

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

Raleigh, NC

Field Information System

Operational Procedure Notice 145C

Subject: Special Emphasis Program for Grocery and Related Product Merchant Wholesalers

A. Purpose and Scope.

This Operational Procedure Notice (OPN) describes the North Carolina Department of Labor (NCDOL) Occupational Safety and Health (OSH) Division's Special Emphasis Program (SEP) for inspections of establishments in North American Industry Classification System (NAICS) sector 4244, Grocery and Related Product Merchant Wholesalers. This SEP covers all North Carolina employers and sites in NAICS 4244. The goal of this SEP is to reduce the number of hazards and the number of injuries suffered by employees working at these sites. The SEP will include interventions from the Compliance Bureaus, the Consultative Services Bureau (CSB) and the Education, Training and Technical Assistance (ETTA) Bureau.

B. Special Emphasis Program History.

NCDOL's injury and illness data for NAICS 4244 for the calendar years, 2009 through 2011 identified a significant number of hazards in the following categories: materials handling and storage, walking-working surfaces, ergonomics, powered industrial trucks, machine guarding, personal protective equipment (PPE), eye wash equipment, hazard communication and process safety management.

In response to this information, the Grocery and Related Product Merchant Wholesalers industry was added to the OSH Division's five-year Strategic Management Plan (SMP) for federal fiscal years (FFY) 2014 through 2018. The first year, FFY 2014, was designated as a planning year. During this time, the SEP committee researched different ways to work toward the elimination of these hazards and reduction of injuries and illnesses. Formal SEP activity was implemented beginning in FFY 2015 of the 2014 – 2018 SMP and continues in the new five-year SMP for FFY 2019 – 2023.

C. Background and Discussion.

N.C. employers, covered by NAICS 4244, employ a significant number of the employees working in the state. An increase in competition in this industry sector in N.C., the U.S. and worldwide, has caused employers in this sector, which has historically been labor intensive, to begin using more machinery in their processes.

This type of work has become more automated and has caused employees to work in closer proximity to high speed equipment such as rapidly moving conveyors and other such material handling equipment. The need for higher speed material handling equipment in the workplace brings with it a greater need for proper machine maintenance and machine guarding.

As a result of these changes in the industry, injury statistics from 2009 to 2011 from the U.S. Bureau of Labor Statistics (BLS) showed that the Days Away, Restricted or Transferred (DART) rate for NAICS 4244 in N.C. to be higher than the average injury rate for all industries (combined) in the state.

The goal of this SEP is to reduce the DART rate in the industry as outlined in the current SMP. The Total Recordable Case (TRC) rate is shown for additional comparison purposes. Reference Table 1 and Table 2.

Table 1: N.C. and National TRC and DART rates for all industries combined.

Year	N.C. Average DART	National Average DART	N.C. Average TRC	National Average TRC
2009	1.6	1.9	5.4	3.9
2010	1.7	1.9	3.3	3.8
2011	1.6	1.9	3.3	3.8
2012	1.6	1.8	3.1	3.7
2013	1.4	1.8	2.9	3.5
2014	1.5	1.8	2.9	3.4
2015	1.4	1.7	2.9	3.3

Table 2: N.C. and National TRC and DART rates for NAICS 4244.

Year	N.C. DART NAICS 4244	National DART NAICS 4244	N.C. TRC NAICS 4244	National TRC NAICS 4244
2009	4.4	4.0	5.8	5.4
2010	5.3	4.5	7.1	6.2
2011	3.9	4.1	5.6	5.7
2012	3.7	4.1	5.0	5.8
2013	4.0	3.7	5.5	5.1
2014	2.7	3.9	4.5	5.1
2015	3.3	4.2	4.3	5.3

D. Program Procedures.

NAICS 4244 assignments will be generated through fatalities, accidents, complaints, referrals, and general industry schedule criteria. The assignments have priority based upon the schedule in Field Operations Manual (FOM) Chapter II.E. – Compliance Programming.

