

## CHAPTER II

### COMPLIANCE PROGRAMMING

#### A. Program Planning.

1. Purpose. Compliance programming provides general guidelines to the Compliance Manager in planning compliance operations and related activities and provides instructions for their implementation.
2. Primary Consideration. The primary consideration in conducting compliance operations is the attainment of maximum effective inspection coverage. To achieve this goal, the guidelines in this chapter shall be used for scheduling inspections.

#### B. Inspection/Investigation Types.

1. Unprogrammed. Inspections scheduled in response to alleged hazardous working conditions that have been identified at a specific worksite are unprogrammed. This type of inspection responds to allegations of imminent danger situations, fatalities/catastrophes, complaints, and referrals. It also includes followups and monitoring inspections scheduled by the Bureau.
2. Unprogrammed Related. Inspections of employers at multi-employer worksites whose operations are not directly affected by the subject of the conditions identified in the complaint, accident or referral are unprogrammed related. An example would be a trenching inspection conducted at the unprogrammed worksite, where the trenching hazard was not identified in the complaint, accident report, or referral.
3. Programmed. Inspections of worksites which have been scheduled based upon objective or neutral selection criteria are programmed. The worksites are selected according to scheduling plans for safety and health or special emphasis programs.
4. Programmed Related. Inspections of employers on multi-employer worksites whose activities were not included in the programmed assignment; e.g., a low injury rate employer at a worksite where programmed inspections are being conducted for all high injury rate employers. All high rate employers at the worksite shall normally be included in the programmed inspections.
5. Scope. Inspections, either programmed or unprogrammed, may fall into one of two categories, depending on the scope of the inspection:
  - a. Comprehensive. A substantially complete inspection of the potentially high hazard areas of the establishment. An inspection may be deemed comprehensive even though, as a result of the exercise of professional judgement, not all potentially hazardous conditions, operations and practices within those areas are inspected.

- b. Partial. An inspection whose focus is limited to certain potentially hazardous areas, operations, conditions, or practices at the establishment. A partial inspection may be based on information gathered by the CO during the inspection process. Consistent with the provisions of the OHS Act, and Bureau priorities, the CO shall use professional judgement to determine the necessity for expansion of the inspection scope, based on information gathered during records or program review and walkaround inspection.

C. Inspection Selection Criteria.

- 1. General Requirements. The Bureau's priority system for conducting inspections is designed to distribute available Bureau resources as effectively as possible to ensure that maximum feasible protection is provided to the working men and women of this state.
  - a. Scheduling. The Compliance Manager shall ensure that inspections are scheduled within the framework of the priorities outlined in this chapter, assure that they are consistent with the objectives of the Bureau, and assure that appropriate documentation of scheduling practices is maintained. (See the current version of OSHA Instruction CPL 2.51 for Congressional exemptions and limitations on OSHA inspection activity.)
  - b. Effect of Contest. If an employer scheduled for inspection, either programmed or unprogrammed, has contested a citation and/or a penalty received as a result of a previous inspection, and the case is still pending before the Review Commission, the following guidelines apply:
    - (1) If the employer has contested the penalty only, the inspection shall be scheduled as though there were no contest.
    - (2) If the employer has contested the citation itself or any items thereon, then programmed and unprogrammed inspections shall be scheduled in accordance with the guidelines in E.2.b of this chapter. The scope of unprogrammed inspections normally shall be partial. All items under contest shall be excluded from the inspection unless a potential imminent danger is involved.
- 2. Employer Contacts. Contacts for information initiated by employers or their representatives shall not trigger an inspection, nor shall such employer inquiries protect them against regular inspections conducted pursuant to guidelines established by the agency. Further, if an employer or its representative indicates that an imminent danger exists, or that a fatality or catastrophe has occurred, the Compliance Manager shall act in accordance with established inspection priority procedures.

D. Inspection Priorities.

1. Order of Priority. Unless otherwise noted in particular cases, priority for assignment of personnel resources for inspection categories shall be as follows:

<u>Priority</u>	<u>Category</u>
First	Imminent Danger
Second	Fatality/Catastrophe Investigations
Third	Investigation of Complaints/Referrals
Fourth	Programmed Inspections

2. Efficient Use of Resources. Based on the nature of the alleged hazard, unprogrammed inspections normally shall be scheduled and conducted prior to programmed inspections. Deviations from this priority list are allowed so long as they are justifiable, lead to efficient use of resources, and contribute to the effective protection of workers. An example of such a deviation would be for the Program manager to commit a certain percentage of IH resources to programmed Local Emphasis Program (LEP) inspections.

