



# OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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**DIRECTIVE NUMBER:** CSP 02-00-004

**EFFECTIVE DATE:** 03/19/2021

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**SUBJECT:** Consultation Policies and Procedures Manual

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## ABSTRACT

**Purpose:** This Instruction describes and implements the policies and procedures governing the administration and operation of the Occupational Safety and Health Administration (OSHA) On-Site Consultation Program.

**Scope:** OSHA-wide.

**References:** See Chapter 1, Section III.

**Cancellations:** OSHA Instruction CSP 02-00-003, Consultation Policies and Procedures Manual, November 19, 2015.

**State Impact:** Notice of Intent and Equivalency Required. See Chapter 1, Section V.

**Action Offices:** National, Regional, and Area Offices.

**Originating Office:** Directorate of Cooperative and State Programs.

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By and Under the Authority of

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Principal Deputy Assistant Secretary

ABSTRACT - 1

## **Executive Summary**

This Instruction cancels and replaces OSHA Instruction CSP 02-00-003, Consultation Policies and Procedures Manual, issued November 19, 2015, and its supplemental notices. It outlines the overall policy framework for administering and managing the OSHA On-Site Consultation Program, updates and clarifies the criteria and requirements for participation in the Safety and Health Achievement Recognition Program (SHARP) and Pre-SHARP, and the requirements of the monitoring and evaluation system for On-Site Consultation programs.

## **Significant Changes**

- A. Added anti-retaliation and whistleblower protection references to this Instruction.
- B. Updated the coding guidance for the OSHA Information System (OIS) throughout this Instruction.
- C. Made the following updates to Chapter 1:
  - 1. Clarified State Plan Impact.
  - 2. Updated existing definitions and added new definitions.
  - 3. Incorporated guidance on the use of additional funds beyond the required matching funds provided by states funded under Section 21(d) of the Occupational Safety and Health Act of 1970.
  - 4. Incorporated the guidance in OSHA memorandum, Safety and Health Achievement Recognition Program: Revised Updated Size Requirements, March 20, 2015.
- D. Revised the policy in Chapter 3 for the Alternative High-Hazard Listing developed by a state to be approved by the Regional Administrator instead of the OSHA Directorate of Cooperative and State Programs.
- E. Clarified the guidance for using the Safety and Health Program Assessment Worksheet (OSHA Form 33), and updated the guidance for conducting interviews at workplaces and communicating industrial hygiene sampling results in Chapter 4.
- F. Incorporated information on follow-up consultation visits in Chapter 5 into Chapter 3 for clarity. Revised Chapter 5 to only address Training and Education Consultation Visits.

- G. Updated documentation requirements and procedures for the Written Report to the Employer and sampling data in Chapter 6.
- H. Made the following updates to Chapter 7:
  - 1. Relocated the guidance in Chapter 7 for hazard correction and verification to Chapter 4 for clarity.
  - 2. Updated the procedures to follow when an enforcement inspection is in progress at an establishment.
  - 3. Updated the procedures for enforcement referrals for SHARP and Pre-SHARP establishments.
  - 4. Relocated the guidance for fatalities and catastrophes at SHARP and Pre-SHARP establishments from Chapter 8 to Chapter 7 for clarity.
  - 5. Incorporated guidance for incidents that do not involve fatalities and catastrophes at SHARP and Pre-SHARP establishments.
  - 6. Added Appendix M, Incident Investigation Reporting Template (SHARP and Pre-SHARP Establishments).
  - 7. Added Appendix O, Guidance for Clarifying the Status of Enforcement Inspections at Establishments.
- I. Made the following updates to SHARP and Pre-SHARP in Chapter 8:
  - 1. Updated the guidance on procedures to follow for incidents involving fatalities and catastrophes at SHARP and Pre-SHARP establishments.
  - 2. Incorporated guidance on whistleblower complaints (regarding occupational safety and health issues).
  - 3. Clarified that employers requesting to participate in SHARP must score at least a “2” on all 58 attributes of the OSHA Form 33.
  - 4. Updated the requirements and guidelines for SHARP Pilots.
  - 5. Revised Appendices C (Annual Rate Calculation Method) and D (Alternative Rate Calculation Methods) for clarity.

6. Updated the instructions and incorporated a sample action plan template for employers in Appendix F, Occupational Safety and Health Program Action Plan Template.
  7. Added Appendix N, Employers' Incentive Programs.
- J. Made the following updates to Chapter 9:
1. Made general edits to clarify guidance for monitoring and evaluating Consultation programs.
  2. Incorporated a requirement for Consultation programs to respond to on-site reviews within 45 calendar days of receiving the on-site review report from the Regional Administrator.
- K. Deleted Chapter 10, Consultation Annual Program Plan to prevent potential future inconsistencies between the Chapter and the current or future Annual On-Site Consultation Cooperative Agreement Application Instructions.
- L. Made general updates to the following appendices for clarity and consistency:
1. Appendix A, Sample Letter to Employers Receiving Low Priority
  2. Appendix B, Sample List of Hazards
  3. Appendix E, Interim Year SHARP Site Self-Evaluation Template
  4. Appendix G, Mandated Activities Report for Consultation
  5. Appendix H, Consultation Visit Case File Organization
  6. Appendix I, Checklist for On-Site Review of Consultation Programs
  7. Appendix K, Consultant Function – Competency Statements and Consultants Qualifications

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## Chapter 1

### Introduction

- I. **Purpose.** This Instruction describes and implements the policies and procedures governing the administration and operation of the Occupational Safety and Health Administration (OSHA) On-Site Consultation Program.
- II. **Scope.** This Instruction applies to On-Site Consultation Cooperative Agreement programs under Section 21(d) of the Occupational Safety and Health Act of 1970 (OSH Act), established by 29 Code of Federal Regulations (CFR) 1908; and Consultation programs under the authority of a State Plan approved under Section 18 of the OSH Act and funded under Section 23(g).

This Instruction specifies the policies and procedures for all 21(d) Cooperative Agreement programs established by 29 CFR 1908 for the private sector.

Consultation programs funded under Section 23(g) of the OSH Act, which provide consultative services to private sector employers, must be "at least as effective" (ALAE) as the Section 21(d) Cooperative Agreement programs established by 29 CFR Part 1908 (29 CFR 1908.1(a)) and described by this Instruction.

