



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-09-2402

SUBJECT: Regional Emphasis Program for Programmed Construction Inspections

REGION: IX

SIGNATURE DATE: October 1, 2023

EFFECTIVE DATE: October 1, 2023

ABSTRACT

Purpose: This instruction renews policies and strategies to be followed when making programmed safety and health regional emphasis inspections of construction sites, including marine construction sites.

References: See paragraph III.

Cancellation: This instruction cancels Region IX Enforcement Programs Notice CPL 04-00-02, dated October 1, 2018.

Significant Changes: None.

Action Offices: All Region IX Regional and Area Offices

Originating Office: Region IX Enforcement Programs

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By and Under the Authority of:

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Regional Administrator

Executive Summary

This instruction renews policies and strategies to be followed when making programmed safety and health regional emphasis inspections of construction sites, including marine construction sites.

BLS data reveals construction employment as one of the most hazardous occupations in the United States. The construction industry had a fatal injury rate of 9.4 per 100,000 full-time workers in 2021, compared to 3.8 for all private industry.

Due to the hazardous nature of construction employment, OSHA has identified this industry as high-hazard in the FY 2023 Agency Management Plan.

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I. Purpose

This instruction renews policies and strategies to be followed when making programmed safety and health regional emphasis inspections of construction sites, including marine construction sites. The intent of this instruction is to reduce employee exposure to hazardous conditions, and to prevent injuries and illnesses and fatalities in this high-hazard industry.

II. Scope

This instruction applies to all Area Offices in Region IX.

III. References

- A. OSHA Instruction CPL 02-00-164, April 14, 2020, Field Operations Manual
- B. OSHA Instruction CPL 02-00-025, January 4, 1995, Scheduling System for Programmed Inspections
- C. OSHA Instruction CPL 02-00-051, May 28, 1998, Enforcement Exemptions and Limitations under the Current Appropriations Act (Appendix A updated annually)
- D. OSHA Instruction CPL 04-00-002, November 13, 2018, Procedures for the Approval of Local Emphasis Programs (LEPs)
- E. Memorandum dated December 3, 2014 on Procedures for Local and Regional Emphasis Programs.
- F. Memorandum dated November 12, 2014, on Establishment-Targeting Lists for Emphasis Programs.
- G. OSHA Instruction CPL 02-00-155, September 6, 2013, Inspection Scheduling for Construction

IV. Cancellation

Region IX Enforcement Programs CPL 04-00-02, dated October 1, 2018.

V. Expiration

This REP will expire no later than five years from the date of implementation, unless renewed.

VI. Action

OSHA compliance personnel will ensure the procedures contained in this instruction are followed in scheduling and conducting inspections under the REP.

VII. Definitions

- A. Programmed Inspections: Inspections of worksites which have been based upon objective or neutral selection criteria are programmed. The worksites are selected according to national scheduling plans for safety and health or regional or local emphasis programs.
- B. Unprogrammed Inspections: Inspections scheduled in response to alleged hazardous working conditions that have been identified at a specific worksite are unprogrammed. These types of inspections result from imminent danger situations, fatalities/catastrophes, complaints, and referrals. They also include follow-up and monitoring inspections.

VIII. Background

- A. BLS data reveals construction employment as one of the most hazardous occupations in the United States. The construction industry had a fatal injury rate of 9.4 per 100,000 full-time workers in 2021, compared to 3.8 for all private industry.
- B. Due to the hazardous nature of construction employment, OSHA has identified this industry as high-hazard in the FY 2023 Agency Management Plan.
- C. Construction is particularly hazardous and difficult to schedule due to the temporary nature of the worksites.

