



# OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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**DIRECTIVE NUMBER:** KCM-CPL-04-00-004

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

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**REGION:** Kansas City (KCM)

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**SIGNATURE DATE:** September 20, 2024

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**EFFECTIVE DATE:** October 1, 2024

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## ABSTRACT

- Purpose:** This Instruction continues a local emphasis program to identify commercial and residential construction worksites.
- Scope:** This Instruction applies to the Omaha Area Office.
- References:** OSHA Instruction CPL 02-00-164, Field Operations Manual, April 14, 2020, or the most recent version.
- OSHA Instruction CPL 02-00-170, Enforcement Exemptions and Limitations under the Annual Appropriations Act, July 18, 2024, or successor guidance.
- OSHA Instruction KCM-CPL-04-00-002, Region-wide Local Emphasis Program (LEP) on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction, October 1, 2024, or the most current version.
- OSHA Instruction CPL 03-00-25 National Emphasis Program - Falls, May 1, 2023.
- OSHA Instruction STD 03-11-002, Compliance Guidance for Fall Protection in Residential Construction, June 25, 2018.
- Cancellations:** This Instruction cancels CPL 2-13-009H, Nebraska Local Emphasis Program (LEP) – Commercial and Residential Construction Following a Severe Weather Event, October 1, 2019.
- State Impact:** No Impact
- Action Offices:** Omaha Area Office
- Originating Office:** Kansas City Regional Office
- Contact:** Assistant Regional Administrator for Enforcement Programs

2300 Main Street, Suite 10030  
Kansas City, Missouri 64108  
(816) 283-8745

By and Under the Authority of:

Billie A. Kizer, MPH, CSP  
Regional Administrator

## **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 to encourage employers to address hazards, evaluate facilities to determine compliance with all relevant OSHA requirements and help employers correct hazards, thereby reducing potential injuries, illnesses, and deaths for their workers.

## **Significant Changes**

This Instruction cancels CPL 2-13-009H, Nebraska Local Emphasis Program (LEP) Commercial and Residential Construction Following a Severe Weather Event, October 1, 2019.

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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. References.

- A. OSHA Instruction CPL 04-00-002, [Procedures for the Approval of Local Emphasis Programs \(LEPs\)](https://www.osha.gov/sites/default/files/enforcement/directives/CPL_04-00-002_0.pdf), November 13, 2018; [https://www.osha.gov/sites/default/files/enforcement/directives/CPL\\_04-00-002\\_0.pdf](https://www.osha.gov/sites/default/files/enforcement/directives/CPL_04-00-002_0.pdf)
- B. OSHA Instruction [CPL 02-00-025, Scheduling System for Programmed Inspections](https://www.osha.gov/enforcement/directives/cpl-02-00-025), January 4, 1995; <https://www.osha.gov/enforcement/directives/cpl-02-00-025>
- C. OSHA Instruction CPL 02-00-170, [Enforcement Exemptions and Limitations under the Annual Appropriations Act](https://www.osha.gov/sites/default/files/enforcement/directives/cpl-02-00-170.pdf), July 18, 2024, or successor guidance; <https://www.osha.gov/sites/default/files/enforcement/directives/cpl-02-00-170.pdf>
- D. OSHA Instruction [CPL 02-00-155, Inspection Scheduling for Construction](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=5670), September 6, 2013; [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=DIRECTIVES&p\\_id=5670](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=5670)
- E. OSHA Instruction CPL 02-00-164, [Field Operations Manual](https://www.osha.gov/enforcement/directives/cpl-02-00-164), April 14, 2020, or successor guidance; <https://www.osha.gov/enforcement/directives/cpl-02-00-164>
- F. OSHA Instruction [CPL 02-00-161, National Emphasis Program on Trenching and Excavation](https://www.osha.gov/sites/default/files/enforcement/directives/CPL-02-00-161_0.pdf), October 1, 2018; [https://www.osha.gov/sites/default/files/enforcement/directives/CPL-02-00-161\\_0.pdf](https://www.osha.gov/sites/default/files/enforcement/directives/CPL-02-00-161_0.pdf)
- G. OSHA Instruction [CPL 03-00-009, National Emphasis Program – Lead](https://www.osha.gov/sites/default/files/enforcement/directives/CPL_03-00-0009.pdf), August 14, 2008; [https://www.osha.gov/sites/default/files/enforcement/directives/CPL\\_03-00-0009.pdf](https://www.osha.gov/sites/default/files/enforcement/directives/CPL_03-00-0009.pdf)
- H. OSHA Instruction [STD 03-11-002, Compliance Guidance for Fall Protection in Residential Construction](https://www.osha.gov/enforcement/directives/std-03-11-002), June 25, 2018; <https://www.osha.gov/enforcement/directives/std-03-11-002>
- I. OSHA Instruction [CPL 04-00-002, Procedures for the Approval of Local Emphasis Programs \(LEPs\)](https://www.osha.gov/sites/default/files/enforcement/directives/CPL_04-00-002_0.pdf), November 13, 2018; [https://www.osha.gov/sites/default/files/enforcement/directives/CPL\\_04-00-002\\_0.pdf](https://www.osha.gov/sites/default/files/enforcement/directives/CPL_04-00-002_0.pdf)
- J. OSHA Instruction CPL 03-00-25 [National Emphasis Program - Falls](https://www.osha.gov/sites/default/files/enforcement/directives/CPL_03-00-025.pdf), May 1, 2023; [https://www.osha.gov/sites/default/files/enforcement/directives/CPL\\_03-00-025.pdf](https://www.osha.gov/sites/default/files/enforcement/directives/CPL_03-00-025.pdf)
- K. OSHA Memorandum from James W. Stanley, [Focused Inspections in Construction](https://www.osha.gov/laws-regs/standardinterpretations/1994-08-22-0), revised September 20, 1995; <https://www.osha.gov/laws-regs/standardinterpretations/1994-08-22-0>

