

North Carolina Department of Labor  
Occupational Safety and Health Division  
Bureau of Compliance

Field Operations Manual  
Chapter II – Compliance Programming



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## Chapter II

### Compliance Programming

#### A. Program Planning.

1. Purpose. The purpose of this chapter is to provide instruction and guidance to Occupational Safety and Health (OSH) Division personnel in planning and implementing compliance operations.
2. Primary Consideration. The primary consideration for compliance operations is the attainment of maximum effective inspection coverage. The guidelines in this chapter will be used for scheduling inspections to address this consideration.

#### B. Inspection/Investigation Types.

1. Programmed. Inspections of worksites that have been scheduled based upon objective and impartial selection criteria are classified as programmed. These worksites are selected according to targeting schedules for safety and health or special emphasis programs.
  - a. Programmed Related. Inspections of employers on multi-employer worksites whose activities were not included in the programmed assignment, such as contractors working at an industrial plant, are classified as programmed related. All employers at the worksite will normally be inspected.
2. Unprogrammed. Inspections scheduled in response to alleged hazardous working conditions that have been identified for a specific employer at a specific worksite are classified as unprogrammed. These types of inspections are further classified as fatality/catastrophe, complaint, referral, monitoring, follow-up, reinspection or unprogrammed related. This category includes all employers directly affected by the subject of the unprogrammed activity.
  - a. Unprogrammed Related. Inspections of employers at multi-employer worksites whose operations are at the same site but may or may not be directly affected by the subject of the conditions identified in B.2. are classified as unprogrammed related. Examples would be a referral regarding lack of fall protection against a prime contractor where the compliance safety or health officer (CSHO) finds employees of other contractors exposed to the same fall hazard or a complaint at a construction site where one contractor uses gasoline-powered equipment, but employees of other contractor are also exposed to carbon monoxide. These 'other' contractors are classified as unprogrammed related.
  - b. Monitoring Inspections. Monitoring inspections will be conducted as mandated by a settlement agreement or final order for abatement periods greater than six months or as determined by the supervisor and the professional judgment of the CSHO.
    - i. The file is coded for a recommended monitoring visit using the optional code "S 4 M" in block 42 of the inspection report. "M" is followed by the number of the month that monitoring is due. Thus "S 4 M 3, 6, 9, 12" as

a code indicates that monitoring visits are required in March, June, September, and December.

- ii. The administrative staff runs the "S 4 M" report as the "list of inspections requiring monitoring." The supervisor will conduct the monitoring inspection or assign it to a CSHO, preferably to the CSHO who conducted the initial inspection.
- iii. After abatement is complete or the abatement dates have passed, the monitoring code is removed from the inspection report.

**C. Inspection Scope.**

Programmed and unprogrammed inspections fall into one of two categories, depending on the scope of the inspection.

1. Comprehensive. All areas of the facility will normally be inspected.
2. Partial. An inspection whose focus is limited to certain potentially hazardous areas, operations, conditions or practices at the establishment.
  - a. Every partial inspection will include, in addition to its principal focus, a review of injury and illness records, an assessment of any written programs required by the hazard referenced in the assignment and applicable to the employer, and an evaluation of the employer's general safety and health management program for the purpose of determining whether penalty reductions are warranted (reference Field Operations Manual (FOM) Chapter VI - Penalties, section B.9.iii.).
  - b. The information gathered during the review and inspection will be used to confirm or revise the determination of the scope of inspection. Supervisors will determine whether the CSHO can expand the scope of the inspection.
  - c. A complaint or referral inspection assigned by the supervisor will adhere to requirements described in FOM Chapter IX – Complaints, Referrals and Accidents.

**D. Inspection Selection Criteria.**

1. General Requirements. The priority system for conducting inspections is designed to distribute available division resources as effectively as possible to ensure that maximum feasible protection is provided to the employees of the state.
2. Scheduling. The Planning, Statistics, and Information Management Bureau (PSIM) will ensure that inspections are assigned within the framework of the priorities outlined in this chapter, that they are consistent with the objectives of the division, and that appropriate documentation of scheduling assignments is maintained.
3. Effect of Contest. If an employer scheduled for a programmed or unprogrammed inspection has contested a citation and/or penalty received as a result of a previous inspection and no final order has been entered in the case, the following guidelines apply:

- a. If the employer has contested only the penalty, the inspection will be scheduled in accordance with the guidelines given under paragraph E. below, that is, it will be scheduled as though there were no contest.
  - b. If the employer has contested all or any of the citation items, the following guidelines apply:
    - i. Unprogrammed inspections will be scheduled in accordance with F.1. or this chapter. The scope of such an inspection should normally be classified as partial. All areas related to items under contest should be excluded from the inspection, unless a potential imminent danger is involved.
    - ii. Programmed inspections will be scheduled in accordance with F.3., F.4., F.5., and F.6., of this chapter. The scope of the inspection should cover all areas except those directly relating to the items being contested, unless a potential imminent danger is involved.
4. **Employer Contacts.** Requests for information initiated by employers or their representatives will not cause an inspection to be initiated. Nor will such employer inquiries protect them against regular inspections conducted pursuant to guidelines established by the division. However, if an employer or their representative indicates that an imminent danger exists or that a fatality or catastrophe has occurred, action will be taken in accordance with established inspection priority procedures as described in FOM Chapter VII – Imminent Danger or Chapter VIII – Fatality and Catastrophe Investigations.