IX. Procedures

- A. Unprogrammed Inspections
 - 1. Unprogrammed construction inspections will be inspected in the following priority:

- a. Imminent Danger Situations
 - b. Fatality/Catastrophe Investigations
 - c. Complaint/Referral Investigations
2. Self-referrals will be conducted only with prior notification of the Area Director or Team Leader, unless an imminent danger situation is observed. The AD will be notified of the imminent danger situation as soon as possible.
 3. Based on observed site conditions, a determination of whether to expand the inspection will be made by the CSHO.
- B. Programmed Inspections
1. This instruction will be used for scheduling all programmed construction inspections in Region IX.
 2. Due to the mobility of employers in the construction industry, the transitory nature of construction sites, and the fact that sites often involve more than one employer, inspections shall be scheduled from a list of worksites rather than employers. Note: Scheduling of construction equipment yards will be under general schedule lists.
 3. It is anticipated that each Area Office will schedule construction inspections in each fiscal year, based on staff and travel budget availability.
 4. Worksite/Project Identification: Once per quarter, the Area Directors will identify construction worksites/projects in the Area Office's jurisdiction. OSHA will use the best available sources including: commerce directories, commercial telephone listings, internet searches, local permits, contractual schedules with Dodge Reports, University of Tennessee reports, the C-Target scheduling system, and local knowledge. OSHA may augment this identification process with field surveys.

C-Target lists should be run monthly, but the sites identified may not be imminently active. ADs should incorporate these sites into the quarterly lists as appropriate, based on expected levels of activity for these projects.
 5. Worksite/Project Selection and Scheduling

- a. At the beginning of each quarter, each Area Director will determine how many construction inspections are planned during the quarter. The number of programmed inspections will depend on factors such as program priorities, staff availability, and travel budget.
- b. The Area Director will create a randomly numbered list of all available worksites. Worksites shall be randomly ordered using the RANDBETWEEN function in Excel or an equivalent randomization tool. AOs may also send their master list to EP for randomization. All steps in the randomization process should be documented and this documentation should be maintained and filed with the master list, cycles, reasons for deferrals, and any other related information.
- c. If the number of sites determined is the same or greater than the number of worksites/projects on the scheduling list, all worksites on the list will be scheduled for inspection during that quarter.
- d. If the number of sites available exceeds the number determined, the AD will create a scheduling cycle by choosing a number of worksites from the top of the randomized list that will match the number of construction inspections planned for that quarter.
- e. Once the cycle has been selected, the AD may schedule inspections in any order depending on personnel and travel budget availability.
- f. Construction worksites identified will be inspected only once during each quarter, except for unprogrammed activity such as imminent danger situation, accidents, complaints, referrals, and follow-up inspections.
- g. It is important that the number of worksites requested by the AD is subsequently inspected. If a large number remain uninspected, the AD should either increase their resource commitment or lower the requested number of worksites in the next quarter.
- h. All quarterly lists, randomized lists, and cycles, including additions and deletions, shall be filed electronically on the regional shared drive or the regional Sharepoint site and retained for three years. Area Offices will coordinate with EP to ensure all documentation is filed quarterly.

6. Deletions from the Programmed Inspection Lists: Deletions from the worksites/projects list will be made in the following circumstances, and shall be documented on the master list in the shared drive:
 - a. There is little or no activity at a worksite.
 - b. During the current quarter, a substantially complete inspection has been conducted as a result of an unprogrammed activity (i.e., complaint).
 - c. The worksite/project has been approved for exemption from inspection through consultation or participation in the voluntary protection program.

C. Inspection Limitations

1. All Inspections:
 - a. When an on-site employer is inspected and there are items at that worksite that are under contest, or with an abatement date that is still open, those items shall be excluded from the scope of the inspection, unless monitoring of abatement is required (e.g., pursuant to a settlement agreement), or a potential imminent danger is involved. However, all other contractors without an open contested case at the site shall be inspected.
 - b. When the general contractor has invited on-site consultation, and the consultant is on-site, no inspection shall be conducted, unless a fatality, follow-up, imminent danger, complaint, or referral inspection is to be conducted. These inspections shall be limited to the subject items.
 - c. After the NAICS code for an employer is obtained, compare the number with the NAICS codes listed in Appendix A to CPL 02-00-051, Enforcement Exemptions and Limitations Under the Current Appropriations Act. In some cases, an employer with 10 or fewer employees may be exempt from an OSHA programmed safety inspection.
2. Unprogrammed Inspections: Limit the inspection to the items in the complaint, referral, or other unprogrammed issue, unless the compliance officer determines a cause to expand the inspection.

