

North Carolina Department of Labor  
Division of Occupational Safety and Health  
Raleigh, North Carolina

Field Information System

Operational Procedure Notice 98C

***Subject:*** Special Emphasis Inspection Program for Employers with High Rates of Serious Illness and Injuries as Determined by Workers' Compensation Claims

A. Purpose. This Operational Procedure Notice (OPN) establishes and implements a "Special emphasis inspection program" as authorized by North Carolina General Statute 95-136.1 to target for inspection those employers with a high rate of work related serious illnesses or injuries. Specifically, those employers with high rates of workers' compensation claims, as determined by data secured by the Industrial Commission and further defined by this OPN, are those targeted for inspection.

B. Scope. This OPN applies to all assignments included in this special emphasis inspection program and is effective until canceled by the Director.

C. Cancellation. This notice cancels previously issued OPNs 98, 98B, and 98C used during the initial inspection cycle of this special emphasis inspection program.

D. Discussion. In 1992, the North Carolina General Assembly enacted North Carolina General Statute 95-136.1, which authorizes targeting for special emphasis inspections those employers with a high rate of work related serious illnesses or injuries. Prior to passage of this statute, industry-wide data has historically been used to target employers for inspection because the North Carolina Division of Occupational Safety and Health (Division) had not previously had access to employer specific injury and illness data. The availability of site specific data pursuant to the new legislation allows the Division to utilize its resources in a more effective manner by scheduling for inspection those establishments that may have the most safety and health deficiencies.

E. Objectives.

1. This special emphasis inspection program has been initiated to identify employers who do not maintain a place of employment that is free from hazards that could cause serious physical harm or even death. In partnership with affected employers, the Division will allocate its limited resources to reducing the number of injuries and illnesses in these establishments through a multidisciplinary approach including compliance activity, as well as education, training, and consultative services where appropriate.
2. A workplace targeted for inspection under this program may require additional assistance beyond the traditional walkaround portion of the inspection process. Assistance may be given in abating violations, safety and health program development, or job safety and health analysis, according to a plan approved for the specific employer by the Compliance Supervisor. This level of intervention will not necessarily preclude the issuance of citations, or end after the walkaround portion of the inspection has been completed.
3. This program is intended to encourage each employer to establish an effective safety and health program, or review any program already in place to determine what more is needed to make it effective in reducing injuries and illnesses in the workplace. Beginning with the initial correspondence to the employer, the importance of a safety and health program will be emphasized, and the employer will be challenged to take appropriate action irrespective of any site intervention by the Division. Once an inspection has been completed and the results analyzed, the findings and any recommendations will be shared with the employer in writing, with the offer of additional assistance from the Division. This information will be provided in addition to any other correspondence sent to the employer, including citations, and will be included in the case file.
4. Additional objectives of this program are to cooperate with the employer and establish a partnership to identify the causes of the high injury and illness rates and to develop measures to prevent and/or eliminate workplace safety and health hazards. This partnership may take the form of shared inspection activity of employers with multiple work sites with division employees inspecting an initial site or sites and the employer using the knowledge gained through this intervention to conduct inspections at all other sites. If the employer demonstrates no interest in a partnership to develop a strong safety and health program to eliminate hazards and reduce injuries and illnesses, then the inspection(s) will be completed. The CSHO will note in the case file and share with the employer safety and health program deficiencies and recommendations for improvement.

5. It is the intent of this program that the employees and their representatives be afforded the opportunity to participate in all phases of onsite activity and become partners in any safety and health program development and implementation.

F. Program Description.

1. The Division will secure workers' compensation data for the most recently available three years from the Industrial Commission for the 500 employers with the most serious claims. This information reflects initial claims submitted to the Commission on the Form 19, "Employer's Report of Injury to Employee", as well as the current status of the claim, as open, closed, or denied.

2. For each employer identified under this program, the Division will calculate a three-year average of serious claims per 100 full-time employees. For purposes of this OPN, a serious claim as defined by the Industrial Commission, is any claim resulting in medical expenses over \$2,000, or more than one lost workday. Claims where the Industrial Commission has made no severity determination will be considered serious claims for the purposes of this inspection program. The three-year average rate of serious claims per 100 employees will be calculated for the total number of employees at all of the employer's sites in the State.

3. If the employer's rate of claims is equal to or greater than 10.0, the employer will be designated as "high rate" for purposes of this inspection program. The rate is determined by multiplying the total number of serious claims in a three year period for an employer times 100, divided by the average number of full time or full time equivalent employees for the three year period.