E. **Inspection Priorities.**

1. **Order of Priority.** Unless otherwise noted, priority of accomplishment and assignment of personnel resources for inspection categories will be as follows:

Priority	Category
First	Imminent Danger
Second	Fatality/Catastrophe
Third	Complaints/Referrals
Fourth	Follow-up/Monitoring
Fifth	Special Emphasis Programmed and Site Specific Targeting (SST)

Priority	Category
Sixth	Fatality Reinspection
Seventh	General Industry and Public Sector Programmed

2. **Efficient Use of Resources.** Unprogrammed inspections should be scheduled and conducted prior to programmed inspections. Therefore, the first through the fourth priorities (above) will be conducted prior to programmed assignments (the fifth through the seventh priorities).

This procedure does not prohibit the district supervisor from making a programmed inspection assignment in conjunction with an unprogrammed assignment. Where the district supervisor gives the CSHO an unprogrammed assignment (e.g., complaint) in conjunction with a programmed inspection for the same site, only one inspection will normally be generated to address both assignments. If joint inspection assignments are made (i.e., safety and health), two inspections will normally be generated to address both assignments; one for safety and one for health.

**F. Inspection Scheduling.**

1. **Unprogrammed Inspections.** Inspections conducted in response to specific evidence of hazardous conditions at a worksite are considered unprogrammed inspections.
  - a. Unprogrammed inspections (excluding follow-ups and monitoring) should be scheduled with the following priorities:
    - i. Reports of alleged imminent danger situations from any source, including referrals and complaints regardless of formality;
    - ii. Fatalities/catastrophes (FAT/CAT); (see FOM Chapter VIII for detailed information related to FAT/CAT investigations);
    - iii. Media and employer reports of accidents involving serious injuries or hazards of a serious nature;
    - iv. Formal complaints assigned for inspection by the supervisor, CSHO referrals (including referrals based upon discrimination complaints) with serious hazards and referrals from other safety and health agencies with serious hazards;
    - v. Formal complaints with non-serious hazards assigned for inspection by the supervisor;
    - vi. Nonformal complaints assigned for inspection by the supervisor.
  - b. **Follow-up Inspections.** In cases where a follow-up inspection is necessary, it should be conducted as promptly as resources permit. Except in unusual

circumstances and for follow-ups conducted as a result of the OSH Division's local emphasis program for fatality reinspections (see most current version of Operational Procedure Notice (OPN) 95 – Special Emphasis Program for Reinspection of Employers who have had a Fatality in the Workplace), follow-up inspections should be conducted as soon as possible but no later than 90 working days after the final violation abatement date and should take priority over all programmed inspections and any unprogrammed inspection with hazards evaluated as nonserious. The seriousness of the hazards requiring abatement should determine the priority among follow-up inspections. Follow-up inspections are **required** in the following situations:

- i. Willful [an inspection with a willful serious violation will be scheduled for a follow-up as required by and in accordance with North Carolina General Statutes (NCGS) 95-136(a)(3)];
  - ii. Repeat violations;
  - iii. Failure to abate notifications;
  - iv. Citations related to an imminent danger situation;
  - v. Whenever an employer fails to provide abatement verification documents for violations that they did not contest, within 13 calendar days after the last violation abatement date, the supervisor will assign a follow-up inspection. The supervisor may authorize a CSHO to initially attempt to secure past due abatement verification documentation via telephone, letter or email. If the attempt to secure abatement documentation in this manner is not successful, the supervisor will assign a follow up with the time frame specified in paragraph F.1.b. The supervisor has the discretion to assign a follow-up inspection at any point in time, after documentation for the last violation abatement date is past due. If pursuing citations for an employer failing to return abatement certification and/or documentation prior to conducting a follow-up inspection, reference FOM Chapter V – Citations, paragraph G.3. – Citation Issuance Procedures;
  - vi. Whenever the supervisor believes that particular circumstances (e.g., the number and/or the type of violations, past history of the employer, complex engineering controls, etc.) indicate the need for a follow-up based on documentation and/or recommendations of the CSHO; and,
  - vii. Fatality reinspections (see most current version of OPN 95); and
  - viii. When overexposures to air contaminants and noise are documented and cited, even if the employer provides evidence of abatement.
- c. Exceptions to Recommended Follow-up Inspections. It will not be necessary to conduct a follow-up inspection if any of the following applies:
- i. A follow-up inspection will not be necessary where unquestionable proof of abatement has been presented, e.g., when the CSHO observed and

documented the correction of the cited condition during the inspection. (This does not apply to air contaminant and noise overexposures.)

