



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-00.018H | **EFFECTIVE DATE:** October 1, 2019

SUBJECT: Regional Local Emphasis Program (LEP) for Residential Construction

ABSTRACT

- Purpose:** This instruction is an annual renewal of the OSHA Regional Instruction, originally issued as CPL 04-00.018, October 1, 2013, Region-Wide Local Emphasis Program (RW-LEP) for the purpose of conducting inspections of residential construction worksites within the jurisdiction of the Federal OSHA Region I.
- Scope:** This instruction applies to the Federal OSHA Region I jurisdiction.
- References:** CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (LEPs), November 13, 2018.
CPL 02-00-163, Field Operations Manual (FOM) or successor guidance, September 13, 2019.
CPL 02-00-155, Inspection Scheduling for Construction, September 6, 2013.
- Cancellations:** OSHA Regional Notice CPL 04-00.018G, Regional Local Emphasis Program (LEP) for Residential Construction, October 1, 2018
- State Impact:** The State 21(d) Consultation Programs will be informed of the LEP and will be invited to participate in outreach initiatives associated with this LEP.
- Action Offices:** Federal OSHA Region I Offices.
- Originating Office:** Boston Regional Office.
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By and Under the Authority of

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Executive Summary

This instruction is an annual renewal of the OSHA Regional Instruction, originally issued as CPL 04-00.018, October 1, 2013, Region-Wide Local Emphasis Program (RW-LEP) for the purpose of conducting inspections of residential construction worksites within the jurisdiction of the Federal OSHA Region I. OSHA has partnered with the National Institute for Occupational Safety and Health and National Occupational Research Agenda (NORA) - Construction Sector on this nationwide outreach campaign to raise awareness among workers and employers about common fall hazards in construction, and how falls from ladders, scaffolds and roofs can be prevented and lives can be saved. The intent of this local emphasis program is two-fold: to provide outreach to small employers in a high hazard industry who are frequently unfamiliar with OSHA and its regulations through OSHA's National Fall Protection Campaign, and to target, schedule and inspect residential construction sites which are usually only inspected as a result of unprogrammed activity.

The target groups are employers with a North American Standard Industry Classification (NAICS) codes 236115, General Contractors, Single-Family Houses; 236116, General Contractors, Residential Buildings, Other Than Single-Family; and employers in NAICS codes 238000–238990, Construction Special Trade Contractors working on residential construction work sites.

Significant Changes

The LEP review process changed from a one-year program, reviewed annually before renewal (by Regional Notice) to a five-year program (by Regional Instruction), reviewed at the mid-point and completion of the LEP.

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I. Purpose.

This instruction renews a region-wide local emphasis program (LEP), originally issued as CPL 04-00.018, October 1, 2013, Region-Wide Local Emphasis Program (RW-LEP) for the purpose of conducting inspections of residential construction worksites within the jurisdiction of the Federal OSHA Region I. The employers to be targeted are general contractors with NAICS (North American Industrial Classification System) codes 236115 and 236116 and subcontractors with NAICS code 238000-238990 working on residential construction sites. By effectively targeting active residential construction sites for inspections, this program will address one of the agency's goals of reducing occupational injuries and illnesses that involve days away from work through direct intervention. Instead of relying on complaints and referrals, which are often received after an accident has occurred, the area office will be able to take a proactive approach to safety and health hazards through communication with residential construction stakeholders prior to the occurrence of an incident.

The Region I Fall LEP relies upon CSHO observations of fall hazards apparent from the outside of the building structures. The Fall LEP does not adequately address other hazards associated with residential construction that would not be readily observable by CSHOs driving by the buildings. These hazards include, but are not limited to: overhead power lines; inadequate structural integrity and capacity; scaffold brackets, pump jacks and wood pole scaffolds failing or collapsing; hazards associated with falling from ladders and fall hazards not otherwise observable from the street (i.e. floor openings); truss collapses; struck-by hazards of power and pneumatic tools; amputation hazards from the use of compound miter, circular, and table saws; struck-by and other hazards from construction vehicles such as skid steers and dump trucks; and crush-by hazards when framed walls are improperly lifted. This Residential Construction LEP would therefore not duplicate, but would complement, the current Fall LEP in that it would allow the OSHA Area Office to address residential construction hazards not targeted by the Fall LEP.

II. Scope.

This instruction applies to Region I Federal Area Office jurisdictions.