E. Compliance Inspection Procedures.

1. General.

- a. Compliance activities conducted under this SEP will normally be limited to programmed inspections (the general industry schedule assigned from the OSH Division Targeting System and/or any specific programmed random scheduled list including NAICS covered by this OPN).
- b. If a complaint, referral, or accident inspection is conducted in an establishment covered by this OPN, compliance safety and health officers (CSHOs) will follow guidance listed below and in FOM Chapter IX – Complaints, Referrals and Accidents.
- c. If a fatality or catastrophe investigation is conducted in an establishment covered by this OPN, CSHOs will follow guidance listed below and in FOM Chapter VIII – Fatality and Catastrophe Investigations.

2. Pre-Inspection Preparation.

- a. District supervisors will consider the objectives of this SEP and the processes and hazard categories expected at individual sites to determine whether to assign specific inspections to individual CSHOs or to assign an inspection as a team inspection. Individual inspections may be assigned as joint safety and health inspections when appropriate.

If there are any questions as to whether an employer/site is covered by this SEP, a full listing of NAICS 4244 industry categories is found in the U.S. Office of Management and Budget, NAICS manual, United States (current edition) (www.census.gov/eos/www/naics/).

- b. CSHOs assigned to conduct unprogrammed, partial-scope inspections (fatalities, catastrophes, accidents, complaints, referrals, etc.) must review the site listing on the OSH Division Targeting System to determine if a deferral from programmed inspections has been issued for the employer/site. If the site has an exemption, the CSHO will refer to FOM Chapter III – Inspection Procedures, paragraph D.3.h. – Exemptions from Compliance Inspections, for guidance regarding exemptions to be applied to the current inspection.

- c. CSHOs assigned to conduct site inspections under this SEP will familiarize themselves with the following documents as appropriate.

- i. FOM Chapter XVII – Ergonomics Inspection Procedures
- ii. CPL 02-01-028 (2-1.28A) – Powered Industrial Truck Operator Training
- iii. CPL 02-02-079 – Inspection Procedures for the Hazard Communication Standard (HCS 2012)
- iv. CPL 02-02-045 (CPL 2-2.45A) – Process Safety Management of Highly Hazardous Chemicals – Compliance Guidelines and Enforcement Procedures
- v. CPL 02-02-074 – Inspection Procedures for Chromium (VI) standards
- vi. CPL 02-02-076 – National Emphasis Program (NEP): Hexavalent Chromium
- vii. CPL 02-00-100 (CPL 2.100) – Application of the Permit-Required Confined Spaces (PRCS) Standard, 29 CFR 1910.146
- viii. CPL 02-00-135 – Recordkeeping Policies and Procedures Manual
- ix. OPN 135 – SEP: Exposures to Health Hazards (most current revision)

- d. In addition to the program documents listed above, ETTA has developed an industry-specific Industry Data Report (IDR) for NAICS 4244 that describes the processes and identifies the hazards common to this industry. The IDR is accessible under the Field Information System (FIS) link on the OSH One Stop Shop.

3. Inspection Process.

- a. CSHOs will evaluate the following safety and health program issues during all programmed compliance inspections. Unless the site is exempt per paragraph E.2.b. above, any unprogrammed partial-scope inspections conducted at NAICS 4244 sites under this SEP may be expanded to cover the following safety and health program issues, provided all procedures outlined in the appropriate FOM chapter are followed (see paragraph E.1. for references).

- i. OSHA Recordkeeping. During each inspection conducted under this SEP, CSHOs will evaluate the employer's recordkeeping process by completing the following:
 - A. Review and evaluate the site's OSHA Log of Work-Related Injuries and Illnesses (Form 300) and Summary of Work-Related Injuries and Illnesses (Form 300A) for the preceding three (3) calendar years and the Form 300 for the current year per the requirements of 29 CFR Part 1904 – Recording and Reporting Occupational Injuries and Illnesses and CPL 02-00-135 – Recordkeeping Policies and Procedures. Discuss any apparent discrepancies with the employer's OSHA record keeper or the appropriate member of management.
 - B. Record the data from each OSHA Form 300 and Form 300A for entry on the inspection report.
 - C. During employee interviews, question employees regarding work-related injuries they have had and/or their knowledge of work-related injuries involving other employees within the past three (3) calendar years. Where the incidents appear to meet the OSHA recordability criteria, ensure the incidents are properly recorded on the appropriate OSHA Form 300. Discuss any apparent discrepancies with the employer's OSHA 300 Log record keeper or the appropriate member of management.