- ii. The supervisor may determine that a follow-up inspection is not required. Justification for not conducting follow-up inspections may include statements by the employee or employer representative or other knowledgeable professionals attesting to the correction of the violation. Written signed statements are preferred; however, verbal communications are acceptable if summarized by division personnel in a written memorandum for the case file. (This does not apply to air contaminant and noise overexposures.)
- iii. Where a recommended follow-up inspection has not been conducted within 90 working days of the final abatement date, and the case has become a final order, the case file may be administratively closed by the CSHO after consultation with the supervisor. All administratively closed case files will contain verification of abatement as well as documentation as to the reasons why the follow-up inspection was not conducted. Follow-ups for fatality reinspections are conducted per the most current version of OPN 95 and follow-ups for willful serious violations will be scheduled per NCGS 95-136(a)(3).
- iv. If a follow-up inspection is to be conducted where an employer has been cited for a number of violations with varying abatement dates, the follow-up inspection should not be scheduled until after most, if not all, of the abatement dates set forth for the serious violations in the citation(s) have passed. If the employer has taken satisfactory corrective action, additional follow-up activity normally should not be scheduled unless the supervisor believes that complex engineering controls or other special factors involved in the case warrant such activity.
- v. The scheduling of follow-up inspections may be affected in various ways by potential or actual employer contests, depending on the status of the Notice of Contest.
- vi. Follow-up inspections may be conducted during the 15-working day period granted to contest the citation or request an informal conference provided the date set for abatement has passed and the employer has not actually filed a Notice of Contest or requested an informal conference. Normally only those conditions considered high gravity serious will subject an employer to being scheduled for follow-up during the contest period. If such a follow-up inspection reveals a failure to abate, a Notification of Failure to Abate Alleged Violation may be issued immediately without regard to the contest period of the initial citation.
- vii. When a citation is currently under contest, a follow-up inspection will not be scheduled regarding the contested items. If the employer contests the proposed penalty but not the underlying citation, a follow-up inspection normally should not be conducted unless the violations are considered high gravity and the supervisor decides that a follow-up is necessary. If a follow-up inspection is conducted at establishments

- involved in proceedings before the OSH Review Commission, the CSHO will explain in the opening conference that the inspection will not involve matters before the OSH Review Commission.
- viii. When the Notice of Contest is withdrawn, the proceeding is settled, or the final order is entered, the abatement period begins. Thereafter, a follow-up inspection may be scheduled as appropriate.
- d. **Follow-up Inspections for Temporary/Mobile Sites.** If a temporary worksite, such as a logging or construction site, is closed or work on that particular site is complete before a follow-up can be conducted, at least one other worksite of the cited employer may be inspected to determine whether the employer has similar violations at other controlled worksites. The following procedures will be followed in considering another temporary worksite to inspect for this employer.
- i. If the employer's main office is located in the CSHO's compliance district, the compliance officer will proceed to the office and attempt to initiate an opening conference with the employer's management representative. If the management representative is unavailable at the main office, the CSHO will attempt to contact a management representative (this can be done by phone if the representative is not immediately at the office).
- ii. If the main office is outside the CSHO's district, the appropriate district supervisor will be notified prior to contacting the employer. The supervisor in the district where the main office is located and the CSHO's supervisor will decide the best way to proceed with the follow-up inquiry and inspection.
- iii. If the employer's main office is located outside North Carolina, the CSHO will call the main office and attempt to initiate an opening conference with the employer's management representative by phone.
- iv. When the opening conference is held, the CSHO will request a list of active sites in North Carolina from the employer. If the employer has no active sites in North Carolina at the time of the opening conference, the CSHO will request a list of future sites. If the employer is out of business or no longer active in North Carolina, then no inspection will be conducted.
- v. If the employer provides a list of active sites in North Carolina, the CSHO will select a site that is likely to include work similar to that of the original inspection. The CSHO will proceed to the selected worksite and conduct a comprehensive inspection. If the site selected is in a different compliance district, the appropriate district supervisor will be notified prior to the inspection. The supervisor in the district where the site is located and the CSHO's supervisor will decide the best way to proceed with the inspection.
2. **OSH Division Deferrals.** Employers who participate in voluntary cooperative programs may be exempt from programmed inspections and eligible for inspection deferrals.

Cooperative programs within OSH include the Safety and Health Achievement Recognition Program (SHARP) and safety and health consultation program, both managed by the Consultative Services Bureau (CSB); the Carolina Star Program, managed by the Education, Training and Technical Assistance (ETTA) Bureau; and OSH Partnerships, managed by the Compliance Bureau. As outlined in FOM Chapter III – Inspection Procedures, the Compliance Bureau will not conduct programmed planned inspections for specific deferral sites for the length of the deferment period. Affected sites will be marked with a deferral date and posted on the OSH Targeting System, with the exception of Building Star sites, which will be listed in the Building Star Exemptions List on the One Stop Shop. CSB, ETTA and Partnership Team Leaders will notify PSIM whenever a deferral has been suspended, an extension granted, or other changes have been made to site documentation. Changes will be reflected on the OSH Targeting System and One Stop Shop in the locations listed above.

**Note:** Deferrals are made by specific establishment and may not defer all establishments that might be covered by one inspection assignment.

