



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: *CPL 02-13-010F*

EFFECTIVE DATE: *December 4, 2017*

SUBJECT: *Local Emphasis Program (LEP) for the Landscaping and Horticultural Service Industry*

REGIONAL IDENTIFIER: *Region VII*

ABSTRACT

- Purpose:** This Notice continues a Local Emphasis Program (LEP) to identify, evaluate, and control safety and health hazards associated with the Landscaping and Horticultural Services industry.
- Scope:** This Notice applies to landscaping and horticultural worksites within the state of Kansas.
- References:** OSHA Instructions: CPL 02-00-160, CPL 04-00-001, CPL 02-00-025, CPL 02-00-051; NIOSH Publication No. 2008-144, Fact Sheet, Fatal Injuries Among Landscape Services Workers; and memo from Thomas Galassi, Director, Directorate of Enforcement Programs, to Regional Administrators, subject: Extreme Heat-Related Outdoor Inspections (2014), dated May 23, 2014
- Cancellation:** CPL 02-13-010E
- Action Office:** Wichita Area Office
- Originating Office:** Kansas City Regional Office – Enforcement Programs
- Contact:** Assistant Regional Administrator for Enforcement Programs
(816) 283-8745

By and Under the Authority of:

Kimberly A. Stille
Regional Administrator

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- I. Purpose. This Notice continues a local emphasis program (LEP) to identify, evaluate, and control safety and health hazards associated with the Landscaping and Horticultural Services industry.

The goal of this LEP is to reduce the days away case rate and fatality rate in this industry in line with OSHA's Strategic Objective, Goal 2.1, "Secure safe and healthful working conditions for America's workers".

- II. Scope. This Notice applies to worksites located in the State of Kansas that have a North American Industry Classification System (NAICS) code of 561730, *Landscaping Services, Lawn and Garden Services, and Ornamental Shrub and Tree Services*. Landscape and horticultural work includes: Lawn Care Services (e.g., fertilizing, mowing, seeding, spraying); Lawn Fertilizing Services; Lawn Maintenance Services; Lawn Mowing Services; Tree and Brush Trimming, overhead utility line; Tree Pruning Services; Tree Removal Services; Tree Services (e.g., bracing, planting, pruning, removal, spraying, surgery, trimming); and Shrub Services (e.g., bracing, planting, pruning, removal, spraying, surgery, trimming).

- III. Cancellation. This Notice cancels OSHA Regional Notice CPL 02-13-010E, Local Emphasis Program (LEP) for the Landscaping and Horticultural Service Industry.

IV. References.

- A. OSHA Instruction CPL 02-00-160, August 2, 2016, Field Operations Manual (FOM).
- B. OSHA Instruction CPL 04-00-001 (CPL 2-0.102A), Procedures for Approval of Local Emphasis Programs (LEPs), November 10, 1999.
- C. OSHA Instruction CPL 02-00-025 (CPL 2.25I), Scheduling System for Programmed Inspections, dated January 4, 1995.
- D. OSHA Instruction CPL 02-00-051 (CPL 2-0.51J), Enforcement Exemptions and Limitations under the Appropriations Act, May 28, 1998, to include Appendix A, revised January 10, 2017, or most recent version.
- E. NIOSH Publication No. 2008-144, Fact Sheet, Fatal Injuries Among Landscape Services Workers.
- F. Memo from Thomas Galassi, Director, Directorate of Enforcement Programs, to Regional Administrators, Extreme Heat-Related Outdoor Inspections (2014), dated May 23, 2014.
- G. Memorandum from Thomas Galassi to Regional Administrators, Procedures for Local and Regional Emphasis Programs, December 3, 2014.
- H. Memorandum from Francis Yebesi to Regional Administrators, Establishment-Targeting Lists for Emphasis Programs, November 12, 2014.

- V. Expiration Date. This Notice will expire on September 30, 2018.
- VI. Action. The Regional Administrator and the Wichita Area Director shall ensure that the procedures established in this Notice are adhered to in the scheduling of inspections.
- VII. Background. According to NIOSH Publication No. 2008-144, Fact Sheet, Fatal Injuries Among Landscape Services Workers, an average of 197 landscape services workers died from on-the-job injuries each year between 2003 and 2006. The fatality rate for the landscape services industry, about 25 deaths per 100,000 workers, is similar to that for more recognized high-risk industries such as agriculture and mining. Although landscape services workers make up 0.8% of the U.S. workforce, they experienced 3.5% of the total occupational fatalities.

OSHA has identified, through review of accident data in OSHA Form-170 summaries, that the four leading causes of landscaping fatalities nation-wide include struck-by, falls from elevations, caught-in-between, and electrical shock. Incidents involved workers being struck by falling trees and limbs, falls from ladders and trees, struck by motorized equipment, such as automobiles, when working near and in roadways, and electrical shock while working in the vicinity of overhead power lines.

OSHA inspection fatality data ranks NAICS 561730 for landscaping services as number three for fiscal years 2012-2017. Kansas enforcement statistics show that from January 1, 2012 to September 30, 2017, compliance officers conducted 62 inspections in this industry, including three fatalities. In FY 2017, from October 1, 2016, through July 31, 2017, the Area Office conducted one inspection based upon unprogrammed activities received by the Area Office and available resources. OSHA's goal is to reduce fatality and injury rates associated with the Landscaping and Horticultural Services industry by identifying, evaluating, and controlling safety and health hazards.

