



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-09-2411

SUBJECT: Regional Emphasis Program for Landscaping Inspections

REGION: IX

SIGNATURE DATE: November 8, 2023

EFFECTIVE DATE: November 8, 2023

ABSTRACT

- Purpose:** This establishes a Regional Emphasis Program (REP) for programmed inspections to reduce workplace fatalities and injuries in the landscaping and horticultural services industries.
- Scope:** This Instruction applies to all worksites under Federal OSHA jurisdiction in Region IX.
- References:** See Section III for References.
- Cancellations:** None.
- State Impact:** No Impact.
- Action Offices:** Region IX Regional and Area Offices
- Originating Office:** Office of Enforcement Programs, Region IX
- Contact:** Paul Leary, Assistant Regional Administrator
Enforcement Programs

By and Under the Authority of

James D. Wulff
Regional Administrator

Executive Summary

This Emphasis Program is intended to reduce the number of fatalities, injuries, and serious safety and health hazards relating to the landscaping and horticultural industries, including the use of heavy equipment (e.g., cranes, loaders, and chippers), elevated work platforms (e.g., bucket trucks and aerial lifts), tree climbing equipment, tree trimming equipment, tractors, loaders, ride-on and walk-behind mowers, gators, chippers and the use of pesticides and other chemicals. These activities involve exposures to hazards that are among OSHA's strategic emphasis areas, such as struck-by hazards, amputations, falls, electrical, and noise.

Nationally, the published 2021 injury and illness rates for NAICS Code 561730, Tree Trimming & Removal and Landscaping Service Industries, are above the national averages for fatalities; injuries or illnesses resulting in Days Away from Work; and for the total recordable case rate (TCR). From 2011-2021, the Bureau of Labor Statistics reports 1,072 work-related fatalities occurred in the landscaping and groundskeeping industry. In 2021, 142 industry workers suffered fatal workplace injuries.

The purpose of this instruction is to provide an inspection scheduling system to cover these high-hazard activities. Safety and health programmed inspections of employers engaged in the landscaping and horticultural industries will be scheduled using this instruction.

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I. Purpose.

This REP is intended to reduce the number of fatalities, serious injuries, and serious safety and health hazards relating to tree trimming, tree removal, landscaping service activities, and site clearing operations. These activities include the use of heavy equipment (e.g., cranes, grapples, stump grinders, loaders, and chippers); elevated work platforms (e.g., aerial devices); tree climbing, tree removal and trimming power equipment; power mowers, tractors, loaders, ride-on and walk-behind mowers, gators, chippers and exposure to electrical hazards. Most of these activities involve exposures to hazards that are among OSHA’s strategic emphasis areas, such as amputations, falls, electrical, and noise. In addition to those hazards, landscaping and horticultural work can expose employees to hazards related to walking and working surfaces, heat stress, ergonomic stresses related to lifting and awkward postures, motor vehicle hazards, operation of machinery near water hazards including ponds and ditches, potential encounters with animals and insects, and hazards related to pesticides and other chemicals.

This REP consists of three elements. One element pertains to alternative site targeting, which will rely heavily on referrals, especially referrals from OSHA compliance officers. This element will focus primarily on falls, electrical, and motor-vehicle-related hazards. Another element consists of scheduled inspections at sites previously identified by the Area Office. The third element consists of outreach activities to raise the awareness of employers and employees not only on these hazards, but also abatement approaches and compliance responsibilities.

II. Scope.

This Instruction applies to all worksites under Federal OSHA jurisdiction in Region IX.

III. Limitations and Exemptions.

Per Appendix A of [CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act](#), effective February 13, 2023, employers in NAICS 541320 and 541690 with 10 or fewer employees are exempt from programmed safety inspections. Area Directors and CSHOs should refer to that directive for additional guidance.