Example: An employer with 200 claims and 1500 employees would have a rate of 13.3

$$\frac{200 \times 100}{1500} = 13.3 \quad \text{(Employer Specific Three Year Average Rate of Claims Per 100 Employees)}$$

4. Employers initially designated as "High Rate" will be sent a letter asking for the following information which will be used to verify the designation as "High Rate":

a. The total hours worked per site. (If the total hours worked is not available, the full time equivalent number of employees for each year at each location covered by the logs may be substituted.)

b. The street address for each work site.

- c. Corporate name under which the workers' compensation claims are filed.
- d. Corporate federal identification number.
- e. Name and telephone number of corporate contact.

The letter will also encourage the employer to begin development of an overall safety and health program as the first step in the prevention of injuries and illnesses or to review any programs already established. The employer must submit the information requested within 30 working days unless the Statistics and Information Management Section(SIMS) grants an extension of time. Once the verification has been made as to a "high rate" designation, the employer will be asked to submit copies of the previous five years OSHA 200 logs for each of their employment sites located in North Carolina. Employers who choose not to submit the OSHA 200 log(s) will be subjected to citations and penalties for failure to provide records to the Department of Labor as required by North Carolina General Statute 95-143. Attempts will be made to collect comparable data for those employers not required to maintain OSHA 200 logs. SIMS informs the employer, if as a result of the recalculation, the employer does not fall within the criteria of the program.

5. SIMS will calculate employer site specific Lost Workday Case Incidence Rate (LWCIR) using OSHA 200 log data supplied by the employer. The calculated LWCIR will be compared to the industry average for the specific Standard Industrial Classification (SIC) code as determined by Bureau of Labor Statistics. The SIC Code is a uniform system grouping business and industries by the activity in which they are engaged, e.g., Lumber and Wood Products, Textile Mill Production, etc. If the company's LWCIR is less than the industry average, the company will be excluded from the definition of "high rate". SIMS will submit a copy of the OSHA 200 log(s) or comparable data, the calculated Lost Workday Case Incidence Rate (LWCIR) for each site, industry specific rates, and Industrial Commission data, to the Supervisors for analysis for those employers designated as "high rate". (The LWCIR is a measure used to define high hazard industries for inclusion in the state's targeting system for programmed inspections.) The employer information will be compiled on the OPN 98C Information Sheet for distribution to the Compliance Supervisor. SIMS will maintain a database consisting of employers who have a confirmed rate of claims of at least 10.0.

6. For an employer with 100 or fewer employees per establishment and fewer than 500 employees controlled nationwide, SIMS will initially submit the employer information to Consultative Services for intervention consideration. Employers in this group will be offered consultation. If consultation is not accepted, the employer's

name will be returned to SIMS for submittal to the appropriate Compliance Supervisor.

7. An employer not selected for inspection under this special emphasis inspection program could still be inspected under the division's other compliance programming policies which could include unprogrammed (imminent danger, fatalities/catastrophes, complaints and referrals) and other programmed inspections (random selection) described in Chapter II of the Compliance Operations Manual.

8. Based on the hazard classification of the site, Safety and Health Supervisors will receive five years of OSHA 200 logs for each employment site in their District included on the "high rate" list. If a company has more than one site that includes locations in different Districts, all OSHA 200s will be sent to the supervisor with the most company sites or the largest company site. The Supervisors will coordinate the OSHA 200 log review as appropriate. The review of the logs shall be conducted to identify any injury and illness trends and to determine the primary focus of the division's intervention. Attempts will be made by SIMS to secure Form 19s for employers who are not required to maintain the OSHA 200 log. If available, these forms will be submitted to the Supervisors prior to an inspection.

9. The OSHA 200 logs should be reviewed for entries related to ergonomic issues, the CSHO shall follow the instructions contained in OPN 108 or its most current revision and the Ergonomics Inspection Guidelines.

10 Supervisors shall schedule for inspection all companies referred to the District Offices except for:

- a. Sites with open abatement dates where the majority of the items to be abated are related to the injury and illness trends identified by the 200 log review.

- b. Sites with citations under contestment where the majority of the items under contestment are related to the injury and illness trends identified by the 200 log review.

- c. Employers with 10 or fewer employees if their lost workday injury rate is less than the current national average for their industry.

