



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-02-2406

SUBJECT: Regional Emphasis Program- Tree and Landscaping Operations

REGION: II

SIGNATURE DATE: October 1, 2023

EFFECTIVE DATE: October 1, 2023

ABSTRACT

- Purpose:** This establishes a Regional Emphasis Program (REP) for programmed inspections to reduce workplace fatalities and injuries during tree removal, tree trimming and land clearing operations, targeting NAICS codes 561730 (Tree Trimming & Removal and Landscaping Service Industries) and 238910 (Site Preparation Contractors).
- Scope:** This instruction applies to all Region II Area Offices.
- References:** See section III
- Cancellations:** None
- State Impact:** All 21(d) Consultation Programs throughout Region 2 will be informed of the Region-Wide Local Emphasis Program and will be invited to participate in outreach activities.
- Action Offices:** All Region II Area Offices
- Originating Office:** Office of Regional Administrator
- Contact:** Office of the Regional Administrator
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By and Under the Authority of

Richard Mendelson
Regional Administrator

Executive Summary

This regional instruction provides guidance to the OSHA Regional and Area Offices when scheduling and conducting inspections in the Tree and Landscape Industry. Employees working in this industry are exposed to amputations, falls from height, electrical, struck by and noise.

Significant Changes

None.

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I. Purpose.

The purpose of this instruction is to provide an inspection scheduling system to cover high-hazard activities within the context of current law and OSHA policy. Safety and health programmed inspections of employers engaged in the Tree and Landscape Industry are to be scheduled using this program notice.

This REP is intended to reduce the number of fatalities, serious injuries, and serious safety and health hazards relating to tree trimming, tree removal, landscaping service activities, and site clearing operations. These activities include the use of heavy equipment such as cranes, grapples, stump grinders, loaders, and chippers; elevated work platforms such as aerial devices; tree climbing, tree removal and trimming power equipment; and electrical hazards. Most of these activities involve exposures to hazards that are among OSHA's strategic emphasis areas, such as amputations, falls, electrical, struck by, and noise.

This REP consists primarily of two elements. The first element is an outreach component that will be conducted to raise employer and employee awareness of the hazards associated with Tree Trimming and Landscape Operations. The second element is an inspection targeting initiative to reduce employee exposures to the hazards found Tree Trimming and Landscape Operations, industries identified under NAICS codes 238910 and 561730.

II. Scope.

This instruction applies to all Region II Area Offices.

III. References.

- A. CPL 02-00-164, Field Operations Manual (FOM), 5/14/2020.
- B. CPL 04-00-002, Procedures for Approval of Local Emphasis Programs (LEPs) 10/1/2018.
- C. CPL 02-00-025, Scheduling System for Programmed Inspections, 01/04/1995.
- D. CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act.
- E. American National Standards for Arboricultural Operations – Safety Requirements (ANSI Z133.2017), or most recent version.
- F. OSHA Memorandum dated June 30, 2021, Interim Enforcement Inspection Guidance for Tree Care and Tree Removal Operations.
- G. OSHA Memorandum dated December 3, 2014, Procedures for Local and Regional Enforcement Programs.
- H. OSHA Memorandum dated November 13, 2014, Establishment Targeting Lists for Emphasis Programs.
- I. OSHA Technical Manual, Section III: Chapter 5 Noise
<https://www.osha.gov/otm/section-3-health-hazards/chapter-5>

IV. Expiration Date

This instruction expires on September 30, 2028.

EXCEPTION: Any inspection begun prior to September 30, 2028, may continue until its conclusion.

V. Cancellations.

None.

VI. Action Offices.

A. Responsible Office.

OSHA Region II, NY Regional Office.

B. Action Office.

OSHA Area Offices.

VII. Federal Program Change.

None

VIII. Significant Changes.

None

IX. Background

Tree and landscape services industries are high hazard industries because of the nature of the hazards and the high injury, illness, and fatality rates. It is OSHA policy that programmed inspections be conducted primarily in high-hazard sectors of employment.