All State Plans are required to administer state and local government On-Site Consultation programs, funded under Section 23(g) of the OSH Act, that adhere to the requirements of this Instruction, or an approved, state-specific, ALAE alternative to this Instruction as specified in the State Plan Policies and Procedures Manual, OSHA Instruction CSP 01-00-005, May 6, 2020.

- III. **References.**
  - A. Consultation Agreements, 29 CFR Part 1908.
  - B. Fiscal Year 2021 On-Site Consultation Cooperative Agreement Application Instructions, OSHA Notice CSP 02-20-02, June 18, 2020 (or current version).
  - C. Occupational Injury and Illness Recording and Reporting Requirements – North American Industry Classification System (NAICS) Update and Reporting Revisions, 79 Federal Register 56129 (September 18, 2014).
  - D. Occupational Safety and Health Act of 1970, 29 USC § 651 et seq.
  - E. OSHA Alliance Program, OSHA Instruction CSP 04-01-003, March 4, 2020 (or current version).

- F. OSHA Field Operations Manual, OSHA Instruction CPL 02-00-164, April 14, 2020 (or current version).
- G. OSHA Information System User Guide – Consultation Module Release 1.9.15, Version 1, June 1, 2018 (or current version).
- H. OSHA Strategic Partnership Program for Worker Safety and Health, OSHA Instruction CSP 03-02-003, November 6, 2013 (or current version).
- I. Recommended Practices for Anti-Retaliation Programs, OSHA Publication 3905, January 2017.
- J. Recommended Practices for Safety and Health Programs, OSHA Publication 3885, October 2016.
- K. Reporting Fatalities, Hospitalizations, Amputations, and Losses of an Eye as a Result of Work-Related Incidents to OSHA, 29 CFR 1904.39.
- L. Safety and Health Program Management Guidelines; Issuance of Voluntary Guidelines, 54 Federal Register 3904 (January 16, 1989).
- M. Scheduling System for Programmed Inspections, OSHA Instruction CPL 02-00-025, January 4, 1995 (or current version).
- N. Severe Violator Enforcement Program (SVEP), OSHA Instruction CPL 02-00-149, June 18, 2010 (or current version).
- O. State Plan Policies and Procedures Manual, OSHA Instruction CSP 01-00-005, May 6, 2020 (or current version).
- P. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200.
- Q. Voluntary Protection Programs Policies and Procedures Manual, OSHA Instruction CSP 03-01-005, January 30, 2020 (or current version).
- R. Whistleblower Investigations Manual, OSHA Instruction CPL 02-03-007, January 28, 2016 (or current version).
- IV. **Cancellations.** This Instruction supersedes OSHA Instruction CSP 02-00-003, Consultation Policies and Procedures Manual, November 19, 2015.

- V. **State Plan Impact.** 29 CFR Part 1908 contains requirements for Cooperative Agreements between states and the Federal Occupational Safety and Health Administration under sections 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and section 21(d), the Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998 (which amends the Occupational Safety and Health Act,) under which OSHA will utilize state personnel to provide consultative services to employers.
- A. **Federal Program Change - Notice of Intent and Equivalency Required.** This Instruction describes a Federal Program Change, which revises and updates the policies and procedures of the OSHA On-Site Consultation Program (29 CFR 1908.1).
1. State Plans operating private sector and state and local government Consultation programs funded under Section 23(g) of the OSH Act.
    - a. State Plans operating Section 23(g) Consultation programs (state and local government programs, and private sector programs funded under Section 23(g) of the OSH Act) are required to submit a notice of intent to adopt within 60 days of the issuance of this Instruction, and must indicate whether their policies and procedures will be identical or different from this Instruction. These State Plans must complete adoption within six months of the issuance of this Instruction.
    - b. If adopting identically, the State Plan operating a Section 23(g) Consultation program must provide the date of adoption to OSHA within 60 days of adoption. If the State Plan adopts or maintains policies that differ from this Instruction, the State Plan must either post the different policies on its State Plan website and provide a link to OSHA, or provide OSHA with an electronic copy of the policies. This action must occur within 60 days of the date of adoption.
  2. State Plans operating private sector Section 23(g) Consultation programs must be ALAE as Section 21(d) Consultation Cooperative Agreement programs, and must ensure their programs are ALAE as the requirements of this Instruction. (29 CFR 1908.1(a) and State Plan Policies and Procedures Manual, OSHA Instruction CSP 01-00-005.)
  3. All State Plans are required to administer state and local government Section 23(g) Consultation programs that adhere to the requirements of this Instruction, or an approved, state-specific, ALAE alternative to this



Instruction. (State Plan Policies and Procedures Manual, OSHA Instruction CSP 01-00-005.)

4. State Plans administering state and local government Section 23(g) Consultation programs may establish an achievement recognition program for state and local governments, but are not required to do so. (State Plan Policies and Procedures Manual, OSHA Instruction CSP 01-00-005, Chapter 5, Section II.C.)
5. State Plans administering private sector Section 23(g) Consultation programs must offer achievement recognition programs to private sector employers that are ALAE as the programs described in Chapter 8 of this Instruction.

**B. State Plans Operating Private Sector Consultation Programs Funded Under Section 21(d) of the OSH Act.**

1. All State Plans operating private sector 21(d) Consultation Cooperative Agreement programs (Consultation programs funded under Section 21(d) of the OSH Act) must comply with the requirements of this Instruction in accordance with 29 CFR 1908.10 and the On-Site Cooperative Agreement between the state and OSHA (29 CFR 1908.1).

The On-Site Consultation Cooperative Agreement between the state and OSHA specifies that the On-Site Consultation program operated under the agreement shall conform fully to the requirements in 29 CFR Part 1908, all related formal directives issued by the Assistant Secretary, and the appendices attached to the agreement. The requirements of this Instruction are effective as of the date of issuance for State Plans operating private sector Consultation programs funded under Section 21(d) of the OSH Act.

2. OSHA will permit State Plans operating private sector 21(d) Consultation Cooperative Agreement programs to make minor modifications to this Instruction which align with the intent of 29 CFR Part 1908.

Prior to implementation, a State Plan that intends to make modifications to this Instruction, shall provide the respective Regional Administrator (RA) with a list of all proposed modifications and a copy of the proposed modified directive for review and approval. The RA shall review the modified directive in consultation with the OSHA Directorate of Cooperative and State Programs (DCSP).