Note: Appendix A of this OPN contains an employee questionnaire that can be used to record the employees' responses.

- D. OSHA 300 and 300A forms will be collected from each employer as required by FOM Chapter III – Inspection Procedures, paragraph D.6.a.i. as follows:
 - 1. Records. The CSHO will comply with the records review procedures that follow for all inspections, programmed or unprogrammed, of employers required to keep the records in question. Findings will be documented in the case file within the Penalty Credits section of OSHA Express (OE) under Evaluation and Employer's Overall Safety and Health Program.
 - 2. Injury and Illness Records. CSHO(s) will review the current and the most recent three (3) full calendar years of the employer's injury and illness records. Data from this review will be recorded in OE within the Penalty Credits section of OE under Evaluation and Employer's Overall Safety and Health Program.

In order to track and trend illnesses and injuries for NAICS 4244, OSHA 300 and 300A forms will be collected by the CSHO(s) performing NAICS 4244 inspections and will be

forwarded to the Planning, Statistics and Information Management (PSIM) bureau chief, who will in turn forward to the team leader of the Grocery and Related Product Merchant Wholesalers SEP for review at quarterly committee meetings. Information and data gathered will be documented and communicated to the employer and district offices.

- ii. Powered Industrial Trucks. There is significant material handling in NAICS 4244 warehousing operations that poses the potential for serious injuries to employees. CSHOs will evaluate the employer's policies, procedures, and work practices for compliance with the requirements of 29 CFR 1910.176 – Handling Materials, General and 29 CFR 1910.178 – Powered Industrial Trucks. If the trucks operate on hydrocarbon fuels, employee exposure to carbon monoxide shall also be evaluated. Of special importance is the use of seat belts while driving trucks and the use of personal fall arrest systems while on lifts for order picking.

CSHOs should evaluate work processes occurring inside and outside of the warehouses and storage areas by looking for potential “struck by” hazards, especially when employees are working near tractor trailers, fork trucks and other heavy equipment. CSHOs should ensure dock locks, chocks and/or spring brakes are being used to prevent employees from being struck by tractor trailers and trucks either while walking or while driving fork trucks. See Standards Notice 66 – Spring Brake System or Dock Lock used in lieu of Chocking as Means to Secure Trucks or Trailers at a Loading Dock.

In addition, CSHOs should review employers' policies and procedures to determine if “struck by” hazards exist, and ensure pedestrian walkways are established where visibility is limited in one or more directions.

- iii. Electrical. Electrical hazards at NAICS 4244 sites can be aggravated by the presence of wet-process areas and the industry's sanitation standards that require the use of chemical products that may corrode electrical enclosures and equipment. CSHOs will evaluate the condition of electrical equipment such as panels, cabinets, motor control centers, conduits, etc.; evaluate the appropriate use of ground fault circuit interrupters (GFCIs); and evaluate the use of water-proof receptacles and enclosures. CSHOs will also evaluate electrical work practices for compliance with the requirements of 29 CFR 1910.147 – The Control of Hazardous Energy.
- iv. Ergonomics. Many production processes at NAICS 4244 sites require the performance of repeated and sustained manual handling and manual exertion work tasks. CSHOs will evaluate the employer's policies, procedures, and work practices to determine if they effectively eliminate and control ergonomic risk factors. CSHOs will review the employer's OSHA 300 forms to identify musculoskeletal disorders (MSDs) such as repetitive motion injuries, cumulative trauma disorders (CTDs), etc. CSHOs will calculate the annual MSD DART rate for at least the three calendar years preceding the inspection to determine if the rates are increasing or decreasing. CSHOs will refer to FOM Chapter XVII –

Ergonomics Inspection Procedures for guidance on citations and hazard alert letter issuance (FOM Chapter XVII, Appendices C – F).

