

**APPENDIX B: AGENCY'S RESPONSE TO THE REPORT**


U.S. Department of Labor

Assistant Secretary for  
Occupational Safety and Health  
Washington, D.C. 20210



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MEMORANDUM FOR: CAROLYN R. HANTZ  
Assistant Inspector General for Audit

FROM: DOUGLAS L. PARKER 

SUBJECT: Response to Office of Inspector General's Recommendations in  
Final Audit Report Number "OSHA needs To Do More To Address  
High Injury Rates Of Warehouse Workers"

This memorandum provides OSHA's Response to the Office of the Inspector General's (OIG) Recommendations in "OSHA needs To Do More To Address High Injury Rates Of Warehouse Workers."

As always, we appreciate the interest of the OIG in increasing the effectiveness of OSHA programs. However, the OIG's warehousing audit process was a missed opportunity to work collaboratively with OSHA to evaluate the effectiveness of OSHA enforcement programs affecting the warehousing sector. Instead, based on a limited set of data points that do not account for important contextual factors and without considering the overall impacts on worker safety across multiple industries, the OIG seeks to substitute the OIG's judgments on policies, targeting methodologies, and resource allocation for that of OSHA leadership. These broad policy judgments go well beyond the OIG's expertise and what the limited audit findings support.

OSHA recognizes a need to increase the effectiveness of our enforcement activities to protect workers from the unacceptable injury rates in warehousing and related sectors. This is why, prior to this audit, OSHA included in its management plan the development of an initiative to address high injury rates in warehousing. In July, OSHA launched its National Emphasis Program (NEP) to prevent workplace hazards in warehousing, distribution, and higher risk retail sectors. The Agency is concluding the outreach and education phase of the NEP rollout and will soon be conducting additional safety inspections in warehouse settings focused on forklift operations, material handling and storage, and fall and trip hazards, as well as screening work sites for heat and ergonomic hazards. Our concern for these workers and the high injury rates they experience is also why we have dedicated considerable resources to addressing ergonomic hazards at fulfillment centers, in cooperation with other enforcement agencies conducting related investigations, and have been negotiating enterprise-wide remedies to address the root causes of hazards in warehousing and similar product storage settings. These efforts only get passing mention in the audit.

Because of OSHA's demonstrable and measurable activity in the warehousing industry, both historically and planned, OSHA not only disagrees with the OIG's report but is frustrated and

disappointed with the OIG’s conclusions. The OIG’s methodology and reasoning are flawed and do not result in recommendations that would strengthen OSHA’s enforcement efforts. Despite providing considerable information and making repeated attempts to educate the OIG on our programs and the complex factors involved in effectively establishing enforcement priorities, the OIG insisted on only using the limited lens of industry-wide injury rates to determine workers’ exposure to risk and to make judgments about how OSHA should allocate its enforcement resources.

**Result 1: OSHA Conducted a Limited Number of Warehouse Inspections While Injury and Illness Rates Remained High**

The underlying premise of the OIG’s audit findings is that OSHA’s programmed inspection activity should be more focused on warehousing because of the high injury rates in that industry. OSHA agrees that industry injury rates are an important data point in evaluating risk to workers and allocating inspection resources, but a comprehensive approach to enforcement requires OSHA to take other factors into account. Looking exclusively at various industries’ injury rates as the basis for allocating enforcement resources does not take into account a number of factors, including but not limited to (1) the seriousness of those injuries; (2) how many of those injuries result in deaths; (3) occupational illnesses and risks of exposure to occupational health hazards in different industries; (4) the potential for catastrophic incidents in industries like petrochemicals that require intensive enforcement attention despite low injury rates; or (5) whether the injuries that occur in a particular industry are ones OSHA can effectively address, because of, for example, the lack of effective standards or jurisdictional limitations.

However, even if one accepts the OIG’s premise that injury rates alone should drive how much attention OSHA pays to a particular industry, the data for the audit period show that OSHA and its state partners have had a higher inspection presence in warehousing than almost every other industry with comparable rates.

The following table shows the industries with the highest injury rates, the number of inspections that occurred in that industry, the number of facilities nationwide, and the ratio of inspections to establishments in that industry during the 5-year period of the audit:

Oct. 1, 2016 - Dec. 31, 2021 Federal + State Plan Activity

Industry	2017 BLS TRC Rate	Inspection s	Establishments (CY21)	Inspection Rate
Warehousing and Storage (493)	5.5	3,942	20,002	1 inspection for every 5.1 establishments
Nursing and Residential Care Facilities (623)	7.3	4,338	85,697	1 inspection for every 19.8 establishments
Couriers and Messengers (492)	7.1	889	21,360	1 inspection for every 24.0 establishments
Air Transportation (481)	6.1	309	6,290	1 inspection for every 20.4 establishments
Hospitals (622)	6.1	3,140	12,210	1 inspection for every 3.9 establishments
General Merchandise Stores (452)	5.6	2,168	66,323	1 inspection for every 30.6 establishments
Wood product manufacturing (321)	5.4	4,998	15,170	1 inspection for every 3.0 establishments
Performing arts, spectator sports, and related industries (711)	5.2	381	67,057	1 inspection for every 176.0 establishments
Animal production and aquaculture (112)	4.8	1,099	27,475	1 inspection for every 25.0 establishments
Food manufacturing (311)	4.8	8,795	36,665	1 inspection for every 4.2 establishments
Crop production (111)	4.7	3,358	50,096	1 inspection for every 14.9 establishments
Building material and garden equipment and supplies dealers (444)	4.7	2,123	68,863	1 inspection for every 32.4 establishments

