



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: *CPL 02-16-04C*

EFFECTIVE DATE: *December 4, 2017*

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

REGIONAL IDENTIFIER: *Region VII*

ABSTRACT

- Purpose:** This Notice continues a local emphasis program to target commercial and residential construction worksites.
- Scope:** This Notice applies to construction worksites throughout the Wichita Area Office jurisdiction.
- References:** OSHA Instructions: CPL 04-00-001; CPL 02-00-025; CPL 02-00-051; CPL 02-00-160; CPL 02-00-069; CPL 03-00-009, STD 03-11-002, and CPL 02-00-155; OSHA Regional Notice CPL 98-02X.
- Cancellation:** CPL 02-16-04B
- Action Offices:** 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 describes policies and procedures for continuing a Local Emphasis Program (LEP) for programmed safety and health inspections of Kansas construction worksites.
- II. Scope. This Notice applies to construction worksites within the jurisdictional boundaries of the Wichita Area Office.
- III. Cancellation. This Notice cancels OSHA Regional Notice CPL 02-16-04B, Local Emphasis Program – Commercial and Residential Construction Following a Severe Weather Event.
- IV. References.
 - A. OSHA Instruction CPL 04-00-001 (CPL 2-0.102A), Procedures for Approval of Local Emphasis Programs (LEPs), November 10, 1999.
 - 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 (CPL 2-0.51J), Enforcement Exemptions and Limitations Under the Appropriations Act, May 28, 1998, and Appendix A, change dated January 10, 2017, or most recent version.
 - D. OSHA Instruction CPL 02-00-155, Inspection Scheduling for Construction, September 6, 2013.
 - E. OSHA Instruction CPL 02-00-160, Field Operations Manual (FOM), August 2, 2016.
 - F. OSHA Instruction CPL 02-00-069 (CPL 2.69), Special Emphasis: Trenching and Excavation, September 19, 1985.
 - G. OSHA Instruction CPL 03-00-009, OSHA Instruction: National Emphasis Program - Lead, August 14, 2008.
 - H. OSHA Instruction STD 03-11-002, Compliance Guidance for Residential Construction, June 16, 2011.
 - I. OSHA Regional Notice CPL 98-02X Region-wide Problem Solving Initiative on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction, November 8, 2017.
 - J. OSHA memorandum from James W. Stanley, revised September 20, 1995, Focused Inspections in the Construction Industry.
 - K. Populations of Kansas Cities as certified by the U.S. Census, as of 2010.

- M. Memorandum from Thomas Galassi to Regional Administrators, Procedures for Local and Regional Emphasis Programs, December 3, 2014.
 - N. Memorandum from Francis Yebesi to Regional Administrators, Establishment-Targeting Lists for Emphasis Programs, November 12, 2014.
 - O. Kansas Roofing Registration Act (KRRA).
- V. Expiration Date. The Notice will expire on September 30, 2018.
- VI. Action. The Regional Administrator and the Area Director for the Wichita Area Office shall ensure that the procedures established in this Notice are adhered to in the scheduling of programmed inspections.
- VII. Background. According to the National Oceanic and Atmospheric Administration (NOAA), between 1961 and 2014, Kansas averaged 36 tornadoes and 534 hail events per year. Severe weather events such as these often cause structural damage prompting an increase in repair and re-construction activity. In April 2013, Fort Scott, Kansas, a community of approximately 8,000, experienced severe weather, which resulted in 27 hail reports including reports of tennis ball sized hail (<http://www.stormersite.com/showreport.cfm?rptID=377321>). Subsequently, the Wichita Area Office responded to two complaints, which resulted in seven construction inspections in two days, in the city limits. In April 2014, Baxter Springs, Kansas, a community of approximately 4,000, experienced severe weather including tornadic activity resulting in nearly 100 homes and business damaged (<http://www.weather.com/storms/tornado/news/baxter-springs-kansas-tornado-20140428>). The Wichita Area Office responded by providing outreach to the approximately 40 contractors registered and working in the City. In April 2015, Independence, Kansas, a community of approximately 9,000, experienced severe weather, which resulted in two brief tornadoes and large hail (http://www.weather.gov/ict/April_2_3_2015_WindEvent). Subsequently, the Wichita Area Office responded to a complaint, which resulted in eight construction inspections in two days, in the city limits.

Between FY 2013 and FY 2015, because of severe weather events in these communities, the Wichita Area Office conducted 15 inspections with 93% of the inspections resulting in violations for the lack of fall protection in construction. Other hazards observed at the time of inspection included ladder safety, personal protective equipment, and hazard communication. During FY 2017, inspection data from October 1, 2016 through July 31, 2017 identified 30 inspections conducted, which improved the working conditions for 3,191 employees.