- d. Sites operating under a current settlement agreement for a specific targeted site where the majority of the items under the agreement are related to the injury and illness trends identified by the 200 log review.

e. Sites whose injuries or illnesses recorded on the OSHA 200 log do not fall within OSHA regulated areas; for example workplace violence, vehicular accidents, or non-employment related heart attacks. An explanation shall be sent to the Bureau Chief indicating why a recommendation is being made not to inspect.

f. Sites that have experienced a significant reduction in the number of injuries and illnesses as indicated by information contained on the OSHA 200 logs. An explanation shall be sent to the Bureau Chief indicating why a recommendation is being made not to inspect. This shall include the calculation of the Lost Workday Case Incidence Rate (LWCIR) for each site for each year reviewed.

g. i. Sites that qualify for deferral from inspection under OPN 110B or its most current revision,

ii. or small employers (100 or fewer employees per establishment and fewer than 500 employees controlled nationwide) referred by SIMS that will receive intervention by Consultative Services.

h. Employers who have signed an agreement under the Cooperative Assessment program for Ergonomics for those areas covered by the agreement.

The Bureau Chief shall forward information related to employers that will not be inspected to SIMS using the OSHA 213 form.

11. Targeted sites shall initially be scheduled for inspection based on the designated hazard classification of the employer. Class One sites should be given the highest priority and continuing through the class rankings. For employers in the same class designation, determination as to which targeted sites shall be inspected first shall be made by the Supervisor based on an evaluation of the 200 logs and the severity of the injuries and illnesses reflected. The LWCIR provided for each site by SIMS can also be used to establish inspection priority. This rate is currently used to schedule inspections under the usual general industry programmed inspection plan (see Chapter II Compliance Operations Manual). Compliance Supervisors shall determine whether the health or safety districts should take the lead role in inspecting an employer based on anticipated hazards at the site.

12. Targeted inspections under this inspection program shall receive the highest inspection priority among all other general industry programmed inspections, including other special emphasis inspection programs except for those employers targeted for inspection under the silica, and lead in construction special emphases.

13. Once an inspection is planned, the Supervisor should insure the development of an intervention strategy to address those safety and health problem areas identified through review of employer specific data provided by SIMS. Once an onsite evaluation of the establishment can be made, a written plan and goals shall be established to address any safety and health problems identified. The plan shall be included in the inspection case file. Attachment A is a sample of an intervention plan that should be completed before the inspection is opened. After the inspection is opened, the plan can be modified or expanded. The evaluation of this special emphasis inspection program will include the review of these employer specific goals to determine how successful the employer specific plan has been.

14. Safety and health compliance shall conduct a joint inspection when review of the OSHA 200 log(s) or other data indicates a substantial number of both safety and health problems. A joint opening conference will be held when joint inspections are conducted. When the inspection is conducted jointly, an effort should also be made to coordinate jointly all other safety and health activity including the issuance of citations, informal conferences, or any settlement agreement(s).

15. When a site is targeted for either a safety only or health only inspection and the CSHO determines that both safety and health hazards are present, a joint inspection is preferred but referrals may be considered when a joint inspection is not possible.

16. A team approach shall be taken on by all joint inspections with any recommendations or program assistance provided as a total safety and health package. A health or safety compliance officer shall be designated as team leader by the District Supervisors based on whether the hazards at the site are mostly safety or health.

17. The Supervisor assigned an employer with multiple sites shall review the address of all company sites and select a representative number of the sites for inspection. This shall include those sites having the highest number of injuries and illnesses. This effort should be coordinated with other affected Supervisors and approved by the Bureau Chiefs when the inspections are multi-district in nature. In keeping with the partnership approach, employer representatives at sites that have not been scheduled for inspection should be encouraged to participate in the inspection process at the sites selected for inspection. This participation could include on-site activity as well as a post inspection review of activity, including hazard correction recommendations.

18. Once the inspections have been completed, a management official from the corporate office, if available, shall be contacted to discuss the results. An overall post inspection corporate safety and health action plan shall be established based on the

information compiled at the inspections conducted. This action plan should be included in any state-wide corporate settlement agreement that is developed. The settlement agreement shall also include a list of all sites included under the agreement and a requirement that the employer submit OSHA 200 logs for three years following the inspection date. If the employer refuses to participate in the development and implementation of a state-wide corporate settlement agreement, then the remaining sites could be scheduled for inspection. Sites covered by a settlement agreement shall be submitted to SIMS on the OSHA 213 Form so that they can be removed from the programmed inspection assignment list.