Support activities for agriculture and forestry (115)	4.5	2,523	21,117	1 inspection for every 8.4 establishments
Leather and allied product manufacturing (316)	4.5	127	1,386	1 inspection for every 10.9 establishments
Food and beverage stores (445)	4.5	3,006	148,642	1 inspection for every 49.4 establishments
Beverage and tobacco product manufacturing (312)	4.2	1,038	14,801	1 inspection for every 14.3 establishments
Nonmetallic mineral product manufacturing (327)	4.1	3,659	16,814	1 inspection for every 4.6 establishments
Primary metal manufacturing (331)	4.1	3,059	5,639	1 inspection for every 1.8 establishments
<b>Total -- Top 18 Industry Sub-Sectors</b>	<b>N/A</b>	<b>48,952</b>	<b>685,607</b>	<b>1 inspection for every 14.0 establishments</b>

Sources: QCEW 2021 Annual Averages, US Private Sector:

<https://data.bls.gov/cew/data/api/2021/a/area/00000.csv>

BLS 2021 Table 1. Incidence rate of nonfatal occupational injuries and illnesses by industry and case type:

<https://www.bls.gov/if/nonfatal-injuries-and-illnesses-tables/table-1-injury-and-illness-rates-by-industry-2021-national.htm>

Inspection data is from OIS for inspections opened Oct. 1, 2016 – Dec. 31, 2021, based on primary NAICS code.

Notably, for the handful of industries with lower inspection ratios than warehousing, the industry was either significantly impacted by COVID (hospitals and food manufacturing) or has a significantly higher fatality rate than warehousing (wood products manufacturing, nonmetallic mineral product manufacturing, and primary metal manufacturing). While OSHA wishes to have a greater presence in a range of high-hazard industries, including warehousing, there is not a serious argument to be made, based on the data, that there is a meaningful discrepancy between injury rates in warehousing and OSHA’s enforcement presence there relative to other industries.

**Result 2: OSHA’s Site-Specific Targeting Programs (SST) Were Not Designed to Target Enough Workplaces with High Rates of Serious Injury and Illness**

This result demonstrates the OIG’s continued failure to understand the intent and legal constraints of OSHA’s SST program. The SST program uses employer-reported injury rates to target for inspection establishments that: (1) have high or upwardly trending lost-time illness and injury rates; (2) fail to report their rates; or (3) report their rates but either have some indicia of potential under-reporting or serve as a control group. Specific warehouse establishments are included on the list if they meet the SST criteria. Further, because of the legal requirement to ensure an objective selection process, OSHA uses a randomization process to develop the SST targeting lists.

OIG claims OSHA “failed to monitor” the SST program based solely on the total number of warehouse inspections conducted. Focusing on this single data point, OIG reaches this conclusion without any evaluation of the overall effectiveness of the program. OSHA does not believe this is a reasonable or appropriate conclusion under any recognized standard for conducting performance audits.

The OIG apparently wants OSHA to restructure the SST program to include more warehouses, but provides no compelling rationale why OSHA should pass over meatpacking plants, manufacturing, or other worksites that also have high injury rates to conduct more warehouse inspections under the SST program. Indeed, the lower number of warehouse inspections relative to other industries reflects the fact that, at the site-specific level, high injury rates occur in a wide range of industries. By focusing on warehousing in a vacuum, the audit result fails to account for positive impacts of the SST program at other high-injury worksites, and how those could be

adversely affected by shifting resources to warehousing. More fundamentally, the OIG fails to provide any reasoned basis for insisting that the SST program, rather than OSHA's NEP on warehousing, should be the targeting vehicle for more effective warehouse inspections.

The SST program is always subject to modification and improvement, and OSHA has made some modifications over the course of the program. OSHA agrees a focus should be on facilities with high rates of significant injuries, but notes that its decision to include a mix of non-reporting and other establishments provides OSHA important information about its injury and illness reporting program. It also provides the Agency with a control group that allows for evaluation of the program's effectiveness. The fact that not all SST inspections are conducted on a timely basis is because SST inspections are resource dependent. That flexibility is built into the program, by design, to enable local management to meet competing demands and priorities.

**Result 3: OSHA Had Limited Visibility Into the Numbers and Types of Injuries and Illnesses Occurring in Warehouses**

The OIG is correct that OSHA needs additional visibility into the numbers and types of injuries and illnesses occurring in warehouses. This is why the Agency has been diligently working on a rule to expand the injury and illness data that employers must provide to OSHA. On July 21, 2023, OSHA issued a final rule, titled Improved Tracking of Workplace Injuries and Illnesses Final Rule. With the new requirements of the rule, OSHA expects to receive injury-specific data from approximately 52,000 establishments on approximately 766,000 injury and illness cases – impacting approximately 22 million workers. OSHA expects that the information submitted will include significant additional data on types of injuries, risks, and trends in specific industries including warehouses. Many of these requirements would be in place today, had the prior Administration not withdrawn parts of OSHA's 2016 injury reporting rule.

OSHA is also in the process of updating its Injury Tracking Application to support the implementation of the Improved Tracking of Workplace Injuries and Illnesses Final Rule. Some of the data gathered under this rule will be made publicly available on OSHA's website. This will allow employers, current and potential employees, employee representatives, current and potential customers, researchers, and the public to make more informed decisions factoring in a business's workplace safety and health practices and outcomes.

We again thank you for your interest in OSHA programs and worker safety and health.