For purposes of this REP, the Tree and Landscape Services Industry includes but is not limited to such activities as arborist services; ornamental tree and bush planting, pruning, bracing, spraying, removal, surgery and utility line tree trimming services and mowing services on highways, lawns, and road strips. These employers and employees work at heights where they are exposed to falls from trees, roofs, ladders and elevating equipment.; exposed to being struck-by hazards from vehicles, traffic, heavy equipment, trees, limbs and branches; amputations from chain saws, brush chippers and stump grinders; safety hazards from other power tools; and electrocutions when workers (or a branch, or a tool or other piece of equipment that the worker was touching) come in contact with energized power lines or electric transformers. Published occupational injury and illness data shows that the tree and landscape services industry have high fatality, injury, and illness rates. In 2021, the most recent year that such data is available from BLS, there were 300 fatal occupational injuries and illnesses nationwide in the landscaping and tree services industries specified in the NAICS codes 238910 and 561730. Causes included transportation incidents, falls, and contact with objects and equipment.

This Emphasis Program is intended to reduce the number of fatalities, injuries, and

serious safety and health hazards relating to tree trimming, tree removal, and landscaping service industries, including the use of heavy equipment such as cranes, loaders, and chippers), elevated work platforms such as bucket trucks and aerial lifts, tree climbing equipment, and tree trimming equipment. These activities involve exposures to hazards that are among OSHA's strategic emphasis areas, such as struck-by hazards, amputations, falls, electrical, and noise.

Nationally, the published 2020 injury and illness rates for NAICS Code 561730 Tree Trimming & Removal and Landscaping Service Industries are above the national averages for fatalities; injuries or illnesses resulting in Days Away from Work, Restricted Work Activity, or Job Transfer for every 100 full-time workers (known as the DART rate); and for the total case rate (TCR).

In Region 2, throughout the past five fiscal years (FY17-FY21) there have been 53 fatalities and numerous other serious permanent disabling injuries related to tree and landscape work activities. Causes of these fatalities include struck-by, crushed by, falls, electrocution, heat, and chemical exposures.

X. Procedures

- A. Compliance Safety and Health Officers (CSHOs) shall, while traveling during their workday, be watchful for employee(s) performing highway and road landscaping operations, tree removal, tree trimming, line-clearance tree-trimming operations, or other tree activities who are exposed to one or more unprotected serious hazard(s) (such as falls, electrical, and/or struck-by hazard(s)). Compliance officers seeing such unprotected exposures shall attempt to contact the area office either to obtain supervisory authorization to begin an immediate inspection; or, in cases where the CSHO is unable to begin an immediate inspection, to notify the area office of the CSHO's observations. Supervisory approval to start the inspection will normally be granted to the CSHO provided that this inspection activity does not conflict with higher priority inspection activity, and provided that the CSHO has the necessary training, expertise and equipment to conduct the inspection. In addition, many tree removal companies hire cranes with an operator through crane rental companies. The crane rental company shall be included in the inspection under this Emphasis Program.
- B. If the CSHO has no readily available means to contact the area office or is otherwise unable to reach area office personnel who can authorize the inspection, the CSHO will begin an immediate limited scope inspection provided this activity will not interfere with higher priority inspections or assignments. In these cases, the CSHO will give highest priority to preventing further employee exposure to the fall hazards observed.
- C. Whenever an inspection is begun under this REP on the basis of a CSHO self-referral, the CSHO will include in the case file narrative, a description of the circumstances which resulted in discovery of the employee exposure that was the basis of the referral. The case file narrative shall also indicate if supervisory

authorization for the inspection was obtained prior to the start of the inspection, or an explanation why this authorization was not obtained or sought.

