

OSHA'S ELECTRONIC SELF-REPORTING REQUIREMENT PROVIDES DATA SOURCE FOR NEW SITE SPECIFIC TARGETING INSPECTION PROGRAM

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In October 2018, OSHA announced the return of its Site Specific Targeting (SST) inspection program. SST is a programmed inspection initiative for non-construction workplaces that have twenty or more employees. As with prior versions of the SST, the enforcement program focuses on targeting employers with elevated rates of injuries and illnesses, as reflected in the employers' Days Away, Restricted or Transferred (DART) rates as collected and calculated from year-end Forms 300 and 300A. OSHA selects different DART rates as inspection selection criteria for various manufacturing and non-manufacturing industries. An employer whose DART rate exceeds the selected rate may be subject to an inspection.

The latest SST program, SST-16, differs from prior versions primarily based on the source of data. In years past, the data for the SST enforcement program was collected through the now defunct OSHA Data Initiative, which ended in 2011. SST-16 is instead based on injury and illness data that employers were required to submit electronically for calendar year 2016 pursuant to 29 C.F.R. § 1904.41. Those employers required to submit their 2016 data electronically may recall some early difficulties doing so. OSHA ultimately extended the deadline for submission of 2016 data to December 31, 2017, which may account for some of the delay in rolling out SST-16. If your business electronically submitted data for the 2016 calendar year prior to that deadline, your data should have been included in the data set on which SST-16 was developed.

SST-16 has three main selection criteria. First, the program targets employers whose 2016 DART rate exceeds the rate OSHA specified for that employer's industry in 2016. Employers would be wise to check their 2016 DART rate as a possible predictor of forthcoming inspection activity in 2018-2019. Second, the program calls for verification inspections of employers who report very low DART rates. The purpose of these inspections is to check the reliability of the data and the employer's collection and reporting activities. Third, the program targets employers who failed to submit their 2016 data. Those inspections are intended to discourage general non-compliance and attempts to avoid inspection by failing to self-report their data.

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OSHA has indicated that approximately one-third of all employers required to report 2016 data electronically have failed to do so.

SST-16 inspections may be coordinated with other applicable emphasis program inspections so they are undertaken concurrently. And under certain circumstances, SST-16 inspections may be deferred where the employer is in the midst of an on-site consultation. Or an employer may be deleted from the inspection list altogether if it has received a comprehensive inspection in the 36 months prior to the current inspection cycle, or is an approved participant in either the Pre-Safety and Health Achievement Recognition Program (SHARP) or the Voluntary Protection Program (VPP).

More information about 2016 DART rates and 2016 industry injury and illness data is available on the Bureau of Labor Statistics website.