Severe weather events such as thunderstorms, high winds, and large hail tend to create an increase in smaller construction projects, i.e., re-roofing and window replacement. Due to the sudden increased demand for construction labors following severe weather, transient contractors often infiltrate Kansas communities in search of work. These contractors follow the path of the storm and come from a wide array of states. The severe weather events occurring in Fort Scott, in 2011, and Independence, in 2015,

included such contractors. Approximately 43% (7/15) of the contractors, issued citations by OSHA during this time period, were from Texas, Missouri, or Montana.

This directive provides a targeting scheme with a broader range of coverage of inspection sites throughout the State of Kansas and focuses OSHA's enforcement resources on construction sites in geographical areas following a severe weather event. By doing so, this directive provides a mechanism for OSHA to more quickly address hazards at jobsites that are of a relatively short duration and to protect vulnerable populations such as transient, often immigrant laborers.

- VIII. Outreach. An information package, including a copy of the directive, will be made available upon request to employers, professional associations, and labor organizations. As an additional resource for achieving compliance, employers will be encouraged to utilize the 21(d) Consultation Program.

The Kansas Roofing Registration Act (KRRRA) is a set of statutes enacted by the Kansas State Legislature in 2013. Generally, the KRRRA requires roofing contractors to apply for and receive a roofing contractor registration certificate before performing commercial or residential roofing services for a fee in Kansas. Wichita Area Office staff will provide the LEP by e-mail to roofing companies with available e-mail addresses that are registered with the State of Kansas. Contact information for the Wichita Area Office will be provided for any questions the recipients may have concerning the LEP. There are currently 1,391 companies on the list, most of which are active and in good standing.

In addition, Wichita Area Office staff will develop a list of establishments by using the North American Industry Classification System (NAICS) codes, for businesses in the State of Kansas, which sell roofing materials and related supplies and equipment. Wichita Area Office staff will also provide industry-specific outreach to other targeted stakeholders that may include industry associations, labor organizations, and consultants working in the construction industry. This outreach may continue after the initiation of inspection activity and each weather event.

- IX. Scheduling. Selection of construction sites for programmed inspections.

- A. Monitoring the (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, by the Wichita Area Office. 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 this directive.
- B. Checking the NOAA website past weather page (<http://www.nws.noaa.gov/climate/>) or similar information source and verify that the severe weather occurred and met the defined severe weather conditions, in the week following such an alert, by the Wichita Area Office.
- C. Using the Populations of Kansas Cities as certified by the U.S. Department of Commerce Census Bureau, as of April 2010, (<https://www.census.gov/>) to create

a list of towns/cities with a population of 3,000 people and greater, by the Wichita Area Office. (Appendix B)

- D. Any city with a population of 3,000 people and greater (see above) in which a severe weather event has occurred will be placed on an inspection cycle list. Each weather event will constitute an inspection cycle. If the inspection procedure for a city, on an inspection cycle list, has not been initiated within six months of the severe weather event, that city will be removed from the inspection cycle. If a subsequent severe weather event occurs prior to completion of an inspection cycle, the cycles will be completed in accordance with CPL 02-00-025 and CPL 02-00-155.
- X. Inspection Procedures.
- A. This LEP focuses on both commercial and residential work sites. When assigned a town or city for inspection the Compliance Safety and Health Officer (CSHO) can narrow the search focus by using local news and law enforcement information concerning the path of the severe weather within the town and drive the major roads of that town or city searching for active construction sites for purposes of this LEP. Major roads are roads and streets that contain commercial business activity and may also have mixed commercial and residential sections.
 - B. When the CSHO finds an active construction site, the CSHO enters the site and determine if the site meets the inspection criteria of any national emphasis program (NEP), such as CPL 02-00-069 (Trenching), CPL 03-00-009 (Lead), or any local emphasis program (LEP), such as CPL 98-02X (Falls), or hazards are observed. If any inspection criteria listed herein is met, the CSHO initiates the inspection.
 - C. All inspections conducted under this LEP are comprehensive, unless the criteria set in “OSHA memorandum from James W. Stanley, Focused Inspections in the Construction Industry, revised September 20, 1995”, is met. In those cases, the safety inspection will be focused. The CSHO documents all hazardous work exposures as well as review safety and health programs, training records, air monitoring surveys, noise surveys, etc., as applicable. If health hazards are identified (such as noise, silica, hexavalent chromium, etc.) and cannot be adequately addressed by the inspecting CSHO, make a referral to adequately address the health hazards identified.
 - D. If adequate programs exist and no hazards are identified by the CSHO, the inspection will be considered in compliance.
 - E. When the town or city is completed, remove it from the list.
- XI. Deletion Criteria. Do not commence inspections at selected jobsites, or, as to C., below, of specific employers on selected jobsites, if one of the following conditions exists:

- A. The jobsite has had a comprehensive safety inspection within the last trimester (four months).
 - B. An employer on a jobsite is currently a participant in the OSHA Voluntary Protection Program (VPP), unless a serious hazard or imminent danger relative to that employer is observed.
 - C. The jobsite is a construction site where all work is being performed inside the dwelling on the premises of an occupied residence. (Note: Worksites such as re-roofing, guttering, trenching and other outside construction projects viewed from public access will be inspected. These sites may require entry onto the owner’s property but not inside their residence).
- XII. Recording in OIS. Forms for all enforcement activities (inspections, complaints, and referrals) and compliance assistance conducted under this LEP must be coded with the LEP code, as follows:
- A. The “Inspection Type” tab on the OIS Inspection web-form (formerly OSHA-1) for all inspections conducted under this LEP shall be marked “Program Planned” (Initiating Type) and “Inspection Emphasis Programs” record “STORMCON” in (Local Emphasis Program).
 - B. All consultation activities (requests, visits, and compliance assistance) conducted at sites where vehicle-related standards are evaluated regarded powered industrial trucks and other material or personnel handling motorized equipment in construction, general industry, and code maritime with “STORMCON” in the Local Emphasis Program field on the appropriate forms.
- XIII. Evaluation. No later than October 30 of each year that this program remains in effect, 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:
Regional Solicitor
Directorate of Enforcement Programs
Regional Administrator
Deputy Regional Administrator
Assistant Regional Administrators
Area Directors
Supervisory Investigator
Field Review Program Coordinator

Appendix A

Severe Weather as Defined by NOAA

Severe Thunderstorm Warning - A thunderstorm with winds measuring 50 knots (58 mph) or greater, 1 inch hail or larger, or tornadoes. Severe thunderstorms may also produce torrential rain and frequent lightning.

Tornado Warning - A violently rotating column of air in contact with and extending between a convective cloud and the surface of the earth. It is the most destructive of all storm-scale atmospheric phenomena. A warning is issued when a tornado is indicated by the WSR-88D radar or sighted by spotters; therefore, people in the affected area should seek safe shelter immediately. They can be issued without a Tornado Watch being already in effect. They are usually issued for duration of around 30 minutes.

High Wind Warning - This product is issued by the National Weather Service when high wind speeds may pose a hazard or is life threatening.

Appendix B

Kansas Towns/Cities with Populations Greater than 3000

Wichita	382,368
Overland Park	173,372
Kansas City	145,786
Topeka	127,473
Olathe	125,872
Lawrence	87,643
Shawnee	62,209
Manhattan	52,281
Lenexa	48,190
Salina	47,707
Hutchinson	42,080
Leavenworth	35,251
Leawood	31,867
Dodge City	27,340
Garden City	26,658
Emporia	24,916
Junction City	23,353
Derby	22,158
Prairie Village	21,447
Liberal	20,525
Hays	20,510
Pittsburg	20,233
Newton	19,132
Gardner	19,123
Great Bend	15,995
McPherson	13,155
El Dorado	13,021
Ottawa	12,649
Winfield	12,301
Lansing	11,265
Merriam	11,003
Haysville	10,826
Parsons	10,500
Coffeyville	10,295
Independence	9,483
Mission	9,323

Augusta	9,274
Chanute	9,119
Wellington	8,172
Fort Scott	8,087
Bonner Springs	7,314
Park City	7,297
Pratt	6,835
Valley Center	6,822
Bel Aire	6,769
Roeland Park	6,731
Ulysses	6,161
Eudora	6,136
Mulvane	6,111
De Soto	5,720
Iola	5,704
Paola	5,602
Spring Hill	5,437
Concordia	5,395
Colby	5,387
Tonganoxie	4,996
Basehor	4,613
Baldwin City	4,515
Russell	4,506
Goodland	4,489
Osawatomie	4,447
Wamego	4,372
Goddard	4,344
Edwardsville	4,340
Clay Center	4,334
Louisburg	4,315
Baxter Springs	4,238
Larned	4,054
Rose Hill	3,931
Hugoton	3,904
Fairway	3,882
Beloit	3,835
Scott City	3,816
Lyons	3,739
Hesston	3,709
Mission Hills	3,498
Lindsborg	3,458
Frontenac	3,437

Maize	3,420
Garnett	3,415
Holton	3,329
Columbus	3,312
Marysville	3,294
Kingman	3,177
Hiawatha	3,172
Ellsworth	3,120
Galena	3,085

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