- D. The scope of inspections scheduled under this REP will generally be partial safety inspections but may be expanded to address additional hazards based on information gathered by the CSHO during the inspection process, in accordance with the Field Operations Manual.
- E. If a formal complaint or referral is received related to a worksite which falls under this Special Emphasis Program, the complaint or referral item(s) shall be investigated in accordance with OSHA current policy including Instruction CPL 02-00-164, chapter 3, Inspection Procedures and an inspection as required by this special emphasis program should be conducted if the Area Director determines that the facility has not already been inspected as per this instruction and resources are available to conduct the special emphasis program.
- F. If a nonformal complaint is received related to a worksite which falls under this special emphasis program, and if an inspection is conducted to investigate the complaint based on the criteria contained in OSHA policy including Instruction CPL 02-00-164, chapter 3, Inspection Procedures, then an inspection as required by this special emphasis program should be conducted if the Area Director determines that the facility has not already been inspected under this instruction and resources are available to conduct the special emphasis program inspection.
- G. Responses to accidents, fatalities and catastrophes at worksites which fall under this special emphasis program shall follow the guidelines contained in OSHA Instruction CPL 02-00-164, Chapter 11, Imminent Danger, Fatality, Catastrophe and Emergency Response Procedures and OSHA Instruction CPL 02-00-164, Chapter 3, Inspection Procedures. In addition, an inspection as required by this special emphasis program should be conducted if the Area Director determines that the facility has not already been inspected under this instruction and resources are available to conduct the special emphasis program inspection.
- H. Area Offices will ensure that they schedule, and conduct enforcement activities related to this REP following the guidelines set forth in CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act.
- I. During all programmed safety and health inspections (such as national or local emphasis programs), and during all unprogrammed inspections (accidents, fatalities, complaints and referrals) involving alleged fall hazards, CSHOs will evaluate and include as appropriate the following activities as part of their inspections:
 - a. CSHOs shall determine the scope of work and applicable OSHA standards (e.g., Vegetation Management for Power Transmission & Distribution 1910.269 or Logging 1910.266).
 - b. Application of §1910.132: CSHOs shall assess the employer's compliance with OSHA's personal protective equipment (PPE) requirements at 29 CFR Part 1910 Subpart I, which mandates that for most types of PPE, employers shall provide

the equipment at no cost to employees (29 CFR 1910.132(h) (72 FR 64342 (11/15/2007))).

- i. Note that §1910.132(h) has certain exceptions from those requirements. In addition, CSHOs will determine the need for other PPE, such as, but not limited to head protection, eye and face protection, hand and foot protection, hearing protection, and cut-resistant leg protection (e.g., chaps). Employers shall be cited under the relevant provisions of the PPE standard(s) if employees are not provided with appropriate protective measures.
- c. Application of 1910.95, Occupational Noise Exposure. CSHOs will determine if noise levels exceed 90dBA (slow response) with a sound level meter to determine if 8-hour TWA (time-weighted-average) sampling is necessary and if a hearing conservation program is required and administered by the employer.
- d. Application of 1910.180, Cranes, 1910.184 slings, other lifting equipment and rigging. CSHOs shall determine if the operator is qualified to operate the equipment, the cranes have a periodic inspection (written documentation required), load charts are available, weight charts or other method to determine the weight of materials being lifted are available, and whether the ground conditions can support the crane and the load where it is set up.

In addition, the CSHO shall determine if any employees are being hoisted by a crane. Although ANSI Z133-2017 5.7.11 allows the hoisting of a qualified arborist, the ANSI standard prohibits hoisting an individual on the crane load or hook unless the employer has determined that all reasonably possible alternative methods are inaccessible and attachment to the tree would create a greater hazard. If so, the CSHO will determine if another safer alternative method is available (e.g., aerial lift, adjacent tree, second crane, etc.). An employer's reliance on the ANSI standard is therefore not a defense of 1910.180(h)(3)(v). If an employer argues or implies that it will assert a greater hazard defense, the CSHO shall request in writing all documents from the employer concerning that alleged defense, including, for example, any forms or other documentation that the employer completed prior to commencing the work as a result of which the employer determined that hoisting an individual on the crane load or hook was allegedly the safest method.
- e. Application of 29CFR 1926, Construction Regulations. CSHO shall evaluate the conditions and hazards identified on the site and determine compliance with the applicable OSHA standards.
- f. CSHOs shall evaluate the proximity to overhead energized wires for material handling and hoisting equipment, personnel hoisting (bucket trucks, aerial lifts, etc.), and proximity of worker in relationship to tree climbing, and tools and

equipment.

