



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-16-04E | **EFFECTIVE DATE:** October 1, 2019

SUBJECT: Kansas Local Emphasis Program (LEP) – Commercial and Residential Construction Following a Severe Weather Event

REGIONAL IDENTIFIER: Region VII

ABSTRACT

Purpose: The Instruction continues a local emphasis program to identify commercial and residential construction worksites and reduce or eliminate workplace hazards.

Scope: The Instruction applies to the Wichita Area Office.

References: OSHA Instructions: CPL 02-00-051, Enforcement Exemptions and Limitations Under the Appropriations Act, May 28, 1998, or successor guidance
CPL02-00-0163, Field Operations Manual (FOM), September 13, 2019, or the most current version at the time of the inspection opening conference
CPL 98-02X, Region-wide Local Emphasis Program (LEP) on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction, November 8, 2017
CPL 02-00-155, Inspection Scheduling for Construction CPL, September 6, 2013
CPL 03-00-009, National Emphasis Program – Lead, August 14, 2008.

Cancellations: This Instruction cancels CPL 02-16-04D, Kansas Local Emphasis Program (LEP) – Commercial and Residential Construction Following a Severe Weather Event, October 1, 2018.

State Plan Impact: None

Action Offices: Wichita Area Office

Originating Office: Kansas City Regional Office – Enforcement Programs

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By and Under the Authority of:

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Executive Summary

The Instruction continues a local emphasis program to identify commercial and residential construction worksites following a severe weather event and reduce or eliminate workplace hazards.

The intent is encouraging employers to take steps to address hazards, evaluate facilities to determine compliance with all relevant OSHA requirements, and help employers correct hazards, thereby reducing potential injuries, illnesses, and death for their workers.

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- I. **Purpose.** The Instruction describes policies and procedures for continuing a Local Emphasis Program (LEP) for programmed safety and health inspections of Kansas construction worksites.
- II. **Scope.** The Instruction continues a local emphasis program to identify commercial and residential construction worksites within the Wichita Area Office's jurisdiction following a severe weather event.
- III. **Expiration Date.** The Instruction will expire on September 30, 2024.
- IV. **Action.** OSHA compliance personnel shall follow the procedures contained in this instruction when conducting outreach and enforcement activities.
- V. **References.**
 - A. OSHA Instruction CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (LEPs), November 13, 2018.
 - B. OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections, January 4, 1995.
 - C. OSHA Instruction CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, dated May 28, 1998 and Change dated December 18, 2018 (Appendix A), or most current version.
 - D. OSHA Instruction CPL 02-00-155, Inspection Scheduling for Construction, September 6, 2013.
 - E. OSHA Instruction CPL 02-00-163, Field Operations Manual (FOM), September 13, 2019, or the most current version at the time of the inspection opening conference.
 - F. OSHA Instruction CPL 02-00-161, National Emphasis Program on Trenching and Excavation, October 1, 2018.
 - G. OSHA Instruction CPL 03-00-009, National Emphasis Program - Lead, August 14, 2008.
 - H. OSHA Instruction STD 03-11-002, Compliance Guidance for Residential Construction, June 16, 2011.
 - I. OSHA Regional Notice CPL 98-02Y Region-wide Local Emphasis Program (LEP) on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction, October 1, 2018.
 - J. OSHA memorandum from James W. Stanley, titled Focused Inspections in Construction, revised September 20, 1995.
 - K. Populations of Kansas cities as certified by the U.S. Census, as of 2010.

- L. OSHA Memorandum from Francis Yebesi to Regional Administrators, Establishment-Targeting Lists for Emphasis Programs, November 12, 2014.
- M. Kansas Roofing Registration Act (KRRRA) and Registration search. <https://ag.ks.gov/in-your-corner-kansas/resources/roofer-search>
- N. Kansas Emergency Management Association – 2017-2019 Kansas Severe Weather Awareness Week, National Weather Service Information Packet https://www.weather.gov/media/ddc/SWAW_newest.pdf
https://www.weather.gov/media/gid/awareness/swaw/KS_SWAW_2018.pdf
https://www.weather.gov/media/ict/SWAW/SWAW_2017.pdf
- O. National Oceanic and Atmospheric Administration (NOAA) Weather Service website, <http://www.weather.gov/>

VI. Cancellation. The Instruction cancels CPL 02-16-04D, Kansas Local Emphasis Program (LEP) – Commercial and Residential Construction Following a Severe Weather Event, October 1, 2018.