Expansion of the inspection must receive concurrence of the Area Director.

3. Programmed Inspections – Focus of Inspections: Although programmed inspections may be comprehensive, primary inspection efforts should be placed on significant hazards that are likely to cause death or serious injury. Typically this includes fall hazards, electrical hazards that would lead to electrocution, trenching hazards, crushing, or vehicular hazards.
4. As appropriate, when a CSHO identifies a site where employees are not exposed to hazards, the CSHO shall provide the employer's on-site representatives with appropriate training and outreach materials which address potential hazards at construction sites. This action shall be entered in OIS as a Compliance Assistance activity.

D. Construction Companies that Provide Employee Housing:

Temporary labor barracks associated with the construction worksite/project will be referred for separate scheduling, unless otherwise directed by the AD.

- E. Re-inspection: Any company at any worksite that has been inspected based on this REP may be subject to re-inspection.
1. Re-inspection may be based on unprogrammed events such as fatalities, catastrophes, complaints, referrals, and follow-up inspections. Inspections in these categories will be scheduled for inspection in accordance with existing procedures outlined in the Field Operations Manual, OSHA Instruction CPL 02-00-164.
 2. Re-inspection may also occur on a quarterly basis because the mechanism of identifying worksites/ projects within an AO jurisdiction is repeated. Therefore, if a worksite/project is still active, the location may be subject to another inspection.
 3. Re-inspection may also occur based on the need to verify abatement per the Abatement Verification Standard (29 CFR 1903.19).

X. Coding

In addition to recording information and entering data in OIS in accordance with all other relevant instructions and directives, for all construction inspections (programmed and unprogrammed) the following specific coding instructions apply:

- A. Inspection Type: Regional Emphasis Program code = **PROGCON**

NOTE: Please remember to code ALL inspections done in the construction industry with the PROGCON code in the REP field, whether or not these inspections are done as programmed inspections under the Regional Emphasis Program. All programmed and unprogrammed inspections of construction sites should be coded in this way to facilitate data retrieval.

For inspections conducted under this REP, or unprogrammed construction inspections, the PROGCON code shall be entered as the primary emphasis code. Other applicable REP or NEP codes may be entered as non-primary codes.

- B. Additional Codes:

R 05 [Location]

A specific location should also be entered in the optional information field. See Appendix A for a list of locations (note: the location should be entered exactly as it is listed in Appendix A; if no location is applicable for an inspection, do not create an R 05 location entry for that inspection without first confirming with EP).

- C. Programmed vs. Unprogrammed:

Sites which have been previously added to a scheduling list will be coded as programmed inspections. Self-referrals will be coded as unprogrammed activities. Referrals of current activity from other entities (base safety offices, tribal safety managers, etc.) will be coded as unprogrammed; notifications from these entities of upcoming projects will be added to the scheduling lists and coded as programmed.

XI. Evaluation

- A. At the midpoint of the effective period of this REP (two and a half years from the implementation date) and at the end of the effective period, evaluation reports will be completed that shall include the following elements:

1. The goal of the program.
 2. A determination of how effective the program was in meeting its goal.
 3. Data and information to support the conclusions stated in the goal, including enforcement statistics, as required in CPL 04-00-002, Procedures for the Approval of Local Emphasis Programs.
 4. Statement of whether the program should be continued, accompanied by a brief rationale.
 5. Description of any legal issues that arose which would necessitate a review by the Solicitor before renewal of the program could be approved.
 6. Any other comments or recommendations, including findings which might have an impact on how OSHA or the industry does business.
- B. This evaluation shall be submitted to the Regional Administrator for review, at which time a decision will be made to continue, amend, renew or discontinue the REP.