- g. CSHOs will evaluate the application of the Manual of Uniform Traffic Control Devices (MUTCD) for work being performed where arborists and workers are exposed to moving roadway traffic that requires a temporary traffic control zone with the appropriate high-visibility safety apparel, advance warning signs and vehicular traffic directional signage.

XI. Outreach

- A. Initial Outreach: Area Offices will provide initial outreach to stakeholders for a period of three months from the effective date of the REP to the enforcement date. Stakeholders may include local landscape and tree associations, members of OSHA partnerships, and alliances or other entities identified by the office. The Region 2 REP will be announced to stakeholders during the initial outreach period and stakeholders will be apprised of the concentrated inspection effort planned to reduce occupational fatalities, injuries, and illnesses associated with tree trimming, tree removal, and landscaping services. The notification will also explain services available to employers through state 21(d) Consultation services. Outreach during this period may include but is not limited to, media press releases, and stakeholder mailings with OSHA website information, fact sheets, quick cards, and other pertinent information.
- B. Ongoing Outreach: Area Offices will continue outreach activities to stakeholders throughout the duration of this REP. Outreach activities to promote this REP will be conducted throughout the Region each fiscal year. Each Area Office will annually develop and implement at least one outreach activity involving a tree care association, oversight authority, or other appropriate group. (Examples: nursery & landscape associations, tree warden associations, state university cooperative extensions, state arborist licensing office, etc.) Offices located in the same state may collaborate on the annual outreach activity. This outreach can take many forms such as presentations, informational mailings, articles in trade newsletters, and other activities.

XII. Recording in OIS

Current instructions for completing the appropriate inspection classification boxes on the OSHA Inspection Report, as found in the OIS manual shall be applied when recording inspections conducted under this REP, as follows:

- a. Inspections scheduled under this REP shall be marked "Initiating Type - Programmed Planned" and "TREE" selected from the Local Emphasis Program drop-down menu. Complaints and referrals from sources such as police departments or fire departments, and inspections scheduled in response to reports of fatalities, or a

catastrophe shall be appropriately coded as with the applicable unprogrammed activity type (Referral, Complaint, FAT/CAT) and "TREE" selected from the Local Emphasis Program drop-down menu.

- b. All compliance assistance associated with this REP shall be entered into OIS and coded as "TREE" in the Tasks Section-Emphasis Programs-Local Emphasis Programs box.

XIII. Evaluation

- A. Abatement documentation/verification will be submitted to or otherwise collected by the Area Office for all violations. The abatement information must be included in the case file in a timely manner.
- B. The Regional Office will complete a program report at the midpoint and completion of the REP. The midpoint and final program report will include quantitative and qualitative measures, including recommendations regarding the continuation of this REP. In addition to activity and impact measures, the report will include the following:
 - a. A review of how effective the program was in meeting its goal of reducing the number of fatalities, serious injuries, and serious safety and health hazards in this industry.
 - b. Data and information used to support the conclusions stated above:
 - i. Data shall include enforcement statistics such as number of fatalities and serious injuries in this industry, number of inspections conducted, number of serious hazards identified, the number of employees removed from hazards, and the total number of employees affected by enforcement activities covered by the REP.
 - ii. Data shall also include outreach statistics such as the number of outreach activities conducted, and the number of employees participating in or affected by these outreach activities.
 - c. Statement and rationale of whether the emphasis program should be continued.
 - d. Description of any legal issues that arose which would necessitate a review by the Solicitor before renewal of the program.
 - e. Any other comments or recommendations, including findings or novel abatement measures, which might have an impact on how the industry conducts business.