



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-16-04D | **EFFECTIVE DATE:** October 1, 2018

SUBJECT: Kansas 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 identify commercial and residential construction worksites.

Scope: This Notice applies to construction worksites throughout the Wichita Area Office jurisdiction.

References: OSHA Instructions: CPL 02-00-051, Enforcement Exemptions and Limitations Under the Appropriations Act; CPL02-00-0160, Field Operations Manual; CPL 98-02X, Region-wide Local Emphasis Program (LEP) on Falls, Scaffolds, and Electrocutions from Overhead Power Lines in Construction; CPL 02-00-155, Inspection Scheduling for Construction CPL; CPL 03-00-009 OSHA Instruction: National Emphasis Program – Lead.

Cancellation: CPL 02-16-04C

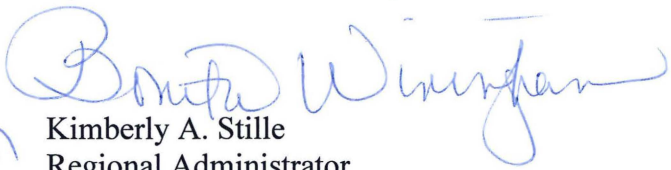
State Impact: No Impact

Action Offices: Wichita Area Office – Region VII

Originating Office: Kansas City Regional Office – Enforcement Programs

Contact: Assistant Regional Administrator for Enforcement Programs
(816) 283-8745

By and Under the Authority of:

for 
Kimberly A. Stille
Regional Administrator

Executive Summary

This Notice continues a local emphasis program to identify commercial and residential construction worksites following a severe weather event.

Significant Changes

This Notice cancels OSHA Regional Notice CPL 02-16-04C, Local Emphasis Program – Commercial and Residential Construction Following a Severe Weather Event.

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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. 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, and Appendix A, change dated April 25, 2018, 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 Local Emphasis Program (LEP) 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 (KRRRA).
- P. Kansas Emergency Management Association – 2017 Kansas Severe Weather Awareness Week, National Weather Service Information Packet (https://www.weather.gov/media/ddc/SWAW_newest.pdf)

IV. Cancellation.

This Notice cancels OSHA Regional Notice CPL 02-16-04C, Local Emphasis Program – Commercial and Residential Construction Following a Severe Weather Event.

V. Action.

The Regional Administrator and the Area Director for the Wichita Area Office shall ensure that Wichita Area Office adheres to the procedures established in this Notice in the scheduling of programmed inspections.

VI. Expiration Date.

The Notice will expire on September 30, 2019.

VII. Background.

In 2016, Kansas experienced 102 tornadoes, 40 more than the annual average according to the Kansas Emergency Management Association (KEMA). The tornado season spanned nine months, March 30 through December 25, 2016. The most tornado activity occurred in May with as many as 34 in a single day and 63 by the end of the month, according to KEMA.

Severe weather events such as these often cause structural damage prompting an increase in repair and construction activity. In May 2016, a tornado with winds calculated at 180 miles per hour destroyed homes and buildings along a half-mile path near Niles, Kansas. On July 7, 2016, two tornadoes contributed to the damage or complete destruction of 152 structures in Greenwood County. KEMA reported that the severe weather events on that day caused 3.8 million dollars in estimated damaged. An October 6, 2016 tornado outbreak resulted in seven documented tornados in Saline County, Kansas. The rural areas in Saline County suffered minor to catastrophic damage to residential and agriculture structures.

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.

This directive was instrumental in identifying 117 inspections from October 1, 2016 to July 31, 2018 or approximately 10% of all inspection activity from this Area Office. Inspections occurred throughout five counties to include Ford County, which realized the most tornado activity in any Kansas county in 2016. Inspection data from October 1, 2016 through July 31, 2018 identified inspections conducted using this directive

improved the working conditions for companies that controlled as many as 4,551 employees. Inspections conducted under this directive realized an in-compliance rate of 19%, an improvement of nearly 17% when compared to all inspections conducted from this office. Inspections conducted under this directive issue repeat violations at a 6% greater rate when compared to all inspections conducted in this office.

