

OSHA'S UPDATED SITE-SPECIFIC TARGETING INSPECTION PLAN JUST TOOK EFFECT: THE ANSWERS TO EMPLOYERS' TOP 5 QUESTIONS

Insights
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The Occupational Safety and Health Administration (OSHA) has released an updated Instruction implementing a new Site-Specific Targeting inspection plan for non-construction worksites, effective for two years starting on May 20. What do employers need to know about this new OSHA Instruction and what are the answers to your top five questions?

1. What Are Site-Specific Targeting (SST) Inspections?

SST is [OSHA's main site-specific targeting inspection plan](#) for non-construction workplaces with 20 or more employees. OSHA implements its SST inspection programs using employer-submitted Form 300A data, which is derived directly from the employer's 300 [Logs submitted to the agency](#). OSHA then places the following employers on its SST inspection list:

- employers with an elevated Days Away, Restricted or Transferred Rate (DART Rate);
- employers with upward trending DART rates;
- a random sample of establishments (aka worksites) that did not report; and
- some low-rate establishments (typically included to verify the accuracy of the list, identified on the list by two asterisks).

To compile its inspection list, OSHA uses establishment NAICS codes, setting one DART rate for manufacturing,

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(NAICS 31-33) and a different DART rate for non-manufacturing (all other NAICS, except construction) as the list's selection criteria. The list typically represents a 50/50 split between manufacturing and non-manufacturing establishments.

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From April 7, 2023, to December 12, 2024, SST resulted in 652 OSHA inspections, and indicates that it had fewer "No Inspections" at SST-selected establishments, compared to other non-construction programmed inspections. OSHA notes that SST sites also had a higher rate of violations per inspection and a higher not-in-compliance rate than other non-construction programmed inspections during this period.

2. What Is A DART Rate And How Does OSHA Use It?

The DART Rate is calculated by OSHA using 300 Log and 300A data. It measures an employer's employees' days away, restricted work, and transfers at an establishment. Employers calculate the rate by taking the number of days away, restricted work, and transfers, multiplying it by 200,000, and dividing it by the number of hours all employees at the establishment worked.

The DART Rate is then stored in OSHA Information System (OIS). Applying industry and establishment size criteria, OSHA uses an employers' DART Rate and Incident Rates (Number of injuries and illnesses X 200,000 and divided by employee hours worked, used to show relative injuries and illnesses among different industries, firms, or operations in a single firm, over a given period) to identify establishments likely to have elevated numbers of injuries and illnesses.

3. What Are The Changes In The Updated SST Instruction?

In terms of data, [the latest OSHA Instruction](#) supersedes [prior SST instructions](#) and implements OSHA's current SST inspection program using employer-submitted Form 300A data from the years 2021-2023. For high-rate establishments, the SST plan selects individual establishments for an OSHA inspection based on 2023 Form 300A data. OSHA notes that, for upward-trending establishments, the SST plan selects individual establishments for an OSHA inspection based on 2021-2023 Form 300A data.

OSHA also deleted guidance on a “record-only” inspection. In the past SST, OSHA asserted that in the event OSHA showed up to inspect but a worksite should not have been included on OSHA’s inspection list because of incorrect data submitted by the employer, it was still required for an OSHA compliance safety and health officer (CSHO) to conduct a partial walkthrough of the workplace and interview employees to verify the establishment’s injury and illness experience.

OSHA appears to have backed away from this assertion in the current SST, which many employers would have objected to as an **inspection** conducted by OSHA in violation of the Fourth Amendment. On the other hand, however, OSHA added “Walkthrough” guidance in the SST for its CSHOs, specifying that CSHOs should consider and evaluate potential hazards in all areas of the workplace, with a focus on areas where injuries/illnesses are documented to have occurred – including evaluating exposures during multiple work shifts.

4. What Did Not Change In The Updated SST Instruction?

- As with prior SST guidance, this inspection program does not apply to construction worksites.
- OSHA still takes the position that SST inspections are comprehensive in scope, and OSHA’s Office of Statistical Analysis will provide each OSHA Area Office access to which establishments on the SST Inspection List. OSHA’s software then randomly selects establishments (from 5 to 50 in a given cycle depending on available resources and geographical area) to be inspected by the OSHA Area Office in a given calendar year, with some exceptions for carryover. Once on the inspection list, OSHA generally may only delete an establishment from the inspection list if that establishment has received a comprehensive safety or health inspection within 36 months of the creation of the current inspection cycle.
- An OSHA Area Director may open an inspection conducted under this program as either a comprehensive safety or health inspection, based on the Area Office’s knowledge of the workplace characteristics. Like all OSHA inspections, any alleged serious violations observed in plain view or brought to the attention of the CSHO will be investigated according to OSHA’s Field Operations Manual (FOM) procedures.

- The latest guidance also states that CSHOs can still change the scope of an inspection to an “office-only” inspection when the establishment is just an office. However, the name is deceptive because OSHA’s guidance clarifies that, for “office-only” inspections, the CSHO must still determine where the data from the 300A came from. If that data is from another establishment that is not an office, OSHA will then attempt to conduct an inspection at that second establishment.

5. What Should Employers Do?

First, recordability of any injury on your 300 Log is a serious matter, and while this instruction maintains much of OSHA’s prior SST inspection program, employers must ensure to complete their 300 Log and Form 300A accurately. Given the multi-year timeframe OSHA has implemented for targeting employers for SST inspections, employers should be vigilant in ensuring that their OSHA 300 Logs do not needlessly record non-recordable injuries. Failing to do so unnecessarily increases an employer’s DART rate, eventually leading to an increase in OSHA inspections long after such recording occurs.

Second, remember that employers have rights. The SST does not affect your Constitutional rights. You have the Fourth Amendment right to ask OSHA to show that the establishment is on the SST or to refuse a walkaround inspection on any basis and require OSHA to get a warrant to conduct its inspection. Consult with your workplace safety attorney on the advisability of requiring warrants for inspections.

Third, ensure you have a plan. Review [these comprehensive OSHA Inspection FAQs](#), then develop a plan for when OSHA arrives at your worksite. That could include:

- Designate one supervisory employee to be the contact person when OSHA arrives and ensure OSHA’s inspector stays within the inspection’s scope. They should always stay with the OSHA compliance officer during the inspection, except during interviews with non-supervisory employees who do not request a manager’s presence.
- Be sure you are ready to take side-by-side photos, sampling, and tests when OSHA requests to do so.

- Review our “Focus 4” Threshold Tips for Surviving an OSHA Inspection that every employer should know:
 - (1) don't permit any manager or supervisor interviews by OSHA on the day the agency arrives; (2) don't give federal OSHA any documents other than your OSHA 300 logs, 300A summaries, 301 forms, and relevant safety data sheets (SDS) on the first day of the inspection; (3) take the OSHA inspector straight to and straight from the area of topics the CSHO raises in relation to the SST; and
 - (4) ensure your employees are refraining from any high hazardous activities occurring while OSHA is present.

Conclusion

Finally, make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have any questions, contact the authors of this Insight, your Fisher Phillips attorney, or any member of our [Workplace Safety Team](#).