- L. OSHA Memorandum from Francis Yebesi to Regional Administrators, [Establishment-Targeting Lists for Emphasis Programs](#), November 12, 2014;  
<https://www.osha.gov/memos/2014-11-12/establishment-targeting-lists-emphasis-programs>
- M. [Nebraska Department of Revenue, Populations of Nebraska Cities](#) as of 12/29/2023,  
([http://revenue.nebraska.gov/research/local\\_gov\\_data.html](http://revenue.nebraska.gov/research/local_gov_data.html))
- N. [National Oceanic and Atmospheric Administration \(NOAA\) Weather Service website](#);  
<http://www.weather.gov/>
- O. [Nebraska Emergency Management Agency \(NEMA\)](#); <https://nema.nebraska.gov/>

**IV. Cancellation.**

This Instruction cancels CPL 2-13-009H, Nebraska Local Emphasis Program (LEP) – Commercial and Residential Construction Following a Severe Weather Event, October 1, 2019.

**V. Action Offices.**

OSHA compliance personnel shall follow the procedures contained in this instruction when conducting outreach and enforcement activities.

- A. Responsible office. The Omaha Area Office is responsible for the functions covered by this instruction.
- B. Action Office. The Omaha Area Office is affected by this Instruction and is expected to act.
- C. Information Offices. The Kansas City Region Area Offices need to be notified of the issuance of this directive. The Omaha Area Office is directly affected.

**VI. Federal Program Change.**

This instruction has no impact on State Plans. However, they are encouraged to adopt this program or a similar program.

**VII. Significant Changes.**

This Instruction cancels CPL 2-13-009H, Nebraska Local Emphasis Program (LEP) – Commercial and Residential Construction Following a Severe Weather Event, October 1, 2019.

**VIII. Expiration Date.**

The Instruction will expire on September 30, 2029.

**IX. Background.**

Since the program's inception in 2014, According to the University of Nebraska-Lincoln, Nebraska Tornadoes Table and Graphs (<https://lincolnweather.unl.edu/nebraska-tornadoes-table-graphs>) Nebraska averages 38 tornadoes a year with a peak of 63 in 2014. According to the Nebraska Emergency Management Agency (NEMA) (<https://nema.nebraska.gov/>), the tornado season in Nebraska normally spans six to nine months. Historically most tornado activity occurs in June. Tornadoes have occurred in all months of the year except for 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
- KCM-CPL-04-00-002 Region-wide Local Emphasis Program (LEP) on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction

Except for the few programmed inspections, most inspections under this instruction are initiated upon OSHA observing or receiving a report of a hazardous condition or incident.