3. 21(d) Consultation Cooperative Agreement programs must offer achievement recognition programs to private sector employers, as described in Chapter 8 of this Instruction.
- C. **Enforcement Policies.** State Plans shall establish enforcement policies applicable to the safety and health issues covered by the State Plan which are ALAE as the enforcement policies established by 29 CFR Part 1908 (29 CFR 1908.1(c)), including the following:
1. Maintain the definition of a consultation visit in-progress and its effect on enforcement inspection scheduling as provided in 29 CFR 1908.7(b)(2) (29 CFR 1908.7(b)).
  2. Maintain the requirement not to schedule a compliance inspection in response to a complaint based upon a posted List of Hazards at an establishment, unless the employer fails to meet its obligations described in 29 CFR 1908.6(f), or fails to provide interim protection for exposed employees (29 CFR 1908.6(e)(8)).
  3. Assure employer confidentiality as described in 29 CFR 1908.6(g)(2), 29 CFR 1908.6(h), and 29 CFR 1908.7(a)(3).
  4. Assure limitations on the disclosure of the consultant's Written Report to the Employer (29 CFR 1908.6(g)(2)).
  5. Defer programmed inspections for employers approved to participate in achievement recognition programs (29 CFR 1908.7(b)(4)(i)(A)&(B); Chapter 8 of this Instruction).

## VI. **Significant Changes**

- A. Added anti-retaliation and whistleblower protection references to this Instruction.
- B. Updated the coding guidance for the OSHA Information System (OIS) throughout this Instruction.
- C. Made the following updates to Chapter 1:
  1. Clarified State Plan Impact.
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- D. Revised the policy in Chapter 3 for the Alternative High-Hazard Listing developed by a state to be approved by the Regional Administrator instead of DCSP.
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7. Added Appendix O, Guidance for Clarifying the Status of Enforcement Inspections at Establishments.
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  4. Updated the requirements and guidelines for SHARP Pilots.
  5. Revised Appendices C (Annual Rate Calculation Method) and D (Alternate Rate Calculation Methods) for clarity.
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1. Made general edits to clarify guidance for monitoring and evaluating Consultation programs.
  2. Incorporated a requirement for Consultation programs to respond to on-site reviews within 45 calendar days of receiving the on-site review report from the Regional Administrator.
- K. Deleted Chapter 10, Consultation Annual Program Plan, to prevent potential future inconsistencies between the Chapter and the current or future Annual On-Site Consultation Cooperative Agreement Application Instructions.
- L. Made general updates to the following appendices for clarity and consistency:
1. Appendix A, Sample Letter to Employers Receiving Low Priority

2. Appendix B, Sample List of Hazards
3. Appendix E, Interim Year SHARP Site Self-Evaluation Template
4. Appendix G, Mandated Activities Report for Consultation
5. Appendix H, Consultation Visit Case File Organization
6. Appendix I, Checklist for On-Site Review of Consultation Programs
7. Appendix K, Consultant Function – Competency Statements and Consultants Qualifications

## **VII. Action Information**

### **A. OSHA National Office.**

1. Directorate of Cooperative and State Programs. DCSP's Office of Small Business Assistance (OSBA), in consultation with the Assistant Secretary, is responsible for the administrative oversight of the OSHA On-Site Consultation Program. OSBA is responsible for establishing the policies and procedures governing the operation, monitoring, and evaluation of the On-Site Consultation Program. The Consultation Policies and Procedures Manual (CPPM) is the Consultation Program's principal policy guidance document. OSBA is also responsible for providing program support to OSHA Regions and the states.
2. Directorate of Enforcement Programs. The Directorate of Enforcement Programs (DEP) is responsible for the nationwide enforcement of occupational safety and health standards. DEP is responsible for developing the annual programmed (enforcement) inspection schedule, establishing inspection priorities and selection criteria, and responding to complaints, fatalities, catastrophes, and other critical inspections as determined by the Assistant Secretary.
3. Directorate of Administrative Programs. The Directorate of Administrative Programs (DAP), Office of Technology Assistance, is responsible for the development and administration of the OSHA Information System (OIS). In addition, through the Office of Financial Management, Division of Grants Management, DAP is responsible for the day-to-day financial management of the On-Site Consultation Program and the review of the financial aspects of the Cooperative Agreements between the states and OSHA.

4. Directorate of Construction. The Directorate of Construction (DOC) serves as OSHA's principal source for standards, regulations, policy, programs, and assistance to OSHA, other federal Agencies, the construction industry, and the general public with respect to occupational safety and health in the construction industry.
  5. Directorate of Whistleblower Protection Programs. The Directorate of Whistleblower Protection Programs (DWPP) is responsible for the nationwide enforcement of Section 11(c) of the OSH Act and the anti-retaliation provisions of more than 20 other federal statutes. DWPP maintains the policies and procedures for investigating complaints under these statutes, providing technical support for the OSHA field and developing compliance assistance resources.
- B. **Regional Offices.** Regional Administrators (RAs) are responsible for monitoring and evaluating the Consultation programs within their respective Regions. RAs are responsible for preparing and submitting individual Regional Annual Consultation Evaluation Reports (RACER) for all states (i.e., OSHA and State Plan jurisdiction), funded under Section 21(d) of the OSH Act. RAs also conduct financial reviews of all On-Site Consultation Cooperative Agreements. Consultation programs funded under Section 23(g) of the OSH Act must be assessed through the Federal Annual Monitoring and Evaluation (FAME) process. Communication is an essential component of OSHA's relationship with the states. Therefore, RAs are responsible for maintaining effective communication with Consultation programs in their respective Regions.
- C. **States.** The states are responsible for operating and maintaining Consultation programs that effectively meet the objectives of the OSHA On-Site Consultation Program in accordance with 29 CFR Part 1908. The states are also responsible for submitting annual On-Site Consultation Cooperative Agreement Applications to OSHA and developing the Consultation Annual Program Plan (CAPP) submitted with the agreement, in accordance with their respective OSHA or State Plan Strategic Plan. Consultation programs are required to conduct self-evaluations annually by means of the Consultation Annual Program Report (CAPR) in accordance with the monitoring and evaluation methods established in Chapter 9.