VII. Action Offices. Wichita Area Office

VII. Background. Since program inception in 2016, Kansas experienced 207 tornadoes, 69 per year. According to Kansas Emergency Management Association (KEMA), the tornado season in Kansas normally spans six to nine months. Historically most tornado activity occurs in May with as many as 34 tornados in a single day and 63 by the end of the month, according to KEMA.

Severe weather events often cause structural damage prompting an increase in repair and construction activity. In May 2016, a tornado with winds calculated at 180 miles per hour destroyed homes and buildings along a half-mile path near Niles, Kansas. On July 7, 2016, two tornadoes contributed to damage or complete destruction of 152 structures in Greenwood County. KEMA reported severe weather events on that day caused \$3.8 million dollars of estimated damage. An October 6, 2016, tornado outbreak resulted in seven documented tornados in Saline County. Rural areas in Saline County suffered minor or catastrophic damage to residential and agriculture structures. Between June 15 and June 17, 2017, large hail, damaging winds, and tornadoes scattered portions of central Kansas. Thunderstorms merged into linear segments, with wind gusts upwards of 90 miles per hour. Meteorologists recorded tornados and tennis-ball size hail from this supercell thunderstorm. Storms damaged numerous homes and buildings. In August 2017, Northwest Kansas experienced two storms, which produced baseball and softball sized hail and wind gusts up to 100 miles per hour. The National Weather Service reported, “Crops were decimated, trees and power lines snapped, farm outbuildings blown down, and windows and roofs were destroyed on well-built structures.” In June 2018, Eureka, Kansas experienced an EF-3 tornado, which initially damaged treetops and roofs; however, as it continued moving through the community it intensified significantly. Much of the community sustained significant structural damage. The National Weather Service reports this storm resulted in more than \$13 million dollars in damages.

This directive was instrumental in identifying 153 inspections from October 1, 2016 to April 29, 2019 resulting in issuance of 259 violations. Since 2016, inspections occurred throughout nine counties to include Ford County, Douglas County, Sedgwick County, Johnson County, Shawnee County, Leavenworth County, Thomas County, Reno County, and Finny County demonstrating the volume and spread of severe weather throughout Kansas. Inspection data from October 1, 2016 through April 29, 2019, identified inspections conducted using this directive improved working conditions for 5,146 employees. The employees worked for companies engaged in construction activities responding to severe weather events. These inspections resulted in issuance of 73 violations associated with lack of fall protection in the construction industry, 32 violations associated with incomplete or inadequately constructed scaffolding, 30 violations associated with ladder safety, and 39 violations associated with inadequate training or lack of training. Other hazards observed included powered industrial truck operation and maintenance, personal protective equipment, and hazard communication. Inspections conducted under the directive realized an in-compliance rate of 19%, compared to 36.1% for all inspections conducted by the WAO.

Severe weather events such as thunderstorms, high winds, and large hail tend to create an increase in smaller construction projects, i.e., re-roofing and window replacement. Due to sudden increased demand for construction labor following severe weather, transient contractors often infiltrate Kansas communities in search of work. From October 1, 2018 to April 29, 2019, approximately 66% (20/30) of contractors inspected by the Wichita Area Office using this instruction were from states other than Kansas (Texas, Oklahoma, Missouri, and North Dakota).

The directive provides the Wichita Area Office a means to identify a broader range of inspection sites throughout the State of Kansas and focuses OSHA's enforcement resources on construction sites in geographical areas following a severe weather event. By doing so, the directive provides a mechanism where OSHA quickly addresses hazards at jobsites of relatively short duration and OSHA protects vulnerable populations such as transient, often immigrant laborers.

IX. Inspection Scheduling and Site Selection.

Selection of construction sites for programmed inspections.

- A. The Area Office will monitor (NOAA) - National Weather Service website (<http://www.weather.gov/>) and similar information sources, such as local broadcast and web-based news sources, for severe weather alerts in the State of Kansas. Specifically, severe weather involves severe thunderstorm, high wind, and tornado warnings, as defined on the NOAA website glossary (<http://w1.weather.gov/glossary/>), found in Appendix A of the directive.
- B. The Area Office will check the NOAA website past weather page (<https://w2.weather.gov/climate/>) or similar information source and verify severe weather occurred and met defined severe weather conditions, in the week following such an alert.

- C. The Area Office will use the Populations of Kansas Cities as certified by the U.S. Department of Commerce Census Bureau, as of April 2010, (<https://www.census.gov/>) to create a list of towns/cities with a population of 3,000 people and greater. (Appendix B)
- D. Place on the inspection cycle list, all cities with a population of 3,000 people and greater (see above), in which a severe weather event has occurred. Each weather event constitutes an inspection cycle. Initiate inspections within 6 months of the weather event or remove them from the inspection cycle. If a subsequent severe weather event occurs prior to completion of an inspection cycle, complete cycles in accordance with CPL 02-00-025 and CPL 02-00-155.
- E. Deletion Criteria. Inspections at selected jobsites will not commence if one or more of the following conditions exist:
 - 1. The jobsite had a comprehensive safety inspection within the previous four months.
 - 2. An employer on a jobsite is currently participating in OSHA's Voluntary Protection Program (VPP), unless the CSHO observes a serious hazard or imminent danger relative to that employer.
 - 3. The jobsite is a construction site where employees perform all work inside the dwelling on the premises of an occupied residence. (Note: CSHOs will inspect worksites such as re-roofing, guttering, trenching, and other outside construction projects viewed from public access. These sites may require entry onto the owner's property but not inside the residence).
- X. **Inspection Procedures.** Inspections will be conducted in accordance with this Instruction and the Field Operations Manual.
 - A. The LEP focuses on both commercial and residential work sites. A Compliance Safety and Health Officer (CSHO) assigned a town or city for LEP inspections, can narrow search focus by using local news and law enforcement information concerning the path of severe weather conditions, and driving paved major roads within the town or city searching for active construction sites. Major roads are roads and streets, which contain commercial business activity and may have mixed commercial and residential sections.
 - B. When a CSHO finds and enters an active construction site and determines the site meets inspection criteria listed herein the CSHO initiates an inspection:
 - 1. The site is covered by a National Emphasis Program (NEP) such as CPL 02-00-161 (Trenching and Excavation) CPL 03-00-009 (Lead).
 - 2. The site is covered by a LEP such as CPL 98-02 REP on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction, (most current version).

3. The CSHO observes hazards.
 - C. All inspections conducted under the LEP are comprehensive, unless an inspection meets criteria set in “OSHA memorandum from James W. Stanley, Focused Inspections in the Construction Industry, revised September 20, 1995”. The CSHO will perform a focused safety inspection if the inspection meets the criteria. The CSHO will document hazardous work exposures and review safety and health programs, training records, air monitoring surveys, noise surveys, etc., as applicable. If the CSHO identifies health hazards (such as heat, noise, silica, hexavalent chromium, etc.) and cannot adequately address health hazards, the CSHO will make a referral addressing health hazards identified.
 - D. If adequate programs exist and the CSHO identifies no hazards, the CSHO will consider the inspection in-compliance.
 - E. When the town or city is completed, remove it from the cycle.
- XI. OSHA Information System (OIS) Coding.** CSHOs shall code forms for all enforcement activities (inspections, complaints, and referrals) and compliance assistance conducted under this LEP with the LEP code as follows:
- A. CSHOs shall mark the “Inspection Type” tab as “Program Planned” (Initiating Type) on the OIS Inspection web-form (formerly OSHA-1) for all inspections conducted under this LEP. From the “Inspection Type” tab “Inspection Emphasis Programs” subcategory, CSHOs shall choose “Local Emphasis Program” as the Primary Emphasis Program initiating the inspection. Use the drop down menu and select “STORMCON” for all inspections conducted under this LEP.
 - B. Code all consultation activities in OIS as “STORMCON” in the appropriate LEP field. The overarching rationale for conducting this outreach should be due to storm activity recovery and repair operations.
- XII. Outreach.** The Wichita Area Office makes available upon request, an information package including a copy of the directive, to employers, professional associations, and labor organizations. As an additional resource for achieving compliance, employers are encouraged to utilize the 21(d) Consultation Program.

