

**IOSH Local Emphasis Program
IA/LEP 1 -**

- Record Type: **Local Emphasis Program**
 - Directive Number: **IA/LEP 1**
 - Subject: **Inspection Targeting System to Reduce Injuries and Deaths Resulting From Falls in the Construction Industry**
 - Information Date: **03/01/2006, Revised 09/04/08**
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IOSHA IA/LEP

Workforce Development Department

Iowa Occupational Safety and Health (IOSHA)

ABSTRACT

Purpose: To establish an inspection targeting system to reduce injuries and deaths resulting from falls to a lower level, including falls from scaffolds and/or elevated work surfaces including walkways, platforms, etc.

References: OSHA/IOSHA Instructions: CPL 2-0.102A; OSHA Standards Interpretation and Compliance Letter, 08/22/1994, Guidance to Compliance Officers for Focused Inspections in the Construction Industry; IOSHA Instruction IACPL 2.103; IOSHA Instruction CPL 2.25I; and IOSHA Instruction CPL 2.115.

Cancellations: FY 94 Local Emphasis Program on Fall Hazards in the Construction Industry, dated August 22, 1994.
IA/LEP 1 Inspection Targeting System to Reduce Injuries and Deaths Resulting From Falls in the Construction Industry, dated 03/01/2006.

Action Offices: State of Iowa

Originating Office: State of Iowa

Contact: (515) 281-8066

By and Under the Authority of

Mary L. Bryant
IOSH Administrator

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- I. Purpose. To establish an enforcement procedure to reduce injuries and deaths resulting from falls to a lower level, including falls from scaffolds and/or elevated work surfaces including walkways, platforms, etc.
- II. Scope. This Notice applies to all construction worksites which are located within the State of Iowa.
- III. References.
 - A. OSHA Instruction CPL 2-0.102A, November 10, 1999, Procedures for Approval of Local Emphasis Programs (LEPs).
 - B. OSHA Standards Interpretation and Compliance Letter, 08/22/1994, Guidance to Compliance Officers for Focused Inspections in the Construction Industry.
 - C. IOSHA Instruction IACPL 2.103, August 1, 2004, IOSHA Field Inspection Reference Manual (FIRM).
 - D. IOSHA Instruction CPL 2.25I, April 17, 2001, Scheduling System for Programmed Inspections.
 - E. IOSHA Instruction CPL 2.115, November 18, 1999, Complaint Policies and Procedures.
- IV. Expiration. This Notice *is effective until cancelled*.
- V. Background.
 1. Forty percent, 64 of the 161 fatal incidents in Iowa during October 1, 1995 through December 31, 2004, were in the construction industry (i.e., Standard Industrial Classification, Division C. Construction). Forty-seven (47) percent of the 64 fatal incidents in the construction industry were due to falls (11 falls to a lower level; 5 falls from building girders or other structural steel; 5 falls to lower level not elsewhere classified; 4 falls from scaffold/staging; 2 falls from floor, dock or ground level; 1 fall down stairs or steps; 1 fall from ladder and 1 fall from nonmoving vehicle).
 2. Emphasis on scaffolds and/or elevated work surfaces including walkways, platforms, etc. will be continued. Nationally, of the 25 most frequently violated construction standards, 1926.451 (Scaffolds/General Requirements standard) was ranked first (January 1, 2000 – December 31, 2004). During this time period, there have continued to be fatalities, hospitalizations, and other injury(ies) related to scaffold use and falls from scaffolds and/or elevated work surfaces including walkways, platforms, etc. in the construction industry. This speaks to a continued need for outreach, training and enforcement in this area. Additionally, there are other hazards associated with scaffolds which need to be addressed (e.g., a scaffold collapsing on employees below; an object falling on employees below; etc.)

VI. Procedures.

A. All compliance personnel shall be instructed to be on the lookout for active construction sites where fall hazards, including falls from scaffolds and/or elevated work surfaces including walkways, platforms, etc. in use are observed. The program will be State-wide. Fall hazards shall include any observed conditions exposing employees to hazards as dictated by the 1926 Safety and Health Regulations for Construction. It will also include, after careful evaluation, those which have been reported to the Office. Scaffolds in use shall include scaffolds that one or more employees are erecting, dismantling, accessing, or are engaged in working on or from. Every observation and/or report of such worksite shall be handled as follows:

1. Whenever a Compliance Safety/Health Officer (CSHO) observes an active construction site where fall hazards from scaffolds and/or elevated work surfaces including walkways, platforms, etc. are observed or are in use, or whenever the Office receives a report from any source of an active construction site where fall hazards from scaffolds and/or elevated work surfaces including walkways, platforms, etc. are observed or are in use, IOSH shall:
 - a. Document the state and condition of the work operation in so far as it is known, including any apparent serious hazards.
 - b. Document the name and address or location of the worksite and the contractor(s) performing the operation, if known.
2. Construction sites observed to have scaffolds and/or elevated work surfaces in use or sites reported to the Office to have fall hazards from scaffolds and/or elevated work surfaces including walkways, platforms, etc., shall be inspected as provided in Paragraph VI. A. 4. or shall be scheduled for inspection as follows:
 - a. Investigations include Iowa OSHA phone and fax process. This enables the Iowa OSHA Division to address and have potentially serious hazards eliminated in an expeditious manner. It also enables the Iowa OSHA Division to address fall hazards when resources to conduct an on site inspection are not available. Initiation of an investigation does not preclude the Division from initiating an inspection.
 - b. Inspections consist of an onsite review of workplace conditions and are conducted in accordance with the FIRM (IOSHA Instruction IACPL 2.103).
3. When an inspection is not conducted because entry has been denied, a warrant normally shall be sought in accordance with the current procedure for handling such denials. The FIRM shall be followed for procedures to be used when the employer refuses to permit an inspection. [Reference: IOSH Instruction IACPL 2.103, Chapter II, A.2.c.]

4. If the CSHO observes an active construction site(s) where fall hazards from scaffolds and/or elevated work surfaces including walkways, platforms, etc. are observed in use, an inspection shall be conducted.
5. Verification Inspections. If an employer and/or contractor has passed an IOSH verification inspection, as required by a signed construction partnership agreement, the employer would not be subject to an inspection under this initiative unless a serious or imminent danger condition is observed.

If the employer has not had a verification inspection, a verification inspection will be conducted by the CSHO while at the construction site.

- B. Scope of Inspections. Inspections will be opened and conducted in accordance with IAOSHA Instruction CPL 2.103 Field Inspection Reference Manual (FIRM), Chapter II and OSHA Standards Interpretation and Compliance Letter, 08/22/1994 – Guidance to Compliance Officers for Focused Inspections in the Construction Industry. The CSHO will conduct a walkthrough inspection of the construction sites that are covered under this program. If the CSHO determines the construction site is in compliance with applicable 1926 fall protection and scaffolding standards, the compliance officer will conclude the inspection unless other serious violations are observed in plain view by the CSHO. If any other serious hazard(s) is/are observed (other than covered by this directive), the scope of the inspection will be expanded. A focused inspection will be offered if the site qualifies. Focused inspections shall concentrate on the project safety and health program/plan and the four leading hazards that account for the most fatalities and serious injuries in the construction industry: falls; electrical hazards; caught in/between hazards (such as trenching); and "struck-by" hazards (such as materials handling equipment and construction vehicles). [Reference: IAOSHA Instruction CPL 2.103 Field Inspection Reference Manual (FIRM), Chapter II, A.1.b. and OSHA Standards Interpretation and Compliance Letter, 08/22/1994 – Guidance to Compliance Officers for Focused Inspections in the Construction Industry]
- C. Unprogrammed events such as fatalities, catastrophes, complaints, and follow-up inspections shall be scheduled in accordance with procedures in the Field Inspection Reference Manual (FIRM) (IACPL 2.103) and Complaint Policies and Procedures (IOSHA Instruction CPL 2.115).
- D. Penalties.
 1. Violations related to falls from scaffolds and/or elevated work surfaces including walkways, platforms, etc., may involve death or extremely serious injuries. The IOSH Administrator/Public Service Executive will use IOSHA Instruction IACPL 2.103, Chapter IV, C.2.g.(3).

2. The IOSH Administrator/Public Service Executive will consider not utilizing adjustment factor(s) as set forth in IOSHA Instruction IACPL 2.103, Chapter IV, C.1.c. for each violation related to falls from scaffolds and/or elevated work surfaces including walkways, platforms, etc., if warranted, to achieve the appropriate deterrent effect.
3. In most cases, any serious, high gravity violations will not be grouped for inspections conducted under this initiative. Severity assessments will be conducted in accordance with the FIRM.

E. Informal Conferences

1. Employers are encouraged to have employees/employee representatives that have been exposed to fall hazards from scaffolds and/or elevated work surfaces including walkways, platforms, etc., attend/participate in the informal conferences.

F. Settlement Agreements

1. Settlement Agreements, in most cases, will include the following:
 - a. A requirement for 100% fall protection for all construction contractors on the jobsite where conditions expose employees to hazards as dictated by the 1926 Safety and Health Regulations for Construction
 - b. Submission of a copy of the employer's fall protection program (and any written progress reports that the Office may require) and plan to the Office.
 - c. A statement that employers are strongly encouraged to send supervisors/employees exposed to fall protection hazards from scaffolds and/or elevated work surfaces including walkways, platforms, etc., to attend training at a formal training center such as an OSHA Training Institute Education Center.
2. The fall protection program and plan should contain information on how it will be implemented; what the employer's disciplinary action will be for the employees who choose not to use fall protection; and how it will be enforced.
3. Expedited Informal Settlement Agreements (EISAs) will not be offered for fall or scaffold high severity serious violations.
4. The IOSH Administrator/Public Service Executive will consider requiring the employer to submit future or ongoing jobsites for possible inspection for purposes of a Settlement Agreement. Appendix A, Informal Settlement Agreement, Item No. 11, contains sample verbiage for the IOSH Administrator/Public Service Executive to use.