From October 1, 2016 to July 31, 2018, the Wichita Area Office conducted 117 inspections using this instruction resulting in the issuance of 206 violations. These inspections resulted in the issuance of 56 violations associated with the lack of fall protection in the construction industry, 32 violations associated with incomplete or inadequately constructed scaffolding, 28 violations associated with ladder safety, and 28 violations associated with inadequate training or the lack of training. Other hazards observed at the time of inspection included powered industrial truck operation and maintenance, personal protective equipment, and hazard communication.

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 labor 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 period, were from Texas, Missouri, or Montana.

This directive provides the Wichita Area Office a means to identify a broader range 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 where OSHA quickly addresses hazards at jobsites that of relatively short duration and OSHA protects vulnerable populations such as transient, often immigrant laborers.

VIII. Outreach.

The Wichita Area Office will make available upon request, an information package including a copy of the directive, 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 register with the State of Kansas. The Wichita Area Office will provide contact information for any questions the recipients may have concerning the LEP. There are currently 1,578 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. The Wichita Area Office will place any city with a population of 3,000 people and greater (see above) in which a severe weather event has occurred on an inspection cycle list. Each weather event will constitute an inspection cycle. If Wichita Area Office has not initiated the inspection-procedure for a city, on an inspection cycle list, within six months of the severe weather event, the office will remove that city from the inspection cycle. If a subsequent severe weather event occurs prior to completion of an inspection cycle, the Wichita Area OSHA Office will complete the 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. A Compliance Safety and Health Officer (CSHO) assigned a town or city for LEP inspection, can narrow the focus of the search by using local news and law enforcement information concerning the path of the severe weather condition, and driving the paved major roads within the town or city searching for active construction sites. Major roads are roads and streets that contain commercial business activity and may 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. The CSHO initiates an inspection if a location meets inspection criteria listed herein.

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- C. All inspections conducted under this LEP are comprehensive, unless an inspection meets the criteria set in "OSHA memorandum from James W. Stanley, Focused Inspections in the Construction Industry, revised September 20, 1995". The CSHO will perform a focused safety inspection if the inspection meets the criteria. The CSHO will document hazardous work exposures and review safety and health programs, training records, air monitoring surveys, noise surveys, etc., as applicable. If the CSHO identifies health hazards (such as noise, silica, hexavalent chromium, etc.) and cannot adequately address the health hazards, the CSHO will make a referral addressing the health hazards identified.
- D. If adequate programs exist and the CSHO identifies no hazards, the CSHO will consider the inspection in compliance.
- E. When the town or city is completed, remove it from the list.

X. 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 the CSHO observes a serious hazard or imminent danger relative to that employer.
- C. The jobsite is a construction site where employees perform all work inside the dwelling on the premises of an occupied residence. (Note: CSHOs will inspect worksites such as re-roofing, guttering, trenching, and other outside construction projects viewed from public access. These sites may require entry onto the owner's property but not inside their residence).


XII. Recording in OIS.

CSHOs must code all forms for all enforcement activities (inspections, complaints, and referrals) and compliance assistance conducted under this LEP 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).

XIV. 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

9/27/2018
Date

Edward H. Van Winkle

Office of the Solicitor Concurrence

09/27/2018

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 tornado is 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. The weather service issues a warning when the WSR-88 D radar indicates a tornado or when spotters sight one. People in the affected area should seek safe shelter immediately. The weather service can issued a Tornado Warning without a Tornado Watch being already in effect. The weather service usually issues warnings for a duration of around 30 minutes.

High Wind Warning - The National Weather Service issues a High Wind Warning when high wind speeds could pose a hazard or threat to life.

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

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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

This document is presented here as historical content, for research and review purposes only.

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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