E. Inspection Scheduling.

1. Unprogrammed Inspections. Those inspections conducted in response to specific evidence of hazardous conditions at a worksite are considered unprogrammed inspections.
  - a. General. Unprogrammed inspections (excluding followups and monitoring) shall normally be scheduled with the following priorities:
    - (1) Reports of alleged imminent danger situations from any source, including referrals and complaints, regardless of formality;
    - (2) Fatalities/catastrophes;
    - (3) Formal serious complaints, CO referrals, and referrals from other safety and health agencies, classified as serious;
    - (4) Media and employer reports of accidents involving serious injuries or hazards of a serious nature, where appropriately verified;
    - (5) Formal other-than-serious complaints;
    - (6) Nonformal complaints and other-than-serious referrals requiring an inspection.

- b. Followup Inspections. In cases where a followup inspection is necessary, it shall be conducted as promptly as resources permit.
- (1) Followup Inspection Priority. Except in unusual circumstances, followup inspections shall take priority over all programmed inspections and any unprogrammed inspections with hazards evaluated as other than serious. Followup inspections should not normally be conducted within the 15 working day contest period unless high gravity serious violations were issued.
  - (2) Required Followup Inspections. The number of followup inspections (excluding monitoring inspections) conducted in a fiscal year may be as much as 10 percent of the total number of inspections. Followup inspections normally are required in the following situations:
    - (a) Willful, repeated, and high gravity serious violations;
    - (b) Failure to abate notifications;
    - (c) Serious citations issued to a public sector employer;
    - (d) Citations related to an imminent danger situation;
    - (e) When the employer fails to respond to a request for notification of abatement action by letter or other means, after having been contacted several times; and
    - (f) Whenever the Compliance Manager believes that particular circumstances (e.g., the number and/or the type of violations, past history of the employer, complex engineering controls, etc.) indicate the need for a followup.
  - (3) Exceptions to Required Followup Inspections. It will not be necessary to conduct a followup inspection if any of the following applies:
    - (a) Unquestionable Proof of Abatement. A followup inspection will not be necessary where unquestionable proof of abatement has been presented; e.g., when the CO observed and documented correction of the cited condition during the inspection.
    - (b) Compliance Manager Determination. The Compliance Manager may determine that a followup inspection is not required. Justification for not conducting followup inspections may include statements by the

employee or employee representative or other knowledgeable professionals attesting to the correction of the violation.

NOTE: Written, signed statements are preferred. However, verbal communications are acceptable if summarized by OHSB personnel in a written memorandum for the case file.

- (c) Administrative Closing of Case File. Where a required followup inspection has not been conducted within 6 months of the final correction date, and the case has become a final order of the Commission, the case file normally shall be administratively closed. All administratively closed case files shall contain verification of abatement, as well as documentation as to the reasons why the required followup inspection was not conducted.
- (4) Multiple Abatement Dates. If a followup inspection is to be conducted where an employer has been cited for a number of violations with varying abatement dates, the followup inspection normally shall not be scheduled until after most, if not all, of the abatement dates set forth for the more serious violations in the citation(s) have passed. If satisfactory corrective action has been taken by the employer, additional followup activity normally shall not be scheduled, unless the Compliance Manager believes that complex engineering controls or other special factors involved in the case warrant such activity.
- (5) Contested Cases. The scheduling of followup inspections will be affected in various ways by potential or actual employer contests, depending on the status of the Notice of Contest.
  - (a) Notice of Contest Not Filed. Followup inspections may be conducted during the 15-day notice of contest period, provided the employer has not actually filed such a notice. Normally, however, only those conditions considered extremely serious shall be scheduled for followup during the contest period. If such a followup inspection reveals a failure to abate, a Notification of Failure to Abate Alleged Violation (OSHA-2B) shall be issued immediately, without regard to the contest period for the initial citation.
  - (b) Notice of Contest Filed. When a citation is currently under contest, a followup inspection shall not be scheduled regarding the contested items.

