



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: *CPL 2-13-009F*

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 Omaha 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

Cancellation: CPL 2-13-009E

Action Offices: Omaha 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 Nebraska construction worksites.
- II. Scope. This Notice applies to construction worksites within the jurisdictional boundaries of the Omaha Area Office.
- III. Cancellation. This Regional Notice cancels OSHA Regional Notice CPL 2-13-009E, October 1, 2017, LEP on 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: 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 98-02X Region-wide Problem Solving Initiative on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction, November 8, 2017 (or most current version).
 - J. OSHA memorandum from James W. Stanley, August 22, 1994, as revised September 20, 1995, titled Focused Inspections in Construction.

- K. Populations of Nebraska Cities as certified by the Nebraska Department of Revenue as of 12/18/2012.
- 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.
- V. Expiration Date. The Notice will expire on September 30, 2018.
- VI. Action. The Regional Administrator and the Area Director for the Omaha Area Office ensures the procedures established in this Notice are adhered to in the scheduling of programmed inspections.
- VII. Background. Successful construction inspection targeting has always been challenging. Currently, construction safety and health inspections conducted by the Omaha Area Office have been based primarily on the following triggers:
- Unprogrammed activity, such as fatalities, complaints, and Compliance Safety & Health Officer (CSHO) self-referrals
 - Falls/OHPL/Scaffolding (CPL 98-02X Region-wide Problem Solving Initiative on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction) (or most current version)
 - Inspection lists provided by the Construction Industry Research & Policy Center of the University of Tennessee (hereinafter “University of Tennessee”)

Except for the relatively few programmed inspections, the major triggers for inspections rely on a hazardous condition to occur and to be observed by or reported to OSHA, or else for an accident to occur and be reported to OSHA. Programmed (not response-initiated) inspections (i.e., those supplied by the University of Tennessee) are subject to institutional drawbacks. These include reliance on bids, permits, and other filings to initiate tracking by the University of Tennessee. Many of the construction projects within the Omaha Area Office’s jurisdiction do not appear on the University of Tennessee lists.

Smaller projects, which do not appear on the University of Tennessee lists, are often done without permits, and are frequently conducted by small employers. Many of these projects are of short duration. These projects also tend to employ many immigrant workers, who historically are less likely to file complaints with OSHA.

Following severe weather events that cause structural damage, repair activity and re-construction begin to take place. Extreme examples of this phenomenon can be seen in the construction activity that occurred following the May 2011 tornado in Joplin, Missouri and the May 2004 tornado in Hallam, Nebraska. Less extreme events tend to create an increase in smaller projects, i.e., re-roofing and window replacement, following severe weather events such as severe thunderstorms, high winds, and large hail.

This LEP provides a targeting scheme with a broader range of coverage of inspection sites throughout the state of Nebraska and is intended to focus OSHA's enforcement resources on construction sites in geographical areas following a severe weather event. These efforts continue to 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: "Secure safe and healthful working conditions for America's workers." As per CPL 02-00-051, this safety and health hazard targeting program will include establishments with ten or fewer employees.

- VIII. Outreach. Information packages, including a copy of the directive, are made available upon request 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 targeted stakeholders may include construction safety organizations, industry associations or labor organizations. This outreach may continue after the initiation of inspection activity.

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

- A. Monitoring the National Oceanic and Atmospheric Administration (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 Nebraska. 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, by the Omaha Area Office.
- B. Check the NOAA website's 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 Omaha Area Office.
- C. Use the Populations of Nebraska Cities as certified by the Nebraska Department of Revenue as of December 18, 2012 (<http://www.revenue.ne.gov/research/CertPop201212.html>) to create a list of towns/cities with a population of 3,000 people and greater. (Appendix B), by the Omaha Area Office.
- 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. If the inspection procedure for a city, on an inspection cycle list, has not been initiated within 6 months of the severe weather event, remove it from the inspection cycle. If a subsequent severe weather event occurs prior to completion of an inspection cycle, and complete cycles 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 CSHO can narrow the focus of the search by using local news and law enforcement information concerning the path of the severe weather within the town and will 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 determines 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. The CSHO conducts an inspection if any inspection criteria listed herein is met.
- C. All inspections conducted under this LEP are comprehensive unless the criteria set in "OSHA memorandum from James W. Stanley, Subject: Guidance to Compliance Officers for Focused Inspections in the Construction Industry, August 22, 1994, (Rev. (2) 9/20/95)" is met. In those cases, the safety inspection will be focused. The CSHO will document 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. Remove from the list when the town or city is completed.

XI. Deletion Criteria. Inspections at selected jobsites, or, as to C., below, of specific employers on selected jobsites, will not commence if one of the following conditions exists:

- A. The jobsite has had a comprehensive safety inspection within the last trimester (4 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 that are 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 regarding powered industrial trucks and other material or personnel handling motorized equipment in construction, general industry, and maritime will be coded 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 Omaha 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 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

CITY	COUNTY	POPULATION
OMAHA	DOUGLAS	423,192
LINCOLN	LANCASTER	258,469
BELLEVUE	SARPY	51,032
GRAND ISLAND	HALL	48,648
KEARNEY	BUFFALO	30,789
FREMONT	DODGE	26,397
HASTINGS	ADAMS	25,224
NORTH PLATTE	LINCOLN	24,733
NORFOLK	MADISON	24,210
COLUMBUS	PLATTE	22,111
PAPILLION	SARPY	19,143
LAVISTA	SARPY	15,993
SCOTTSBLUFF	SCOTTS BLUFF	15,039
SOUTH SIOUX	DAKOTA	13,353
BEATRICE	GAGE	12,459
LEXINGTON	DAWSON	10,230
GERING	SCOTTS BLUFF	8,500
ALLIANCE	BOX BUTTE	8,491
BLAIR	WASHINGTON	7,990
YORK	YORK	7,766
MCCOOK	RED WILLOW	7,698
NEBRASKA CITY	OTOE	7,289

CITY	COUNTY	POPULATION
SEWARD	SEWARD	6,964
CRETE	SALINE	6,960
SIDNEY	CHEYENNE	6,757
PLATTSMOUTH	CASS	6,502
SCHUYLER	COLFAX	6,211
RALSTON	DOUGLAS	5,943
CHADRON	DAWES	5,851
WAYNE	WAYNE	5,663
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	NEMAHHA	3,460
WEST POINT	CUMING	3,364
WAVERLY	LANCASTER	3,277