

# Your Establishment Received a Letter from OSHA: Now What?

*An overview of OSHA's SST inspection program*

*By Jerry Davis, Shaman Ahuja and Eric B. Hollingsworth*

**W**ITH MORE THAN 115 MILLION WORKERS employed at 7.1 million sites, OSHA simply cannot inspect each establishment in America in order to determine their compliance with the OSH Act [OSHA(a)]. Given these statistics, it is easy to believe that the odds of being inspected by OSHA are similar to those of winning the lottery.

Let's look a bit deeper. Knowing that federal OSHA only operates in certain states and territories, one can narrow the pool to approximately four million workplaces (assuming equal probability) covered under federal OSHA. It is also known that OSHA asks employers to report injury and illness rates to the agency through its annual data initiative.

Based on the data it receives, the agency identifies those with the highest injury/illness rates. It then sends letters to about 13,000 businesses regarding their excessive injury and illness rates in a given year, warning them that "their employees are being injured at a higher rate than in most other businesses in the country" and noting that "a high rate is costly to your company in both personal and financial terms." The letter also highlights resources available to help employers reduce their rates.

Such a letter certainly should grab the attention of management in any facility, particularly if the rate is high enough to place a facility into OSHA's Site-Specific Targeting (SST) Inspection Program.

## **OSHA's Site-Specific Targeting Program**

OSHA uses the SST program to select individual employers for inspection based on information provided (or in some cases, not provided) by employers that responded to its annual data initiative survey. This survey is "a nationwide collection of establishment-specific injury and illness data" from nearly 80,000 nonconstruction employers [OSHA(e)].

The data initiative was launched in early 1996 to help OSHA focus inspection efforts on those establishments with serious safety and health problems

[OSHA(e)]. Employers provide information such as 1) the average number of employees who worked for the employer during the prior calendar year; 2) total employee hours worked during the prior year; and 3) the summary injury and illness data from the employer's OSHA injury log, using the OSHA Work-Related Injury and Illness Data Collection Form. Prior to this initiative, OSHA targeted compliance efforts on an industry-to-industry basis, relying on general industry data from Bureau of Labor Statistics to determine where to focus its enforcement resources.

OSHA's Site-Specific Targeting Directive Number 04-02 (CPL 02) took effect Apr. 19, 2004. The notice explains OSHA's SST program, and notes that although state-plan states are not required to adopt SST-04, "states are required to have their own inspection targeting systems (a 'core inspection policy') that must be documented in their state plans."

The SST-04 program used 2002 injury and illness data, collected during the 2003 data initiative.

## **Days Away, Restricted or Transferred (DART) Rate**

DART includes cases with days away from work, restricted work activity and job transfer. It is calculated by dividing the number of cases involving days away from work/restricted work/transfer by the number of hours worked by all employees during the calendar year. This quotient is then multiplied by 200,000 (100 employees working 2,000 hours per year) to normalize the rate.

**Jerry Davis, Ph.D., CSP, CPE**, is a research assistant professor in Auburn University's Dept. of Industrial and Systems Engineering. He specializes in the areas of work measurement and occupational safety. A professional member of ASSE's Alabama Chapter, Davis earned a Ph.D. in Industrial and Systems Engineering from Auburn University. He is also a member of the Society's Academic and Engineering practice specialties.

**Shaman Ahuja** is pursuing an M.S. in Industrial Systems and Engineering at Auburn University. A student member of ASSE's Alabama Chapter, he earned a bachelor's degree in production engineering from Nagpur University in India.

**Eric B. Hollingsworth** is pursuing a B.S. in Industrial Engineering and Operations Research at Columbia University. He works as a research assistant in Auburn's Dept. of Industrial and Systems Engineering.

**Abstract:** OSHA's Site-Specific Targeting program was implemented to focus limited resources on employers that exceed average injury and illness rates. Of the 35,000 inspections that OSHA conducts each year, nearly 3,000 are SST inspections. This article examines how employers are selected for inspection and explains inspection priorities. An evaluation of all OSHA alert letters received from 1999 to 2004 by establishments in Alabama is included as well.

OSHA has stated that the DART rate will eventually replace the LWII rate. (For more details about DART, visit [www.osha.gov/recordkeeping/index.html](http://www.osha.gov/recordkeeping/index.html).)

### Days Away from Work Injury & Illness (DAFWII) Case Rate

DAFWII only includes cases with days away from work, and disregards those with restricted work activity and job transfer. It is calculated by dividing the number of cases involving days away from work by the number of hours worked by all employees during the calendar year. It is then multiplied by 200,000 to normalize the rate. Beginning with SST-03, DAFWII was included based on the belief that an injury or illness which requires a day away from work is more serious than one that requires restricted activity. Therefore, incorporation of DAFWII as a targeting criterion would further identify establishments with the greatest number of serious hazards [OSHA(e)].

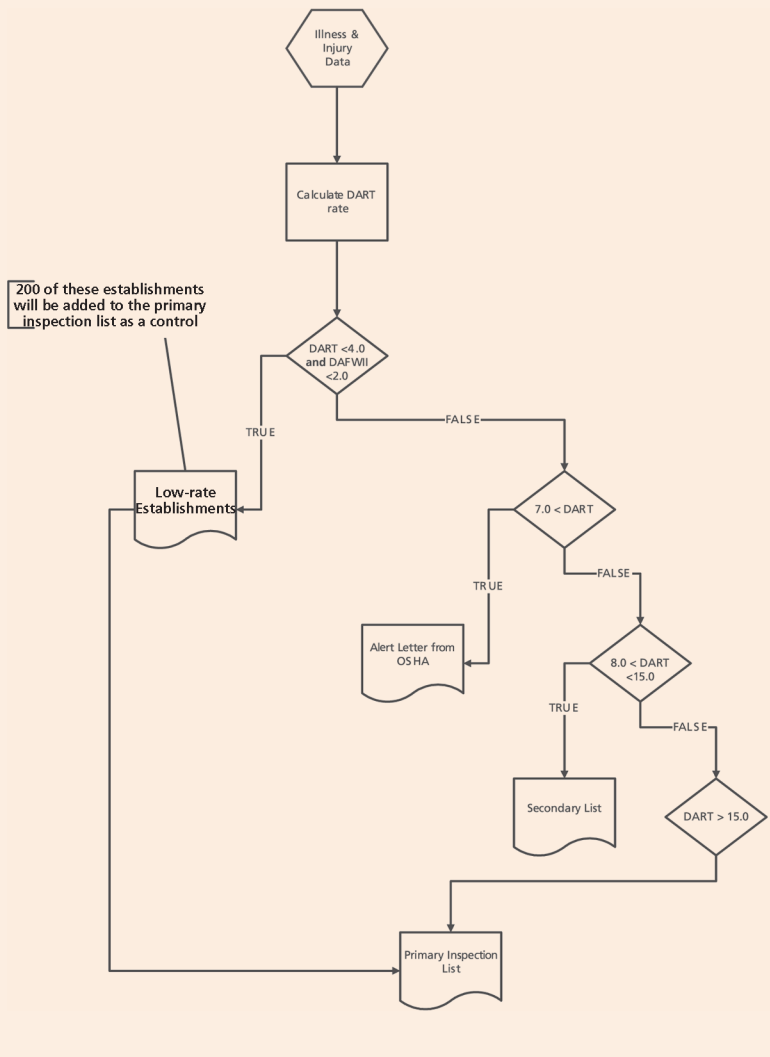
### Primary Inspection List

The primary inspection list for SST-04 was comprised of all nonconstruction worksites with a DART rate of 15.0 or a DAFWII case rate of 10.0 (only one criteria must be met). For private industry in 2002, the average DART rate was 2.8, and the average DAFWII case rate was 1.6. Therefore, to make this list, an employer must have a triggering rate (DART or DAFWII) at least five times greater than that of general industry. For SST-04, OSHA estimated the number of worksites in this category to be 4,000 [OSHA(e)].

OSHA may also add employers by randomly selection establishments that report low DART and DAFWII rates (Figure 1), and those that do not respond to the data initiative. In SST-04, about 200 employers with low DART and DAFWII rates were added to the primary inspection list in order to validate whether or not they are in compliance with OSHA requirements [OSHA(e)].

A secondary list was generated for those worksites reporting a DART rate equal to 8.0 but less than 15.0, or a DAFWII case rate of 4.0 or greater but less than 10.0. Only one of these criteria must be met. If an OSHA area office completes its primary inspection list, it can move on to this list.

**Figure 1**  
**DART Flowchart**



### Inspection Priority & Scheduling

Each area office has access to software and databases containing worksites on the primary inspection list for its coverage area [OSHA(e)]. Cycle size (five to 50 establishments) is based on considerations such as staffing and geographic proximity. Based on input from the area offices, primary and secondary inspection lists are randomly generated by the SST software. Once an inspection cycle has begun, it must be completed. Within a cycle, inspection order is flexible.

Since OSHA cannot inspect each of the country's nearly seven million workplaces, it has developed a methodology to determine which establishments to inspect. A priority system allocates resources according to a hierarchical system [OSHA(d)].

### Highest Priority

**Imminent Danger.** Hazardous environments can cause death or serious physical harm before the danger can be eliminated through enforcement.

**Catastrophes and Fatal Accidents.** Hazardous

conditions/accidents result in the death or hospitalization of three or more employees.

**Complaints and Referrals.** A formal employee complaint has been received about an existing unsafe/hazardous working condition.

**Programmed Inspections (includes SST program).** Refers to inspection of workplaces/industries/occupations with high injury incidence rates, previous citation history, hazard exposure or random selection. This mainly involves emphasis program inspections that focus on a particular safety or health hazard (e.g., amputation, silica) or a specific industry (e.g., logging, nursing homes) [OSHA(x)].

#### **Lowest Priority**

**Follow-up.** Verification inspection to determine whether the employer has corrected previously cited violations.

#### **Deferrals & Deletions from the Primary & Secondary Lists**

A targeted inspection can be deferred under certain circumstances.

- A strategic partnership agreement between OSHA and the establishment (already in place or entered into subsequently) allows the SST inspection to be deferred for up to six months.

- A full-service consultation visit has been requested and scheduled with the state consultation program. In such cases, an SST inspection may be deferred up to 90 days unless the opening conference of the consultation visit has begun.

Similarly, a site may be deleted from the primary and secondary list in some cases.

- It is no longer in business.
- It has received a comprehensive safety and health inspection (not initiated by SST) during the previous 24 months (based on opening conference date) of the creation of the current cycle.

- The facility is a federal, state or local government employer inadvertently included on the list—with the exception of U.S. Postal Service sites.

- The establishment is participating in a strategic partnership with OSHA.

- The targeted establishment is in the Voluntary Protection Programs (VPP) or Safety and Health Achievement Recognition Program, is an approved VPP or Pre-SHARP applicant.

#### **Inspection Procedures**

OSHA clearly states that inspections conducted under SST will be “comprehensive programmed safety and health inspections” [OSHA(e)]. If the establishment has had either a comprehensive safety or health inspection during the previous 24 months (based on opening conference date) of the creation of the current cycle, only the other (safety or health) comprehensive inspection need be performed. Occasionally, an SST inspection may be a “records only” inspection. For example, if the employer’s DART rate as calculated by the compliance officer during the inspection proves to have been low for the last two consecutive years, then the officer may limit the inspection to a review of the



employer’s safety and health records [OSHA(e)].

Other components of an SST inspection include:

- SIC verification;
- verification of the number of employees on site;
- length of ownership by current party(ies);
- calculation of the DART rate and DAFWII case rate;
- standard inspection protocol as described in the *Field Inspection Reference Manual*.

**Receiving an alert letter from OSHA should motivate an employer to take action to reduce the high injury and illness rates experienced in its establishments.**

#### **Relationship to Other Programs**

- If an unprogrammed inspection (fatality, complaint) arises coincidentally within the same established targeted for an SST in the current inspection cycle, the two may be conducted concurrently or independently.

- National emphasis program or local emphasis program inspections can be performed concurrently with the SST, but the SST takes priority over these various initiatives.

- OSHA strategic partnership verification inspections can be conducted either concurrently or independently of the SST inspection.

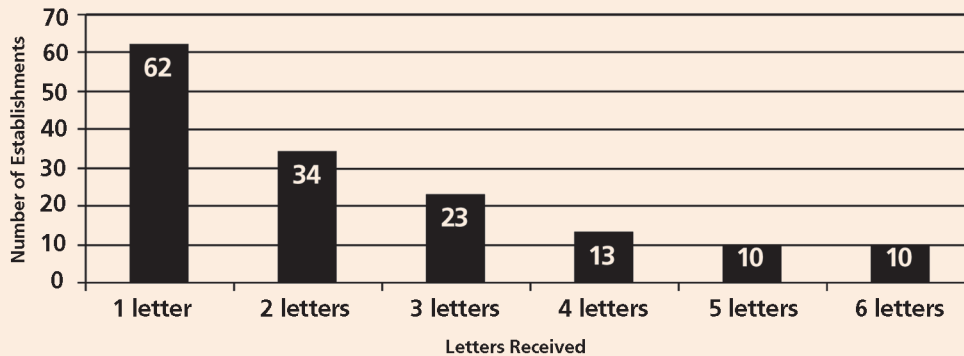
#### **An Example: The State of Alabama**

On Feb. 27, 2004, OSHA issued a news release titled, “OSHA Identifies Workplaces with Highest Injury and Illness Rates.” According to this release, the assistant secretary of labor had sent letters to alert approximately 13,000 employers across the country (not including employers in the 21 state-plan states or Puerto Rico) that their reported injury and illness rates were significantly higher than the national average. The agency added that it wanted to offer them assistance to help reduce those rates.

Workplaces receiving the alert letter had a DART case rate of 7.0. The letter was accompanied by a copy of the employer’s 2002 injury and illness data and a list of the most frequently violated OSHA stan-

**Figure 2**

## Number of Letters Received by Targeted Establishments (Nursing Homes) in Alabama Over a Six-Year Period



of 340 establishments located within the state of Alabama. Sixty-eight (20 percent) of the employers that reported significantly higher injury and illness rates were nursing homes and personal care facilities (SIC 8051, 8052 and 8059). This is not unexpected as nursing and personal care facilities are included on OSHA's list of high rate industries for 2004 [OSHA (e); Mutawe, et al; "Guidelines for Nursing Homes: Ergonomics for the Prevention of Musculoskeletal Disorders"]; these facilities had a DART rate of 7.6 and a DAFWII case rate of 4.1. It was the DAFWII case rate of 4.0 that caused these SICs to be included on the cited list.

From 1999 to 2004, 152

unique nursing home establishments in Alabama received alert letters from OSHA. Of these, 62 (40.8 percent) received only one letter, meaning 59.2 percent received multiple letters (Figure 2).

Once a nursing home received an alert letter, did that particular establishment reappear on the list in consecutive years? It appears many did. In fact, 10 establishments received an alert letter in each of the program years (Figure 3). In addition, 42 facilities (27.6 percent) received an alert letter, then did not receive one for at least one year after receiving that original letter (i.e., were absent from those lists), then reappeared on a subsequent list. In other words, these establishments received letters in multiple nonconsecutive years. This might suggest that nursing homes have significant difficulty remaining below the alert list threshold for a substantial period of time.

As noted, 68 (20 percent) of the 340

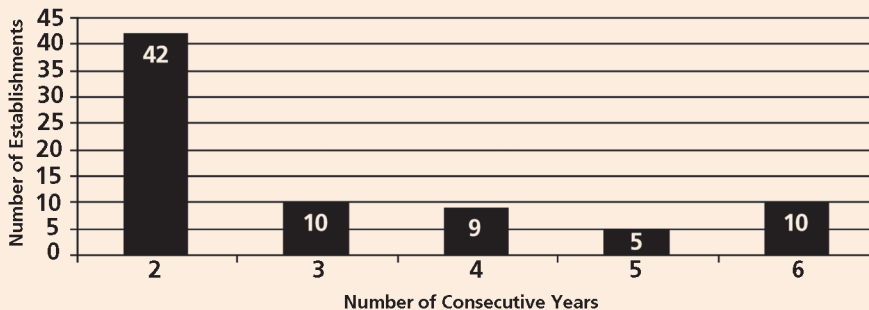
letters sent to the state involved nursing homes (and related SICs). The next-closest SIC (421x) only received eight percent of the letters. This clearly indicates that nursing homes have a significant share of the illnesses and injuries above the target threshold level in the state of Alabama. After segregating the nursing home SICs from the remaining establishments (for Alabama), the data were reevaluated for the remaining establishments representing general industry (Figures 4 and 5).

Although the general shape of the distributions (Figures 2 and 4) appear similar, it is clear that establishments in general industry receive fewer letters—1.9 per establishment—than do nursing homes—2.4 per establishment.

It is not easy to explain why it takes fewer alert

**Figure 3**

## Number of Alabama Nursing Homes Receiving SST Letters in Consecutive Years Over a Six-Year Period



dards within the firm's SIC. Although the news release stated that "this list does not designate those earmarked for any future inspection," a similar statement was not included in the letter itself.

However, because the primary inspection list for SST-04 is comprised of all worksites with a DART rate of 15.0 or a DAFWII case rate of 10.0, those establishments targeted for inspection must be on the list of those with a DART case rate of 7.0. Therefore, it seems that a more accurate statement would be that "receipt of this letter does not guarantee that an inspection will occur at your establishment; however, the presence of your establishment on this list indicates increased possibility of inspection activity at your workplace."

The 2004 list included the SIC, name and address



letters to get general industry facilities off the annual list. A small nuance for nursing and personal care facilities is that “only the highest 50 percent rated establishments in these three SICs with either a DART rate at or above 15.0 or a DAFWII case rate at or above 10.0 are included in the primary list.” According to OSHA, inspections in these SIC codes focused on ergonomics (patient handling); slip, trip and fall incidents; and exposures to blood, other potentially infectious materials and tuberculosis. If the compliance officer becomes aware of any additional hazards (beyond those in the focus area), the scope of the inspection may be expanded.

Sources of assistance noted in the alert letter include state consultation services, private consultants, insurance carriers and the state workers’ compensation agency.

### Conclusion

Under the OSH Act, employers must provide their employees “employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees.” Receiving an alert letter from OSHA should motivate an employer to take action to reduce the high injury and illness rates seen in its establishments.

Establishments that receive an alert letter from OSHA are at significantly increased odds of being selected for an SST inspection. These same employers need to take advantage of the many resources that are available to them, such as the OSHA consultation service, in order to identify, classify, prioritize and eliminate those hazards contributing to their higher-than-average injury and illness rates. ■

### References

Mutaw, A., et al. “Occupational Health & Safety Compliance in Nursing Homes.” *Professional Safety*. Nov. 2004: 18-21.

**OSHA(a).** “All About OSHA.” OSHA Publication No. 2056-07R. Washington, DC: U.S. Dept. of Labor, OSHA, 2003.

**OSHA(b).** *Field Inspection Reference Manual*. CPL 02-00-1-3. Washington, DC: U.S. Dept. of Labor, OSHA, Sept. 26, 1994.

