



# OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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**DIRECTIVE NUMBER:** CPL 2-13-009H | **EFFECTIVE DATE:** October 1, 2019

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

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**REGIONAL IDENTIFIER:** Region VII

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## ABSTRACT

**Purpose:** This Instruction continues a local emphasis program to identify commercial and residential construction worksites.

**Scope:** This Instruction applies the Omaha Area Office.

**References:**

- 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
- OSHA Instruction CPL 02-00-051, Enforcement Exemptions and Limitations Under the Appropriations Act, May 28, 1998, or most current version
- OSHA Instruction CPL 98-02Y, Region-wide Local Emphasis Program (LEP) on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction, October 1, 2018, or most current version
- OSHA Instruction CPL 02-00-155, Inspection Scheduling for Construction, September 6, 2013
- STD 03-11-002, Compliance Guidance for Residential Construction, June 16, 2011.

**Cancellations:** This Instruction cancels CPL 2-13-009G, Nebraska Local Emphasis Program (LEP) – Commercial and Residential Construction Following a Severe Weather Event, October 1, 2018

**State Plan Impact:** None

**Action Offices:** Omaha Area Office

**Originating Office:** Kansas City Regional Office

Contact: Assistant Regional Administrator for Enforcement Programs  
2300 Main Street, Suite 1010  
Kansas City, Missouri 64108  
(816) 283-8745

By and Under the Authority of:

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Kimberly A. Stille  
Regional Administrator, VII

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## **Executive Summary**

This 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.** This Instruction describes policies and procedures for continuing a Local Emphasis Program (LEP) to identify programmed safety and health inspections of Nebraska construction worksites.
- II. **Scope.** This Instruction applies to construction worksites within the Omaha Area Office's jurisdiction.
- 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 (CPL 2.25I), Scheduling System for Programmed Inspections, January 4, 1995.
  - C. OSHA Instruction CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, May 28, 1998, Appendix A, change effective December 18, 2018 (or 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, OSHA Instruction: NEP - 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 (or most current version).
  - J. OSHA memorandum from James W. Stanley, titled Focused Inspections in Construction, revised September 20, 1995.
  - K. OSHA Memorandum from Francis Yebesi to Regional Administrators, Establishment-Targeting Lists for Emphasis Programs, November 12, 2014.
  - L. Nebraska Department of Revenue, Populations of Nebraska Cities as of 12/22/2017, [http://revenue.nebraska.gov/research/local\\_gov\\_data.html](http://revenue.nebraska.gov/research/local_gov_data.html).

M. National Oceanic and Atmospheric Administration (NOAA) Weather Service website, <http://www.weather.gov/>

N. Nebraska Emergency Management Agency (NEMA)

**VI. Cancellation.** This Instruction cancels CPL 2-13-009G, Nebraska Local Emphasis Program (LEP) – Commercial and Residential Construction Following a Severe Weather Event, October 1, 2018.

**VII. Action Offices.** Omaha Area Office

**VIII. Background.** Since program inception in 2014, Nebraska averages 57 tornadoes a year with a peak of 110 in 2014. According to the Nebraska Emergency Management Agency (NEMA), the tornado season in Nebraska normally spans six to nine months. Historically most tornado activity occurs in June and the state has recorded a tornado in every month of the year with the exception of February. Currently, the Omaha Area Office performs construction safety and health inspections primarily based on the following triggers:

- Unprogrammed activity, such as fatalities, complaints, and CSHO self-referrals
- Falls/OHPL/Scaffolding (CPL 98-02Z, Region-wide Local Emphasis Program (LEP) on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction)

Except for the relatively few programmed inspections, the major identifiers for inspections rely on OSHA observing or receiving report of the occurrence of a hazardous condition and OSHA receiving report of an incident.

Following severe weather events that cause structural damage, repair activity and reconstruction begin to take place. The construction activity that occurred following an (EF2) tornado that struck Lincoln, Nebraska on May 5, 2019 and two separate tornadoes that struck the greater Omaha area June 16, 2017 are extreme examples of this phenomenon. The first tornado was an (EF2) and the second was an (EF1). These storms caused extensive damage to trees, homes, and commercial property. Less extreme severe weather events such as severe thunderstorms, high winds, and large hail tend to create an increase in smaller projects, i.e., re-roofing and window replacement. The greater Omaha area has had several hailstorm events in 2017 and 2016. A hailstorm on May 11, 2016, produced dime and nickel-sized to half-dollar and golf-ball-sized damaging hail. The storm hit several locations within the city with winds estimated to have been 40 to 50 mph.

This LEP provides an inspection identification method, covers a broad range of inspection sites throughout the state of Nebraska, and focuses OSHA's enforcement resources on construction sites in geographical areas following a severe weather event. These efforts assist OSHA in meeting the goals of the Department of Labor's Strategic Plan. In accordance with the Department of Labor's Strategic Plan, this LEP addresses OSHA Strategic Objective 2.1: Maintaining a Strong Worker Safety Enforcement Program." As per CPL 02-00-051, this safety and health hazard-targeting program will include establishments with ten or fewer employees.

In FY2019, the Omaha Area Office conducted 76 inspections using this instruction, resulting in the issuance of 128 violations with a Serious, Repeat, or Willful Violation Rate of 96.6%. The average violations per inspection were 2.11. These inspections

resulted in the issuance of 58 violations associated with the lack of fall protection in the construction industry, 5 violations associated with incomplete or inadequately constructed scaffolding, 23 violations associated with ladder safety, and 11 violations associated with inadequate training or the lack of training. Other hazards observed at the time of inspection included powered industrial truck operation and maintenance, personal protective equipment, and hazard communication. There have been no occurrences of employers reporting Severe Injuries as part of OSHA's requirement to notify the local area office within 24 hours of an in-patient hospitalization, amputation, or loss of an eye.