3. **Private Sector Programmed Inspections.** Programmed inspections normally result in a comprehensive inspection of the worksite.

- a. **General.** The OSH Division uses a detailed procedure for identifying and selecting particular work establishments for inspection under the general industry assignment schedule. The administrative standards or factors used to develop this schedule are designed to provide broad, employer-neutral representative inspection coverage of working conditions and to place priority on the most hazardous employment classifications. These factors include:

- i. Frequency of injury and illness
- ii. Severity of injury and illness
- iii. Industry employee density
- iv. Length of time since the last comprehensive inspection
- v. Geographic dispersion of inspection activity
- vi. Compliance penetration into a diversity of industrial categories

Sites will not be included for assignment if the specific site has received a comprehensive inspection of the same type within the past three years (opening conference to date assigned by supervisor for inspection). For example, a site would be excluded from the assignment list for a safety inspection if the site had received a comprehensive safety inspection within a three-year period; however, the site could be included on an assignment list for a possible comprehensive health inspection.

- b. **General Industry Assignment Schedule.** The Compliance Bureau in conjunction with PSIM and the Research and Information Technology Division (RIT) has established a selection process for employers in the private sector. The North Carolina Department of Labor (NCDOL) utilizes two hazard indexes, one for safety data and one for health data. The hazard index for safety is a function of

the lost workday case incidence rate (frequency) or total (national) cases with days away from work, restricted work or job transfer (DART case rate), compiled annually by the Bureau of Labor Statistics (BLS), national industry rank report by serious safety violations (SSV) of 1.5 or higher per inspection (severity), and industry employee density. The hazard index for health is a function of a ranking system that uses an updated listing of national industry rank by serious health violations (SHV) of 0.5 or higher per inspection. Safety and health rankings data are generated by the Occupational Safety and Health Office of Statistics (OSTAT).

Using the compiled data, the PSIM Bureau and RIT apply the annual federal hazard indices for the North American Industry Classification System (NAICS) codes relevant to this State. Using these codes, industry classifications are ranked in descending order by their hazard index: the higher the hazard index, the higher the probability of selection. The upper half of the rankings is classified as Class I and Class II. Inspections are proportioned so that the majority of the general industry programmed planned inspections are selected from the Class I group. OSTAT SSV rankings are based on four consecutive years of national safety inspection data, which includes all standards cited. The RIT Division divides these rankings by class for targeting purposes. All Class I assignments for safety and health will be reviewed by the compliance supervisors using their professional judgment to determine if a safety and/or health inspection is warranted based on the industry's Class I ranking and taking into consideration the nature of the industry.

The RIT Division divides these rankings by class for targeting purposes. General industry (also referred to as general schedule) assignments on the Safety or Health General Schedule (GS) Targeting Schedules will be reviewed by the OSH Division deputy commissioner, OSH assistant deputy commissioner, and the compliance bureau chiefs prior to being posted on the OSH Targeting System. They will use their professional judgment to determine if safety and/or health inspections are warranted based on the industry's targeted class ranking, the number of sites selected for assignment, and taking into consideration the nature of the industry. The deputy and assistant deputy commissioners will discuss as needed with the compliance bureau chiefs to ensure that the OSH Division's limited resources are utilized in the most effective and efficient means possible. Compliance supervisors will also review general schedule assignments prior to assigning for inspection and use their professional judgment to make sure available division staff will reach the most hazardous industries in North Carolina.

- c. OSH Division Safety Targeting Classes.
  - i. Class I. Any industry with the DART equal to or greater than twice the average national private sector rate or the SSV ranking is in the highest 25% (The 75th percentile and above).
  - ii. Class II. Any industry with the DART equal to or greater than one- and one-half times the average national private sector rate but less than twice the average national private sector rate or the SSV rank is at the 50th percentile but less than the 75th percentile.

- iii. Class III. Any industry with the DART equal to or greater than the average national private sector rate but less than one- and one-half times the average national private sector rate or the SSV rank is at the 25th percentile but less than the 50th percentile.
  - iv. Class IV. Any industry with the DART equal to or greater than one half the average national private sector rate but less than the average national private sector rate or the SSV rank is in the lowest 25% (less than the 25th percentile).
  - v. Class V. Any industry with the DART less than one half the average national private sector rate.
- d. OSH Division Health Targeting Classes. The hazard index for health inspection general industry assignments is based exclusively on the private sector national rankings of SHV per inspection. OSTAT compiles five fiscal years of data by industry (NAICS). Each industry must have 10 or more inspections and 0.5 or more serious violations cited to be included in the rankings. RIT separates the industry codes into five categories (Class I-V).
- e. Inspection Goal. The OSH Division established a goal for its program by estimating the number of programmed planned (general industry) inspections that are anticipated to be performed in a given year. To achieve this goal on a uniform basis, the hazard index of each classification (Classes I-V) is multiplied by a constant so that the number of establishment inspections in each classification is proportional to its hazard rating.
- f. Random Selection (Employer Neutral). Random selection of worksites is accomplished for PSIM by RIT utilizing the cold fusion application server, which provides a random number generator. The targeting system is a computer program that randomly selects the sites and produces the inspection assignments. The computer database includes a "universe" of active sites obtained from the North Carolina Department of Commerce, Division of Employment Security (DES) Unemployment Insurance (UI) master list and from Reference USA of businesses and industries in the state and each site's industry classification. Each site or any number of sites in this OSH Establishment Database can be randomly selected, utilizing the cold fusion application server. The system is designed to select sites from the random candidates file until the number of sites needed for each hazard classification is satisfied, or the available sites are exhausted. Assignment reports are generally produced on an annual basis and the selection is random to include the entire state. Assignments not inspected may be added to any new assignment list. Final geographic distribution of inspections for particular industry classifications is ultimately determined by the industry density for particular classifications within the state. The inspection assignment reports are located on the limited-access intranet and are available to compliance supervisors. The supervisors (or their designated CSHO II) make the inspection assignments and update the assignment information.
4. Public Sector Programmed Inspections. Through the OSH Division Public Sector Survey, injury and illness data is collected from state and local government employers controlling more than 10 employees to aid in the planning and implementation of interventions for

the reduction of workplace injuries and illnesses involving public sector employees. OSH Division interventions may include: inspections, consultations, and education and training. The collection of this data is authorized under NCGS 95-133 – Office of Director of Occupational Safety and Health; Powers and Duties of Director, and NCGS 95-148 – Safety and Health Programs of State Agencies and Local Governments.

- a. Collection Process/Identification of Employers for Inspection. PSIM will perform public sector data collection using survey forms to obtain public sector injury and illness information. PSIM will maintain a list of North Carolina public sector employers using the UI file of the DES database, the Reference USA database, and through public sector verification (as defined by 29 CFR 1904 – Recording and Reporting Occupational Injuries and Illnesses) for employers controlling, as a whole, more than 10 employees.

Data collection will be conducted on an annual basis with the objective of securing occupational injury/illness data from each surveyed public sector employer for the previous calendar year. PSIM will mail survey forms to state and local government employers with a total of 11 or more employees. This is consistent with the North Carolina Occupational Safety and Health Act of 1973, which extended coverage of the Occupational Safety and Health Act of 1970 to include public sector employers.

Public sector employers will be surveyed each year consistent with their selected option (exercised in 2004) for the submission of their injury/illness data. Public sector employers were allowed to report their data by individual establishments (as defined in 29 CFR 1904 - Recordkeeping); by departments/divisions; or for the employer as a whole.

Survey recipients will complete the survey forms using injury and illness log data and include average employment and hours worked for the referenced calendar year. PSIM will sort the submitted surveys by employer categories (see the most current revision of OPN 128 - Public Sector Surveys and Inspections, Appendix A).

After a minimum of 90 calendar days from the date that the Public Sector Survey forms are initially mailed to the contact person for each survey, the names and addresses of non-responders will be added to the inspection targeting schedule.

- b. DART Rates (Days Away, Restricted, or Transferred Rates). Using the North Carolina Public Sector Data Collection System Database established by the RIT Division, a DART rate will be calculated for each public sector survey responder (individual establishment, department/division, or employer as a whole). The DART rate (includes Cases with Lost Workdays; Cases with Days of Restricted Work Activity; and Cases with Days of Transfer to another job) will be calculated as follows:

**DART Rate = [N / EH] x 200,000;**

Where **N** = total of columns H and I on the OSHA 300 log; **EH** = total number of employee hours worked for a calendar year; and **200,000** = base of working hours for 100 full time equivalent employees.

The calculated DART rates will be used to identify public sector employers to be assigned to the targeting schedule for a programmed-planned OSH compliance inspection.

PSIM will calculate a three-year aggregate DART rate for all survey responders in the identified employer categories (see Appendix A of OPN 128 – Public Sector Surveys and Inspections) that includes the injury/illness data for the most recent three-year period. This aggregate public sector DART rate will be the target rate for each specific category and will also be used in determining the high DART rate employer categories to focus inspection activity (as referenced in the most current version of OPN 128).

- c. **Public Sector Targeting**. Public sector targeting identifies the public sector survey participants to be assigned for a programmed-planned OSH compliance inspection. Those participants with a DART rate for the most recent survey year that is equal to or greater than the target rate for their specific category will be assigned to the targeting schedule with an emphasis on Class I and Class II.

Certain exemptions or exclusions may apply to various state and local government employers. These exemptions or exclusions include:

- i. **Previous Inspection**. A specific public sector establishment covered by a survey with a DART rate at or above the target rate for its specific category will not be included for assignment if the specific establishment has received a comprehensive inspection of the same type within the past three years (opening conference date to date assigned by the supervisor for inspection). For example, a specific establishment would be excluded from a safety inspection if the site received a comprehensive safety inspection within a three year period. However, the site could be included on an assignment list for a possible health inspection. If a number of establishments are covered under one survey response, the exclusion of one establishment will not exclude other establishments covered by the survey from being assigned for an inspection.
- ii. **Employer Size**. Public sector employers controlling less than 11 employees, as a whole, will not be included in the survey or the targeting schedule. The employment level is based on employer input and various sources available to the PSIM Bureau. If a programmed planned assignment is made through the targeting schedule and on-site verification results reflect that the employer has 10 or fewer employees controlled by the employer as a whole, the CSHO will contact their supervisor to discuss and make a management decision of whether to continue with the assigned inspection, even though the employer controls 10 or fewer employees, making them exempt from maintaining the 300 log. Note that establishments of employers controlling 10 employees or fewer could be assigned for an inspection as a result of an accident, complaint or referral.
- iii. **Private Sector Employers**. Private sector employers working on public sector sites are not included in this program of targeting the public sector for comprehensive inspections. However, these employers may be inspected as programmed-related during the course of the inspection of a

public sector establishment.

- iv. **Volunteer Fire Departments.** This program will not apply to volunteer fire departments for public sector employers with a population of 10,000 or less. However, the program does apply to employees (full time and part-time) of fire departments, regardless of the population.

d. **Public Sector Assignment Schedule.**

- i. **Targeting Schedule Generation.** PSIM will utilize the North Carolina Public Sector Data Collection System and the database established by the RIT Division which will calculate the DART rates discussed in Section F.4.b – DART Rates. Survey responders will be sorted by their calculated DART rates, higher-to-lower, within each employer category. Survey non-responders within each employer category will be assigned as Class I within their category.

Survey responders will be divided into four classifications:

- A. The top 25% (of all survey responders and any non-responders) will be Class I;
- B. The second 25% will be Class II;
- C. The third 25% will be Class III; and,
- D. The fourth 25% will be Class IV.

Assignments to the targeting schedule will primarily be made from Class I and Class II survey participants. However, survey responders with a DART rate below the target rate for their specific category may be randomly selected for assignment to the inspection list using a random number generator developed by the RIT Division.

- ii. **Targeting Schedule.** Public sector targeting assignments will be made available on an annual basis utilizing the most recently available calendar year of injury and illness data as collected through the Public Sector Survey. PSIM will provide the new targeting schedule to the Compliance Bureaus via the OSH Targeting System on the OSH One Stop Shop.
- iii. **Previous Schedules.** Public sector assignments not inspected in one year may be added to the new targeting schedule for the next year.
- iv. **Process of Inspection.** Public sector assignments from the targeting schedule may be assigned in any order that makes efficient use of the division's resources. Compliance supervisors are encouraged to focus the inspection resources on those listed assignments on the public sector targeting schedule that are identified as being in one of the high DART rate categories, which is any category with an aggregate DART rate higher than the current public sector DART rate.

e. CSHO Responsibilities.

- i. Inspection Preparation. Inspections conducted under the authority of this inspection targeting schedule will be comprehensive programmed inspections as discussed below:
  - A. If the assignment is for a single establishment, a comprehensive inspection will be conducted for that specific site location.
  - B. If the assignment listing is for a department/division, it may be impractical to perform a comprehensive inspection of all of the covered establishments as reflected on the secondary page of the assignment. The CSHO, in consultation with the compliance supervisor, must use their expertise and experience to determine which of the covered establishments to inspect.
    1. The CSHO will perform a hazard assessment of the survey assignment which may include establishments covered by the high DART rate categories and should be considered for inspection.
    2. The CSHO will inspect the employer's written safety and health programs and procedures; minutes from safety committee meetings and self-audits; and injury/illness records as part of the hazard assessment.
- ii. Inspection Process. Consideration must be given to all potentially hazardous areas or operations. Where they are applicable to the survey assignment, those operations and processes covered by the identified high DART rate employer categories should be included in the inspection process.
  - A. All inspections should be initiated at the primary address of the survey assignment listed on the primary page of the targeting schedule.
  - B. During the inspections conducted under these assignments, the CSHO will review the OSHA 300 and 300A for the calendar years specified in the most current revision of OPN 128 – Public Sector Surveys and Inspections for the establishment, department/division, or employer identified on the assignment. (See the most current revision of Standards Notice (SN) 75 – Public Sector Establishments for Recordkeeping and OPN 128 for information related to public sector establishments.) The DART rates for the three years will be recalculated as per Section F.4.b.
    1. If the recalculated DART rate for the survey year for the assignment is below the target rate for the employer's specific category, but the recalculated DART rate for the following year is at or above that target rate, the CSHO will complete the inspection.

2. If the recalculated DART rate for the survey year for the assignment is at or above the target rate for the employer's specific category, the CSHO will proceed with the inspection even if the following year is below the target rate.
  3. If the recalculated DART rates for both the survey year and following year are below the target rate for the employer's specific category, the CSHO will do a 'records only' inspection.
- C. If one or more of the establishments covered by an assignment (as referenced on the secondary page of the assignment) is primarily an administrative or academic entity, a partial inspection may be conducted. The CSHO should review the injury/illness records; review any written safety and health program document; and conduct employee interviews to confirm the absence of any high hazard activities. The reason for a partial inspection will be documented in the inspection file.
- D. The inspection process will be organized in a manner that causes the least amount of disruption for the inspected employer. If multiple assignments exist for the same public sector employer, every effort should be made to coordinate the scheduling of these inspections. CSHOs should hold a consolidated opening conference with the employer's top management to schedule on-site inspections within a reasonable period of time; and hold a consolidated closing conference at the end of the inspection process. Citations issued (if any) should be consolidated into one mailing. Post-inspection discussions with the employer's management (such as informal conferences) should be consolidated to the extent feasible.

iii. Recording and Tracking.

- A. CSHOs will complete a separate inspection report for each establishment inspected under a public sector assignment as referenced in Section F.4.f.iii.C. below.
- B. CSHOs will verify the establishments covered by the survey assignment. The list of designated establishments covered by a specific assignment is contained on the secondary page of the Public Sector Targeting Schedule. At the beginning of each inspection, the CSHO should review this list with the employer's management to ensure all active designated establishments are listed correctly and identify any closed or inactive establishments.

**Note:** CSHOs are to use the Site Information Change Request Form on the OSH Targeting System web page to communicate and relay establishment information, survey and establishment

designations or other public sector changes to PSIM.

- C. CSHOs will verify the employer's UI number and ensure they enter the correct public sector establishment number (UI number) on the inspection report for each establishment inspected. UI numbers contain 12 total letters or digits. For public sector establishments, the UI number will contain a 'P' or 'PS' in the last 5 spaces (1234567-P2345 or PS282). The correct 'P' or 'PS' number for each establishment is listed on the secondary page of the Public Sector Targeting Schedule. Employer unemployment insurance information included in inspection files will be marked "confidential" by the CSHO and will not be released by NCDOL. Any questions regarding a UI number will be directed to PSIM.
  - D. CSHOs will ensure they identify the employer correctly in the Ownership Block of the inspection report. Employers who are county or municipal employers will be identified as "B. Local Government." State employers will be identified as "C. State Government."
  - E. There are **no** specific codes for public sector inspections to be entered on the inspection report form under Strategic Plan Activities, National Emphasis Programs, Local Emphasis Programs or Local Initiatives.
  - F. If the inspection process includes actions by the CSHO that qualify as program improvements, the CSHO will enter the appropriate code under the Hazards Section of the Strategic Plan Activities block in the inspection report.
- iv. North Carolina Public Sector Database. The Public Sector Survey uses the DES UI Database and the OSH Establishment Database as a basis to determine a list of all public sector employers (with 11 or more employees controlled by the employer as a whole). The UI Database is controlled and maintained by DES and the information contained therein is not releasable by anyone without explicit authorization from DES. PSIM and RIT will periodically check for additions/removals of public sector employers from the database and make changes as required to conduct the survey. Compliance or CSB will forward to PSIM any differences found in NAICS Codes, addresses, number of employees, or employer names per F.4.f.iii.B. above.
- PSIM has developed its own NC Public Sector (NCPS) Database for survey and inspection targeting purposes. The NCPS Database contains over 9,000 establishments and survey participants. It is updated as necessary by the PSIM Bureau. The information contained in this database is also not releasable to the general public due to the fact that the DES UI Database is used as the basis for its content.

5. **Construction Targeting Intranet Schedule**. The OSH Division targeting schedule is administered by OSTAT. The PSIM Bureau administers the schedule for the division and is the contact bureau for OSTAT. The schedule is authorized by OSHA. OSH Division compliance supervisors are permitted access to the schedule.
  - a. **Schedule Overview**. Construction targeting is designed to provide timely data on upcoming or active construction projects, including project location, owner, general contractor, and project specific information. OSHA's OSTAT operates and maintains the targeting schedule. OSTAT randomly selects sites in eleven OSH Division districts. OSHA employs F.W. Dodge as the provider of building project information.
  - b. **Site Selection**. The schedule is designed to select assignments on a random statistical basis. Construction targeting chooses a wide-range of sites for assignment including: residential (excluding single-family housing); non-residential projects; public buildings and heavy construction projects. Monthly, F.W. Dodge provides OSTAT with a list of construction projects, which are estimated to be 30% - 60% complete. Assignments issued are based on a construction duration model encompassing: accurate start date; estimated duration of project; type of project; dollar value; ownership; number of stories; and a seasonal adjustment. Construction projects are then randomly selected by OSH district. Each selected project is assigned a Project Identification Number (PID) or Dodge Number.
  - c. **Construction Intranet Operation**. Each OSH Division compliance supervisor is assigned a user id and password. Compliance is instructed to coordinate assigning projects involving comprehensive safety and health inspection activity. Operators of the system may view inspection sites, special emphasis sites, early warning sites, and archived sites. Options may be selected for changing deletion criteria for the inspection site list, number of monthly requested inspection sites, developing a special emphasis program, request supplemental sites for inspection, archive sites, and search the database.
    - i. **Inspection Site List**. Randomly selected assignments for each OSH Division district. Supervisors may change deletion criteria of selection process to meet their district needs. Sites are available on a monthly basis.
    - ii. **Special Emphasis Site List**. Supervisors have the option to implement special emphasis programs using a variety of options.
    - iii. **Early Warning Site List**. Report that identifies major dollar value construction projects by estimated start date. This alerts compliance supervisors of these upcoming projects for planning purposes only. When an early warning project is 30% complete (estimated), the site will be assigned to the monthly inspection site list.
    - iv. **Archiving Inspection Sites**. When inspections are completed from the Inspection Site List or the Special Emphasis Site List, enter in OSHA Express (inspection report, Field 42) N-0-6 and the Dodge Number. Enter "N" in the TYPE field, "06" in the ID field and the "Dodge