IV. References.

- A. OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections, January 4, 1995, or current update.
- B. OSHA Instruction CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, May 28, 1998, Appendix A effective February 13, 2023, or current update.
- C. OSHA Instruction CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (“LEPs”), November 13, 2018, or current update.
- D. OSHA Instruction CPL 02-00-164, Field Operations Manual (FOM), April 14, 2020, or current update.
- E. American National Standards for Arboricultural Operations – Safety requirements (ANSI Z133-2017), or most recent version.

- F. OSHA's Safety and Health Topics page: Landscape and Horticultural Services
- G. OSHA Memorandum dated December 3, 2014, Procedures for Local and Regional Enforcement Programs.
- H. OSHA Memorandum dated November 13, 2014, Establishment Targeting Lists for Emphasis Programs.
- I. Wage-Hour Division Fact Sheet #43: [Child Labor Provisions of the Fair Labor Standards Act \(FLSA\) for Nonagricultural Occupations](#)

V. Cancellations.

None.

VI. Expiration.

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

VII. Background.

Landscaping and horticultural service industries are considered high hazard because of the nature of the hazards involved in the work, and the high injury and illness and fatality rates associated with the industry. According to 2021 BLS data, the total case rate (TCR) for NAICS Code 561730 Tree Trimming & Removal and Landscaping Service Industries was 3.2, compared to 2.7 for all Private Industry. The rate for cases with days away from work, job transfer, or restriction (DART) was 2.0, compared to 1.7 for all Private Industry. Most significantly, the fatal injury rate for 100,000 full-time workers in NAICS 561730 was 18.8, compared to 3.8 for all Private Industry. It is OSHA policy that programmed inspections be conducted primarily in high-hazard sectors of employment.

For purposes of this REP, the targeted industries include such activities as arborist services; ornamental tree and bush planting, pruning, bracing, spraying, removal, and surgery; lawn and landscape maintenance, including golf courses; and utility line tree trimming services. These employers may work at heights where they are exposed to falls from trees, roofs, and ladders; being struck-by heavy equipment and trees; amputations from chain saws, brush chippers and stump grinders; safety hazards from other power tools including tractors, loaders, ride-on and walk-behind mowers; and electrocutions when workers (or a branch, or a tool or other piece of equipment that the worker was touching) contact energized power lines or electric transformers.

In Region IX, hazards related to tree removal, use of heavy equipment, and potential contact with power lines can be encountered following typhoons, wildland fires, earthquakes, and other natural disasters. Compliance officers and outreach staff should familiarize themselves with this directive when tasked with responding to these situations.

There are four types of events that lead to most of the fatalities among workers in the landscape and tree services industry: 1) struck by an object (typically a tree); 2) fall to a lower level (typically out of a tree); 3) contact with electric current (such as when a tree limb or aerial device contacts a live electrical wire); and 4) transportation incidents (either a collision between vehicles or a worker struck by a vehicle in a work zone).

VIII. Program Procedures:

- A. Compliance Safety and Health Officers (CSHOs) shall, while traveling during the course of their work, be watchful for employees performing tree removal, tree trimming, line-clearance tree-trimming operations, or other related activities, who are exposed to one or more unprotected serious hazards, such as falls, electrical, caught-in or amputation, and/or struck-by hazards. Compliance officers seeing such unprotected exposures shall attempt to contact the Area Office either to obtain supervisory authorization to begin an immediate inspection; or, in cases where the CSHO is unable to begin an immediate inspection, to notify the Area Office of the CSHO's observations. Supervisory approval to start the inspection will normally be granted to the CSHO provided that this inspection activity does not conflict with higher priority inspection activity, and provided that the CSHO has the necessary training, expertise, and equipment to conduct the inspection. In addition, many tree removal companies hire cranes with an operator through crane rental companies. The crane rental company shall be included in the inspection under this Emphasis Program.
- B. If the CSHO has no readily available means to contact the Area Office or is otherwise unable to reach Area Office personnel who can authorize the inspection, the CSHO will begin an immediate limited scope inspection provided this activity will not interfere with higher priority inspections or assignments. In these cases, the CSHO will give highest priority to preventing further employee exposure to the hazards observed.
- C. Whenever an inspection is begun under this REP based on a CSHO self-referral, the CSHO will include in the case file narrative a description of the circumstances which resulted in discovery of the employee exposure that was the basis of the referral. The CSHO will document the type of equipment used (e.g., cranes, unguarded tools, lack of fall protection), the type of work being done by the exposed employees, and the specific location of the exposure, including potential fall heights or any proximity to power lines. The case file narrative shall also indicate if supervisory authorization for the inspection was obtained prior to the start of the inspection, or an explanation why this authorization was not obtained.
- D. The scope of inspections scheduled under this REP will generally be partial safety inspections but may be expanded to address additional hazards based on information gathered by the CSHO during the inspection process, in accordance with the Field Operations Manual.

