



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 2-08-05C

EFFECTIVE DATE: October 1, 2011

SUBJECT: Local Emphasis Program – Commercial and Residential Construction

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, and includes provisions for coding inspections of projects identified as receiving funds under the American Recovery & Reinvestment Act (ARRA) of 2009.
- References:** OSHA Instructions: CPL 04-00-001, CPL 02-00-025, CPL 02-00-051, CPL 02-00-150, OSHA memorandum, Subject: Guidance to Compliance Officers for Focused Inspections in the Construction Industry, STD 3-0.1A, and 2000 Census for Kansas Geographic Areas, American Recovery & Reinvestment Act (ARRA) of 2009
- Expiration:** September 30, 2012
- Action Offices:** Wichita Area Office
- Originating Office:** Kansas City Regional Office
- Contact:** Enforcement Programs (816) 283-8745

By and Under the Authority of:

Charles E. Adkins, CIH
Regional Administrator

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- I. Purpose. This Notice describes policies and procedures for implementing 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, and includes provisions for coding inspections of projects identified as receiving funds under the American Recovery & Reinvestment Act of 2009 (hereinafter "ARRA").
- III. Action. The Regional Administer and the Area Director for the Wichita Area Office shall ensure that the procedures established in this instruction are adhered to in the scheduling of programmed inspections.
- IV. Expiration. The Notice will expire on September 30, 2012.
- V. References.
 - A. OSHA Instruction CPL 04-00-001 (CPL 2-0.102A), Procedure 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
 - D. OSHA Instruction CPL 02-00-150 Field Operations Manual (FOM), March 26, 2009
 - E. OSHA memorandum, Subject: Guidance to Compliance Officers for Focused Inspections in the Construction Industry, August 22, 1994, (Rev. (2) 9/20/95)
 - F. OSHA Instruction STD 3-0.1A, Plain Language Revision of OSHA Instruction STD 3.1, Interim Fall Protection Compliance Guidelines for Residential Construction, June 18, 1999
 - G. 2000 Census for Kansas Geographic Areas
 - H. American Recovery & Reinvestment Act (ARRA) of 2009
- VI. Background. Successful construction inspection targeting has always been challenging. Currently, construction safety and health inspections conducted by the Wichita 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 (Regional Directive)
- 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 inspection rely on some hazardous condition to occur and be observed by OSHA, or else for an accident to occur and be reported to OSHA. The only truly random 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 Wichita Area Office’s jurisdiction do not appear on the University of Tennessee lists. These are primarily smaller projects, often done without permits, and 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. All of these factors are associated with a higher risk of construction injuries and fatalities and hamper traditional targeting methods.

Since the commencement of this program in July of 2008, Team Kansas conducted 179 inspections in selected zip codes. During this period, 489 violations were issued; 12 classified as Repeat. With the resulting average of 2.4 violations per inspection, Team Kansas believes the benefits of employee protection through enforcement in this high hazard industry are soundly supported. This directive continues to provide a targeting scheme with a broader range of coverage of inspection sites throughout the state of Kansas.

VII. Scheduling. Selection of construction sites for programmed inspections.
[Note: Cycle generation will be a continuation from the previous directive, CPL 2-08-05B, October 1, 2010]

- A. The Wichita Area Office will use the 2000 census for Kansas Geographic Areas to create a list of towns/cities with a population of 8,000 people and greater. (OSHA believes that population centers of this size are more likely to have active construction sites than smaller towns/cities.)
- B. Once a list of towns/cities is created, a list of corresponding Zip codes will be identified. (It is anticipated that many cities have more than one Zip code.) The total list of Zip codes will become the inspection pool. The list of Zip codes will then be arranged numerically from smallest to largest number.

- C. Next, using the random number table from OSHA Instruction CPL 02-00-025, cycles of 10 (Zip codes) will be selected for inspection.

VIII. Inspection Procedures.

- A. When a CSHO is assigned a Zip code for inspection, the CSHO will drive the streets of that Zip code searching for active construction sites, including even those that do not have observed hazards. When the zip code is completed, it will be removed from the list.
- B. When the CSHO finds an active construction site, the CSHO will enter the site and conduct the inspection according to the Field Operations Manual (hereinafter "FOM"). Procedures outlined in the OSHA memorandum, Subject: Guidance to Compliance Officers for Focused Inspections in the Construction Industry, August 22, 1994, (Rev. (2) 9/20/95), will be followed as applicable. 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.
- C. The scope of all inspections conducted under this LEP will be comprehensive safety and health. If health hazards are identified (such as noise, silica, hexavalent chromium, etc.) and cannot be adequately addressed by the inspecting CSHO, a referral will be made 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 and an OSHA-55 will be completed.

IX. 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 University of Tennessee programmed inspection within the last trimester (4 months).
- B. The jobsite has had a comprehensive safety inspection within the last trimester (4 months).
- C. An employer on a jobsite is currently an active participant in one of the Team Kansas Partnerships and has received and passed a partnership verification inspection, unless a serious hazard or imminent danger relative to that employer is observed.
- D. 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).

- X. Recording in IMIS. OSHA-1 and OSHA-55 forms will be completed as follows.
- A. The OSHA-1 for all inspections conducted under this LEP shall be marked “Planned” (Item 24) and “Local Emphasis Program” (Item 25c). Record “ZIPCODE” in space 25c.
 - B. OSHA-55, Intervention Activity Reports initiated as necessary shall be marked in block 3b. “ZIPCODEInspection”. The OSHA-55, Block 16, *Local Emphasis*, shall be coded as “ZIPCODE”.
 - C. If, during the course of any inspection conducted under this LEP, it is determined that the project is a recipient of ARRA funds, all forms related to the inspection will be coded “N-02-ARRA” in the Optional Information Code block.
- XI. Evaluation. No later than November 15 of each year 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.

Charles E. Adkins, CIH
Regional Administrator, Region VII

Date

Office of the Solicitor Concurrence

Date

Distribution:

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