



UTAH OCCUPATIONAL SAFETY AND HEALTH DIVISION (UOSH)

DIRECTIVE NUMBER: 2014-001	EFFECTIVE DATE: August 1, 2014
	REVISED DATE: March 24, 2016
SUBJECT: Local Emphasis Program for Construction Industry	

ABSTRACT

Purpose: This instruction establishes policies and strategies for a Local Emphasis Program (LEP) for the Construction Industry within SIC 1521 – 1799/NAICS 236115 – 238990.

References: UOSH Field Operations Manual (UFOM).
CPL 04-00-001, Procedures for Approval of Local Emphasis Programs (LEPs), 11/10/1999.
CPL 02-00-025, Scheduling System for Programed Inspections, 01/04/1995.
CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, 5/28/1998.
CPL 02-00-155, Inspection Scheduling for Construction, 09/06/2013.
OSHA memorandum, subject: Guidance to Compliance Officers for Focused Inspection in the Construction Industry, August 22, 1994 (Rev. (2) 9/20/95).

Distribution: UOSH Staff; Region VIII Area Office: H-Drive Accessible; and Internet Accessible.

Expiration: This LEP expires July 31, 2019. EXCEPTION: any inspection begun prior to this date may continue until its conclusion.

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I. Goal.

The goal of this Directive is to establish an enforcement initiative to reduce the incidents of injury, illness and fatality among workers in the construction industry, (SIC 1521 – 1799/NAICS 236115 - 238990) by focusing on the “Big 4” construction hazards: falls from elevations, caught-in or between, struck-by and electrocution.

II. Scope.

This Directive applies to all construction worksites under the jurisdiction of UOSH.

III. Expiration.

This Directive expires July 31, 2019, but may be renewed as necessary.

IV. Background.

In 2012, construction related fatalities accounted for sixty-four (64%) percent of all OSHA reportable fatalities in the State of Utah. The leading causes of death during this period were falls from elevation, struck-by, caught-in or between and electrocution.

Activities associated with construction fatalities include, but are not limited to; construction and demolition of residential, commercial and industrial structures; work from elevated surfaces such as; scaffolds, aerial equipment and ladders; trenching and excavation operations; construction, service or repair of overhead power lines; work on or near streets, roads, highways, bridges and overpasses for the purpose of building, maintaining or repairing.

UOSH initiated this program to reduce the incidents of injury, illness and fatality throughout the construction industry and to solicit the cooperation of the industry to achieve better and continuously effective safety and health programs.

UOSH will commit a number of resources to address this issue, including enforcement, outreach, training, onsite consultation and alliances.

The provisions of OSHA Instruction CPL 02-00-051 (CPL 2-1.51J), Enforcement Exemptions and Limitations under the Appropriations Act, Section XI and Enforcement Guidance for Small Employers shall apply where appropriate.

V. Action.

The Director or designee shall ensure that the procedures outlined in this Directive are followed during the effective period of this Directive. This Directive is not to conflict with inspection priorities as established in the UFOM.

When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with the current procedures for handling such refusals.

VI. Selection of Construction Sites.

- A. UOSH will use the 2010 census to create a list of towns/cities with populations of 1,000 or more people. UOSH believes that population centers of this size are more likely to have active construction sites than smaller towns/cities. This program is designed to be a broad based system that selects geographical areas within the state to establish a presence in the construction industry.
- B. The list of towns/cities will become the inspection pool. Using a random number list (see Appendix C of CPL-02-00-025 for guidance) or an internet-based randomized sequence generator, the towns/cities will be placed on a randomized list. The scheduling cycle for construction inspections is set to 15 towns/cities per cycle. Upon completion of each cycle, the next cycle will be selected for inspection. Once all cycles are completed, a new randomized list of towns/cities will be generated.
- C. All towns/cities within a cycle must be inspected. Geographical areas can be scheduled in any order to make efficient use of resources. After all towns/cities are inspected, they will be marked as completed on the original randomized list. Inspection cycles will be assigned until the original randomized list is completed.
- D. Due to Utah's dispersed and rural population centers, the Director or designee may select other areas for inspection within a geographical region. This will be done to reduce travel time to remote locations, improve efficiency of the inspection process and ensure thorough coverage of the selected towns/cities. The Director must ensure that all counties within UOSH's jurisdiction will be covered within a reasonable time period.
- E. If any changes in the selection process are necessary, the Director or designee must approve the change and document the justification for the desired change.

VII. Inspection Procedures.

The Director or designee shall use the LEP as described herein as the basis for scheduling and conducting safety inspections of construction sites. This system is intended to initiate safety inspections at all construction sites where "Big 4" hazards are expected or reported to exist. These inspections may be expanded to comprehensive inspections, in accordance with the guidelines established in the UFOM.