**OSHA(c).** “Guidelines for Nursing Homes: Ergonomics for the

Prevention of Musculoskeletal Disorders.” OSHA Publication No. 3182, 2003. Washington, DC: U.S. Dept. of Labor, OSHA, 2003.

**OSHA(d).** “Inspections.” OSHA Publication No. 2098. Washington, DC: U.S. Dept. of Labor, OSHA, 2002 (Revised).

**OSHA(e).** “Nationwide Site-Specific Targeting (SST) Inspection Program.” *Federal Register*. May 6, 2004: 25445-25446. Washington, DC: U.S. Dept. of Labor, OSHA.

**OSHA(f).** “OSHA Identifies Workplaces with Highest Injury and Illness Rates.” News Release. Washington, DC: U.S. Dept. of Labor, OSHA, Feb. 27, 2004.

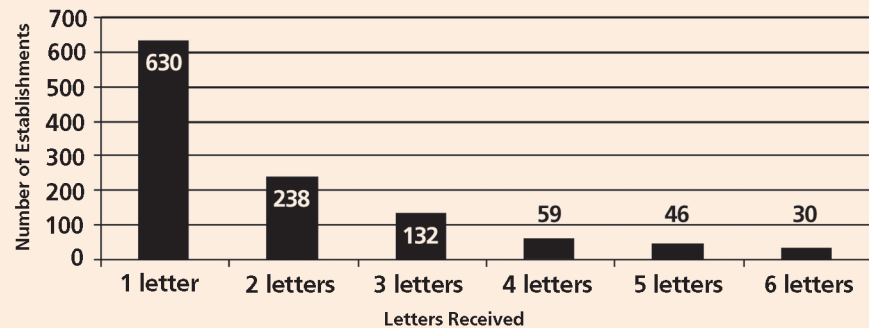
**OSHA(g).** “Recording and Reporting Occupational Injuries and Illness.” 29 CFR Part 1904. Washington, DC: U.S. Dept. of Labor, OSHA.

**OSHA(h).** Site-Specific Targeting 2004 (SST-04). Directive Number 04-02 (CPL 02). Washington, DC: U.S. Dept. of Labor, OSHA, 2004.

**OSHA(i).** “13,000 High Rate Workplaces Receiving OSHA Letters (February 2004).” Washington, DC: U.S. Dept. of Labor, OSHA. <[http://www.osha.gov/as/opa/foia/hot\\_10.html](http://www.osha.gov/as/opa/foia/hot_10.html)>.

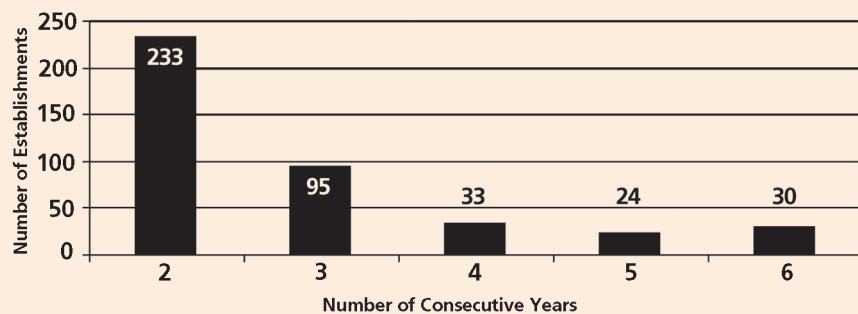
**Figure 4**

## Number of Letters Received by Targeted Establishments (General Industry) in Alabama Over a Six-Year Period



**Figure 5**

## Number of Alabama Establishments (General Industry) Receiving SST Letters in Consecutive Years Over a Six-Year Period



### Your Feedback

Did you find this article interesting and useful? Circle the corresponding number on the reader service card.

**RSC# Feedback**  
**33 Yes**  
**34 Somewhat**  
**35 No**