The Kansas Roofing Registration Act (KRRRA) is a set of statutes enacted by the Kansas State Legislature in 2013. Generally, the KRRRA requires roofing contractors to apply for and receive a Roofing Contractor Registration Certificate before performing commercial or residential roofing services for a fee in Kansas. Wichita Area Office staff will provide the LEP by e-mail to roofing companies with available e-mail addresses, which register with the State of Kansas. The Wichita Area Office will provide contact information for any questions the recipients may have concerning the LEP. There are currently 2,252 companies on the list, most of which are active and in good standing.

In addition, the Wichita Area Office staff will develop a list of establishments by using the North American Industry Classification System (NAICS) codes, for businesses in the State of Kansas, which sell roofing materials and related supplies and equipment.

Wichita Area Office staff will also provide industry-specific outreach to other targeted stakeholders, which may include industry associations, labor organizations, and consultants working in the construction industry. The outreach may continue after initiation of inspection activity and each weather event.

- XIII. Program Report.** No later than midway through the life of the program and completion of the program, the Area Office will provide a program report of this LEP to the Regional Office. At a minimum, the report should respond to the requirements of CPL 04-00-02, Section VIII, E.

Appendix A

Severe Weather as Defined by NOAA

Severe Thunderstorm Warning: A thunderstorm with winds measuring 50 knots (58 mph) or greater, 1 inch hail or larger, or tornadoes. Severe thunderstorms may also produce torrential rain and frequent lightning.

Tornado Warning: A tornado is a violently rotating column of air in contact with and extending between a convective cloud and the surface of earth. It is the most destructive of all storm-scale atmospheric phenomena. The weather service issues a warning when WSR-88 D radar indicates a tornado or when spotters sight one. People in the affected area should seek safe shelter immediately. The weather service can issued a Tornado Warning without a Tornado Watch being already in effect. The weather service usually issues warnings for a duration of around 30 minutes.

High Wind Warning - The National Weather Service issues a High Wind Warning when high wind speeds could pose a hazard or threat to life.

Appendix B

Kansas Towns/Cities with Populations Greater than 3000

Wichita	382,368
Overland Park	173,372
Kansas City	145,786
Topeka	127,473
Olathe	125,872
Lawrence	87,643
Shawnee	62,209
Manhattan	52,281
Lenexa	48,190
Salina	47,707
Hutchinson	42,080
Leavenworth	35,251
Leawood	31,867
Dodge City	27,340
Garden City	26,658
Emporia	24,916
Junction City	23,353
Derby	22,158
Prairie Village	21,447
Liberal	20,525
Hays	20,510
Pittsburg	20,233
Newton	19,132
Gardner	19,123
Great Bend	15,995
McPherson	13,155
El Dorado	13,021
Ottawa	12,649
Winfield	12,301
Lansing	11,265
Merriam	11,003
Haysville	10,826
Parsons	10,500
Coffeyville	10,295
Independence	9,483
Mission	9,323

Augusta	9,274
Chanute	9,119
Wellington	8,172
Fort Scott	8,087
Bonner Springs	7,314
Park City	7,297
Pratt	6,835
Valley Center	6,822
Bel Aire	6,769
Roeland Park	6,731
Ulysses	6,161
Eudora	6,136
Mulvane	6,111
De Soto	5,720
Iola	5,704
Paola	5,602
Spring Hill	5,437
Concordia	5,395
Colby	5,387
Tonganoxie	4,996
Basehor	4,613
Baldwin City	4,515
Russell	4,506
Goodland	4,489
Osawatomie	4,447
Wamego	4,372
Goddard	4,344
Edwardsville	4,340
Clay Center	4,334
Louisburg	4,315
Baxter Springs	4,238
Larned	4,054
Rose Hill	3,931
Hugoton	3,904
Fairway	3,882
Beloit	3,835
Scott City	3,816
Lyons	3,739
Hesston	3,709
Mission Hills	3,498
Lindsborg	3,458

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Frontenac	3,437
Maize	3,420
Garnett	3,415
Holton	3,329
Columbus	3,312
Marysville	3,294
Kingman	3,177
Hiawatha	3,172
Ellsworth	3,120
Galena	3,085

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