XII. Outreach

The Assistant Regional Administrator for Cooperative and State Programs and the Assistant Regional Administrator for Enforcement Programs will ensure the Area Directors and all Outreach staff are familiar with this directive and actively promote the REP when conducting outreach sessions and meetings. Hazards, work practices, and machinery associated with the construction industry and covered by this REP will be pointed out and discussed during outreach sessions and meetings. Handouts and publications that address these hazards, which are already developed and available, will be provided at outreach sessions and meetings. A copy of this REP will be provided to interested parties upon request.

Appendix A: Locations

The following list contains specific locations to be used in the Additional Codes field in OIS. Be sure to enter each location as shown in this Appendix, using all capital letters, to allow for consistent data retrieval:

Indian Lands

AGUA CALIENTE BAND OF CAHUILLA INDIANS	CALIFORNIA VALLEY MIWOK TRIBE
AK CHIN INDIAN COMMUNITY	CAMPO BAND OF MISSION INDIANS
ALTURAS RANCHERIA	CEDARVILLE RANCHERIA
AUBURN INDIAN COMMUNITY	CHEMEHUEVI RESERVATION
AUGUSTINE RESERVATION	CHICKEN RANCH RANCHERIA
BARONA BAND OF MISSION INDIANS	CLOVERDALE RANCHERIA
BATTLE MOUNTAIN BAND COUNCIL	COCOPAH TRIBE
BEAR RIVER BAND OF THE ROHNERVILLE RANCHERIA	COLD SPRINGS RANCHERIA
BEPTOH PAIUTE RESERVATION	COLORADO RIVER TRIBE
BERRY CREEK RANCHERIA	COLUSA RANCHERIA
BIG LAGOON RANCHERIA	CORTINA RANCHERIA
BIG PINE RESERVATION	COYOTE VALLEY RESERVATION
BIG SANDY RANCHERIA	CUYAPAIPE BAND OF MISSION INDIANS
BIG VALLEY RANCHERIA	DRY CREEK RANCHERIA
BISHOP RESERVATION	DUCKWATER SHOSHONE TRIBE
BLUE LAKE RANCHERIA	ELEM INDIAN COLONY
BRIDGEPORT INDIAN COLONY	ELK VALLEY RANCHERIA
BUENA VISTA RANCHERIA	ELKO BAND COUNCIL
CABAZON RESERVATION	ELY SHOSHONE TRIBE
CAHUILLA BAND OF MISSION INDIANS	ENTERPRISE RANCHERIA
	EWIIAAPAAYP INDIAN BAND
	FALLON BUSINESS COUNCIL
	FORT BIDWELL

FORT INDEPENDENCE RESERVATION
FORT MCDERMITT TRIBAL COUNCIL
FORT MCDOWELL YAVAPAI NATION
FORT MOHAVE RESERVATION
GILA RIVER INDIAN COMMUNITY
GRATON RANCHERIA
GREENVILLE RANCHERIA
GRINDSTONE CREEK RANCHERIA
GUIDIVILLE RANCHERIA
HAVASUPAI TRIBE
HOOPA VALLEY RESERVATION
HOPI TRIBE
HOPLAND RANCHERIA
HUALAPAI TRIBE
INAJA-COSMIT RESERVATION
IONE BAND OF MIWOK INDIANS
JACKSON RANCHERIA
JAMUL INDIAN VILLAGE
KAIBAB BAND OF PAIUTE INDIANS
KARUK TRIBE OF CALIFORNIA
LAJOLLA LUISENO INDIANS RESERVATION
LAPOSTA BAND OF MISSION INDIANS
LAS VEGAS TRIBE
LAYTONVILLE RANCHERIA
LONE PINE RESERVATION
LOS COYOTES RESERVATION
LOVELOCK TRIBAL COUNCIL
LOWER LAKE RANCHERIA

LYTTON RANCHERIA
MANCHESTER-POINT ARENA RANCHERIA
MANZANITA BAND OF MISSION INDIANS
MECHOOPDA INDIAN TRIBE OF THE CHICO
RANCHERIA
MESA GRANDE BAND OF MISSION INDIANS
MIDDLETOWN RANCHERIA
MOAPA BUSINESS COUNCIL
MOORTOWN RANCHERIA
MORONGO BAND OF MISSION INDIANS
NAVAJO GENERATING STATION
NAVAJO NATION – CHINILE
NAVAJO NATION – KAIBETO
NAVAJO NATION – KAYENTA
NAVAJO NATION – LEUPP
NAVAJO NATION - MANNY FARMS
NAVAJO NATION – NEW LANDS
NAVAJO NATION – TUBA CITY
NAVAJO NATION – WINDOW ROCK/FORT
DEFIANCE
NAVAJO NATION – OTHER
NORTH FORK RANCHERIA
PALA BAND OF MISSION INDIANS
PASCUA YAQUI TRIBE
PASKENTA BAND OF NOMELAKI INDIANS
PAUMA/YUIMA BAND OF MISSION INDIANS
PECHANGA BAND OF LUISENO INDIANS
PICAYUNE RANCHERIA OF CHUKCHANSI

INDIANS

PINOLEVILLE RANCHERIA
PIT RIVER TRIBE
POTTER VALLEY RANCHERIA
PRESIDIO TRUST CORPORATION
PYRAMID LAKE TRIBAL COUNCIL
QUARTZ VALLEY RESERVATION
QUECHAN TRIBE
RAMONA BAND OF MISSION INDIANS
REDDING RANCHERIA
REDWOOD VALLEY RANCHERIA
RENO SPARKS TRIBAL COUNCIL
RESIGHINI RANCHERIA
RINCON BAND OF MISSION INDIANS
ROBINSON RANCHERIA
ROUND VALLEY RANCHERIA
RUMSEY RANCHERIA
SALT RIVER PIMA – MARICOPA INDIAN
COMMUNITY
SAN CARLOS APACHE TRIBE
SAN JUAN SOUTHERN PAIUTE TRIBE
SAN MANUEL BAND OF MISSION INDIANS
SAN PASQUAL BAND OF DIEGUENO
INDIANS
SANTA ROSA BAND OF MISSION INDIANS
SANTA ROSA RANCHERIA
SANTA YNEZ BAND OF MISSION INDIANS
SANTA YSABEL BAND OF MISSION INDIANS

SCOTTS VALLEY RANCHERIA
SHEEP RANCH RANCHERIA
SHERWOOD VALLEY RANCHERIA
SHINGLE SPRINGS RANCHERIA
SHOSHONE PAIUTE BUSINESS COUNCIL
SMITH RIVER RANCHERIA
SOBOBA BAND OF LUISENO INDIANS
SOUTH FORK BAND COUNCIL
STEWARTS POINT RANCHERIA
SUMMIT LAKE PAIUTE COUNCIL
SUSANVILLE RANCHERIA
SYCUAN RESERVATION
TABLE BLUFF RESERVATION
TABLE MOUNTAIN RANCHERIA
TE-MOAK TRIBE OF WESTERN SHOSHONE
TIMBI-SHA SHOSHONE TRIBE
TOHONO O ODHAM NATION (please do not
use the ' in this tribe's name, OIS will
not accept it)
TONTO APACHE TRIBE
TORREZ-MARTINEZ DESERT CAHUILLA
RESERVATION
TRINIDAD RANCHERIA
TULE RIVER RESERVATION
TUOLOMNE RANCHERIA
TWENTYNINE PALMS BAND OF MISSION
INDIANS
UPPER LAKE RANCHERIA
VIEJAS (BARON LONG) RESERVATION