1 If the employer contests the proposed penalty but not the underlying citation, a followup inspection normally shall not be conducted, unless the violations are considered extremely serious, and the Compliance Manager decides that a followup is necessary.

2 If a followup inspection is conducted at establishments involved in proceedings before the Review Commission, the CO shall explain in the opening conference that the inspection will not involve matters before the Commission.

(c) Final Order. When a notice of contest is withdrawn, the proceeding is settled, or the Commission affirms alleged violations that are contested, the abatement period begins, and a followup inspection may be scheduled as appropriate after the Compliance Manager has received the final order from the Legal Office.

c. Monitoring Inspections. Monitoring inspections are conducted for many reasons.

(1) Monitoring visits shall be conducted for each petition for modification of abatement date (PMA) on serious, willful, and repeated violations which extends the final abatement date by more than one year from the citation issuance date.

(a) These inspections shall be conducted as soon as possible after first contact with the employer, but no later than 15 working days following the receipt of certification of posting, unless an extension is requested and granted by the Review Commission.

(b) Such inspections shall have priority over all programmed inspections and any unprogrammed inspection classified as other-than-serious. The seriousness of the hazards requiring abatement shall determine the priority among monitoring inspections.

(2) Monitoring visits in response to PMAs for other-than-serious violations or for serious, willful, or repeated violations which would result in a final abatement date of one year or less from the citations issuance date, shall be scheduled at the discretion of the Compliance Manager, based on the gravity of the violation and on resource availability.

(a) These inspections shall be conducted as soon as possible after first contact with the employer, but no later than 15 working days following the receipt

of certification of posting, unless an extension is requested and granted by the Review Commission.

- (b) Such inspections shall have priority over all programmed inspections and any unprogrammed inspection classified as other-than-serious. The seriousness of the hazards requiring abatement shall determine the priority among monitoring inspections.
- (3) Monitoring visits shall be scheduled to check on progress made on long-term or multistep abatement plans, whenever abatement dates extend beyond one year from the issuance date of the citation.
- (a) These inspections shall be conducted every 6 months counted from the date of the final order, until final abatement has been achieved for all cited violations.
  - (b) If the employer is submitting satisfactory quarterly progress reports, and the Compliance Manager agrees that these reports reflect adequate progress on implementation of control measures and adequate interim protection for employees, a monitoring inspection may be conducted every 12 months counted from the date of the final order.
  - (c) Such inspections shall have a priority over all programmed inspections and any unprogrammed inspection classified as other-than-serious. The seriousness of the hazards requiring abatement shall determine the priority among monitoring inspections.
- d. Reinspection Referrals. Once a determination is made that a reinspection referral is required, based on the definition in Chapter IX, B.2.b., the inspection shall be conducted in accordance with the priorities given at E.1.a. after determining that the previous citation has become a final order.
2. Programmed Inspections. A programmed inspection generally is a comprehensive inspection of the worksite, but may be limited as necessary in view of resource availability and other enforcement priorities.
- a. General. Certain considerations are fundamental to the implementation of OHSB's targeting system.
    - (1) Policy. It is OHSB policy that inspections conducted as programmed inspections be primarily in the "high hazard" sectors of employment.

- (a) In the area of safety, the agency considers a "high rate" industry to be one within a Standard Industrial Classification (SIC) code having an occupational injury incidence rate equal to or higher than the lowest average rate attained over the last 5 years within private sector industry as a whole, as published by the Bureau of Labor Statistics (BLS).
  - (b) In the area of health, the agency considers a "high hazard" industry to be one with a previous history of serious OSHA health citations.
  - (c) For the purpose of scheduling programmed inspections, high rate general industry and construction are considered to be categories of high hazard employment.
  - (d) Other specific industries, such as oil and gas extraction, are also high hazard industries, and are frequently scheduled for inspection as special emphasis programs.
- (2) Description. Both programmed safety inspections and programmed health inspections are scheduled based upon a multiple-step process.
- (a) The initial selection of a particular category of employment (e.g., high rate general industry, construction, oil and gas well drilling, etc.) is made in accordance with annual projections of inspection activity.
  - (b) Within a category, establishments are selected for inspection from a SIC List for that category, and placed in an inspection cycle. For General Industry safety and health categories, establishment lists will ordinarily be provided by the OSHA National Office for each SIC, and corrected as necessary by the Bureau.
  - (c) Where no list is provided by the National Office (e.g., construction, special emphasis programs, public sector, etc.), the Compliance Manager shall compile an establishment (worksite) list considering all establishments (worksites) within the area, and using the best available information (Dodge Reports, manufacturing directories, commercial telephone listings, local knowledge, etc.).
  - (d) Within an inspection cycle, establishments may be inspected in any order that makes efficient use of resources, but all establishments in a cycle must be inspected, with only limited exceptions, before a new cycle is begun.