19. Once a partnership is established with the employer, every inspection should include an evaluation of the employer's safety and health program and any written compliance plans required by OSHA standards to determine if they address the hazards that are causing injury and illness in the specific employer's work environment. If programs do not exist, are deficient, or have not been fully implemented, the inspection process shall include assistance and problem resolution, including referral to the Bureau of Education, Training, and Technical Assistance and the staff person with expertise in safety and health program development. The employer should be made aware of the fact that the implementation of an effective safety and health program is a criteria for good faith penalty reduction. However, a high rate of injuries and illnesses is evidence that a safety and health program is not fully effective and consequently does not meet the criteria for receiving good faith credit. Employee participation and management commitment, at each targeted site, should be a goal of division intervention activity.

20. Information contained on the "high rate" employer listing is confidential and shall be used only by division personnel or their authorized representatives in cooperation with the affected employer.

21. Using the OSHA 213 Form, the Safety and Health Supervisors will notify SIMS of specific inspections conducted under this special emphasis inspection program.

22. SIMS will utilize data relating to consultation activity to note open consultation files, targeted employers who have requested a consultative visit, completed a full service consultative survey within the past year, or small employers referred to the Bureau of consultative Services. These employers will not be assigned to Compliance Supervisors for inspection.

23. The District in which the hazardous conditions are present shall conduct unprogrammed inspections of employers who are included in the special emphasis inspection program.



24. The general inspection procedures contained in the Compliance Operations Manual and the Field Information System shall be followed while conducting inspections under this special emphasis inspection program. This would include guidelines for obtaining compulsory process and the use of the warrant application provided with OPN 89. Also, injury and illness information shall be collected and recorded as required by OPN 113.

25. The information reflected in Attachment B should be used as a guide in preparing a case file as a result of an inspection conducted under the procedures outlined in OPN 98C.

#### G. Inspection Scope.

1. If a site has had a comprehensive safety and health inspection within the last two years and all violations have been abated, but the establishment is still experiencing a high number of injuries and illnesses, the inspection should be focused on those areas of the site in which the injuries and illnesses are occurring. Elimination of any problem areas may require additional intervention beyond inspection activity including employee training, technical assistance, development of specific safety and health plans and programs, etc.

2. If the site has not been inspected within the last two years, then a comprehensive inspection shall be conducted. The inspection should not be limited to problem areas reflected in injury and illness data.

#### H. Follow-up Inspections.

Follow-up inspections shall be conducted for each employer visited under this program to determine progress in meeting established goals. The follow-up shall be delayed until three months, but conducted no later than 12 months after the latest violation abatement date. This will allow a initial determination as to whether programs implemented are affecting the work place culture of the establishment in a permanent way. Employee interviews can also assist in this determination. Additional follow-ups may be conducted as required to achieve the goals of the specific site intervention. The schedule for conducting safety or health follow-up inspections will be determined based on the last abatement date of the original safety or health inspection respectively. For employers with multiple sites, a subsequent inspection at a different employer site will be coded as a programmed inspection and not a follow-up even though the intent of the inspection is to determine company status as a result of the initial inspection.

#### I. Unique IMIS Coding for the Special Emphasis Inspection Program.

The OSHA-1 form shall be coded "xclaims" in block 25c for all programmed inspections conducted as a result of this special emphasis inspection program. This IMIS identifier code has been authorized and approved for use by the Office of Management Data Systems. If the inspection is not coded properly, it will not be identified as part of this special emphasis inspection program. In order to link all inspections related to one targeted employer when multiple site names are different, the inspection number from the identifying inspection shall be placed on the OSHA-1 at item 42, optional information, as N-1 with the inspection number of the identifying employer (see ADM 1-1.31, VIII-4, #6). To allow for specific IMIS tracking, the Supervisor shall also code the OSHA-1 at item 42 for each establishment covered under a state-wide corporate settlement agreement using a sequential numbering system. The code designated for this purpose is N8C#, supervisors ID number, and the number of the agreement. For example the first settlement agreement for Supervisor C8808 would be coded as N8C#C88081.

J. Education and Training.

1. The Bureau of Education, Training, and Technical Assistance (ETTA) will review results of inspections conducted under this special emphasis inspection program. If the review identifies problems that might have an industry-wide scope, ETTA will communicate this information through reports to industry associations and targeted mailers to employers in the affected SIC codes.
2. ETTA will assist in developing and securing sample safety and health programs that can be provided to targeted employers as specific conditions dictate. This could include hazard communication, lockout/tagout, bloodborne, etc. These programs should eventually be produced and distributed in the same manner as industry guides.
3. ETTA will respond to requests from employers or referrals from Compliance Supervisors for site specific training or assistance in specific safety and health program development.
4. Information relating to, and action resulting in specific success stories as a result of division intervention should be compiled by ETTA and shared with other employers as appropriate.