## **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. Using the Populations of Nebraska Cities as certified by the Nebraska Department of Revenue as of January 3, 2019, [http://revenue.nebraska.gov/research/local\\_gov\\_data.html](http://revenue.nebraska.gov/research/local_gov_data.html), create a list of towns/cities with a population of 3,000 people and greater (Appendix B).
- D. Place on the inspection cycle list, any city 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 currently participates 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 a health hazard (such as heat, noise, silica, hexavalent chromium, etc.) and they cannot adequately address the health hazard, 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.** The Area Office will identify inspections conducted under this REP will be identified in OIS. Current instructions for completing the appropriate inspection classification boxes on the OIS Inspection Form:

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 Omaha Area Office will make available upon request, an information package available, 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.

In addition, the Omaha Area Office continues to provide directive-specific outreach. The affected stakeholders may include construction safety organizations, industry associations or labor organizations. This outreach may continue after the initiation of inspection activity.

**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 Thunderstorm Warning -**

The National Weather Service Forecast Office (NWFO) issues a Severe Thunderstorm Warning when either a severe thunderstorm is indicated by the WSR-88D radar or a spotter reports a thunderstorm producing hail one inch or larger in diameter and/or winds equal or exceed 58 miles an hour; therefore, people in the affected area should seek safe shelter immediately. Severe thunderstorms can produce tornadoes with little or no advance warning. Lightning frequency is not a criterion for issuing a Severe Thunderstorm Warning. The NWFO usually issues Severe Thunderstorm Warnings for a duration of one hour. The NWFO can issue a Severe Thunderstorm Warning without a Severe Thunderstorm Watch being already in effect.

Severe Thunderstorm Warnings include the storm location, towns affected by the severe thunderstorm, and the primary threat associated with the Severe Thunderstorm Warning. If the severe thunderstorm affects the nearshore or coastal waters, the NWFO issues it as the combined product--Severe Thunderstorm Warning and Special Marine Warning. If the severe thunderstorm is also causing torrential rains, the NWFO may combine this warning with a Flash Flood Warning. If there is an ampersand (&) symbol at the bottom of the warning, it indicates that the NWFO issued the warning because of a severe weather report.

After issuing a Severe Thunderstorm Warning, the affected NWFO will follow up with periodic Severe Weather Statements. These statements contain updated information on the severe thunderstorm and they let the public know when the warning is no longer in effect.

### **Tornado Warning -**

The National Weather Service Forecast Office (NWFO) issues Tornado Warnings. NWFO issues a tornado warning when noted by WSR-88D radar or by spotters who sight them; therefore, people in the affected area should seek safe shelter immediately. The NWFO can issue a Tornado Warning without a Tornado Watch being already in effect. The NWFO usually issues Tornado Warnings for a duration of around 30 minutes.

National Weather Service office (NWFO) issued Tornado Warnings include where the tornado is located and what towns are in its path. If the NWFO expects the tornado to affect the nearshore or coastal waters, it will issue the warning as the combined product--Tornado Warning and Special Marine Warning. If the thunderstorm, which is causing the tornado, is also producing torrential rains, the NWFO may combine the warning with a Flash Flood Warning. If there is an ampersand (&) symbol at the bottom of the warning, it indicates that the NWFO issued the warning because of a severe weather report.

After issuing a Tornado Warning, the affected NWFO will followed up with periodic Severe Weather Statements. These statements contain updated information on the tornado and they let the public know when the Tornado Warning is no longer in effect.

**High Wind Warning –**

The National Weather Service issues High Wind Warnings if wind speeds might pose a hazard or if they might be life threatening.

## Appendix B

<b>City</b>	<b>County</b>	<b>Population</b>
Omaha	Douglas	450,144
Lincoln	Lancaster	258,614
Bellevue	Sarpy	51,159
Grand Island	Hall	48,654
Kearney	Buffalo	30,921
Fremont	Dodge	26,397
Hastings	Adams	25,224
North Platte	Lincoln	24,733
Norfolk	Madison	24,210
Columbus	Platte	22,111
Papillion	Sarpy	20,083
LaVista	Sarpy	16,638
Scottsbluff	Scotts Bluff	15,039
South Sioux	Dakota	13,353
Beatrice	Gage	12,669
Lexington	Dawson	10,250
Gering	Scotts Bluff	8,500
Alliance	Box Butte	8,491
Blair	Washington	7,990
York	York	7,768
McCook	Red Willow	7,698
Nebraska City	Otoe	7,289
Seward	Seward	6,964
Crete	Saline	6,960
Sidney	Cheyenne	6,757
Plattsmouth	Cass	6,505
Schuyler	Colfax	6,213
Ralston	Douglas	5,943
Chadron	Dawes	5,851

Wayne	Wayne	5,666
Holdrege	Phelps	5,495
Gretna	Sarpy	4,905
Ogallala	Keith	4,737
Wahoo	Saunders	4,510
Aurora	Hamilton	4,479
Falls City	Richardson	4,325
Cozad	Dawson	3,977
Fairbury	Jefferson	3,942
O'Neill	Holt	3,705
Gothenburg	Dawson	3,574
Broken Bow	Custer	3,559
Auburn	Nemaha	3,460
West Point	Cuming	3,368
Waverly	Lancaster	3,277
	<b>Total</b>	<b>1,439,874</b>