALA NATIONAL PARK
NATIONAL PARK SERVICE, HAWAII VOLCANOES NATIONAL PARK
NATIONAL PARK SERVICE, JOSHUA TREE NATIONAL PARK
NATIONAL PARK SERVICE, KINGS CANYON NATIONAL PARK
NATIONAL PARK SERVICE, LASSEN VOLCANIC NATIONAL PARK
NATIONAL PARK SERVICE, SEQUOIA NATIONAL PARK
NATIONAL PARK SERVICE, YOSEMITE NATIONAL PARK
PORT OF LONG BEACH
PORT OF SAN DIEGO