## VIII. Definitions.

- A. Achievement Recognition Program. An OSHA On-Site Consultation Program initiative which recognizes the achievements of small business employers who, at a particular establishment, operate an exemplary safety and health program that results in the immediate and long-term prevention of job-related injuries and

illnesses (29 CFR 1908.2). SHARP and Pre-SHARP are discussed in detail in Chapter 8.

- B. Action Plan. The written plan, developed by the consultant with the employer, and approved by the Consultation Program Manager (CPM). The mutually agreed upon written plan developed by a SHARP employer, which describes the site-specific steps that the employer will take to ensure continuous improvement of its safety and health program. Alternatively, the plan outlines the site-specific goals and time frames that will qualify the employer participating in Pre-SHARP for SHARP participation.
- C. Assistant Secretary. The United States Assistant Secretary of Labor for Occupational Safety and Health.
- D. Catastrophe. Catastrophe is the hospitalization of three or more employees resulting from a work-related incident or exposure; in general, from an injury or illness caused by a workplace hazard.
- E. Closed Case Date (Safety and/or Health Closed Case Date). The date (entered in the OSHA Information System (OIS)) on which the consultation visit in-progress status for an establishment is concluded.
- F. Closing Conference. Held at the conclusion of the consultation visit, the closing conference is conducted on-site by the consultant with the employer and an employee representative(s), either jointly or separately, to review the hazards identified during the consultation visit and discuss other pertinent issues related to employee safety and health. See Chapter 4 for additional information.
- G. Compliance Assistance Activities. Cover certain types of consultation services provided away from an employer's workplace such as technical advice provided through telephone conversations and videoconferences; electronic and printed correspondence, such as email and fax; speeches and presentations to stakeholders; off-site technical training not related to a consultation visit (see Chapter 5); and marketing to employers, such as targeted mailings and door-to-door promotions.
- H. Compliance Assistance Authorization Act. This is Public Law 105-197 which codified the OSHA On-Site Consultation Program by amending Section 21 of the OSH Act.
- I. Compliance Officer. An OSHA or State Plan compliance safety or health officer.
- J. Consultant. A state employee who provides consultation services under a 21(d) Cooperative Agreement (29 CFR 1908.2).



- K. Consultation Annual Program Plan. The Consultation Annual Program Plan (CAPP) forms part of the On-Site Consultation Cooperative Agreement for all Consultation programs funded under Section 21(d) of the OSH Act. The CAPP is updated, submitted each fiscal year, and subject to negotiation and approval by OSHA. Upon approval, this plan forms the basis for the monitoring and evaluation of a Consultation program's performance during a fiscal year.
- L. Consultation Program Manager. The person who directs the day-to-day activities of a Consultation program.
- M. Consultation Services. All activities related to the provision of consultative assistance under 29 CFR Part 1908, including off-site consultation and on-site consultation.
- N. Consultation Visit. A consultation visit can be classified as follows:
1. Initial. A hazard assessment of a workplace conducted by a consultant(s) for the safety and/or health discipline. An initial consultation visit must consist of an on-site opening conference, an examination of relevant aspects of the safety and health program relating to the scope of the consultation visit, a walkthrough of the workplace, and an on-site closing conference.
  2. Training and Education. A consultation visit that is conducted to provide training and education to employers and their employees in hazard identification and correction or in safety and health program development or improvement.
  3. Follow-up. A consultation visit conducted to verify the correction of previously identified hazards, assist the employer with the safety and health program, and/or provide other types of assistance, as specified in Chapter 3.
- O. Consultation Visit In-Progress. A consultation visit shall be considered in-progress in regards to the working conditions, hazards, or situations covered by the consultation visit from the beginning of the opening conference through the end of the hazard correction due dates and any extensions (29 CFR 1908.7(b)(1)).
- P. Cooperative Agreement. The legal instrument which enables the states to collaborate with OSHA to provide On-Site Consultation services in accordance with 29 CFR Part 1908.



- Q. Days Away, Restricted, or Transferred (DART). A rate that represents the total non-fatal injuries and illnesses resulting in days away from work, restricted work activity, and/or job transfer per 100 full-time employees for a calendar year.
- R. Education. Planned and organized activity by a consultant to convey information to employers and employees to enable them to establish and maintain safe and healthful working conditions at their workplaces.
- S. Employee. A person employed by an employer that is engaged in a business affecting commerce.
- T. Employee Representative. The authorized representative of employees at an establishment where there is a recognized labor organization representing employees. Alternatively, the non-management employee designated by employees at the establishment as their authorized representative.
- U. Employer. A person engaged in a business affecting commerce who has employees. This does not include the United States or any state or political subdivision of a state.

Note: As used in this Instruction, the word “employer” (or “employer’s representative”) also refers to the person(s) authorized to enter into an agreement for consultation services and who also has the authority to ensure the employer meets its obligations pursuant to that agreement.

- V. Establishment. An establishment is a single physical location where business is conducted or where services or industrial operations are performed.

For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is *represented* by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities (see 29 CFR 1904.46). In these instances, for the purposes of the On-Site Consultation program, the specific location or address where consultation services was provided will be identified in OIS as the employer’s or establishment’s address.

Note: Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments only as specified in 29 CFR 1904.46(1)(i) through (iv).

- W. Fatality. Fatality is an employee death resulting from a work-related incident or exposure; in general, from an injury or an illness caused by or related to a workplace hazard.
- X. Federal Working Days. For the purposes of this Instruction, federal working days means Mondays through Fridays and excludes Saturdays, Sundays, and federal holidays.
- Y. Hazard Assessment. This is the collection of information on hazards, observation of work processes, methods, procedures, employee activities, employee interviews, and advice on hazard control or elimination, as appropriate, conducted within the scope of the consultation visit requested by the employer.
- Z. Hazard Correction. The elimination or control of a workplace hazard in accordance with the requirements of applicable OSHA or State Plan statutes, regulations, or standards.
- AA. High-Hazard Business or Operation. A business or operation on the OSHA High-Hazard List; an Alternative High-Hazard List approved by the respective RA; or any National, State, or Local Emphasis Program list.
- BB. Imminent Danger. Conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through procedures otherwise provided by the OSH Act. (29 USC 662(a) and 29 CFR 1908.6(f)(1)).
- CC. List of Hazards (Serious). This list consists of all serious hazards (and any imminent danger hazard) identified by the consultant, and the hazard correction due dates mutually agreed upon by the employer and the consultant. The unedited List of Hazards is the official document that must be posted by the employer.
- DD. List of Hazards (Serious and Other-than-Serious). This list consists of serious, other-than-serious, and imminent danger hazards, and regulatory violations identified by the consultant. It includes the hazard correction due dates mutually agreed to by the employer and the consultant. This list is used when assessing establishments for SHARP or Pre-SHARP eligibility and by State Plans that require the verification of hazard correction for all hazard classifications. The unedited List of Hazards is an official document that must be posted by the employer.
- EE. Occupational Safety and Health Act. The Occupational Safety and Health (OSH) Act of 1970. 29 USC § 651 *et seq.*