b. Guidelines and Procedures. Programmed inspections shall be conducted jointly by both safety and health personnel whenever resources are available and it is likely, based on experience in inspecting similar workplaces, that both safety and health hazards exist to a significant degree. If an inspection is begun as safety only or as health only, but the CO determines during the course of the inspection that it should be expanded, the CO shall contact the supervisor. A decision will then be made on the basis of the information available, whether the inspection should be expanded and, if so, to what extent. A decision may also be made, based on resource availability, to handle the information as a CO referral for inspection at a later time.

(1) Inspection Scheduling for General Industry (Safety and Health). The following procedures are to be adhered to in programming General Industry safety and health inspections.

(a) Industry Rank Report. The National Office shall provide the Bureau with a statewide Industry Rank Report (SIC List), listing industries by their 4-digit Standard Industrial Classification (SIC) codes where available. (See current version of OSHA Instruction CPL 2.25.)

1 The Safety SIC Lists are statewide listings of manufacturing industries within SIC codes with lost workday injury (LWDI) rates equal to or higher than the lowest BLS published national average for all of private sector industry for the last 5 years, ranked in order of their LWDI rate (the High Rate SIC List).

2 Nonmanufacturing industries selected from within SIC codes 4000 through 8900 ranked in order of their LWDI rate (the Nonmanufacturing SIC List). This list will not be provided to the Bureau. Instead, establishments shall be made randomly by the National Office.

3 The Health SIC List is a statewide listing of industries within SIC codes with a previous history of serious OSHA health violations.

(b) Establishment Lists. The National Office will also provide a series of establishment lists for use by the State in programming inspections.

NOTE: Establishments showing 10 or fewer employees will have been deleted from establishment lists provided by the National Office.

1 High Rate Establishment List for Safety. A list of all known establishments located within the State for each SIC code on the High

Rate SIC List will be provided by the National Office.

2 Nonmanufacturing Establishment List for Safety. A list of randomly selected establishments located within the State for each SIC code on the Nonmanufacturing SIC List will be provided by the National Office.

NOTE: Establishments which have been exempted from the recordkeeping requirements by reason of their primary SIC codes will have been deleted from the Nonmanufacturing Establishment List.

3 Health Establishment List. A list of all known establishments located within the State for each SIC code on the Health SIC List will be provided by the National Office.

4 Adjustments. Prior to use of establishment lists provided by the National Office for scheduling purposes, the Compliance Manager shall make appropriate additions and deletions as follows:

NOTE: Additions and deletions may be applied to the inspection register in lieu of the entire establishment list for the Non-manufacturing programmed inspections. The number of establishments on the register before inspections begin shall be equal to the number of projected inspections.

a Additions.

<u>Code</u>	<u>Description</u>
AA	Evidence from other sources indicates establishment is within a SIC on one of the SIC Lists but does not appear on the corresponding establishment list provided. Additions shall be placed on the proper SIC List in accordance with the listing criterion used; e.g., alphabetically, by size, etc.

NOTE: See E.2.b.(1)(f)2 for placement of additions after the first inspection from the register has begun.

BB Establishment has more than 10 employees, but was erroneously removed by the National Office from the list.

b Deletions.

<u>Code</u>	<u>Description</u>
A	Establishment could not be located, is no longer in business, or is not within the borders of the State of New Mexico.
B	Nonplant corporate office or headquarters.
C	The correct SIC code for the establishment is not on the current High Rate or the current Health SIC Lists.

Establishment is listed in a SIC code which was on the High Rate SIC List for the fiscal year in which the Inspection Register was made up initially, but is no longer on the High Rate SIC List at the time the inspection is scheduled.