VII. Recording in IMIS.

A. Time spent in outreach shall be recorded on an OSHA 55.

B. For any inspection completed under this initiative, the corresponding OSHA 1 shall be marked with the code "FALL" or "SCAFFOLD" in Block 25c.

The Office shall periodically check the IMIS database to verify accuracy of the data for the falls program by running the appropriate Inspection Summary Report(s).

VIII. Evaluation. Annual reviews of each program for the previous calendar year are due by January 1 of the following year. Evaluations will be conducted annually for the duration of the program. Interim evaluations will be conducted as needed.

Mary L. Bryant
IOSH Administrator

Date

Distribution: IOSH Enforcement/Consultation Staff
OSHA Area Director (Des Moines)

APPENDIX A (NON-MANDATORY)

WORKFORCE DEVELOPMENT DEPARTMENT

DIVISION OF LABOR SERVICES

IOWA OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

In the Matter of:

and its successors

IOSH NO: /

NOTICE TO EMPLOYEES

The law gives you or your representative the opportunity to object to any abatement date set for a violation if you believe the date to be unreasonable as amended in paragraph four (4) of this Settlement Agreement. Any contest of the abatement dates must be mailed to the Department of Workforce Development Department, Division of Labor Services at 1000 East Grand, Des Moines, Iowa 50319, within 15 working days (excluding weekends, State and Federal Holidays) of the receipt by the employer of this Settlement Agreement. You or your representative also have the right to object to any of the abatement dates set for violations referred to in paragraph three (3) provided that the objection is mailed to the office shown above within the 15 working day period established by the original citation.

INFORMAL SETTLEMENT AGREEMENT

The undersigned employer and the undersigned representative of the Iowa Occupational Safety and Health Administration (IOSHA), in settlement of the above citation and penalties which were issued on _____, 2006, hereby agree as follows:

1. The employer agrees to correct the violations as cited in the above citations or as amended below.
2. The employer agrees to pay the total penalty of \$_____.00. (OPTIONAL: The employer agrees to pay a penalty of (amount of monthly penalty) per month for 12 months. The first penalty payment is due on (date of first payment).)

3. The employer and IOSHA agree that the following citations and penalties, if any, are not being amended by this agreement:

Citation No. _

Item No. _

4. IOSHA agrees that the following citations and penalties are being amended as shows (see attachments):

Citation No. _

Item No. _

5. In consideration of the foregoing amendments to the citation, the Employer hereby waives its right to contest said citations pursuant to Section 88.8(3) of the Iowa Occupational Safety and Health Act. It is understood and agreed by the Iowa Occupational Safety and Health Administration and the Employer that the citations as amended by this agreement shall be deemed a final order of the Employment Appeal Board not subject to review by any court or agency.

6. The employer agrees to immediately post a copy of this Settlement Agreement in a prominent place at or near the location of the violation(s) referred to in paragraphs three (3) and four (4) above. This Settlement Agreement must remain posted until the violations cited have been corrected or for three (3) working days (excluding weekends, State and Federal Holidays), whichever is longer.

7. The employer agrees to continue to comply with the applicable provisions of the Iowa Occupational Safety and Health Act, and the applicable safety and health standards promulgated pursuant to the Act.

8. (OPTIONAL: By entering into this agreement, the employer does not admit that it violated the cited standards for any purpose other than a subsequent proceeding under the Iowa Occupational Safety and Health Act.)

9. (OPTIONAL: The employer agrees to enroll (-) supervisors/employees of their choice into the OSHA 510 Course at the employer's expense. The OSHA 510 Course will be held at the [OSHA Training Institute or an OSHA Training Institute Education Center](#) on (start date through end date). The employer agrees to provide proof of enrollment to the [Office](#) prior to (start date) and a copy of the OSHA 30-Hour Course Completion Cards after graduation.)

10. (OPTIONAL: The employer agrees to telephone/FAX/e-mail the [Office](#) every (-), excluding State and Federal Holidays, with a list of future or on-going jobsites. This requirement will last for (-) commencing from the date

this agreement is signed. The Office reserves the right to perform unannounced safety and health inspections of those jobsites.)

11. (OPTIONAL: The employer agrees to provide the Office with a copy of the OSHA 300 Log and OSHA 300A Summary Sheet by (month/day) of three consecutive years (e.g., February 28 of 2005, 2006, and 2007).

This Settlement Agreement was reached between the following parties on _____, 2006.

(Name/Title)

Workforce Development Department
Division of Labor Services
1000 East Grand Avenue
Des Moines, IA 50319
Telephone (515) 281-3606

(Employer Name/Title)

(Employee/Employee Representative Name/Title)