- v. Hazard Communication. CSHOs will evaluate the employer's use of chemicals in the work environment for compliance with 29 CFR 1910.1200 – Hazard Communication. CSHOs will use CPL 02-02-079, Inspection Procedures for the Hazard Communication Standard (HCS 2012), as guidance.
- vi. Hexavalent Chromium (Chromium (VI)). For sanitation purposes, food manufacturing/repackaging equipment is made from stainless steel so that it can be cleaned without rusting. Food storage racks/shelving may also be made from stainless steel. Additionally, the equipment is welded to prevent food from gathering in areas where the equipment would otherwise be bolted together. Employees who perform welding on this equipment as part of in-plant repairs or perform other activities to install new process equipment or lines may be exposed to hexavalent chromium.

Hexavalent chromium is covered under the most current revision of OPN 135 – SEP: Exposures to Health Hazards. Additionally, NCDOL is using, in part, CPL 02-02-076 – NEP: Hexavalent Chromium and CPL 02-02-074 – Inspection Procedures for Chromium (VI) Standard. Since potential hexavalent chromium exposures are an emphasis area for the OSH Division, CSHOs conducting NAICS 4244 inspections will need to address this potential hazard.

The CSHO will verify with the employer during the opening conference and with employees during interviews, whether work activities/tasks are performed at the facility that may produce employee exposure to hexavalent chromium, specifically, welding on stainless steel equipment or components. If it is determined that no activities with the potential for hexavalent chromium exposure are performed, the CSHO will document this in the Narrative portion of the inspection report.

If activities/tasks that may involve employee exposure to hexavalent chromium are identified, the CSHO will complete the following tasks.

- A. Determine when the tasks creating these exposures are performed (scheduled routine maintenance versus non-routine/unplanned repairs; which shifts; etc.).
- B. Request copies of the employer's initial exposure monitoring results and any subsequent air monitoring results for hexavalent chromium.
- C. Evaluate the air monitoring results and discuss with the district supervisor if there is a need to conduct further inspection activity for hexavalent chromium in accordance with 29 CFR 1910.1026 – Chromium VI, the most current revision of OPN 135 – SEP: Exposures to Health Hazards, CPL 02-02-74 – Inspection Procedures for the Chromium (VI) standards and CPL 02-02-076 – NEP: Hexavalent Chromium.

If employees have performed work tasks that may have created an exposure to hexavalent chromium, and no exposure monitoring has been performed, the CSHO will either conduct air monitoring for hexavalent chromium or make a referral to a Health Compliance Officer (HCO) for sampling. If the sampling indicates a work exposure in excess of the Action Level or Permissible Exposure Level for Chromium (VI), the CSHO or HCO will discuss with the district supervisor the need to conduct further inspection activity for hexavalent chromium in accordance with 29 CFR 1910.1026 – Chromium VI, the most current revision of OPN 135 – SEP: Exposures to Health Hazards, CPL 02-02-74 – Inspection Procedures for the Chromium (VI) standards and CPL 02-02-076 – NEP: Hexavalent Chromium.

- vii. Machine Guarding. Accidents resulting from employee contact with or entrapment in moving machine parts have resulted in serious injuries, including deaths at several NAICS 4244 sites. CSHOs will complete the following tasks.
 - A. Evaluate the employer's process for the inspection and evaluation of new and/or rebuilt machinery to identify and correct hazards before the machinery is released for routine operation. This will include a review of the documentation of this activity.
 - B. Evaluate the employer's process for preventative maintenance/periodic self-inspection of production, facility, and shop machinery to identify and correct hazards. This will include a review of the documentation of this activity.
 - C. Evaluate the employer's control of hazardous energy during machine maintenance and repair activities for compliance with the requirements of 29 CFR 1910.147 – The Control of Hazardous Energy.
 - D. Conduct a focused walk-through inspection of the employer's site to evaluate the guarding of machinery hazards. The inspection should include all production areas, equipment rooms and any maintenance or fabrication shops. This inspection should include, but not be limited to:
 - 1. Conveyors;
 - 2. Points-of-operation guarding, including: in-running nip-points, cutters, shears, saws, presses, lathes;
 - 3. Mechanical transmission devices: gears, shafts, pulleys and belts; and
 - 4. Robotic equipment.
- viii. Process Safety Management. NAICS 4244 sites with large refrigeration or freezer processes are likely to have hazardous chemical products in sufficient quantities to place them under the scope of 29 CFR 1910.119 – Process Safety Management of Highly Hazardous Chemicals. The two products most likely to be found in amounts above the threshold quantity

(TQ) at these sites are anhydrous ammonia (10,000 pounds TQ) used for refrigeration and chlorine (1,500 pounds TQ) used for water treatment.

