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, 2017.

Significant Changes: None.

Action Offices: Office of Enforcement Programs
All Area Offices
Office of Cooperative and State Programs

Originating Office: Office of Enforcement Programs

Contact: Paul Leary
Assistant Regional Administrator, Enforcement Programs
By and Under the Authority of

BARBARA YEE GOTO
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. For 2017, the total recordable non-fatal injury and illness case rate for construction was 3.1 per 100 full-time workers, compared to 2.8 for all private industry. The construction industry had a fatal injury rate of 9.5 per 100,000 full-time workers in 2017, compared to 3.7 for all private industry.

Due to the hazardous nature of construction employment, OSHA has identified this industry as high-hazard in the FY 2019 Operating Plan.
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**Appendix A:** Locations
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 02-00-160, August 2, 2016, 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, 2017.

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 and special 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. In 2017, the total recordable injury and illness case rate for the private sector was 2.8 per 100 full-time workers, compared to 3.1 for construction. The fatal case rate per 100,000 full-time workers in 2017 was 3.7 for all industry sectors, and 9.5 for construction.

B. Due to the hazardous nature of construction employment, OSHA has identified this industry as high-hazard in the FY 2019 Operating 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, 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. ADs may also send their lists to EP for randomization.

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 and cycles, including additions and deletions, shall be filed electronically on the regional shared drive and retained for three years.

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:**
   a. 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.
   b. Employers with defined safety and health programs will qualify for and be coded as a “focused” inspection. Refer to Section X of this REP.

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:

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

   a. 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 02-00-160.

   b. 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.

   c. 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 OSHA-1).