K. Program Evaluation.

SIMS shall submit to the Director an evaluation report after each inspection cycle. The report shall describe the inspections conducted, include a summary of results, and an evaluation of the entire program. The evaluation shall meet the criteria established by Appendix A of OSHA Instruction CPL 2.102. SIMS should also

compile a statistical intervention history for each employer included in this program which can also be used in program evaluation. The history should include all activity related to the company including programs developed, training and technical assistance provided, as well as inspection activity. Non-inspection intervention completed by any division employee will be documented by the completion of the OSHA Form 55. This should be completed for each intervention action. The Bureaus involved in the specific intervention shall provide this information to SIMS.

October 23,  
1997  
Original)

(Signed On

Date  
Charles N. Jeffress

Director

### **Definitions**

Average Rate of Serious Claims - Rate determined by multiplying the total number of serious claims, in a three year period for an employer, times 100; divided by the average number of employees for the three year period.

Cooperative Assessment Program for Ergonomics - An agreement between the Division of Occupational Safety and Health and an employer to assist the employer in the development and implementation of ergonomics solutions. The agreement will describe the action the employer must take, a time frame for completion, and the commitment by the Division to monitor compliance with the agreement. This program is described in more detail in OPN 108.

High Rate Employer - An employer with a rate of claims of 10.0 or greater as determined by multiplying the total number of serious claims in a three year period for an employer times 100, divided by the average number of employees for the three year period.

Hours Worked - Total hours worked by all employees during the calendar year.

Lost Workday Case Incidence Rate (LWCIR) - Cases which involve one or more days an employee is away from work or limited to restricted work activity due to an occupational injury or illness. The rate is calculated per 100 full-time employees.

Serious Workers' Compensation Claim - A claim over \$2,000 or resulting in more than one lost work day.

### **Attachment A: Sample Intervention Plan**

[Microsoft Word Version](#)

[WordPerfect Version](#)

### **Attachment B**

#### **Items to be included in Case Files Based on Requirements of OPN 98C**

- 1) Document any on-site assistance in development of Safety and Health Programs.
- 2) Document review of existing Safety and Health programs.  
Indicate specific abatement assistance.  
Identify any job safety and health analysis conducted.
- 3) Document review of five years of OSHA 200 logs in case file and include copy of the OSHA 200 Data/Safety and Health Program Evaluation Form. Record the appropriate OSHA 200 log injury and illness data on the OSHA-1 as required by OPN 113.
- 4) Highlight violations observed related to OSHA 200 data.
- 5) Include employer injury and illness rate calculation and compare with industry average.
- 6) Identify inspections deferred due to ergo related problems identified on OSHA 200 logs and document participation in Cooperative Assessment Program.
- 7) Document the fact that the inspection under this program received the inspection priority required by OPN 98C.
- 8) Indicate joint inspections conducted or reason why joint inspections not conducted.
- 9) Indicate selection criteria for inspection of multi-site employers.

- 10) Document existence of corporate wide settlement agreements implemented for multi-site employers in all employer case files and provide IMIS coding on OSHA 1.
- 11) Include a written plan and goal(s) in all case files.
- 12) Code all inspections as "xclaims".
- 13) Note any unique employer specific partnership activity.

Attachment A

**SPECIAL EMPHASIS INSPECTION PROGRAM FOR EMPLOYERS  
WITH HIGH RATES OF COMPENSATION CLAIMS**

**SAFETY/HEALTH PLAN**

EMPLOYER/SITE

YEARS	TOTAL # OF EMPLOYEES	TOTAL LWC	OVERALL LWCIR	LWCIR (ERGO)	LWCIR (SAFETY)

$$\frac{\text{LOST WORKDAY CASES (LWC) X 200,000}}{\text{\# EMPLOYEE HRS. WORKED}} = \text{LWCIR}$$

YEAR:

$$\frac{\text{LWC} \quad \text{X 200,000}}{\text{\# EMPLOYEE HRS. WORKED}} = \text{LWCIR}$$

YEAR:

$$\frac{\text{LWC} \quad \text{X 200,000}}{\text{\# EMPLOYEE HRS. WORKED}} = \text{LWCIR}$$

YEAR:

$$\frac{\text{LWC} \quad \text{X 200,000}}{\text{\# EMPLOYEE HRS. WORKED}} = \text{LWCIR}$$

COMMENTS:

## RECOMMENDATIONS: