

**North Carolina Department of Labor
Occupational Safety and Health Division**

Raleigh, North Carolina

Field Information System

Operational Procedure Notice 128M

Subject: Public Sector Surveys and Inspections

A. Purpose.

This Operational Procedure Notice (OPN) establishes and implements a public sector survey process and inspection program as authorized by North Carolina General Statutes 95-133 and 95-148 to target for inspection those public sector employers with a high rate of recordable work-related illnesses or injuries. Specifically, those employers with high Days Away, Restricted, or Transferred (DART) rates, as reported through the Public Sector Injury and Illness Survey and further defined by this OPN, are those that may be targeted for inspection. The North Carolina Department of Labor, Occupational Safety and Health (OSH) Division has also included the public sector as an area which may include inspections, consultations, education, and training.

B. Scope.

This OPN applies to all survey activity and inspection assignments included in this inspection program.

C. Discussion.

The OSH Division's public sector inspection targeting schedule is based on public sector employer DART data obtained through the Public Sector Injury and Illness Survey and those who do not respond to the survey. The OSH Division collects data on public sector employers, establishments or departments as identified from the Unemployment Insurance (UI) database file of the N.C. Employment Security Commission (ESC) and the OSH Establishment Database. Public sector employers with 11 or more employees controlled by as a whole are included in the database. The Public Sector Injury and Illness Survey (a.k.a. the North Carolina Public Sector Data Collection System) is a statewide annual collection of state and local government injury and illness data. A survey form (s) is completed by public sector employers with the data provided used to calculate the DART rate for the specific employer, establishment or department. Public sector employers controlling less than 11 employees will not be included in this survey process or targeting schedule. However, those employers controlling less than 11 employees could be assigned for inspection as a result of an accident, complaint or referral. Note: A specific establishment, site or department may have 10 or fewer employees; however, the employer, as a whole, may control more than 10 employees.

D. Objectives.

1. This public sector inspection program has been initiated to target for inspection those specific public sector employers, establishments or departments which have a calculated DART rate that is at or above the target rate for their specific category. (See Appendix A). The target rate and each survey responder's DART rate will be reflected on the targeting schedule.
2. The survey results will be sorted by the calculated DART rates, higher to lower, within a responder's specific category, with survey non-responders being included with the high DART rate survey responders. The survey results will be separated into four classifications. Of the

survey responders with rates higher than their category target rate and non-responders that may be assigned, the top 25% with the highest overall calculated DART rates and non-responders will be Class I, the second 25% will be Class II, etc. Survey responders whose current rate is below their specific category target rate may also be randomly assigned for inspection, using a random number generator to produce an assignment listing.

3. Using the cumulative data from the Public Sector Injury and Illness Survey for the three most recent calendar years, the Planning, Statistics and Information Management (PSIM) Bureau will calculate DART rates for the specific public sector categories and will identify survey responder's that have an aggregate DART rate at or above the corresponding target rate for the specific category. (See Appendix A). Inspection resources will be focused on those survey responders with the highest DART rates and non-responders that are in one of the identified high DART rate categories.

E. **Inspection Procedures.**

1. The North Carolina Field Operations Manual (FOM) will be used as the reference document for all issues related to inspection procedures. Chapter II of the manual describes compliance programming procedures including public sector programmed inspections, calculation of injury and illness rates, and specific compliance safety or health officer (CSHO) responsibilities at F. 3. F (FOM Chapter II). This OPN should be used in conjunction with the requirements contained in the FOM.
2. A goal of the public sector inspection program is that each assignment listed on the public sector assignment schedule should be inspected. However, as discussed in D.3. above, compliance bureau chiefs and supervisors are encouraged to focus their inspection resources towards the assignments that are in one of the identified high DART rate categories.

Inspections conducted under the authority of this OPN will be comprehensive programmed planned inspections covering all establishments controlled by the assigned entity except for situations described in E.3. and E.4. below.

3. In 2004, public sector survey responders were given a one-time option as to how they would submit their injury/illness data. Data can be submitted by individual establishments [as defined in 29 CFR 1904], by department/division, or for the employer as a whole. Therefore, CSHOs will need to be aware that each assignment may or may not be establishment-specific. If the employer reported all of their injury and illness data on one survey form, that assignment would be made for the employer as a whole and would include all of the establishments controlled by that employer. The inspection will be conducted based on how the survey information was submitted by the survey responder. If the assignment is for a single establishment, a comprehensive inspection of that establishment will be conducted.

However, if the assignment listing is by employer or by a division/department with multiple establishments, a comprehensive inspection of the entire assignment may be impractical. The compliance supervisor and the CSHO should use their expertise and experience to determine which establishments within the assignment to inspect. The CSHO will conduct a hazard assessment of the employer or division/department which includes a review of injury and illness records; the entity's written safety and health program; minutes from any safety committee meetings; internal safety and health audit records; and employee interviews. This analysis may help to identify high hazard establishments or areas that should be included in the inspection. A review of previous inspection case files for the entity or individual

establishments may also help to identify high hazard establishments or areas that should be inspected. The inspection plan will be documented in the case file.

To assist in this hazard assessment, the employer could be required [per 29 CFR 1904.30(a)] to produce injury and illness information by individual establishments. A citation for failure to maintain a separate log for each establishment per the requirements of 29 CFR 1904.30(a) may be issued if the employer cannot produce an OSHA 300 log for each establishment.

4. If an assignment for inspection is primarily an administrative or academic establishment or department, a partial inspection may be conducted. A review of injury and illness records should confirm the absence of any high hazard establishments or areas, and will be supported by employee interviews and review of safety and health program information. The reason for a partial inspection will be documented in the case file since the assignment was generated by the reported injury and illness rate.
5. For all public sector inspections, consideration should be given to all potentially hazardous areas, or operations. At a minimum, where they are applicable to the employer/establishment/entity identified in the inspection assignment, those operations or processes covered by the identified "high DART rate" departmental categories should be included in the inspection process.
6. 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, concerted attempts should be made to coordinate the assignment and scheduling of these inspections; to hold a consolidated opening conference with the employer's top management; to provide tight scheduling of the on-site inspections; and to hold a consolidated closing conference at the end of the inspection(s). Any citations issued from all of the inspections should be consolidated into one mailing. Inspection related discussions (such as Informal Conferences) should be addressed in one meeting/discussion with the employer's management.
7. Each assignment listed on the primary page of the assignment list will link to a secondary page, which will list all establishments associated with the employer as a whole. The CSHO, with input from the supervisor if necessary, will determine which sites from the secondary page of the assignment list apply to a particular assignment. The CSHO will decide which site(s) to inspect based on review of the 300 logs and per E.3., E.4., and E.5. above. If multiple establishments are included in the inspection, then each of the establishments inspected will require a separate OSHA-1 using the correct "P" numbers as listed on the secondary page of the assignment list.
8. All inspections should be initiated at the primary address of the entity listed on the primary page of the assignment list.

F. **Calculation of DART Rates.**

1. During inspections conducted under this OPN, the OSHA Injury and Illness Log for 2009, 2010, and 2011 for the establishment, department/division, or employer identified on the assignment will be reviewed. The DART rate for all three years will be recalculated (as described in Chapter II, F.3.c. of the FOM) and recorded on the OSHA-1 Form.
2. A recalculation will not be performed if, for any reason, the relevant records are not available. Appropriate citations under 29 CFR 1904 will be considered.

3. The CSHO will check OSHA 301 Forms, Form 19's, or equivalent, as they deem appropriate, to validate the OSHA 300 injury and illness logs related to the assignment. If these records are not available for CSHOs to make this determination, the workplace comprehensive safety and health inspection will proceed and appropriate citations under 29 CFR 1904 will be considered.
4. If the recalculated DART rate for the survey year for the assignment is below the target rate for the specific category, but the calculated DART rate for the following year is at or above the same target rate, the CSHO will proceed with the inspection. If the DART rates for both years are below the target rate for the specific category, a decision will need to be made between the CSHO and the compliance supervisor whether or not to continue with the inspection or do a "records only" inspection.
5. If recordkeeping violations are discovered, the employer will be cited in accordance with OSH Division policy. A partial walkthrough may be conducted to interview workers in order to confirm and verify the injury and illness experience. Any serious violations that are observed in the vicinity or brought to the attention of the compliance officer will be investigated and may be cited.

G. Recording and Tracking.

1. CSHOs must verify that the assignment has the correct Unemployment Insurance Number (UI). Questions regarding UI numbers will be directed to the PSIM Bureau. UI Numbers contain 12 total digits, which specifically identify an employer site. For the public sector, the UI Number to be entered on the OSHA-1 will contain a "P" in the last 5 digits (1234567-P2345). The "P" numbers are provided on the secondary page of the assignment list. Searches for a site's number(s) may be conducted on the PSIM Targeting Intranet Site.
2. CSHOs must ensure that they identify the employer correctly in the "ownership" block of the OSHA-1. Assignments involving county or municipal employers/entities will be identified as 'B. Local Government'. Assignments that are state employers/entities will be identified as 'C. State Government'. CSHOs are encouraged to use the "Site Information Change Request" form on the targeting system for any updates or additions of public sector site information they may encounter during the inspection process.
3. There are no specific codes for public sector inspections to be entered under Strategic Plan Activities, National Emphasis Programs, Local Emphasis Programs, Local Initiatives, or optional information fields blocks on the OSHA-1.

If the inspection process includes actions by the CSHOs to qualify as program improvements, the CSHO will enter the appropriate code under the Hazards section of the Strategic Plan Activities block on the OSHA-1.

H. Managing the Inspection Assignment List.

1. The PSIM Bureau will provide the East and West Compliance Bureau's access to an assignment list (through the Targeting System web page) of eligible assignments generated by a database supported by the Information Technology (IT) Division to calculate a DART rate. This database of eligible assignments contains public sector survey responders (with 11 or more employees controlled by the public sector employer as a whole) that participated in the Public Sector Injury and Illness Survey with DART rates at or above the target rate for their

specific category, and based on criteria stipulated in FOM Chapter II. The primary page of the assignment list will list the survey responder and the secondary page of the assignment list linked to that primary page will show all establishments covered by the employer. In addition, the assignments will include non-responders to the survey.

2. The public sector inspection targeting schedule will be based on consideration of available resources, strategic plan priorities, geographic range of the office, and the number of survey responders in the database that are at or above the target DART rate for their specific category. Within an assignment list, the establishments or departments may be scheduled and inspected in any order that makes efficient use of available resources. As noted in Section E.2. above, compliance bureau chiefs and supervisors are encouraged to focus inspection resources to those listed assignments that are in the identified “high DART rate” departmental categories.
3. Compliance supervisors along with the compliance bureau chiefs will be responsible for making recommendations regarding specific establishments on the public sector inspection targeting schedule (primary or secondary pages of the list) that should be skipped or deleted from the sites planned for inspection. For example, specific establishments that have received a recent comprehensive safety and health inspection may be skipped (deleted) from the current inspection assignment list/cycle as per number 7 below. Supervisors will document in the comments column of the public sector targeting page why an establishment or department should be skipped or deleted and the reason for the requested deletion. All requested changes to this targeting schedule must be in writing to the PSIM Bureau.
4. The public sector establishments or departments targeted for inspection will be assigned on an annual basis and can be carried over from year to year. Assignments will be available to the East and West Compliance Bureaus through the targeting system web page.
5. Compliance bureau management will determine the appropriate strategy for meeting inspection activity levels for public sector.
6. Compliance supervisors will review the public sector assignment list and determine whether an assignment is to be conducted as a safety inspection, health inspection, or joint inspection.
7. Inspections under the public sector inspection program may be conducted either as combined safety and health inspection by a cross-trained compliance officer (as established through specific training or demonstrated ability), or as separate safety and health inspections, or as joint safety and health inspections by multiple compliance officers. Establishments or departments with a DART rate at or above the target rate for their specific category that have received a comprehensive safety and health inspection within the previous three years (opening conference date to date assigned for inspection) should be deleted from the inspection list. For example, if one assignment on the primary page of the assignment list covers four establishments and one of the establishments has had a comprehensive safety and health inspection within the previous three years or is deferred by the Consultative Services Bureau, only three of the establishments covered by that public sector survey will be eligible for inspection.

I. **Administration.**

The OSH Division public sector inspection targeting schedule of assignments set forth in this operational procedure notice will be administered through the PSIM Bureau.

J. **Expiration.**

OPN 128L is canceled. This OPN is effective on the date of signature. It will remain in effect until revised or canceled by the director.

Signed on Original

Karen Bogner

Statistical Research Assistant III

Signed on Original

Allen McNeely

Director

8/13/2012

Date of Signature

OPN 128M, cont'd.

Appendix A: List of Target Rates for Public Sector Categories

The following list of public sector categories are actual calculated DART rates from the most recent three years of data collected from the annual Public Sector Survey. **The DART rate is the target rate for inspection assignments. The survey year for the inspection assignments is 2010.**

<u>Category</u>	<u>DART</u>
Public Works	7.01
School – Maintenance	6.76
Public Utilities	4.63
Sheriff/Police	4.10
Fire/EMS	4.06
Parks & Rec	3.94
State Government	2.72
Housing Authorities	2.63
Hospitals	2.51
Schools – Transportation	2.32
All Other Employees	2.28
Admin Services	2.19
Planning & Inspections	2.10
ABC Stores	1.53
Public Health/Mental Health	1.25
Libraries	1.22
Social Services	1.19
Commissions/Boards/Authorities	1.10
Schools	1.05
Finance & Taxation	0.95
Colleges & Universities	0.75

Source: Public Sector Data Collection System.