- E. During all programmed safety and health inspections and all unprogrammed inspections (accidents, complaints, and referrals) conducted as part of this REP, CSHOs will address the following as appropriate:
1. CSHOs shall determine the scope of work and applicable OSHA standards (e.g., Vegetation Management for Power Transmission & Distribution 1910.269 or Logging 1910.266).
 2. Application of §1910.132: CSHOs shall assess the employer's compliance with OSHA's personal protective equipment (PPE) requirements at 29 CFR Part 1910 Subpart I, which mandates that for most types of PPE, employers shall provide the equipment at no cost to employees (29 CFR 1910.132(h)). Note that §1910.132(h) has certain exceptions from those requirements. In addition, CSHOs will determine the need for other PPE, such as, but not limited to head protection, eye and face protection, hand and foot protection, hearing protection, and cut-resistant leg protection (e.g., chaps). Employers shall be cited under the relevant provisions of the PPE standards if employees are not provided with appropriate protective measures.
 3. Application of 1910.95, Occupational Noise Exposure. CSHOs shall determine if noise levels exceed 85dBA (slow response) with a sound level meter. When Sound Level Meter readings show an 8-hour time-weighted average (TWA) exposure of 85dBA, CSHOs shall make a referral to an IH or conduct noise monitoring, which includes sound level meter readings and full shift noise dosimetry. Noise measurements will be conducted in accordance with Section III, Chapter 5 of the OSHA Technical Manual TED 01-00-015 (TED 1-0.15A). The case file will contain documentation of noise surveys, screening, and sampling results. The noise monitoring will help determine if a hearing conservation program is required and administered by the employer.
 4. Application of 1910.180, Cranes, 1910.184 slings, other lifting equipment and rigging. CSHOs shall determine if the operator is qualified to operate the equipment, the cranes have a periodic inspection (written documentation required), load charts are available, weight charts or other method to determine the weight of materials being lifted are available, and whether the ground conditions can support the crane and the load where it is set up. In addition, the CSHO shall determine if any employees are being hoisted by a crane. Although ANSI Z133-2017 5.7.11 allows the hoisting of a qualified arborist, the ANSI standard prohibits hoisting an individual on the crane load or hook unless the employer has

determined that all reasonably possible alternative methods are inaccessible and attachment to the tree would create a greater hazard. If so, the CSHO will determine if another safer alternative method is available (e.g., aerial lift, adjacent tree, second crane, etc.). An employer's reliance on the ANSI standard is therefore not a defense of 1910.180(h)(3)(v). If an employer argues or implies that it will assert a greater hazard defense, the CSHO shall request in writing all documents from the employer concerning that alleged defense, including, for example, any forms or other documentation that the employer completed prior to commencing the work as a result of which the employer determined that hoisting an individual on the crane load or hook was allegedly the safest method.