WALKER RIVER TRIBAL COUNCIL

WASHOE TRIBAL COUNCIL

WELLS BAND COUNCIL

WHITE MOUNTAIN TRIBE

WINNEMUCCA TRIBAL COUNCIL

YAVAPAI-APACHE INDIAN COMMUNITY

YAVAPAI-PRESCOTT COMMUNITY

YERINGTON PAIUTE COUNCIL

YOMBA TRIBAL COUNCIL

YUROK RESERVATION

Military Facilities

US AIR FORCE, ANDERSEN AFB
US AIR FORCE, BEALE AFB
US AIR FORCE, EDWARDS AFB
US AIR FORCE, FORT MACARTHUR AFS
US AIR FORCE, LOS ANGELES AFB
US AIR FORCE, MARCH ARB
US AIR FORCE, McCLELLAN AFB
US AIR FORCE, TRAVIS AFB
US AIR FORCE, VANDENBERG AFB
US ARMY, CAMP HAAN
US ARMY, CAMP PARKS
US ARMY, CAMP ROBERTS
US ARMY, CAMP SAN LUIS OBISPO
US ARMY, FORT HUACHUCA
US ARMY, FORT HUNTER LIGGETT
US ARMY, FORT IRWIN
US ARMY, JOINT FORCES TRAINING BASE
US ARMY, NATIONAL GUARD MARANA
US ARMY, PRESIDIO OF MONTEREY
US MARINE CORPS, AIR STATION
MIRAMAR
US MARINE CORPS, CAMP PENDLETON
US MARINE CORPS, MARINE CORPS
LOGISTICS BASE, NEBO
US MARINE CORPS, MARINE CORPS
LOGISTICS BASE, YERMO
US MARINE CORPS, MARINE CORPS
RECRUIT DEPOT, SAN DIEGO
US NAVY, NAVAL AIR STATION, NORTH
ISLAND
US NAVY, NAVAL AIR STATION, OLF
IMPERIAL BEACH
US NAVY, NAVAL BASE GUAM
US NAVY, NAVAL BASE VENTURA
COUNTY - PORT HUENEME
US NAVY, NAVAL BASE VENTURA
COUNTY - NAVAL AIR MISSILE TEST
CENTER, POINT MUGU
US NAVY, NAVAL BASE VENTURA
COUNTY - SAN NICOLAS ISLAND
US NAVY, NAVAL DEGASSING STATION,
POINT LOMA
US NAVY, NAVAL OCEAN CENTER-NAB,
CORONADO
US NAVY, NAVAL STATION, SAN DIEGO
US NAVY, NAVAL SUBMARINE BASE,
POINT LOMA
US NAVY, NAVAL SUPPLY CENTER, POINT
LOMA ANNEX
US NAVY, NAVAL SUPPLY CENTER, SAN
DIEGO
US NAVY, NAVAL WEAPONS CENTER,
CHINA LAKE
US NAVY, NAVAL WEAPONS CENTER,
SEAL BEACH, FALLBROOK ANNEX

US NAVY, NAVAL WEAPONS STATION,
CONCORD

US NAVY, POSTGRADUATE SCHOOL
US NAVY, SAN CLEMENTE ISLAND

Other Locations with Exclusive or Partial Federal Jurisdiction

HAWAII MARITIME CONSTRUCTION PROJECTS

GOLDEN GATE NATIONAL RECREATION AREA

(unspecified locations in GGNRA)

GOLDEN GATE NATIONAL RECREATION AREA, ALCATRAZ

GOLDEN GATE NATIONAL RECREATION AREA, FORT MASON

GOLDEN GATE NATIONAL RECREATION AREA, PRESIDIO

METROPOLITAN TRANSPORTATION COMMISSION

(bridge and transportation projects in the 9 county San Francisco Bay Area)

NASA AMES MOFFETT FIELD

NATIONAL PARK SERVICE, CABRILLO NATIONAL MONUMENT

NATIONAL PARK SERVICE, HALEAKALA NATIONAL PARK

NATIONAL PARK SERVICE, HAWAII VOLCANOES NATIONAL PARK

NATIONAL PARK SERVICE, JOSHUA TREE NATIONAL PARK

NATIONAL PARK SERVICE, KINGS CANYON NATIONAL PARK

NATIONAL PARK SERVICE, LASSEN VOLCANIC NATIONAL PARK

NATIONAL PARK SERVICE, SEQUOIA NATIONAL PARK

NATIONAL PARK SERVICE, YOSEMITE NATIONAL PARK

PORT OF LONG BEACH

PORT OF SAN DIEGO