III. Action.

The Area Office Area Directors shall ensure that compliance officers are familiar with the contents of this instruction and that the inspection procedures described by this directive are followed.

IV. Effective Date. October 1, 2019.

V. Expiration. This instruction expires September 30, 2024.

VI. References.

- A. OSHA Instruction CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (LEPs), November 13, 2018.
- B. OSHA Instruction CPL 02-00-163, Field Operations Manual (FOM), September 13, 2019 or successor guidance.
- C. OSHA Instruction CPL 02-00-155, Inspection Targeting for Construction, September 6, 2013.
- D. OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections, January 4, 1995.
- E. OSHA Instruction CPL 02-00-51, Enforcement Exemptions and Limitations under the Appropriation Act, May 28, 1998, (including annually update Appendix A) or successor guidance.
- F. OSHA Memorandum on the Focused Inspections Initiative, August 22, 1994 (Revision 2, issued September 20, 1995 and incorporated herein).
- G. OSHA Instruction CPL 02-00-161, National Emphasis Program on Trenching and Excavation, October 1, 2018.
- H. U.S. Department of Labor Strategic Plan, FY 2018-2022, to promote safe jobs and fair workplaces for all Americans to improve workplace safety and health.
- I. OSHA's National Fall Prevention Campaign, <http://www.osha.gov/stopfalls/index.html>.
- J. OSHA's "Residential Construction Industry" webpage <https://www.osha.gov/SLTC/residential/index.html>.

VII. Cancellations.

OSHA Regional Notice, CPL 04-00.018G, Regional Local Emphasis Program (LEP) for Residential Construction, October 1, 2018.

VIII. Background.

OSHA's Agency has established various mission-related goals. One of these goals is to reduce occupational hazards through direct intervention. Within Region I Area Office's jurisdiction, there has been recent and continued growth in residential construction developments. Employers working on residential construction sites throughout New England, as elsewhere in the country, are often small employers who employ workers who have not been adequately trained in safety and health primarily because of the rate of

employee turnover.

Falls are the leading cause of death in construction and a leading cause of death in the non-construction industries. Workers in construction may be exposed to fall hazards while working from ladders, scaffolds, roofs, communications towers, or any other elevated workspace. Out of 5,190 worker fatalities in private industry in calendar year 2016, 991 or 19.1% were in construction — that is, one in five worker deaths last year were in construction. The leading causes of private sector worker deaths (excluding highway collisions) in the construction industry were falls, followed by struck by object, electrocution, and caught-in/between. These "Fatal Four" were responsible for more than half (63.7%) the construction worker deaths in 2016, BLS reports. Eliminating the Fatal Four (Falls 38.7%, Struck-by-Object 9.4%, Electrocutions 8.3% and Caught-in-Between 7.3%) would save 631 workers' lives in America every year. While the predominant fatal falls were from or through roofs, from ladders and from scaffolds, other common work surfaces from which fatal falls occurred included: stairways, open-sided floors, stacked materials, building girders or other structural steel, and nonmoving vehicles.

In addition to New Single Family Housing Construction Contractors (NAICS 236115) and New Multi-family Housing Construction Contractors (NAICS 236116), there are other special trade contractors working at these sites, including Residential Plumbing, Heating and Air-Conditioning Contractors (NAICS 238220); Residential Painting and Wall Covering Contractors (NAICS 238320); Residential Electrical Contractors (NAICS 238210); Residential Masonry Contractors (NAICS 238140); Drywall and Insulation Contractors (NAICS 238310); Residential Roofing Contractors (NAICS 238160) and Residential Siding Contractors (NAICS 238170). During fiscal year 2019, as of September 25, 2019, 6,051 citations were issued by Federal OSHA for violations of 29 CFR 1926.501(duty to have fall protection); 4,186 of which (69 percent) were issued to employers within the residential construction industry. In addition, a significant number of those citations were issued to employers who employ between one and ten employees.

Fatalities in residential construction in Region I were caused by electrocutions (contact with energized overhead power lines); struck-by hazards associated with nail guns (i.e., struck by nail projectile) and materials; struck-by hazards associated with moving vehicles such as skid steers and multi-purpose construction equipment, such as rough-terrain powered industrial trucks; falls from roofs and scaffolds; truss collapses; scaffold failures; scaffold bracket failures; falls from the interior walls of stairwells while climbing on studwork; falls through floor openings; pump jack failures; and falls from ladders.