NOTE: If an establishment is listed on the Nonmanufacturing Establishment List for Safety under an incorrect SIC code, the establishment shall not be deleted from those lists unless the correct SIC code is listed on the High Rate SIC List. In that case, the establishment shall be removed from the Low Rate or Nonmanufacturing Establishment List for Safety and added to (following E.2.b(1)(f)) and scheduled from the High Rate Establishment List.

D FOR SAFETY ONLY: Any comprehensive programmed inspection or a substantially complete unprogrammed safety inspection conducted within the current or previous 2 fiscal years.

FOR HEALTH ONLY: Substantially complete health inspection conducted within the current or previous 3 fiscal years, with no serious violations cited, or, where serious violations were cited, an acceptable abatement letter or a followup inspection has documented "good faith" efforts to abate all serious hazards.

E Establishment had no more than 10 employees at any time during the previous 12 months.

F Duplicate listing or establishment not within the OHSB legal jurisdiction.

G Establishment has been approved for exemption from inspection through consultation.

H Other reasons for deletion not listed above. Approval for deletion shall be requested from the Bureau Chief.

c After all appropriate establishments have been made, establishments on the lists shall be numbered consecutively beginning with number 1. (Deletions will be skipped in numbering the list.)

(c) Inspection Register. The inspection registers shall be made up by determining which establishments on the establishment lists are to be scheduled for inspection during the current year.

1 To determine the safety register, take the sum of the number of programmed general industry safety inspections projected for the fiscal year and double it.

2 To determine the health register, take the number of programmed general industry health inspections projected for the year and double it.

3 The projection is doubled because it is estimated that 50 percent of the establishments scheduled for inspection may not actually be inspected. For example, the establishment may have 10 or fewer employees, may no longer be in business, or may otherwise be exempt from inspection.

4 The resulting number will be the total number of establishments selected to form the safety and health inspection registers.

a The Safety Inspection Register shall consist of the following elements:

o Five percent of the total number of projected programmed high rate safety inspections to be conducted shall be scheduled from the Nonmanufacturing Establishment List;

NOTE: The number of Nonmanufacturing establishments is not doubled.

o Five percent of the total number of projected programmed safety inspections to be conducted shall be scheduled in public sector (state and local government) establishments.

b The Health Inspection Register shall consist of establishments selected in rank order from the Health Establishment List.

(d) Inspection Cycles. The inspection registers of establishments to be inspected during the year shall be divided into two cycles, each consisting of one-half of the total number of establishments contained within each element of the register. The first half shall be designated as cycle one and the remaining half as cycle two.

(e) Inspection Scheduling. Within a cycle, establishments may be scheduled and inspected in any order that makes efficient use of available resources.

1 Each inspection cycle shall be completed before another cycle is begun. The only exceptions are as follows:

a An establishment may be carried over to another cycle if the establishment is not operating normally because of strikes, seasonal fluctuations, or other factors.

b An establishment may be carried over to another cycle if necessary equipment or personnel with necessary experience and qualifications to perform the inspection are not presently available.

- c An establishment may be carried over to another cycle if it is the last remaining establishment in a cycle, its inspection would require travel in excess of 50 miles, and it cannot be combined with other inspection activity.
- d An establishment may be carried over to another cycle if the employer has not yet completed abatement action required as a result of a previous comprehensive OHSB inspection of the same inspection type (safety or health), because the final abatement date has not yet come.
- e An establishment may be carried over to another cycle if the employer has contested a citation or a citation item issued as a result of a previous OHSB inspection, and the case is still pending before the Review Commission.
- f An establishment may be carried over to another cycle if the inspection cannot be completed due to the employer's refusal to allow the inspection.
- g An establishment may be carried over or moved up to another cycle in order to schedule joint safety/health inspections of an establishment on both the safety and health inspection registers, provided that the establishment is in the current cycle on at least one of the registers.
- h An establishment may be carried over to another cycle if the inspection must be deferred because of the presence of a consultant at the worksite or because the establishment has applied for participation but has not yet been approved in the Inspection Exemption through Consultation Program.
- i Approval for carrying over an establishment for reasons not listed above must be requested from the Bureau Chief.