- FF. Occupational Safety and Health Administration. The federal Occupational Safety and Health Administration (OSHA), an Agency of the United States Department of Labor that implements the OSH Act of 1970, including overseeing State Plans. With the [OSH Act](#), the United States Congress created [OSHA](#) to ensure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education, and assistance.
- GG. Occupational Safety and Health Administration Information System (OIS). An OSHA web-based data collection system used by the On-Site Consultation Program. Reference to OIS in this Instruction includes both the OIS modules and the systems used by states with interfaces.
- HH. Off-site Consultation. The provision of consultative assistance on occupational safety and health issues away from an employer's establishment by such means as telephone and correspondence, and at locations other than the employer's establishment, such as the Consultation program offices. It may, under limited conditions specified by the Assistant Secretary, include training and education. (29 CFR 1908.2).
- II. On-site Consultation. The provision of consultative assistance on an employer's occupational safety and health program and on specific workplace hazards through a consultation visit to an employer's establishment. It includes a Written Report to the Employer (when applicable) on the findings and recommendations resulting from the consultation visit. It may include training and education needed to address hazards, or potential hazards, at the establishment. (29 CFR 1908.2).
- JJ. Other-than-Serious Hazard. Any condition or practice which would be classified as an other-than-serious violation of applicable OSHA or State Plan statutes, regulations, or standards, based on criteria contained in the current OSHA Field Operations Manual or the State Plan equivalent (as applicable).
- KK. Programmed Inspection. OSHA establishment inspections which are scheduled based upon objective or neutral criteria. These inspections do not include imminent danger, fatality/catastrophe, formal complaints, and other critical inspections as determined by the Assistant Secretary.
- LL. Programmed Inspection Schedule. OSHA inspections scheduled in accordance with criteria contained in the current OSHA Field Operations Manual or approved State Plan equivalent.
- MM. Protection Plan of Action. The interim plan developed by the employer and consultant during a consultation visit to protect employees from a serious or

imminent danger hazard that requires a complex hazard correction solution(s) that may take more than 90 calendar days to implement.

NN. Safety and Health Program. Refers to a comprehensive, employer-implemented, site-specific system to protect employee safety and health, through a collaboration between management and employees, to identify and resolve issues before they can result in an incident, injury, or illness at an establishment; as outlined in the Recommended Practices for Safety and Health Programs, OSHA Publication 3385 (October 2016).

1. Safety and Health Program Assessment. A review of an employer's existing safety and health program to identify elements considered adequate and those in need of development or improvement, and the consultant's recommendations for correcting deficiencies or continuous improvement, using the Safety and Health Program Assessment Worksheet, OSHA Form 33.
2. Complete Safety and Health Program Review. This is a safety and health program assessment that involves reviewing all 58 attributes of Form 33. A complete safety and health program review is conducted when an employer requests to participate in SHARP or Pre-SHARP or requests a complete review of its safety and health program. See Chapter 4 for additional information.

OO. Scope of Consultation Visits.

1. Full-service Consultation Visit. A consultation visit that provides a complete, safety and/or health hazard assessment of all working conditions, equipment, processes, and OSHA or State Plan mandated programs such as a Hearing Conservation Program at all locations of the establishment (wall-to-wall hazard assessment). There are three types of full-service visits:
  - a. Full-service safety: when one consultant conducts a consultation visit in the safety discipline as defined above.
  - b. Full-service health: when one consultant conducts a consultation visit in the health discipline as defined above.
  - c. Full-service both: when one consultant conducts a single consultation visit for both safety and health disciplines as defined above.

2. Limited-service Consultation Visit. A less complete safety and/or health hazard assessment than that provided by a full-service consultation visit. For instance, a limited-service consultation visit provides a focused assessment of a particular work process; OSHA or State Plan mandated program such as a Respiratory Protection Program; limited location within the establishment; specific hazard or type of hazard; or a focused assessment that is conducted of some aspects of one discipline (safety or health), or some aspects of both disciplines at an establishment (safety and health). There are three types of limited-service consultation visits:
  - a. Limited-service safety: when one consultant conducts a consultation visit in the safety discipline as defined above.
  - b. Limited-service health: when one consultant conducts a consultation visit in the health discipline as defined above.
  - c. Limited-service both: when one consultant conducts a single consultation visit for both safety and health disciplines as defined above.
- PP. Serious Hazard. Any condition or practice which would be classified as a serious violation of applicable OSHA or State Plan statutes, regulations, or standards, based on criteria contained in the current OSHA Field Operations Manual or approved State Plan equivalent (as applicable), except that the element of employer knowledge does not apply.
- QQ. Severe Injury. An amputation, in-patient hospitalization, or loss of an eye as a result of a work-related incident.
- RR. Small Business. For the purposes of the OSHA On-Site Consultation Program, a small business is defined as an employer having two hundred fifty (250) or fewer employees at an establishment and no more than five hundred (500) employees corporation-wide. The upper corporate size limit does not apply to individual franchisees. When determining whether an establishment meets the size requirement for a small business, the consultant is to count each individual employed in the establishment in the most recent year (including full-time, part-time, seasonal, and temporary employees) as one employee.
- SS. Standard Element Paragraph (STEP). Descriptions of hazards available in OIS, which are customized by a consultant in preparing the Written Report to the Employer. Each STEP describes an unsafe condition(s) covered by a standard(s) or the OSH Act, the potential effect of that condition(s) on employees, the standard(s) referenced, and the recommended corrective action(s).