Hazards to be addressed by this Residential Construction LEP that are not currently addressed by the Region 1 Fall LEP or other regional or area office LEPs include the following:

- A. **Truss Collapse:** Wooden truss collapses result in most cases from the failure to follow the manufacturer's erection and bracing procedures. The procedures are set forth by the Truss Plate Institute. Other contributing factors to truss collapse are the

loading of the trusses before they are secured and braced, and their erection without the use of proper equipment (e.g., all-terrain powered industrial truck with approved lifting attachments). Truss collapses often result in serious injury or death.

- B. **Floor Openings:** Floor openings are prevalent throughout residential projects, including openings for stairways and fireplaces. The failure of the contractor to adequately cover, label and secure floor-hole covers may result in serious injury and death.
- C. **Power Tools:** Hazards associated with power tool use include defective guards, frayed and damaged/defective power cords, electrical shocks, and failure to provide ground fault circuit interrupters (GFCI). The employer is responsible for the safe condition of tools and equipment used on site, including tools and equipment that may be furnished by employees.
- D. **Pneumatic Tools:** Pneumatic tools, including air-powered nail guns, are prevalent throughout residential construction jobsites. Hazards associated with pneumatic tools include inadequate or missing guards, and lack of training on their safe use.
- E. **Amputations:** Compound miter saws, circular saws and table saws whose guards have been altered, damaged or removed are a major source of injury for residential construction employees. Training in the use of all types of saws used in residential construction should be instituted by employers.
- F. **Scaffolds:** The major scaffold types addressed in residential construction include: pump jacks, wood pole, ladder jack, carpenter bracket and tubular welded frame scaffold. Issues that need to be addressed include competent person training, user training, fall protection, safe access, proper erection and dismantling.
- G. **Electrical hazards:** Employees may come into contact with overhead power lines, exposing employees to the hazards of electrocution. Use of damaged or frayed extension cords and defective tools could result in electric shock or electrocution.
- H. **Struck by hazards by equipment and materials:** Employees may become exposed to struck-by hazards associated with moving equipment and machinery, such as skid steers, dump trucks, and excavation equipment. In addition, improper lifting of framed walls creates crushing hazards when framed walls land on employees.
- I. **Falls from ladders:** Employees may be exposed to falls from ladders inside the building.

IX. Action.

The Area Director will ensure that all compliance staff members are familiar with the contents of this instruction and that the inspection guidelines and procedures are

followed. The Area Director will ensure that continued outreach through the utilization of the Compliance Assistance Specialist (CAS) is provided to stakeholders at industry and trade association meetings, safety and health contractor area meetings, professional organization meetings and other appropriate forums. It is expected that outreach activities will continue throughout the duration of the LEP.

X. Procedures.

The Area Offices will maintain a listing of all residential construction work in progress within its jurisdiction, using information received upon request from the OSHA'S Directorate of Technical Support and Emergency Management (DTSEM, Office of Statistical Analysis (OSA). These inspection lists will include, among other items, identification of specific residential construction sites, general contractor/owner, and targeted start up and completion dates.

The Area Director shall determine, as part of the annual plan, the projected number of inspections to be conducted under this LEP during the fiscal year. Inspection cycles of five or more establishments will be randomly generated in order to conduct the planned number of inspections. When selecting projects for inspections, administratively neutral criteria will be applied to the names on the inspection register.

- A. Within a cycle, the construction sites may be scheduled and inspected in any order that makes efficient use of available resources. When a cycle is completed, the Area Office may generate a new cycle. All of the sites in a cycle must be inspected before any sites in a new cycle are inspected. Carryovers will be allowed, as provided in OSHA Instruction CPL 02-00-025, at paragraph B.1.b.(1)(e).
- B. All employers, regardless of size, present on a selected site will be inspected, including those that employ ten or fewer employees. Inspections of small employers will be conducted because of the high LWDII industry rate and the nature and severity of the injuries and illnesses caused by the hazards noted in the background paragraph. In addition, this LEP does not conflict with restrictions under congressional Appropriations Act riders as described in OSHA Instruction CPL 02-00-051 or successor guidance.
- C. Unprogrammed Inspections: Imminent danger, fatality/catastrophe, and formal complaints involving residential construction sites will be scheduled in accordance with current OSHA policy. Inspections initiated as a result of complaints, referrals or accidents may be limited to the area in question or, if a limited scope inspection identifies additional hazards, the inspection may be expanded to address the additional areas of concern. Accidents, complaints and referrals shall be investigated on the work shift during which the alleged hazard exists, where possible.

XI. Determining the Scope of the Inspection.

The scope of the inspection shall normally be comprehensive. The CSHO shall

determine whether or not there is project coordination by the general contractor, prime contractor, builder, or other such entity, and conduct a brief review of the project's safety and health program/plan to determine whether or not the project qualifies for a Focused Inspection.

- A. In order to qualify for a Focused Inspection, the following conditions must be met:
1. The project safety and health program/plan meets the requirements of 29 CFR 1926 Subpart C, General Safety and Health Provisions, and
 2. There is a designated competent person responsible for and capable of implementing the program/plan.
- B. If the project meets the above criteria, an abbreviated walk-around inspection shall be conducted focusing on:
1. Verification of the safety and health program/plan effectiveness by interviews and observation;
 2. The four leading hazards that cause 90 percent of all construction fatalities, namely:
 - falls (e.g., floors, platforms, ladders, roofs)
 - struck-by (e.g., falling objects, vehicles)
 - caught in/between (e.g., cave-ins, unguarded machinery, equipment)
 - electrical (e.g. overhead power lines, power tools and cords, outlets, temporary wiring)
 3. Other serious hazards observed by the CSHO.

The CSHO shall make the determination as to whether a project's safety and health program/plan is effective, but if conditions observed on the project indicate otherwise, the CSHO shall immediately terminate the Focused Inspection and conduct a comprehensive inspection.

XII. Safety and Health Considerations for CSHOs.

Inspections under this LEP are to be conducted by CSHOs who have received the necessary training on the hazards most likely to be encountered in the residential construction industry. Personal protective equipment to be worn by CSHOs during on-site inspections shall include, as a minimum, safety glasses, hard hats, and safety shoes or boots with impact toe protection and puncture resistant insoles. In addition, high-visibility clothing (minimum Class II) shall be worn by the CSHO during the walk-around portion of the inspection.

XIII. OIS Recording.

Current instructions for completing the appropriate inspection classification in the Local Emphasis Programs Field of the inspection form shall be applied when recording inspections conducted under this LEP. The OIS inspection form for a programmed inspection conducted under this LEP shall be marked "Planned" and "RESCON" shall be recorded in the dropdown field of Local Emphasis Programs Field. Where "Program Related" inspections are conducted, they will be indicated on the OIS. The Additional Codes Field of the OIS will be coded with Type A, ID 04, Value RESCON.

XIV. Outreach.

The Area Offices have carried out various outreach activities to introduce this project and to promote comprehensive employer safety and health programs throughout the residential construction industry. During the outreach sessions, employers were encouraged to utilize the state 21(d) Consultation Programs. It is expected that outreach activities will continue throughout the duration of the LEP. In addition, Region I will continue to utilize OSHA's nationwide outreach campaign to raise awareness among workers and employers about the hazards of falls from ladders, scaffolds and roofs. The educational resources page gives workers and employers, information about falls and how to prevent them. There are also training tools for employers to use and posters to display at their worksites. Many of the new resources target vulnerable workers with limited English proficiency.

XV. Tracking.

A database or spreadsheet will be used to track the progress of the Regional Emphasis Program. Information collected will include inspection number, site name, site address, estimated job cost, number of stories above and below grade, number of buildings, and other site information, number of employees affected, whether or not the employer attended an OSHA outreach session and if an inspection or intervention was conducted.

XVI. Evaluation.

The Regional Office will complete a program report at the midpoint and completion of the LEP. The midpoint assessment will take place no later than September 30, 2022. The midpoint and final program report will include quantitative and qualitative measures, including recommendations regarding the continuation of this LEP. In addition to activity and impact measures, the report will include the following:

- Number of employees and/or establishments impacted by outreach activities.
- Outreach metrics on the Regional Emphasis Program.
- Effectiveness of the Emphasis Program targeting system.
- Number of establishments and/or operations visited under the program.
- Number of Focused Inspections.
- Number of inspections where citations were issued.

- Number of inspections where no citations were issued.
- Number of interventions conducted.
- Number of hazards corrected.
- Number of employees affected/removed from hazards.