5. CSHOs shall evaluate the proximity to overhead energized wires for material handling and hoisting equipment, personnel hoisting (bucket trucks, aerial lifts, etc.), and proximity of worker in relationship to tree climbing, and tools and equipment.
 6. CSHOs will evaluate the application of the Manual of Uniform Traffic Control Devices (MUTCD) for work being performed where arborists and workers are exposed to moving roadway traffic that requires a temporary traffic control zone with the appropriate high-visibility safety apparel, advance warning signs and vehicular traffic directional signage.
- F. When a complaint alleging a fall hazard within the tree industry is received at the Area Office, which previously would have been handled in accordance with inquiry procedures, under this REP the area director has the option, resources permitting, of scheduling an inspection to investigate the complaint.
- G. Area Directors will develop and maintain lists of all establishments and employers (when employers in these NAICS codes are known to work at temporary worksites, and when these worksites can be identified) in their jurisdictions, within NAICS codes 541320, 541690, and 561730, and related industries. These lists will be based on information sources such as prior inspection history, business directories, industry advertisements and local knowledge. Establishments included on these lists will be scheduled for inspection using the procedures outlined in Appendix A of this directive.
- H. CSHOs should be prepared to make use of the contract translating services to conduct interviews with employees or employers with limited English

proficiency, and to assist in evaluating training materials and the availability of those materials in other languages.

- I. CSHOs should be familiar with Wage-Hour regulations regarding child labor in non-agricultural occupations (including working hours and types of hazardous occupations), as outlined in [Wage-Hour Fact Sheet #43: Child Labor Provisions of the Fair Labor Standards Act \(FLSA\) for Nonagricultural Occupations](#). Referrals should be made to the local Wage-Hour office for any potential violations of these regulations.

IX. Coding.

- A. Current instructions for completing the inspection, investigation, referral or other UPAs shall be followed when recording inspections under this REP.
- B. Inspections scheduled under this REP shall be marked "Initiating Type - Programmed Planned" and "TREELAND9" selected from the Local Emphasis Program drop-down menu. UPAs and inspections scheduled in response to those UPAs shall be appropriately coded with the applicable unprogrammed activity type (Referral, Complaint, FAT/CAT) and "TREELAND9" selected from the Local Emphasis Program drop-down menu.
- C. Inspections opened as the result of CSHO self-referrals shall be coded as Initiating Type-Referral. The TREELAND9 code should also be used for these inspections.
- D. All compliance assistance associated with this REP shall be entered into OIS and coded as "TREELAND9" in the Tasks Section-Emphasis Programs-Local Emphasis Programs box.

X. Program Reports.

- A. The REP will be evaluated in accordance with the guidelines in Appendix A of CPL 04-00-002, November 13, 2018, Procedures for Approval of Local Emphasis Programs. The Assistant Regional Administrator for Enforcement Programs will request input from the Area Directors for this evaluation.
- B. The Regional Office will complete a program report at the midpoint and completion of the REP. The midpoint and final program report will include recommendations regarding the continuation of this REP. In addition to activity and impact measures, the report will include the following:

1. An evaluation of how effective the program was in meeting its goal of reducing the number of fatalities, serious injuries, and serious safety and health hazards in this industry.
2. Data and information used to support the conclusions stated above:
 - a. Data shall include enforcement statistics such as number of fatalities and serious injuries in this industry, number of inspections conducted, number of serious hazards identified, the number of employees removed from hazards, and the total number of employees affected by enforcement activities covered by the REP.
 - b. Data shall also include outreach statistics such as the number of outreach activities conducted, and the number of employees participating in or affected by these outreach activities.
3. Statement and rationale of whether the emphasis program should be continued.
4. Description of any legal issues that arose which would necessitate a review by the Solicitor before renewal of the program.
5. Any other comments or recommendations, including findings or novel abatement measures, which might have an impact on how the industry conducts business.