2 As previously described, the two inspection cycles are established with double the number of inspections projected at the beginning of the year. The number of inspections actually performed, however, will depend on factors such as staffing, unprogrammed inspection activity, and special programs.

a If, at the end of the first cycle, it appears that the second cycle will be too long for the remainder of the fiscal year, the inspection register may be shortened so that the number of establishments will more nearly equal the number of inspections that can be performed. The projected number of inspections shall be based on the experience of the first cycle.

NOTE: The register shall be shortened by removing establishments from the end of the list, in reverse order of their listing.

b If, at the end of the year, a cycle has not begun, it is simply disregarded.

c If all establishments in the two cycles are inspected before the end of the year, a third cycle shall be prepared by extending the inspection register to the next group of consecutively numbered establishments on the list. The number of establishments on the extended inspection register will be equal to an estimate of the number of inspections that the Bureau projects it can conduct prior to the end of the year.

NOTE: For the third cycle (and any subsequent cycles that may be necessary), the number of establishments is not doubled to create the extended inspection register. This is to prevent overly long inspection obligations at the end of a year.

3 Any cycle begun but not yet completed at the end of the year, shall be completed, subject to the exceptions set forth in E.2.b.(1)(e)1, before beginning the new year inspection cycles. The number of inspections yet to be completed shall be taken into account in setting the new year inspection cycles.

(f) Deletions and Additions. Once the inspection cycle itself begins, the following policy shall guide additions and deletions:

1 An establishment shall be deleted from an inspection cycle in which it appears whenever one of the criteria for deletion becomes

applicable. For example, an establishment may have received a complete inspection during the fiscal year as a result of a formal employee complaint.

2 After the first inspection from the register has begun, addition of an establishment with an SIC code listed on the High Rate SIC List or on the Health SIC List located either in a previous cycle or in the current cycle, shall be made to the current cycle. If such an establishment is discovered whose SIC appears in a cycle after the current cycle or has not yet been assigned to a cycle, that establishment shall be added, as appropriate, to the revised High Rate or the revised Health Establishment List in the proper SIC position.

3 Where it is learned only after the Compliance Officer has arrived at the establishment that one of the criteria for deletion applies, the inspection shall not be conducted (or continued if already begun). Citations for the completed portion of the inspection shall still be issued, unless the SIC is exempted. (See current version of OSHA Instruction CPL 2.51.)

4 If the CO learns after arrival that the establishment has been classified in the wrong SIC, the Compliance Manager shall be contacted. The Compliance Manager shall ascertain or confirm through appropriate investigation, whether the assigned SIC is proper or, if not, what the appropriate SIC should be for that establishment. The correct SIC shall be compared to the high rate list, and, if it appears, the inspection will be conducted at that time.

(2) Inspection Scheduling for Construction. Due to the mobility of the construction industry, the transitory nature of construction worksites, and the fact that construction worksites frequently involve more than one construction employer, inspections shall be scheduled from a list of construction worksites rather than construction employers.

(a) Inspection List. A list of construction worksites that are or will be active during the forthcoming month will be prepared, using, to the extent of their reliability, sources such as Dodge Reports, local building permits, or reports of construction activity as referred by Department personnel, members of the public, or other sources.

- 1 Worksites which have received a substantially complete inspection within the preceding three months shall be deleted from the list.
  - 2 After the list has been prepared and corrected, as appropriate, the worksites on the corrected list shall be numbered consecutively beginning with number 1.
- (b) Monthly Inspection Cycle. Using the number of construction inspections projected for the quarter, the inspection cycle shall be prepared as follows:
- 1 Apply a random number table to the worksite list which has been prepared as directed above.
  - 2 Select worksites in the order prescribed by the random numbers until the number of inspections estimated (i.e., total number of employers) at least equals the number of worksites projected for the applicable month.
- (c) Inspection Scheduling. Within a cycle, worksites may be selected and inspected in any order that makes efficient use of available resources.
- 1 Each inspection cycle shall be completed before the next monthly cycle is begun. The only exceptions are as follows:
    - a A worksite may be carried over to the next cycle if it is not operating normally at the time of the inspection because of strikes, weather, or other factors.
    - b A worksite may be carried over to the next cycle if necessary equipment or personnel with experience and qualifications to perform the inspection are not presently available.
    - c A worksite may be carried over to the next cycle if it is the last remaining worksite in the list, but its inspection would require travel in excess of 50 miles and it cannot be combined with other inspection activity.
    - d A worksite may be carried over to the next cycle if the inspection cannot be completed due to the employer's refusal to allow it.

e A worksite may be carried over to the next cycle if conditions (construction activity at the site) have not changed substantially since a prior inspection or if actual construction has not yet begun.

f A worksite may be carried over to the next cycle if the inspection must be deferred because of the presence of a Bureau Consultant at the worksite.

g Approval for carrying over a worksite for reasons not listed above must be requested from the Bureau Chief.

