

**General Industry
Inspection Priority System
Scheduled Programmed Inspections
(Private Sector)**

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The Michigan Occupational Safety and Health Act, Act 154 of 1974, as amended, requires an employer to furnish to each employee, a place of employment which is free from recognized hazards that can cause death or serious physical harm to the employee. To achieve this goal, Act 154 authorizes inspections of workplaces by compliance safety and health officers of the Michigan Department of Licensing and Regulatory Affairs (LARA). The inspections identify whether occupational safety and health hazards are present, and the inspections prompt correction of the hazards through issuance of citations to the employer. Act 154 and the rules and standards promulgated under Act 154 define the "recognized hazards" and the appropriate methods to control the hazards.

In Michigan, the General Industry Safety and Health Division (GISHD) of the Michigan Occupational Safety and Health Administration (MIOSHA), in the LARA, is responsible for conducting safety and health inspections in the "general industry" category of industrial classifications, i.e., industries other than construction, mining, domestic employment, and maritime activities. In Michigan, the general industry category comprises approximately 230,000 establishments.

As it is not feasible to inspect each of these establishments in a given year, a priority system for scheduling programmed inspections has been established to leverage GISHD resources. In September 2011, GISHD had 46 compliance safety and health officers. Moreover, judicial decisions such as *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978), regarding the right of entry for the purpose of conducting an administrative inspection, emphasize the need for efficient and unbiased utilization of inspection resources.

The priority system adopted by MIOSHA for conducting scheduled programmed inspections in private sector workplaces involves two major steps. In the first step, MIOSHA designates target industries. In the second step, MIOSHA generates a priority list of establishments to be inspected based on the targeted industries.

1. Target Industries

MIOSHA selects target industries for its recurring five-year strategic plans. The current strategic plan is the MIOSHA Strategic Plan for Fiscal Years 2009-2013, and the objectives of the plan guide program activity during the five-year period covered by the plan. The goals in the MIOSHA strategic plan are consistent with those of Federal OSHA. The strategic plan defines goals that are outcome-oriented, rather than activity-oriented, thus providing clear benchmarks for evaluating performance. In the current strategic plan, two goals designate target industries. The industries are classified according to the North America Industry Classification System (NAICS) code:

- **Goal 1.1—Reduce by 20% the rate of worker injuries and illnesses in high-hazard industries in general industry:**
 - Beverage and Tobacco Product Manufacturing (NAICS 312)
 - Wood Products Manufacturing (321)
 - Plastics and Rubber Products Manufacturing (326)
 - Nonmetallic Mineral Product Manufacturing (327)
 - Primary Metal Manufacturing (331)
 - Fabricated Metal Product Manufacturing (332)
 - Machinery Manufacturing (333)
 - Transportation Equipment Manufacturing (336)
 - Recyclable Material Merchant Wholesalers (423930)
 - Merchant Wholesalers, Nondurable Goods (424)
 - Landscaping Services (561730)
 - Hospitals (622)
 - Nursing and Residential Care Facilities (623)

- **Goal 1.2—Reduce by 20% the rate of worker injuries, illnesses, and fatalities in general industry workplaces experiencing high rates or with targeted hazards or exposures not covered by Goal 1.1.**

Under Goal 1.2, the "general industry workplaces experiencing high rates" are those in the manufacturing sector. In Goal 1.2, no industries are listed currently under the rubric of "targeted hazards and exposures not covered by Goal 1.1."

During the life of the FY 2009-2013 strategic plan, MIOSHA can remove or add targeted industries to the lists in Goals 1.1 and 1.2. The criteria for removing and adding target industries are given in Agency Memorandum, MIOSHA-MEMO-ADM-08-9, Targeting Industries Under Emphasis 1.1 and 1.2 of the Strategic Plan, dated December 18, 2008. Removals and additions can occur any time during the year as the need arises. At least once a year, MIOSHA considers removals and additions during an annual review of targeted industries for Goals 1.1 and 1.2.

Under Agency Memorandum, MIOSHA-MEMO-ADM-08-9, certain conditions can trigger the addition of an industry or hazard to the targeted list. An industry or hazard can be added if it has:

- A high rate of injuries, illnesses, or fatalities.
- An increase in injuries, illnesses, or fatalities.
- An increase in the number of employees in Michigan (i.e., an emerging industry).
- A new safety and health standard that impacts specific industries.
- New activity at the federal level, such as a new local emphasis program or cooperative program (Alliance Program or Strategic Partnership) with the U.S. Occupational Safety and Health Administration (OSHA), an Alert with the National Institute for Occupational Safety and Health (NIOSH), or new Susan Harwood Training Grants from OSHA.
- A new initiative with the Consultation, Education and Training Division (CET).
- Public concern.

The U.S. Bureau of Labor Statistics (BLS) is the source of the injury and illness rate information. The BLS data are specific to Michigan. BLS data are available for most two-digit and three-digit NAICS codes; in manufacturing, the BLS data may be available for six-digit NAICS codes. Fatality counts come from an internal MIOSHA database. The numbers for the latest available fiscal year are compared against the numbers from the baseline year, which is 2007 for the FY 2009-2013 strategic plan.

Meeting one of the triggers does not automatically place an industry or hazard on the targeted list. MIOSHA will evaluate the industry or hazard to determine if it is appropriate for targeting. Certain factors make an industry or hazard suitable for targeting. These factors are:

- The hazard (or industry) has a significant impact on workers in Michigan.
- The hazard affects a significant number of establishments in Michigan.
- The hazard affects a significant number of employees in Michigan.
- The hazard creates a significant number of injuries, illnesses, or fatalities in Michigan.
- MIOSHA has jurisdiction over the hazard.
- MIOSHA has a standard to cover the hazard, or adopts a new federal standard.
- The hazard is in general industry, not construction.
- The hazard is not already routinely covered during inspections.
- For air contaminants, the MIOSHA laboratory has found a significant number of over-exposures.
- OSHA mandates or requests state action.

An industry or hazard does not have to meet each of the criteria to be targeted. MIOSHA applies the criteria on a case-by-case basis. Other objective data that help MIOSHA decide the suitability of an industry for targeting are the number of prior inspections; the number of serious, repeat, or willful citations; the percentage of all citations that are serious, repeat, or willful; the number of failure-to-abate citations; the number of significant cases (penalties greater than \$100,000); and the number of establishments not found or not in operation.

The criteria used to add industries and hazards can also be used to remove them from the list. For example, if an increase in fatalities is used to add an industry to the list, then a decrease in fatalities can be used to remove it from the list. When any of the 13 high-hazard industries in Goal 1.1 achieves an injury and illness rate reduction of 20% from baseline, which is the goal of Goal 1.1, it may be taken off the targeted list. To date, no industry has been removed from the targeted list of the FY 2009-2013 Strategic Plan.

The addition scheme described above was used by MIOSHA to choose the original 13 high-hazard industries under Goal 1.1 of the FY 2009-2013 Strategic Plan. The high-hazard industries become a focus of the priority list of establishments.

II. The Priority List of Establishments

The priority list of establishments is a list of establishments in Michigan that have been selected for programmed inspections. The list is a random sample of Michigan employers. The

establishments are culled from publicly available and government-supplied directories of employers in Michigan. MIOSHA uses directories that have large numbers of employers and wide representation across the NAICS codes. To ensure that the priority list is not a function of the data collection method of a particular directory, the directory used to generate the priority list is rotated. Also, MIOSHA combines lists of employers from multiple directories. The suppliers of the directories update their information (e.g., name of employer, address, telephone number, number of employees, NAICS code, Is the employer still in business?) quarterly to annually to keep the information current.

To generate the priority list, MIOSHA uses stratified, random sampling from the employer registers. The stratification is on NAICS code. One sample (stratum) is from the 13 high-hazard industries (NAICS codes) under Strategic Plan Goal 1.1. This group may represent half of the selected establishments. The second sample is from all the remaining NAICS codes. Therefore, any Michigan employer under the jurisdiction of GISHD can receive a program, scheduled inspection; however, the sampling is weighted towards establishments in the high-hazard industries.

MIOSHA excludes establishments from the sampling pool. Several of the exclusionary criteria are the converse of the industry inclusionary criteria for Goals 1.1 and 1.2 in Agency Memorandum, MIOSHA-MEMO-ADM-08-9. Exclusionary criteria are:

- Establishments with 10 or less employees.
- Establishments in industries with few safety and health hazards and with very low rates of injuries, illnesses, and fatalities. An example would be real estate offices. These industries are non-manufacturing, although not all non-manufacturing NAICS are excluded.
- Establishments in the construction industry. These are covered by MIOSHA's Construction Safety and Health Division.
- Establishments that had a recent planned programmed inspection. The definition of recent has ranged from one to three years.
- Establishments exempt because of a Congressional limitation or rider.

Even after being selected for the priority list, an employer can avoid a scheduled, programmed inspection by working with MIOSHA's Consultation, Education and Training Division (CET). Participants in the Michigan Voluntary Protection Program, Michigan Safety and Health Achievement Recognition Program, and MIOSHA Challenge Program receive exemptions from GISHD programmed inspections. Full-service 21(d) on-site consultations visits preclude programmed inspections by GISHD. Likewise, full-service 23(g) consultation visits preempt GISHD programmed inspections until 30 days after the last date CET is at the worksite. The full policy is found at Agency Instruction, MIOSHA-ADM-06-8R1, Coordination of Enforcement and Consultation Interventions, dated October 17, 2007.

The priority list assignments typically sent to the compliance safety and health officers at the beginning of the fiscal year. The priority list is valid until the end of the fiscal year, at which time a new priority list is issued.

III. Special Programs

As a supplement to the priority list, MIOSHA creates other, special programs to focus inspection resources. Ongoing special programs include:

- **Project SENSOR**— Project SENSOR (Sentinel Event Notification System for Occupational Risks) is a federally funded grant to assist the state in conducting patient and workplace follow up for the approximately 15,000 to 20,000 occupational disease reports LARA receives each year. Michigan State University (MSU), under contract to LARA, administers the occupational disease reporting and surveillance program. Upon referral from MSU, GISHD conducts enforcement inspections to assess current conditions and exposures at facilities where patients developed their illnesses. Project SENSOR is a local emphasis program.
- **Process Safety Management**—GISHD has a local emphasis program for the Process Safety Management of Highly Hazardous Chemicals Standard (PSM Standard). The Chemical Compliance Section of GISHD conducts scheduled programmed inspections of establishments in the chemical industry to determine compliance with the PSM Standard. The establishments are selected at random for PSM inspection from a list of plants in Michigan that have the threshold quantities of chemicals required for application of the PSM Standard.
- **Tuberculosis**—Inspections for occupational exposure to tuberculosis are conducted in workplaces where the U.S. Centers for Disease Control and Prevention (CDC) has identified workers as having a greater risk and/or incidence of tuberculosis infection than in the general population.
- **A safety and health special emphasis program** targets additional workplaces in industries included in the strategic plan. Under this program, MIOSHA schedules a comprehensive inspection at workplaces where an accident, complaint, or referral investigation is conducted when the industry of the workplace is included as a targeted industry in the MIOSHA strategic plan.
- **Re-inspections**—GISHD conducts re-inspections of all establishments that received five or more serious citations in a programmed inspection from the previous fiscal year. These annual re-inspections are continued until the establishment has less than five serious citations.
- **OSHA Data Initiative**—The OSHA Data Initiative is an annual effort by U.S. OSHA to determine the average injury and illness rate of the major industry groups by obtaining the prior year's injury and illness rate information from a small sample of employers in each industry group in each state. Thus, the list of Michigan employers in the OSHA Data Initiative register contains injury and illness rate information for the employers. From this register, GISHD can select the Michigan employers with the highest injury and illness rates and programmed inspections at those facilities. A strength of the OSHA Data Initiative database is that the injury and illness rate information is establishment-specific, rather than

industry-specific, which allows for more precise targeting.

IV. Summary Comments

MIOSHA strives to achieve a safe and healthful work environment for all Michigan workers. It uses an inspection targeting system to maximize the impact of its inspection resources. The inspection priority system is considered to be objective. It is updated and revised continually based on experience from the field staff and on outcome analysis. It utilizes the latest data available to formulate the programmed scheduled inspection list and is based on the occupational injury and illness experience of an industry or establishment.

Apart from scheduled, programmed inspections, GISHD continues to conduct inspections in response to complaints, referrals, accidents, fatalities, catastrophes, and as follow-ups to prior inspections. These non-programmed inspections represent about half of GISHD's enforcement activity. The non-programmed inspections provide an avenue for GISHD to address safety and health hazards in industries and establishments that were excluded or deemphasized in the priority inspection system, or that were not selected in the random sampling. This ensures that all employees in Michigan, regardless of industry or establishment, can receive the benefits of a GISHD compliance inspection.