



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-09-01R

EFFECTIVE DATE: October 1, 2008

SUBJECT: Regional Emphasis Program on Fall Hazards in Construction

REGIONAL IDENTIFIER: Denver Region VIII

ABSTRACT

Purpose: This Notice establishes a Regional Emphasis Program (REP) for the programmed inspection of commercial and residential construction operations having potential fall from elevation hazards in accordance with the provisions of OSHA Instruction CPL 04-00-001 dated November 10, 1999.

Scope: This Notice applies to commercial and residential construction operations with potential fall hazards located within the jurisdiction of each Area Office in Region VIII.

References: OSHA Instruction CPL 04-00-001, Procedures for Approval of Regional Emphasis Programs (REPs), November 10, 1999.
OSHA Instruction CPL 02-00-25, Scheduling System for Programmed Inspections, January 4, 1995.

State Impact: None

Action Offices: Billings Area Office, Bismarck Area Office, Denver Area Office and Englewood Area Office

Originating Office: Denver Regional Office

Contact: Assistant Regional Administrator for FSO
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Denver, CO 80201
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By and Under the Authority of:

Edward J. Baxter

Gregory J. Baxter, Regional Administrator, VIII

for

Executive Summary

This Notice establishes a Regional Emphasis Program on Fall Hazards in Construction to eliminate employee exposures to fall hazards from elevation associated with commercial and residential construction through an enforcement program.

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- I. **Purpose:** This Notice establishes a Regional Emphasis Program (REP) for the programmed inspection of commercial and residential construction operations having potential fall from elevation hazards in accordance with the provisions of OSHA. Instruction CPL 04-00-001 dated November 10, 1999.
- II. **Scope:** This Notice applies to commercial and residential construction operations with potential fall hazards located within the jurisdiction of each Area Office in Region VIII.
- III. **References:**
 - A. OSHA Instruction CPL 04-00-001, Approval of Regional Emphasis Programs (REPs), November 10, 1999.
 - B. OSHA Instruction CPL 02-00-25, Scheduling System for Programmed Inspections, January 4, 1995.
 - C. OSHA Instruction CPL 02-00-051, Exemptions and Limitations under the Current Appropriations Act, Appendix A, December 10, 2007.
 - D. OSHA Instruction CPL 02-00-103, Field Inspection Reference Manual (FIRM), September 26, 1994.
 - E. August 22, 1994, (Rev. (2) 9/20/95), OSHA Memorandum, Subject: Guidance to Compliance Officers for Focused Inspections in the Construction Industry.
 - F. Bureau of Labor Statistics (BLS) Fatal Occupational Injury Data, 1993, 1994, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2007.
 - G. OSHA Instruction CPL 02-02-069, Special Emphasis Program (SEP)/National Emphasis Program (NEP): Trenching and Excavation, September 19, 1985.
 - H. Occupational Safety & Health Administration Region VIII Six Year Statistical Analysis: Accident Fatalities 1997-2002, prepared by Sam Adair, Occupational Safety and Health Internship, University of Connecticut – School of Allied Health, May 27, 2003.
- IV. **Expiration:** This REP expires on September 30, 2009.
- V. **Action Office:** Billings Area Office, Bismarck Area Office, Denver Area Office and Englewood Area Office
- VI. **Background:**

The fatality census began in 1992. On August 22, 1994, OSHA implemented a policy to focus construction inspections on the hazards that are related to the four leading causes of death that make up 90% of all construction fatalities: falls from elevations, struck by, caught in-between, and electrical shock (Reference E). The policy on inspection guidance for focused inspections states, "This memorandum...is intended to be supplemented regionally by training and, if appropriate, through Regional emphasis programs."

In Region VIII, construction fatalities accounted for 51% of all workplace fatalities. A 35% percent increase in construction fatalities was observed from 2007 to 2008. Region VIII 2008 fatality data showed 30% of the regional fatalities occurred from falls from elevation. 67% of the falls occurred in construction. Falls from elevation were the leading cause of death in region VIII during 2008. According to BLS's preliminary 2007 National census, 835 fatals from falls occurred in 2007 which is a series high since the fatality census began in 1992.

VII. Inspection Scheduling and Selection of Sites:

- A.** All compliance personnel shall be instructed to be observant of both commercial and residential construction operations having potential fall from elevation hazards. Every observation of such operations shall be handled as follows:
1. Whenever a Compliance Safety and Health Officer (CSHO) observes or receives any other notice of a construction operation with potential fall from elevation hazards (including nonformal complaints, other government agency referrals, media referrals and reports from members of the public) the CSHO shall:
 - a. Make note of the state and condition of the work operation in so far as it is known, including any apparent serious hazards.
 - b. Note the name and address or location of the worksite and the contractor performing the operation, if known.
 - c. Contact the Area Office team leader for a decision as to whether an inspection is required pursuant to this REP.
 2. All construction operations having potential fall from elevation hazards brought to the attention of the Area Office shall be inspected as follows:
 - a. If the worksite has been inspected within the last 30 days, the results of the inspection shall be considered along with the current observations of the CSHO.
 - (1) If the previous inspection included a meaningful inspection of fall protection hazards and the employer's response to such hazards, the team leader shall authorize an inspection only if apparent serious fall hazards are observed at the site.
 - (2) If the previous inspection did not include a meaningful inspection of fall protection hazards and/or the employer's response to such hazards, the team leader shall authorize an inspection.
 - b. If the worksite has not been inspected within the last 30 days, an inspection shall be conducted unless it is apparent that the site is in compliance with all OSHA standards governing such operations.
 3. Reports of imminent danger, fatality/catastrophe reports, complaints, referrals

and media reports shall be scheduled as unprogrammed inspections, conducted as described in the relevant chapters of the Field Inspection Reference Manual (FIRM). All complaints will be handled under the guidelines set forth in CPL 02-00-140, Complaint Policies and Procedures.