An inspection targeting system which encompasses random selection of construction sites is not practical. The "Big 4" hazards related to construction sites are normally transient and of limited duration. This limits the practicability of targeting the site in advance. The following procedures will be used to schedule and track inspections conducted under this LEP.

- A. When a Compliance Safety and Health Officer (CSHO) is assigned an area for inspection, the Compliance Supervisor (Supervisor) will define the geographical boundaries within the selected town/city prior to conducting the LEP inspection(s). The CSHO will drive the streets of the assigned area searching for active construction sites, including those that do not have observed hazards. CSHOs will not unnecessarily drive the same street under this LEP more than once, unless assigned an unprogrammed inspection that is located on the same street. CSHOs will track inspections conducted in the area(s) assigned and report weekly to their Supervisor the following information: inspection number; company name; site city and zip code; number of affected employees and indicate whether each inspection is covered by this LEP.
- B. When the CSHO finds an active construction site, the CSHO will enter the site and conduct the inspection according to the UFOM. Due to the nature of construction activity, an expedited opening conference shall be conducted by limiting activities to presenting credentials, identifying the employer and employee representative(s) and explaining the nature, scope and purpose of the inspection. The employer shall be advised that, because of the abbreviated nature of the opening conference, there will be a more extensive discussion at the closing conference. The walk-around inspection will then begin without further delay.
- During the walk-around inspection, hazards that are identified shall be addressed with the individual employer or employer representative of the exposed employees. A subcontractor should not be included in the inspection unless a serious violation has been observed by the CSHO.
- C. The CSHO will document all hazardous work exposures as well as review safety and health programs, training records, air monitoring and noise surveys, and any other documentation, as applicable.
- D. During all inspections, the CSHO shall determine whether or not there is project coordination by the general contractor, prime contractor or other such entity and evaluate the effectiveness of the site safety and health plan.
- E. If during the walk-around inspection the CSHO determines that the number of serious and other-than-serious hazards found on the project indicates that the safety and health program/plan is inadequate or is ineffectively implemented, the inspection shall be expanded to a comprehensive inspection. Employees shall be interviewed during the walk-around inspection to aid in the evaluation of the program/plan.
- F. Falls from elevations, caught-in or between, struck-by and electrocution (“Big 4”) will be addressed during both focused and comprehensive inspections due to the evidence that these hazards are a leading cause of injury and death within the construction industry.

All work sites where “Big 4” hazards could occur or where they are observed by CSHOs will be selected for inspection under this LEP.

See Appendix A: “Top Construction Hazard Categories” for examples of common construction hazards.

VIII. OSHA Information System (OIS) Coding.

- A. For any programmed inspection under this LEP, within the OIS case management system, under the Inspection Field, in the Inspection Types tab, the initiating type will be marked as “programmed planned” and in the Inspection Emphasis Programs Field under Local Emphasis Program, “RESCON” will be selected.
- B. For all programmed inspections such as other National Emphasis Programs/Local Emphasis Programs (NEP/LEP) conducted in conjunction with an LEP inspection under this initiative, within the OIS case management system, under the Inspection Field, in the Inspection Types tab, the initiating type will be marked “program planned” and in the Inspection Emphasis Programs Field select all NEP/LEP OIS codes applicable to the inspection.

IX. Program Evaluation.

- A. Abatement documentation/verification will be submitted to or otherwise collected by UOSH for all violations. Proof of abatement must be placed in the case file immediately upon verification.
- B. UOSH will prepare a written evaluation of this LEP in the format specified by OSHA Instruction CPL 04-00-001. The evaluation must respond to the questions outlined in Appendix B of this LEP, which is taken from Appendix A of CPL 04-00-001. Evaluations will be submitted to the Director or designee. The evaluation will include a recommendation for the continuation or elimination of this program.

X. Outreach and Education.

The Director or designee will assure that Consultation and Education Services Section staff are familiar with this directive and actively promote the LEP when conducting outreach sessions and meetings. Fall from elevations, caught-in or between, struck-by and electrocution hazards covered by this LEP 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 LEP will be provided to interested parties upon request.