XI. Outreach.

- A. Initial Outreach: Area Offices will provide initial outreach to stakeholders for a period of three months from the effective date of the REP to the enforcement date. Stakeholders may include local landscape and tree associations, members of OSHA partnerships and alliances, or other entities identified by the office. The Region IX REP will be announced to stakeholders during the initial outreach period and stakeholders will be apprised of the concentrated inspection effort planned to reduce occupational fatalities, injuries, and illnesses associated with tree trimming, tree removal, and landscaping services. The notification will also explain services available to employers through state 21(d) Consultation services. Outreach during this period may include but is not limited to media press releases, stakeholder mailings with OSHA website information, fact sheets, quick cards, and other pertinent information.
- B. Ongoing Outreach: Area Offices will continue outreach activities to stakeholders throughout the duration of this REP.

Appendix A: Procedures for Scheduling Inspections

1. The Area Office will maintain a master list of establishments eligible for inspection under this REP. The master list, all additions and deletions, the randomized list, and scheduling cycles created for this REP, shall be filed electronically on the regional shared drive or SharePoint site, and retained for three years.
 - a. Additions may be made to the master list based on local knowledge or other factors, including OSHA inspection history.
 - b. This should include annual OIS searches for establishments which have been coded with a secondary code, or under a related program. For example, a site that was inspected under the FORKLIFT REP may have led to citations for amputation hazards. This inspection should be coded with AMPUTATE as a secondary code, and the establishment should be added to the AMPUTATE list for the following year.
 - c. ADs should cross-reference these lists, and CSHOs should check establishment history on OIS, to make sure that sites which are placed on multiple lists are not subject to multiple inspections within a 12-month period.
 - d. Establishments shall be deleted from the master list if, during an inspection, it is determined that the site no longer falls within the parameters of the REP. This would primarily apply to sites which no longer perform the process or use the equipment targeted by the REP.
 - e. All additions and deletions must be documented.
2. At the beginning of each fiscal year, the Area Office shall create a randomly numbered list of all establishments on the master list. The list shall be re-randomized and new cycles (as described below) shall be selected each fiscal year. Establishments shall be randomly ordered using the RANDBETWEEN function in Excel, or another equivalent randomization process. AOs may also send their master list to EP for randomization.
3. If all establishments on the master list are to be inspected during the fiscal year, they may be inspected in any order. If an Area Office is not able to complete all establishments on the master list within a fiscal year, the reason for the inability to complete the list (lack of resources, unexpected inspection priorities, higher than normal number of unprogrammed activities received, etc.) shall be documented. If the Area Office was unable to complete all inspections on the list, the Area Office shall develop and follow scheduling cycles in subsequent years, using the procedures in Paragraph 4, below.
4. The Area Office will create scheduling cycles by selecting the number of inspections to be done in that cycle from the randomized master list. Establishments will be selected from the top of

the randomized list, in order. All scheduling cycles shall be filed electronically on the regional shared drive or SharePoint site.

- a. Establishments selected in a cycle can be inspected in any order, but the Area Office should consider that all establishments in a cycle must be inspected or deferred before another cycle is created. Area Offices should consider programming goals and available resources when setting the size of a cycle.
- b. To the extent possible, new cycles should be selected once per quarter, but may be selected more or less often at the discretion of the Area Director. An uncompleted cycle may be carried over into the next quarter, but the Area Office should take this into account and adjust the number selected for subsequent cycles accordingly. Cycles which are not completed at the end of the fiscal year will not be carried over into the next fiscal year.
- c. Selected establishments may be deferred to the next cycle if establishments have been subject to a comprehensive programmed inspection (under this or any other scheduling program) within the previous 12 months, or if the processes to be inspected are not active. All deferrals must be documented. Additional criteria for deferral include:
 - i. Necessary equipment or personnel with necessary experience are not available to perform the inspection.
 - ii. The establishment is the last remaining site in a cycle, the inspection would require travel in excess of 50 miles, and it cannot be combined with other inspection activity.
 - iii. The establishment was cited as the result of a previous comprehensive inspection, and the final abatement date has not yet passed.
 - iv. The establishment has contested a previous citation related to the hazards addressed by this REP, and it is still pending before the Review Commission.

Approval for deferrals based on reasons other than those listed must be discussed with and approved by the ARA for EP.