2 At the end of an inspection cycle, the number of worksites yet to be inspected in that cycle shall be taken into account in the new inspection cycle.

3 If all worksites in the cycle have been inspected, but fewer employers are inspected than originally predicted, additional worksites may be selected from the worksite list, using the order prescribed by the random numbers.

4 Similarly, if the OHSB is able to do more programmed inspections than the number of inspections projected at the beginning of the month, additional worksites shall be scheduled for inspection in the order prescribed by the random numbers.

5 Each worksite shall be scheduled for inspection primarily in those areas where significant numbers of injuries occur; such as falls from elevations, working around or with equipment, handling and storage of materials, working near electrical lines, etc.

(d) Health Construction Inspections. No separate scheduling method is applied for programmed construction health inspections. Rather, the Compliance Manager shall determine which construction inspections are to be conducted as a joint inspection because serious health hazards are likely to exist at the worksite. However, a local emphasis plan may be submitted for scheduling health construction inspections.

(3) Special Emphasis Programs. Special Emphasis Programs provide for programmed inspections in high potential injury or illness rate situations which are not covered by the scheduling systems outlined in the preceding

subsections of E.2.b. or, if covered, not addressed to the extent considered adequate under the specific circumstances present. Special emphasis programs may also be used to set up alternative scheduling procedures. They include National Emphasis Programs and Local Emphasis Programs.

(a) Description. The description of, and reasons for, specific Special Emphasis Programs will be set forth in appropriate instructions or notices, as the occasion arises. Local Emphasis Programs may be developed by the State. Such Programs shall be submitted for approval to the Bureau Chief.

1 The subject matter of the particular Special Emphasis Program shall be identified by one or more of the following:

a Specific industry.

b Trade/craft.

c Substance.

d Type of workplace operation.

e Type/kind of equipment.

f Other identifying characteristic.

2 The scope of a Special Emphasis Program shall be described and may be limited by geographic boundaries, size of worksite, or similar considerations.

3 The Bureau Chief will assure the National Office is contacted and an IMIS SEP code is assigned for the program.

4 The details of the Special Emphasis Program will be included in an OHSB Directive. The directive will include a forecast of inspections to be programmed within the SEP, based on available resources.

(b) Scheduling Inspections. The following guidelines shall apply in scheduling Special Emphasis inspections:

1 Certain Special Emphasis Programs identify the specific worksites and/or industries that will be inspected; therefore, the only action remaining to be taken is the scheduling of inspections.

2 Other Special Emphasis Programs identify only the subject matter of the program and contemplate that not all worksites within the program will necessarily be inspected.

3 If no special worksites are identified within the program, the Compliance Manager and Data Management Program Manager shall use available information to compile an establishment list.

4 Where no procedures for scheduling worksites for inspection are specified, the Compliance Manager shall develop such procedures. The procedures set forth in E.2.b.(2) for scheduling construction inspections may be used for scheduling worksites within Special Emphasis Programs. Scheduling procedures other than those specified in E.2.b.(2) may be used upon approval from the Bureau Chief.

(4) Other Special Programs. The Bureau may develop programs to cover special categories of inspections which are not "high hazard" or "high rate" inspections, and thus not covered under the planning guide or under Special Emphasis Programs. Currently, migrant farmworker inspections have been designated as such a program. The Bureau Chief will issue an OHSB directive for each special program. The directive will describe the details of the special program, including a forecast of inspections to be programmed based on available resources.

F. Exemptions and Limitations. Congress may place exemptions and limitations on OSHA activities through the annual Appropriations Act. Refer to the current version of OSHA Instruction CPL 2.51 for guidelines on how to apply current exemptions and limitations to compliance programming. The Bureau will not expend funds to conduct inspections contrary to the instructions outlined in that directive.