- TT. State. A state of the United States, the District of Columbia, and U.S. territories, such as the Commonwealth of the Northern Mariana Islands (CNMI), Puerto Rico, the Virgin Islands, or Guam.
- UU. State Designee. The state official designated by the Governor to be responsible for entering into a Cooperative Agreement in accord with Section 21(d) of the OSH Act. *See* “Designee” as defined in 29 CFR 1908.2.
- Note: For the purposes of this Instruction, the State Designee is also the state official designated by the Governor to perform the functions specified in this Instruction.
- VV. State Plan. The state agency responsible under a Plan approved under Section 18 of the OSH Act for the enforcement of occupational safety and health standards in that state.
- WW. Total Recordable Case Rate. A rate that represents the total non-fatal injuries and illnesses per 100 full-time employees for a calendar year.
- XX. Trade Secret. Information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors or customers. *See* 18 USC 1905 and Section 15 of the OSH Act.
- YY. Training (Formal or Informal). The planned and organized activity of a consultant to transfer knowledge, skills, techniques, and methodologies to employers and their employees, that will assist them in establishing and maintaining safe and healthful workplace conditions.
- ZZ. Willful Violation. A willful violation exists under the OSH Act where an employer has demonstrated either an intentional disregard for the requirements of the Act or a plain indifference to employee safety and health.
- AAA. Written Report to the Employer. The confidential report provided by the Consultation program to the employer at the conclusion of an initial consultation visit. It includes a documentation of all hazards identified, hazard correction recommendations, hazard correction due dates, and an assessment of the safety and health program. Refer to Chapter 6 for additional information.
- IX. **Background**. Section 21(c) of the OSH Act directs the Secretary of Labor to establish programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe and unhealthful working conditions in employments covered by the OSH Act. Section 21(c) also directs the Secretary of Labor to consult with and advise employers and employees, and organizations representing employers and employees, as to effective means of preventing occupational injuries and illnesses. The

OSHA On-Site Consultation Program is one of the avenues through which OSHA meets the requirements of Section 21(c) by offering consultation services to small business employers at no cost. In addition, consultation services can be provided without triggering the enforcement mechanisms of the OSH Act.

- A. Federally funded On-Site Consultation programs were originally operated only by State Plans. In response to the demand for On-Site Consultation programs in states under the jurisdiction of OSHA, 29 CFR Part 1908 was first promulgated on May 20, 1975 (40 Federal Register 21935), to authorize federal funding of consultation services in those states.
- B. 29 CFR 1908 has been amended several times in the intervening years. It was amended on August 16, 1977 (42 Federal Register 41386) to clarify a number of provisions as well as to increase the level of federal funding to ninety (90) percent, a level that was considered necessary to provide a strong incentive for states to establish On-Site Consultation programs. 29 CFR 1908 was again amended on June 19, 1984, to further clarify various provisions, and to grant programmed inspection deferrals to employers who meet specific requirements (49 Federal Register 25082).
- C. The OSHA Compliance Assistance Authorization Act of 1998, Public Law 105-197, codified the OSHA On-Site Consultation Program and amended Section 21 of the OSH Act by adding a new subsection, (d). On October 26, 2000, 29 CFR Part 1908 was amended (65 Federal Register 64282) to ensure employees would be allowed to participate in consultation visits and be informed of the results, consultation visits would be conducted according to updated procedures, and information obtained during consultation visits would be treated as confidential.

**X. OSHA On-Site Consultation Program Operations.**

- A. Consultation services are voluntary. Therefore, employers must contact the Consultation program in their states to request consultation services and agree to certain obligations before receiving services. Employers' obligations include correcting all serious and imminent danger hazards identified during a consultation visit within a mutually agreed upon time frame. Employers' obligations and rights are discussed in detail in Chapter 3.
- B. The OSHA On-Site Consultation Program is designed to assist employers with identifying and correcting hazards in the workplace, developing or improving safety and health programs, as well as training and educating employers and employees. These consultation services are provided by state On-Site Consultation programs at no cost to employers. In general, Consultation programs must give priority to small business employers in high-hazard industries when scheduling consultation visits (29 CFR 1908.1(a)).



**XI. OSHA On-Site Consultation Program Administration.**

- A. **Partnership between OSHA and the States.** Cooperative Programs, including the On-Site Consultation Program, are an integral part of OSHA. These programs complement enforcement efforts to promote safe and healthful working conditions in American workplaces. OSHA and its state partners, in accordance with the Government Performance and Results Act of 1993 (GPRA), as amended, operate under Strategic Plans that identify specific performance goals to be achieved by the Agency. The results of compliance assistance activities, including Cooperative Programs such as the On-Site Consultation Program, are thus included in the overall results of all OSHA activities.
- B. **Partnership between State Consultation Programs and OSHA.** Annually, each Consultation program funded under Section 21(d) of the OSH Act develops the Consultation Annual Program Plan (CAPP), based on the strategic and annual performance plan it supports. The CAPP is part of each Consultation program's On-Site Consultation Cooperative Agreement for a fiscal year and is subject to negotiation and approval by OSHA. Upon approval, the CAPP forms the basis for monitoring and evaluation of Consultation programs' performance during the fiscal year. The guidance for developing an acceptable CAPP is detailed in the On-Site Consultation Cooperative Agreement Application Instructions for the fiscal year.
- C. **Partnership between Consultation and Enforcement.** Consultation programs' efforts are linked to OSHA or State Plan strategic performance goals. Consultation programs' activities focus on addressing injuries, illnesses, and fatalities in targeted industries identified in the relevant strategic and annual performance plans. Consultation programs work as equal partners with enforcement programs in implementing OSHA or State Plan strategic performance plans through cooperative or voluntary interactions with employers.

**XII. Consultation Programs Funded Under Section 21(d) of the OSH Act.**

- A. In accordance with 29 CFR 1908.3(b)(1), the Assistant Secretary will reimburse states ninety (90) percent of the costs incurred under a cooperative agreement entered into pursuant to 29 CFR 1908. Approved training of consultation staff operating under a cooperative agreement and specified out-of-state travel by such staff will be fully reimbursed. In some cases, the state may choose to "overmatch," by providing more than the required matching funds, to allow that state's Consultation program to reach even more employers. These overmatch funds are part of the Consultation program's annual budget under the On-Site Consultation Cooperative Agreement (2 CFR 200.306(b)) and are subject to the



same rules and regulations, including those set forth in this Instruction, as the 90 percent federal funding and required state matching funds.