4. Whenever OSHA receives notice by any means (including formal or nonformal complaints, other government agency referrals, media referrals and reports from members of the public), of a construction operation, especially a residential construction operation, that is alleged to have a potential fall from elevation hazard (or of an incident involving a fall at a construction operation), such notice shall be directed to a Team Leader for evaluation and action in accordance with Section VII.A.1 above. If an inspection assignment is made, then the inspection shall be conducted as described in the relevant chapters of the Field Inspection Reference Manual (FIRM). Complaints shall be handled under the guidelines set forth in CPL 02-00-140, Complaint Policies and Procedures.
- B.** The Area Director (AD) may develop a supplemental plan as an addendum to this REP to focus resources on areas of high construction activity for the purpose of identifying fall from elevation hazard sites within that area as far as reasonably possible. Any such supplemental plan will set forth the reasons for selecting the area(s) to be focused on, and such reasons to be based upon objective data justifying the selection.

VIII. Inspection Procedures:

- A.** Documentation of the events leading up to the observation or the reporting of the potential fall from elevation hazard worksite shall be maintained by the Area Office in case of denial of entry.
- B.** If the CSHO initially observing the work operation involving a potential fall from elevation hazard sees an apparently serious hazard in plain view, and if it is not convenient to contact the Team Leader at this time, a programmed inspection shall be conducted and the Team Leader informed as soon as practicable after the inspection is completed.
- C.** The scope of the inspections conducted under this REP shall normally be limited to the fall from elevation hazards and to serious hazards in the other three primary focus areas, i.e., electrical hazards, struck by hazards and caught in/between hazards such as trenching (as specified in NEP on Trenching and Excavation and Focused Inspections in Construction Guidance Memorandum, August 22, 1994, Revision 2, 9/20/95). If additional serious hazards are observed or brought to the attention of the CSHO during the inspection, the CSHO may expand the inspection to address these hazards.

IX. Outreach:

Each Area Office has conducted and continues to provide outreach on fall hazards in the construction industry. Outreach has been in the form of speeches, training seminars, newsletters to groups identified by the Compliance Assistance Specialist (CAS) and CSHOs.

X. Partnerships:

Partnerships may be developed with the covered employers in accordance with OSHA Instruction CSP 03-02-001, OSHA Strategic Partnerships for Worker Safety and Health, and may include incentives such as:

- A. Outreach information and assistance during the initial implementation phase of a Partnership;
- B. Priority consideration for onsite consultative services provided by OSHA's 21(d) Program;
- C. Programmed inspections that focus on the most serious hazards prevailing at the partnering workplaces;
- D. Penalty reductions calculated in accordance with Agency procedures in the Field Inspection Reference Manual (FIRM) that provide good-faith reductions for effective safety and health programs;
- E. Agreement about ways the parties may provide positive publicity about the partnership and the partnering establishments; and
- F. Providing technical assistance which will be a valuable component in any partnerships.

XI. IMIS Coding: Inspections conducted under this REP will be identified in the OSHA Integrated Management Information System (IMIS) as follows:

- A. The OSHA-1 for any programmed inspection scheduled under the procedures in this REP shall be marked "planned" item 24h. "Local Emphasis Program" and the word "FALL" shall be recorded in the LEP space item 25c.
- B. The OSHA-1 for any unprogrammed inspection scheduled under the provisions of the FIRM for relating to complaints, referrals requiring inspection, imminent danger and fatality/catastrophe investigations will be coded as normally required under the FIRM. In addition, the designation "FALL" will be recorded in the LEP space item 25c.
- C. Inspections initiated by a targeted list will be coded as "Programmed." Inspections initiated by compliance officers following observations of fall hazards coded as "Programmed". Inspections initiated as a result of accidents, fatalities, catastrophes, complaints, or referrals will be coded as "Unprogrammed." In all cases, the appropriate Strategic Code will be placed on the OSHA-1 and the LEP code of "FALL" will be entered. In addition, the IMMLANG code should be entered in block 42 Optional Information and N -01 - (OSHA 1 NUMBER) should be entered for all construction-related fatality inspections.
- D. Operation Plan Codes: Two hazard areas of emphasis may be encountered on inspections relevant to the REP. The two new areas of emphasis are FALL FROM HEIGHT and POWERED IND VEHICLE. Use the drop-down box on the OSHA-1 to

select the applicable codes if there is a potential injury from a fall from elevation and/or for activities where there is a potential exposure to a powered industrial vehicle (ex. Forklifts, tractors, loaders, bulldozers, backhoes, harvesters, combines and mobile planters).

XII. Program Evaluation:

No later than October 31, 2009, the Area Offices will provide an evaluation of this REP to the Regional Office. The Regional Office will provide the National Office with one evaluation of this REP. At a minimum, the evaluation should respond to the requirements of CPL 04-00-001, Section D, Appendix A and Directorate of Enforcement Programs memorandum dated October 18, 2002 for Annual Evaluations of Local Emphasis Programs (LEPs).

DISTRIBUTION: Directorate of Enforcement Programs
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Regional Office of the Solicitor