APPENDIX A

TOP CONSTRUCTION HAZARD CATAGORIES

1. **FALL PROTECTION** - Serious hazards associated with Fall Protection.
 - No guardrails (6' or greater in height)
 - No personal fall arrest systems (6' or greater in height)
 - No fall protection plan (must prove infeasibility or greater hazard)
 - Wall/window/floor openings not guarded or covered

2. **ELECTRICAL** - Serious hazards associated with Electrical Installations.
 - No ground fault current interrupter (GFCI)
 - Damaged electrical cords/tools
 - Exposure to energized electrical equipment and power lines

3. **CAUGHT IN/BETWEEN** - Serious hazards associated with trenching and excavation.
 - Excavation/Trench cave-ins
 - Unguarded machinery and equipment

4. **STRUCK BY** - Serious hazards associated with being injured by:
 - Falling objects
 - Vehicles

5. **SCAFFOLDS** - Serious hazards associated with Scaffolds and Scaffold Platforms.
 - No guardrails (10' or greater in height)
 - Single or damaged scaffold planks/platforms
 - No personal fall arrest system (ladder jack scaffolds)
 - Scaffold is not designed with a 4 times safety factor
 - Rough terrain forklift work platform (not tied off, platform not secured)

6. **LADDERS** – Serious hazards associated with Fixed and Portable
 - Extension ladder is not extended 3' above the roof or other surface
 - Extension ladder is not tied off (using ladder to access the roof)
 - Standing on the top step or cap of a step ladder
 - Damaged/broken ladders
 - Not providing a ladder for access to heights greater than 19'

7. **PERSONAL PROTECTIVE EQUIPMENT** - Serious head, eye, and extremity injuries.
 - No hard hats (falling objects, swinging lumber, moving equipment)
 - No safety glasses (flying debris, grinding/cutting)
 - No hearing protection (equipment and tool noise)
 - Gloves (cuts, lacerations, abrasions, thermal or chemical burns)
 - Foot guards/safety shoes (falling or rolling objects)
 - Respirators (harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors)

8. **TOOL GUARDING** - Serious hazards caused by unguarded tools and equipment.
- No guards on saws and grinders
 - Safety guards disabled
 - Tools not in good working condition
 - Use the right tool for the job
 - Operate tools and equipment according to the manufacturer's instructions

APPENDIX B

PROGRAM EVALUATION ITEMS FOR LOCAL EMPHASIS PROGRAMS (LEPs)

The program evaluations of LEPs required by this instruction shall address the following items:

1. What is the goal of the LEP? Briefly describe the purpose of the LEP (e.g. eliminate dangerous process(es), exposure to safety and health hazards, injuries/illnesses or fatalities) and include any specifics that caused you to choose this program. How does it support UOSH's Strategic Plan?
2. In your opinion, did the LEP meet its goal?
Indicate if the program was:
 - highly effective,
 - effective,
 - less than effective, or
 - ineffective.

If this determination is not possible, indicate accordingly and briefly explain.

3. What data and information do you have to support your conclusion(s)?

At a minimum, consider the following areas of information in making your response. Note that some of the subjects listed at 3.a. through g. will not apply to every LEP. Where a subject is clearly not applicable or no responsive information can be ascertained, this should be so noted in the evaluation.

a. Enforcement statistics. Include:

- Number of inspections;
- Number of inspections in compliance;
- Number of "no inspection" cases;
- Percent of violations cited that are serious;
- Number of employees covered by inspection;
- Dollar amount of penalties assessed;
- Percent of citations contested;
- Number of significant cases;
- Average violations per inspection; and
- Any other data which may be relevant to supporting your conclusion.

b. Significant and egregious cases:

List and briefly describe all significant and egregious cases, if any.

c. Serious hazards eliminated.

In responding, consider important:

- Repeat violations.

- Hazards cited for given employer that do not reappear once abated, such as hazardous airborne substances in an unventilated workplace area.

d. Evaluate and briefly comment on the overall list of standards cited to determine whether the LEP is addressing the goal.

e. Decline in occupational injuries, illnesses, and fatalities for the establishments covered by the LEP:

- Have injuries, illnesses, and/or fatalities declined in the State of Utah because of the program?
- Did the program cause a reduction of specific injuries, illnesses and/or fatalities that are common to the covered industries?

f. Impact on covered, non-inspected employers (deterrent effect on employers):

Were covered employers who were not inspected aware of the LEP, and did they eliminate serious hazards targeted by the program? If so, briefly describe significant example(s).

NOTE: Information regarding a deterrent effect might be detected from outreach sessions, new constituency groups, informal conferences, and speech and information requests.

g. Impact on suppliers of production equipment (shadow effect on suppliers):

Were manufacturers of production equipment aware of the LEP, and did they respond by modifying their products to minimize employee exposure to occupational hazards? If so, briefly describe significant example(s).

4. Should the LEP be continued?

Answer "yes" or "no" and give a brief rationale.

5. Have any legal issues arisen that should be brought to the attention of the Assistant Attorney General (AAG) if the LEP is to be proposed for renewal?

If "yes," describe them in sufficient detail for AAG to make a determination.

6. Are there any other comments or recommendations?

Consider any findings which might influence Regional or National OSHA programs and policies. Also, consider economic and technological factors impacting industries covered under the LEP, which could only be changed by revising the production process and would be beyond the employer's current financial capabilities.