- B. In general, Consultation programs must give priority to small business employers in high-hazard industries when scheduling consultation visits (29 CFR 1908.1(a)). Therefore, OSHA maintains that the size requirements for employer participation in the Safety and Health Achievement Recognition Program (SHARP) or Pre-SHARP are: two hundred fifty (250) or fewer on-site employees, and no more than five hundred (500) employees corporation-wide (see subparagraph VIII.RR above). The upper corporate size limit does not apply to individual franchisees. However, OSHA also recognizes that Consultation programs may choose to use overmatch funds to offer SHARP participation to larger establishments.

## Chapter 2

### OSHA Cooperative Programs

- I. **Cooperative Programs.** The Occupational Safety and Health Administration (OSHA) offers employers and organizations opportunities to work with the Agency through cooperative programs, such as the On-Site Consultation Program, Voluntary Protection Programs, OSHA Strategic Partnership Program, Alliance Program, and OSHA Challenge. These cooperative programs offer a variety of services and benefits to participating employers and organizations. State Plans have similar cooperative programs. Although this Instruction's subject matter is the OSHA On-Site Consultation Program described below, an overview of other OSHA cooperative programs is essential for consultants' awareness.
- II. **On-Site Consultation Program.** The OSHA On-Site Consultation Program offers no-cost and confidential occupational safety and health services to small and medium-sized businesses in all 50 states, the District of Columbia, and several U.S. territories, with priority given to high-hazard establishments. Consultants from state agencies or universities work with employers to identify workplace hazards and how to fix them, provide advice for compliance with OSHA standards, train and educate employers and employees, and assist in establishing and improving safety and health programs.

The On-Site Consultation Program also implements the OSHA achievement recognition programs funded under Section 21(d) of the OSH Act – the Safety and Health Achievement Recognition Program (SHARP) and Pre-SHARP. Achievement recognition programs operating in State Plans may be known by other names.

- A. **Safety and Health Achievement Recognition Program (SHARP).** SHARP recognizes small businesses that have used On-Site Consultation program services and operate exemplary safety and health programs. Acceptance into SHARP is an achievement that distinguishes a small business amongst its peers as a model for workplace safety and health. Small businesses that meet SHARP participation requirements are deferred from OSHA or State Plan programmed inspection schedule for up to two (2) years upon initial approval, or for no more than three (3) years for subsequent renewal periods. See Chapter 8 for additional information.
- B. **Pre-SHARP.** A small business that does not meet all the requirements for SHARP participation but shows a reasonable promise of achieving agreed-upon milestones and time frames for meeting SHARP participation requirements, within the Pre-SHARP deferral period, may be approved to participate in Pre-SHARP. The deferral time frame from OSHA or State Plan programmed

inspection schedule for small businesses approved to participate in Pre-SHARP must not exceed a total of 18 months. See Chapter 8 for additional information.

- III. **Voluntary Protection Programs (VPP)**. VPP recognize employers and employees in the private industry, and federal agencies who have implemented effective safety and health programs, and maintain injury and illness rates below the Bureau of Labor Statistics averages for their respective industries. In VPP, management, labor, and OSHA work cooperatively and proactively to prevent fatalities, injuries, and illnesses through a system focused on hazard prevention and control, workplace analysis, training, management commitment, and employee involvement. To participate, employers must submit an application to OSHA and undergo a rigorous on-site evaluation by a team of safety and health professionals. Union support is required for applicants represented by a bargaining unit. VPP participants are re-evaluated every three to five years to remain in the programs. Participants are exempt from OSHA programmed inspections while they maintain their VPP status. OSHA approves qualified establishments for one of three programs within VPP: Star, Merit, and Star Demonstration.
- A. **Star Program.** Recognition for employers and employees who demonstrate exemplary achievement in the prevention and control of occupational safety and health hazards; as well as the development, implementation, and continuous improvement of their safety and health programs.
- B. **Merit Program.** Recognition for employers and employees who have developed and implemented good safety and health programs but who must take additional steps to reach Star quality.
- C. **Star Demonstration Program.** Recognition for employers and employees who operate effective safety and health programs that differ from current VPP requirements. This program enables OSHA to test the efficacy of different approaches, to determine if they are as effective as the Star approach.
- IV. **OSHA Strategic Partnership Program (OSPP)**. OSPP provides opportunities for OSHA to partner with employers, employees, professional or trade associations, labor organizations, and other interested stakeholders. Strategic Partnerships focus on improving safety and health in major corporations, government agencies, large construction projects, and private sector industries where OSHA has jurisdiction. Strategic Partnerships are unique agreements designed to encourage, assist, and recognize partner efforts to eliminate serious hazards and enhance workplace safety and health practices. They are formalized through written agreements that last for a specified period of time with the establishment of specific goals, strategies, and performance measures to improve employee safety and health. The agreements may address all hazards at partner worksites or one or more discrete hazards of particular concern. Most Strategic Partnerships are based out of local OSHA Area or Regional Offices. Consultation

programs and other government agencies may also be signatories to Strategic Partnerships.

- V. **Alliance Program**. Through the Alliance Program, OSHA works with groups committed to employee safety and health to prevent workplace fatalities, injuries, and illnesses. These groups include unions, consulates, trade or professional organizations, businesses, faith- and community-based organizations, and educational institutions. Consultation programs and other government agencies may also be signatories to OSHA Alliances. OSHA and the groups work together to develop compliance assistance tools and resources, share information with employees and employers, and educate them about their rights and responsibilities. Alliance Program participants do not receive exemptions from OSHA inspections or any other enforcement benefits.
- VI. **OSHA Challenge**. Through OSHA Challenge, OSHA provides participating employers and employees an avenue to work with their designated Challenge Administrators to develop and/or improve their safety and health programs through mentoring, training, and progress tracking. Challenge Administrators, who are experienced in occupational safety and health, guide participants through a three-stage process, from initial planning and development to the implementation of an effective safety and health programs to prevent fatalities, injuries, and illnesses. After the completion of each stage, OSHA will provide Challenge participants with letters of recognition. Challenge participants do not receive exemptions from OSHA programmed inspections.