- A. CSHOs will interview the appropriate management representative to determine:
 - 1. If any process at the site uses hazardous chemicals at or above the TQ listed in 29 CFR 1910.119, Appendix A, List of Highly Hazardous Chemicals, Toxics and Reactives (Mandatory).
 - 2. If any process at the site uses a flammable liquid or gas as defined in 29 CFR 1910.119(a) in quantities of 10,000 pounds or greater (excluding the quantity maintained in an atmospheric storage tank).
- B. If the results of the screening interview indicate that highly hazardous chemicals listed in 29 CFR 1910.119 are present at or above the TQ or if a flammable liquid or gas is present in a quantity at or above 10,000 pounds, CSHOs will determine if the employer has developed and implemented a process safety management program.
 - 1. If CSHOs confirm or suspect a site may be covered by 29 CFR 1910.119, they will consult with their district supervisor or bureau chief regarding a referral for a process safety management inspection of the site.
 - 2. If CSHOs have any questions regarding 29 CFR 1910.119, they should contact a Program Quality Verification (PQV) team member, the division's process safety management coordinator, their district supervisor or bureau chief.

Note: The screening process for evaluating coverage under the process safety management standard is contained in Appendix B of this OPN.

- b. Medical Records. During the evaluation of the employer's OSHA recordkeeping or ergonomics program, it may be necessary for CSHOs to access and obtain copies of employees' medical records. Medical records are deemed to be confidential documents and are regulated by the U.S. Health and Human Services Standards for the Privacy of Individually Identifiable Health Information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). 45 CFR 164.512(b)(1)(V) states that an employer (or its health care provider) can disclose and use confidential employee health information when conducting or evaluating workplace medical surveillance; to evaluate whether an employee has a work-related illness or injury; or to comply with OSHA requirements under 29 CFR, Parts 1904 through 1928; 30 CFR, Parts 50 through 90; or under state law having a similar purpose. An Employee Medical Release Form and a HIPAA letter from NCDOL Legal Affairs are located in the Forms folder under the FIS link on the OSH One Stop Shop.

Medical records, as defined in the FOM Definitions, must be obtained and maintained in accordance with the requirements of FOM Chapter III – Inspection Procedures, FOM Chapter XIII – Informal Conferences, Contested Cases, and Disclosures, and FOM Chapter XVI – Administrative File Activities. CSHOs are reminded that all copies of employees' medical records obtained from employers or other sources are to be separated, coded, and maintained in accordance with FOM Chapters III and XVI.

F. **Outreach.**

ETTA and CSB will conduct outreach in accordance with the goals set forth in the NCDOL OSH Division's Strategic Management Plan, including but not limited to, marketing of services offered, educational workshops and hazard-related publications. CSB will focus efforts in NAICS 4244 to increase requests and surveys. The surveys will focus on the hazards described in paragraph E.3. of this OPN.

G. **Recording and Tracking.**

There are no specified codes identified for the Grocery and Related Product Merchant Wholesalers SEP since all inspections performed under the SEP are identified by the NAICS 4244 Subsection code entered on the inspection report.


Inspections conducted under this SEP may also cover topics addressed by other SEPs and/or focus issues such as combustible dust; exposure to health hazards such as asbestos, chromium (VI), isocyanates, lead, or silica; or ergonomics that have specific emphasis codes assigned. Where these focus issues or SEPs are covered by an inspection, the specific codes identified for these topics will be entered in the inspection report.

H. **Program Evaluation.**

BLS data will be used to determine the effectiveness of this industry emphasis. This statistical data will be reviewed annually by the state with outcome results included in both the State OSHA Annual Report (SOAR) and the Federal Annual Monitoring and Evaluation (FAME) Report. State activity will be tracked on a monthly basis and will be reported on the performance indicator report (PIR).

I. **Effective Date.**

OPN 145B is canceled. This OPN is effective on the date of signature. It will remain in effect until revised or canceled by the director.