Number" in the VALUE field. Completed or canceled projects may be handled so as not to produce an inspection report and 000 Inspection. Instead of entering "completed" or "canceled" in the inspection report, click on an assignment in the Inspection Site List and then click the archive button. The next screen will ask the user to input the inspection number, enter "completed", or enter "canceled." This step will archive the selected assignment and remove it from the Inspection Site List.

**Note:** Construction intranet targeting is designed to archive sites using the inspection report, Field 42 on OSHA Express. Selected projects are archived indefinitely.

6. **Agriculture Safety and Health (ASH) Programmed Inspections.** Programmed inspections normally result in a comprehensive inspection of the worksite. Housing, if provided as a condition of employment, will be inspected. Field sanitation inspections will be conducted as well. Any observed violations of Department of Agriculture pesticide regulations will be referred to the Department of Agriculture, Structural Pest Control and Pesticide Division. OSH Division requirements associated with pesticides will be handled by ASH or East or West Compliance in accordance with procedures.
  - a. **General.** The ASH Bureau, the PSIM Bureau, and the RIT Division have established a selection process to include agricultural commodity producers that rely heavily on migrant labor in accordance with the Migrant Housing Act and also for those who do not rely on migrant labor. This selection process is incorporated into the Inspection Targeting System. The administrative standards used to develop the program are designed to provide broad employer - neutral representative inspection coverage of agricultural employers who are utilizing a migrant labor workforce as well as for those who do not.
  - b. **Inspection Assignment.** ASH, PSIM and RIT will use available resources to identify agriculture employers who are utilizing migrant employees and establish a database. After the database is established, the Inspection Targeting System will be used to produce a randomly selected assignment listing of agriculture employers who meet the following criteria based on the Migrant Housing Act:
    - i. Employers subject to an annual preoccupancy inspection by the NCDOL and found not to be in one hundred percent (100%) compliance at that inspection (for the most current year).
    - ii. Employers assessed a civil penalty by the NCDOL during the previous calendar year for violations of this article or pursuant to G.S. 95-136(a)(3). (Any violation issued under the Migrant Housing Act or any willful violation from a partial compliance inspection.)
    - iii. Employers who did not have a preoccupancy inspection, unless the operator conducted a self-inspection pursuant to FOM Chapter XI – Agricultural Safety and Health Inspections, paragraph B.2. – Self Inspection Procedures. (Based on "inspector done" field of database with a designated time period of registration of the previous calendar year.)

Employers with 11 or more employees controlled by the employer, who fall

within agricultural industry classifications (NAICS 111, 112, 115) that are at or above the most recent national DART rate for the industry, and who do not employ migrant workers will be randomly selected from the OSH Targeting System database to produce an additional assignment schedule.

These assignment lists will be made available to the ASH compliance bureau chief via the OSH Targeting System webpage. The ASH compliance bureau chief will make the assignments to the compliance officers and update the targeting schedule. Sites that have had either a comprehensive safety or health inspection within the previous three years (opening conference to date assigned by bureau chief for inspection) will not be included for an assignment.

- c. Inspection Goal. Each fiscal year, ASH will establish inspection goals based on the number of programmed inspections that are reasonably anticipated to be performed. These programmed inspections are conducted to randomly monitor compliance of the Occupational Safety and Health Standards for Agriculture (Part 1928), the N.C. Migrant Housing Act, and Title 13, Subchapter 7F .0300 – Agriculture Standards, of the North Carolina Administrative Code.
7. Planning, Statistics and Information Management Bureau (PSIM). PSIM is responsible for working with OSHA's Office of Statistics, CSB, DES and RIT on issues which may arise from use of this intranet targeting system. Compliance supervisors and the ASH Compliance bureau chief should contact PSIM with all questions or concerns about targeting.
8. Confidentiality Agreement with the North Carolina Department of Commerce, Division of Employment Security (DES). NCDOL has signed a confidentiality agreement for the use of the UI database. The OSH Division has certified its understanding and acceptance that any UI information/data released to NCDOL by DES is to be used in accordance with N.C. General Statute 96-4(x) - Confidentiality of Records, Reports, and Information Obtained from Claimants, Employers, and Units of Government. It is forbidden to release, publish or otherwise disclose any information or data which can be used to identify, either directly or indirectly, a specific unit. Only authorized division personnel will use the DES data for the targeting purposes of the OSH Division. Employer unemployment insurance information or establishment search documents generated from this database from the OSH Targeting System, which is included in inspection files, will be marked "confidential" by the CSHO and will not be released through file disclosure by NCDOL.