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.
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 OSHA-1 Optional Information field (Field 42). 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 ROHNerville 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  
EWIAAPAAYP INDIAN BAND  
FALLON BUSINESS COUNCIL  
FORT BIDWELL  
FORT INDEPENDENCE RESERVATION  
FORT MCDERMITT TRIBAL COUNCIL  
FORT MCDOWELL YAVAPAI NATION  
FORT MOHAVE RESERVATION  
GILA RIVER INDIAN COMMUNITY  
GRATON RANCHERIA  
GREENVILLE RANCHERIA  
GRINDSTONE CREEK RANCHERIA  
GUIDIVILLE RANCHERIA  
HAVASUPAI TRIBE  
HOOPA VALLEY RESERVATION  
HOPI TRIBE  
HOPLAND RANCHERIA  
HUALAPAI TRIBE  
INAJA-COSMIT RESERVATION  
IONE BAND OF MIWOK INDIANS  
JACKSON RANCHERIA  
JAMUL INDIAN VILLAGE  
KAIBAB BAND OF PAIUTE INDIANS  
KARUK TRIBE OF CALIFORNIA  
LAJOLLA LUISENO INDIANS RESERVATION
<table>
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<tr>
<th>Tribe Name</th>
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<tbody>
<tr>
<td>LAPOSTA BAND OF MISSION INDIANS</td>
<td>QUECHAN TRIBE</td>
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<td>LAS VEGAS TRIBE</td>
<td>RAMONA BAND OF MISSION INDIANS</td>
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<td>LAYTONVILLE RANCHERIA</td>
<td>REDDING RANCHERIA</td>
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<td>LONE PINE RESERVATION</td>
<td>REDWOOD VALLEY RANCHERIA</td>
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<td>LOS COYOTES RESERVATION</td>
<td>RENO SPARKS TRIBAL COUNCIL</td>
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<td>LOVELOCK TRIBAL COUNCIL</td>
<td>RESIGHINI RANCHERIA</td>
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<td>LOWER LAKE RANCHERIA</td>
<td>RINCON BAND OF MISSION INDIANS</td>
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<td>LYTTON RANCHERIA</td>
<td>ROBINSON RANCHERIA</td>
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<td>MANCHESTER-POINT ARENA RANCHERIA</td>
<td>ROUND VALLEY RANCHERIA</td>
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<td>MANZANITA BAND OF MISSION INDIANS</td>
<td>RUMSEY RANCHERIA</td>
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<td>MECHOOPDA INDIAN TRIBE OF THE CHICO RANCHERIA</td>
<td>SALT RIVER PIMA – MARICOPA INDIAN COMMUNITY</td>
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<td>MESA GRANDE BAND OF MISSION INDIANS</td>
<td>SAN CARLOS APACHE TRIBE</td>
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<td>MIDDLETOWN RANCHERIA</td>
<td>SAN JUAN SOUTHERN PAIUTE TRIBE</td>
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<td>MOAPA BUSINESS COUNCIL</td>
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<td>MOORTOWN RANCHERIA</td>
<td>SAN PASQUAL BAND OF DIEGUENO INDIANS</td>
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<td>MORONGO BAND OF MISSION INDIANS</td>
<td>SANTA ROSA BAND OF MISSION INDIANS</td>
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<td>NAVAJO GENERATING STATION</td>
<td>SANTA ROSA RANCHERIA</td>
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<td>NAVAJO NATION – CHINILE</td>
<td>SANTA YNEZ BAND OF MISSION INDIANS</td>
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<td>NAVAJO NATION – KAIBETO</td>
<td>SANTA YSABEL BAND OF MISSION INDIANS</td>
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<td>NAVAJO NATION – KAYENTA</td>
<td>SCOTTS VALLEY RANCHERIA</td>
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<td>NAVAJO NATION – LEUPP</td>
<td>SHEEP RANCH RANCHERIA</td>
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<td>NAVAJO NATION - MANNY FARMS</td>
<td>SHERWOOD VALLEY RANCHERIA</td>
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<td>NAVAJO NATION – NEW LANDS</td>
<td>SHINGLE SPRINGS RANCHERIA</td>
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<td>NAVAJO NATION – TUBA CITY</td>
<td>SHOSHONE PAIUTE BUSINESS COUNCIL</td>
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<tr>
<td>NAVAJO NATION – WINDOW ROCK/FORT DEFiance</td>
<td>SMITH RIVER RANCHERIA</td>
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<td>NORTH FORK RANCHERIA</td>
<td>SOBOBA BAND OF LUISENO INDIANS</td>
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<td>PALA BAND OF MISSION INDIANS</td>
<td>SOUTH FORK BAND COUNCIL</td>
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<td>PASCUA YAQUI TRIBE</td>
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<td>PASKENTA BAND OF NOMELAKI INDIANS</td>
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<td>Sycuan Reservation</td>
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<td>PECAYUNE RANCHERIA OF CHUKCHANSI INDIANS</td>
<td>Table Bluff Reservation</td>
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<td>PINOLEVILLE RANCHERIA</td>
<td>Table Mountain Rancheria</td>
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<td>PIT RIVER TRIBE</td>
<td>Te-Moak Tribe of Western Shoshone</td>
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<td>POTTER VALLEY RANCHERIA</td>
<td>Timbi-Sha Shoshone Tribe</td>
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<td>PRESIDIO TRUST CORPORATION</td>
<td>Tohono O Odam Nation (please do not use the ‘ in this tribe’s name, OIS will not accept it)</td>
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<td>QUARTZ VALLEY RESERVATION</td>
<td>Tonto Apache Tribe</td>
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<td>TORREZ-MARTINEZ DESERT CAHUILLA RESERVATION</td>
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TRINIDAD RANCHERIA
TULE RIVER RESERVATION
TUOLUMNE RANCHERIA
TWENTYNINE PALMS BAND OF MISSION INDIANS
UPPER LAKE RANCHERIA
VIEJAS (BARON LONG) RESERVATION
WALKER RIVER TRIBAL COUNCIL
WASHOE TRIBAL COUNCIL
WELLS BAND COUNCIL
WHITE MOUNTAIN TRIBE
WINNEMUCCA TRIBAL COUNCIL
YAVAPAI-APACHE INDIAN COMMUNITY
YAVAPAI-PRESIDENT COMMUNITY
YERINGTON PAIUTE COUNCIL
YOMBA TRIBAL COUNCIL
YUROK RESERVATION
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<td>US AIR FORCE, EDWARDS AFB</td>
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<td>US ARMY, FORT HUACHUCA</td>
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<td>US ARMY, JOINT FORCES TRAINING BASE</td>
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<td>MIRAMAR</td>
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<td>RECRUIT DEPOT, SAN DIEGO</td>
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<td>US NAVY, NAVAL AIR STATION, NORTH ISLAND</td>
<td>US NAVY, SAN CLEMENTE ISLAND</td>
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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