Dawn Reynolds
SEP Team Leader


Kevin Beauregard
Director

10/12/18
Date of Signature

Appendix A: Employee Questionnaire – Work-Related Injuries and Illnesses

NAME: _____ JOB TITLE: _____

DEPARTMENT: _____ LENGTH OF SERVICE: _____

ADDRESS: _____ TELEPHONE: _____

_____ EMAIL ADDRESS: _____

HAS YOUR EMPLOYER INFORMED YOU ON HOW TO REPORT WORK-RELATED INJURIES OR ILLNESSES?

YES: ____ NO: ____

WHAT IS THE REPORTING PROCESS:

DID YOU EXPERIENCE A WORK-RELATED INJURY OR ILLNESS DURING THE PAST THREE YEARS?

YES: ____ NO: ____ IF YES, DATE OF INJURY: _____

DESCRIBE THIS INJURY OR ILLNESS:

DID YOU REPORT THIS INJURY OR ILLNESS TO YOUR EMPLOYER? YES: ____ NO: ____

DID YOU RECEIVE MEDICAL TREATMENT FOR THIS INJURY / ILLNESS? YES: ____ NO: ____

WHO PROVIDED THIS TREATMENT? _____

DESCRIBE THE TREATMENT RECEIVED: _____

DID YOU MISS ANY TIME FROM WORK AS A RESULT OF THIS INJURY / ILLNESS OR MEDICAL TREATMENT? YES: ____ NO: ____

HOW MANY DAYS DID YOU MISS FROM WORK: _____

WERE YOU ABLE TO PERFORM ALL OF THE DUTIES OF YOUR JOB AND/OR WORK A FULL WORK SCHEDULE FOLLOWING THIS INJURY / ILLNESS OR MEDICAL TREATMENT? YES: ____ NO: ____

DETAILS OF RESTRICTIONS: _____

ARE YOU AWARE OF ANY WORK-RELATED INJURIES OR ILLNESSES EXPERIENCED BY ANY OF YOUR CO-WORKERS? YES: ____ NO: ____

DETAILS OF THESE INCIDENTS:

Appendix B: Screening Process for Coverage under Process Safety Management

A. Basic Screening (Non-PQV Trained CSHOs):

1. Initiate any inspection activity through normal channels: (fatality/catastrophe, complaint, referral, accident, follow-up, general schedule, SEP)
2. Ask if the employer has a Process Safety Management Program. If the response is “no,” ask the employer about the use of the following at this site:
 - a. Is there an ammonia refrigeration system in operation at this site? What is the quantity of ammonia that is used or stored at this site? (Does this quantity approach or exceed 10,000 pounds?)
 - b. Is chlorine used for water treatment or any other processes at this site? What is the quantity of chlorine that is used or stored at this site? (Does this quantity approach or exceed 1,500 pounds?)
 - c. What flammable liquids are used or stored at this site? What is the quantity of flammable liquids that is used or stored at this site? (Does this quantity approach or exceed 10,000 pounds?)
 - d. Are any of the chemicals listed in 29 CFR 1910.119 - Process Safety Management Of Highly Hazardous Chemicals, Appendix A, used or stored at this site? Which chemicals and in what quantities?
3. If there is ANY indication of possible process safety management coverage at this site, CSHOs will contact their district supervisor or a PQV team member to determine if a referral for a process safety management inspection is to be made.

B. PQV Team Member (Process Safety Management Trained CSHO):

1. Give the non-trained CSHOs a list of information for chemicals/amounts to obtain from the employer at the site.
2. After the post-inspection consultation with the CSHOs, gather the other information as required. (This may be accomplished through a follow-up telephone discussion with the employer's representative.)
3. Coordinate with the district supervisor or bureau chief to select most appropriate PQV team leader for a process safety management inspection at the site based on workload, abilities, availability, etc.

C. Division Resources:

1. PSM Coordinator: Howard Laurie, Office (910) 251-2678 / Cell (910) 617-7461
2. Supervisors/Facilitators: Lafayette Atkinson, Nicole Brown, Bruce Miles, Lee Peacock and Jennie Cagle.