Following severe weather events that cause structural damage, repair activity, and reconstruction begin. On April 26, 2024, the Omaha Area National Weather Service (NWS) recorded 24 tornado tracks covering 210 miles. Winds were assessed to have been 165 mph. The Omaha coverage area counted 24 tornadoes on April 26, 2024. These are extreme examples of this phenomenon. 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 increase the number of smaller projects, i.e., re-roofing and window replacement. In 2023, Nebraska recorded 486 storms with hail one inch in diameter or greater, making Nebraska the second highest in hail-related property damage expenses across the United States. The property damage, particularly homes, drives intensive and focused reconstruction efforts in which small residential contractors from across the country converge and compete for insurance claim-related repairs.

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. Following 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 FY 2019, the Omaha Area Office conducted 76 inspections using this instruction, resulting in 128 violations with a Serious, Repeat, or Willful Violation Rate of 96.6%. The average number of violations per inspection was 2.11. These inspections resulted in 58 violations associated with the lack of fall protection in the construction industry, 5 violations for incomplete or inadequately constructed scaffolding, 23 ladder safety violations, and 11 inadequate training or failure to train employees. Other hazards frequently observed during the inspection included powered industrial truck operation and maintenance, personal protective equipment, and hazard communication. During the past two years, those numbers have dropped due to the lack of severe weather in the Omaha Metro area; however, during FY 2024, weather events in the metro area have risen and will likely increase the number of metro area contractors operating. This cyclic storm pattern is one of the driving factors for maintaining an emphasis program such as this. There has been no instance 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.

## **X. Inspection Scheduling and Site Selection.**

Selection of construction sites for programmed inspections.

- A. The Area Office will monitor for severe weather alerts in Nebraska using the (NOAA) National Weather Service website (<http://www.weather.gov/>) and similar information sources, such as local broadcasts and web-based news information. Severe weather definitions include severe thunderstorms, high wind, and tornado warnings, as defined in NOAA's National Weather Service - Glossary (<https://forecast.weather.gov/glossary.php>). Appendix A of this program contains a list of severe-weather definitions used in this program.
- B. The Area Office will check the NOAA past weather web page (<https://www.weather.gov/wrh/climate>) or a similar information source in the week following such an alert and verify if severe weather occurred meeting defined severe weather conditions.
- C. Using the Certified Municipal Population data certified by the Nebraska Department of Revenue (<https://revenue.nebraska.gov/research/statistics/local-government-data>) as of December 29, 2023, the Area Office will create a list of towns/cities with a population of 3,000 people or greater (Appendix B).
- D. Place on the inspection cycle list, any city with a population of 3,000 or greater (see above) that has experienced a severe weather event. 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 before the completion of an inspection cycle, the Area Office will complete cycles following CPL 02-00-025 and CPL 02-00-155.
- E. Deletion Criteria. Inspections at selected job sites will not be conducted if one or more of the following conditions exist:
  - 1. The job site had a comprehensive safety inspection within the previous four months.
  - 2. An employer on a job site currently participates in OSHA's Voluntary Protection Program (VPP), unless the CSHO observes a serious hazard or imminent danger relative to that employer.
  - 3. At the construction job site, employees perform all their work inside the dwelling on the premises of an occupied residence. (Note: CSHOs will inspect worksites for 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).

## **XI. Inspection Procedures.**

Inspections will be conducted following 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 to a municipality for LEP inspections, can narrow the search focus by using local news and law enforcement information concerning the



path of severe weather conditions and driving paved major roads within the municipality searching for active construction sites. Major roadways and streets contain commercial business activity and may have mixed commercial and residential sections.

- B. The CSHO initiates an inspection when an active construction site is found and determines it meets the following inspection criteria:
  - 1. The site is covered by a National Emphasis Program (NEP) such as CPL 02-00-161 (Trenching and Excavation) and CPL 03-00-009 (Lead).
  - 2. 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 including, training records, air monitoring surveys, and noise surveys as applicable. If the CSHO cannot adequately address a health hazard (such as heat, noise, silica, and hexavalent chromium) the CSHO will refer the identified health hazard for inspection.
- D. If adequate programs exist and the CSHO identifies no hazards, the CSHO will consider the inspection in compliance.
- E. Remove a town or city cycle from the list when the cycle is completed.