- VIII. Outreach. Prior to the initiation of inspection activity, the Wichita Area Office publicized the program via electronic outreach including links to outreach materials. Additionally, the Wichita Area Office discussed this LEP during outreach activities, such as speeches and training sessions. The outreach informed stakeholders of the existence, purpose, and objectives of this Local Emphasis Program as well as promoted employer and employee awareness of hazards associated with landscaping and horticultural operations. Since landscaping work is generally seasonal when workers are at risk for heat-related illness, outreach efforts will be in line with OSHA's national "Water. Rest. Shade" heat illness prevention campaign.
- IX. Targeting/Selection. This Notice includes both a Programmed and Unprogrammed Inspection approach.
 - A. Programmed Inspections. The Wichita Area Office obtained from the National Office's Directorate of Technical Support and Emergency Management (DTSEM), Office of Statistical Analysis, a list of Kansas employers with NAICS 561730 using Dun & Bradstreet. The requested identifies employers having 10 or

more employees. The list was alphabetized by employer name, and then random numbers assigned using the most current version of Microsoft Excel's Random Sample Function, i.e., RANDBETWEEN function in Microsoft Excel. To prevent duplicate random numbers from being generated for multiple records each time the file is opened, the entire worksheet is highlighted, copied, and pasted into a blank worksheet as "Values (V)". The new worksheet has each random number saved as a value not a formula, allowing worksheet opening without the possibility of changing the already assigned random numbers. The first 10 establishments will be selected as an inspection cycle. Additional cycles of 10 establishments will be selected, as necessary. Any selected establishment receiving a comprehensive safety or health inspection within the last two years will be deleted from the cycle.

- B. Unprogrammed Inspections. Compliance Safety and Health Officers (CSHOs) watch for work activities during routine travel where employees may be exposed to hazardous conditions while doing landscape/horticultural work. If serious hazards are observed (which includes, but is not limited to, struck-by, falls from elevations, caught-in-between, electrical shock, and exposure to excessive outdoor temperatures), the CSHO shall immediately conduct an inspection of the worksite. Serious hazards are those that could cause death or injury/illness requiring medical care. If the CSHO is unable to conduct the inspection immediately due to other inspection priorities, the CSHO will contact the Area Office to schedule the site for an inspection. If Area Office resources are not available to conduct the inspection, address the hazards as a phone/fax inquiry provided sufficient employer information is obtained.

X. Inspection Procedures.

- A. All inspections conducted under this LEP are comprehensive safety and health inspections to include a review of any relevant safety and health programs as well as OSHA 300 Injury/Illness logs (if required). Addressed hazards include, but are not limited to, Personal Protective Equipment, Hazard Communication, Noise, Machine Guarding, Lockout/Tagout, and exposure to excessive heat.
- B. Resources permitting, joint safety and health inspections will be conducted. If CSHO resources are not available, the Area Director may allow a cross-trained CSHO to address both safety and health hazards.
- C. When an establishment is selected from an active cycle (programmed inspection), the CSHO(s) will first travel to the office of the employer to initiate the inspection. The CSHO(s) will review/obtain any/all relevant safety and health programs. If the CSHO(s) arrives at the business location and finds the office is the business owner's home, the CSHO(s) will try to contact the employer by phone.

Next, with the assistance of the employer, the CSHO will identify a worksite to inspect. If multiple worksites are active, the CSHO will select either the jobsite closest geographically from the office location or the jobsite with the highest

number of active employees. The worksite inspection will include employee interviews and hazard identification such as Hazard Communication, Personal Protective Equipment, Noise, Machine Guarding, Lockout/Tagout, Heat Illness, etc.

- D. Unprogrammed Inspections – These inspections will generally commence with the worksite portion of the inspection. When the worksite inspection is completed, the CSHO will then travel to the employer’s business location to continue the program review portion of the inspection.
 - E. If the Area Office receives a phone or electronic complaint involving an establishment in NAICS 561730, the Area Office will schedule an inspection if resources are available. However, the Area Office may initiate a phone/fax inquiry due to the transitory nature of landscaping crews.
- XI. Recording in OIS. Current instructions shall be applied when recording inspections conducted under this LEP.
- A. All inspections conducted under this LEP will be coded as comprehensive. If a cross-trained CSHO addresses both the safety and health hazards (a joint inspection is not conducted due to resources) the inspection shall be coded as safety or health.
 - B. Inspections resulting from fatalities, complaints and referrals (including those observed by a CSHO) will be considered unprogrammed inspections. An Unprogrammed Activity (UPA) shall be initiated and then entered in the Inspection Activity under Related Activities. Inspections and UPAs shall be coded as “LANDSCAPE” under Local Emphasis Program.
 - C. Consider as Programmed Planned inspections any inspections selected from a cycle and code as “LANDSCAPE” under Local Emphasis Program in Inspection Type.
 - D. Phone/fax inquiries to employers covered by this LEP shall identify “LANDSCAPE” under Program Information, Local Emphasis Programs.
 - E. All consultation activities (requests, visits, and compliance assistance) conducted at sites in the NAICS codes included in this LEP will be coded with LANDSCAPE in the Local Emphasis Program field on the appropriate forms.
- XII. Evaluation. By October 30, the Wichita Area Office will prepare a formal written evaluation of this LEP in the format specified by OSHA Instruction CPL 04-00-001, Appendix A.

Kimberly A. Stille
Regional Administrator

Date

Office of the Solicitor Concurrence

Date

Distribution:

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