## **XII. OSHA Information System (OIS) Coding.**

- A. The Area Office will identify inspections conducted under this program and code them in OIS. Current instructions for completing the appropriate inspection classification boxes on the OIS Inspection Form:
- B. 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:
- C. 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 in the subcategory "Inspection Emphasis Programs", 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.
- D. 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.

## **XIII. Outreach.**

The Omaha Area Office will make an information package available upon request including a copy of the directive to employers, professional associations, and labor organizations.

Employers are encouraged to utilize the 21(d) Consultation Program as a resource for achieving compliance.

The Omaha Area Office continues to provide program outreach. Affected stakeholders may include construction safety organizations, industry associations, and labor organizations. This outreach may continue after the initiation of inspection activity.

**XIV. Program Report.**

No later than midway through this program and again at this program's completion, the Area Office will provide a program report to the Regional Office.

The midpoint assessment will occur no later than the end of the fiscal year following the calendar midpoint between the program's effective and expiration dates (i.e., 2 ½ years into a 5-year program), allow revisions to the REP where necessary, and assess whether continuation of the REP is appropriate. At a minimum, the report should respond to the requirements of [CPL 04-00-02](#), Procedures for the Approval of Local Emphasis Programs (LEPs), Section VIII, E.

## **Appendix A**

### **NOAA Severe Weather Definitions**

#### **Severe Thunderstorm Warning -**

The National Weather Service Forecast Office (NWFO) issues a Severe Thunderstorm Warning when the WSR-88D radar indicates a severe thunderstorm or a spotter reports a thunderstorm producing hail one inch or larger in diameter and/or winds equal or exceeds 58 miles an hour. People in the affected area should seek safe shelter immediately. Severe thunderstorms can produce tornadoes with little or no warning. Lightning frequency is not a criterion for issuing a Severe Thunderstorm Warning. The NWFO usually issues Severe Thunderstorm Warnings for 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 a severe thunderstorm affects the nearshore or coastal waters, the NWFO issues it as a 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 a 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 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 around 30 minutes.

The National Weather Service office (NWFO) issued Tornado Warnings including 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 follow up with periodic Severe Weather Statements. These statements contain updated information on the tornado and 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**  
**Nebraska Municipalities with a population of 3,000 or Greater**

<b>CITY</b>	<b>COUNTY</b>	<b>MUNICIPAL POPULATION</b>
Omaha	Douglas	1,328,496
Lincoln	Lancaster	291,294
Bellevue	Sarpy	64,989
Grand Island	Hall	53,140
Kearney	Buffalo	33,792
Fremont	Dodge	27,141
Norfolk	Madison	25,868
Papillion	Sarpy	25,407
Hastings	Adams	25,154
Columbus	Platte	24,028
North Platte	Lincoln	23,390
LaVista	Sarpy	16,746
Scottsbluff	Scotts Bluff	14,436
South Sioux	Dakota	14,043
Beatrice	Gage	12,261
Lexington	Dawson	10,348
Gretna	Sarpy	9,323
Gering	Scotts Bluff	8,564
Alliance	Box Butte	8,151
York	York	8,071
Blair	Washington	7,790
Seward	Seward	7,643
McCook	Red Willow	7,446
Nebraska City	Otoe	7,222
Crete	Saline	7,123
Schuyler	Colfax	6,547

<b>CITY</b>	<b>COUNTY</b>	<b>MUNICIPAL POPULATION</b>
Plattsmouth	Cass	6,544
Ralston	Douglas	6,494
Sidney	Cheyenne	6,410
Wayne	Wayne	5,973
Holdrege	Phelps	5,515
Chadron	Dawes	5,206
Ogallala	Keith	4,878
Wahoo	Saunders	4,818
Aurora	Hamilton	4,678
Waverly	Lancaster	4,279
Falls City	Richardson	4,133
Cozad	Dawson	3,988
Fairbury	Jefferson	3,970
O'Neill	Holt	3,581
Broken Bow	Custer	3,506
West Point	Cuming	3,500
Gothenburg	Dawson	3,478
Auburn	Nemaha	3,470
Ashland	Saunders	3,123
Minden	Kearney	3,118
Central City	Merrick	3,039
Valley	Douglas	3,037

Total Municipal Population = 1,328,496