## Chapter 3

### Promoting and Managing Consultation Services

- I. **Promoting Requests.** Consultation Program Managers (CPMs) must actively promote consultation services to employers, especially those targeted in OSHA or the State Plan Strategic Plan. The primary purpose of the promotion is to generate inquiries and requests for consultative assistance from small business employers in high-hazard industries, especially employers with a high incidence of serious injuries or illnesses. Successful promotion will result in inquiries and requests for consultation visits from establishments in the targeted industries. Consultation programs must record their efforts in promoting and marketing consultation services in the OSHA Information System (OIS) as Compliance Assistance Activities.

Recognizing that each Consultation program has unique circumstances, Consultation programs should tailor their promotional activities to draw upon their experiences, especially where positive results have been achieved. OSHA also encourages Consultation programs to explore new promotional avenues to ensure that consultation services are provided to those employers that will benefit the most. Consultation programs with particularly effective promotional efforts are encouraged to share their methods and strategies with others so the On-Site Consultation Program might benefit from their successes.

A. **Examples of Promotional Activities.**

1. **Broad-Based Media Campaigns.** Consultation programs are encouraged to promote the availability of consultation services through a variety of methods and techniques, including broad-based mass media campaigns.
2. **Off-Site Assistance.** Off-site assistance may be used to promote consultation services. For instance, in situations where off-site training provides the most effective and efficient way to utilize consultation resources to address a training need or safety and health topic common to a number of employers or industries (e.g., effective implementation of safety and health programs).
3. **OSHA or State Plan Initiatives.**
  - a. CPMs are encouraged to work with the following to promote consultation services to employers who may benefit from them:
    - i. OSHA and State Plan Enforcement Programs;

- ii. Alliance Program participants;
  - iii. OSHA Strategic Partnership Program participants; and
  - iv. Area Directors and their designated staff, including Compliance Assistance Specialists.
- b. When collaborating with Alliance/Partnership participants, the CPM should not assume the role of leadership. If the CPM identifies an organization that would be an excellent ally, a recommendation should be made to the Regional Administrator (RA) or State Designee explaining why he/she thinks pursuing an alliance or partnership would be beneficial to OSHA. Consultation programs in State Plans should follow procedures established by their respective states.
4. **Outreach Activities.** Consultation programs may engage in outreach activities, such as the following:
- a. Direct solicitation involving face-to-face contact is encouraged with employers, business associations (e.g., Chamber of Commerce), cooperative ventures, and other government agencies (e.g., Small Business Development Centers (SBDCs) and/or county or municipal governments). Other examples of direct solicitation include door-to-door promotions, telephone promotions, and mailings.
  - b. Public presentations (e.g., trade shows, associations' meetings).
  - c. Radio talk shows.
  - d. Training seminars.
  - e. Roundtable discussions.
  - f. Safety and health conventions.
  - g. Participation in association and interagency meetings/committees.
  - h. Publications.
  - i. Internet-based communications.

5. **Cooperative Efforts.** Consultation programs are encouraged to seek out and establish working relationships with professional safety and health organizations.
  - a. Group Activities. Consultation programs may conduct activities with any group when the primary intent and outcome is the enhancement of safety and health in the workplace.
  - b. Leveraging Resources. OSHA encourages Consultation programs to pool their resources with recognized safety and health organizations to provide training or other outreach activities, with the understanding that such cooperation does not constitute an endorsement of a particular group.
- B. **Identifying Target Audiences.** To promote consultation services effectively within target audiences, Consultation programs should work closely with OSHA or State Plan enforcement authorities to identify industries targeted in their Strategic Plan and which are the subject of National or Local Emphasis Programs. Recommended strategies include the following:
  1. Use state Workers' Compensation data whenever available.
  2. Focus on industries in which significant occurrences such as fatalities, catastrophes, severe injuries, or the issuance of major citations/penalties, have recently taken place within a state.
  3. Work with SBDCs and new employers attempting to establish a business.
  4. Concentrate on industries in which newly published standards are likely to have a major impact.
  5. Use employer and employee organizations to help generate requests for consultation services.
  6. Design outreach activities targeted at employers identified in the Consultation Annual Program Plan (CAPP) or the State Annual Performance Plan.
- C. **Evaluating Promotional Activities.** Consultation programs must document, track, and evaluate efforts to promote their services. Periodically, the impact of their promotional activities in generating inquiries and requests for consultation services from target audiences must be analyzed and assessed. The inability to effectively promote consultation services to target audiences will be viewed as a significant challenge warranting serious attention by OSHA and State Plan

monitors. Where promotion or outreach is ineffective, new strategies must be developed and implemented to address shortcomings.

II. **Communicating Program Information and Employer Obligations and Rights.** In response to any inquiry from the public regarding the Consultation program, and before agreeing to an employer's request for a consultation visit, the CPM must ensure consultation personnel clearly explain to the employer: pertinent Consultation program information (sections II.A through F), and employers' obligations (sections II.G through K) and rights (section II.L). To help ensure all relevant information is properly communicated to employers, Consultation programs are encouraged to provide a checklist with all items to be reviewed with the employer.

- A. **Consultation Programs are Independent of Enforcement.** Consultation programs are independent of OSHA or State Plan enforcement.
- B. **No-Cost Consultation Services.** Consultation services are provided at no cost to the employer and are supported by federal and state funds.
- C. **Employers' Confidentiality.** Consultation programs are prohibited from disclosing the identity of employers requesting consultation services, and any findings from consultation visits, with anyone other than the employer requesting consultation services, unless the employer fails to take timely action to eliminate employees' exposure to an imminent danger hazard, or fails to correct a serious or imminent danger hazard within the agreed upon timeframe. In such instances, the Consultation program must share the information with the appropriate enforcement authorities (see 29 CFR 1908.6(f)(1)&(4) and 29 CFR 1908.7(a)(3)).

Per 29 CFR 1908.6(g)(2), "States may also disclose information contained in the consultant's report to the extent required by 29 CFR 1910.1020 (Access to Employee Exposure and Medical Records) or other applicable OSHA standards or regulations." Consultation programs must provide information regarding employers who have requested consultation services to OSHA for program administrative purposes. OSHA may use such information to administer the consultation program and to evaluate state and federal performance under that program, but shall, to the maximum extent permitted by law, treat information which identifies specific employers as exempt from public disclosure (see 29 CFR 1908.6(h)(2)).

- D. **No Citations or Penalties.** Consultants do not issue citations or propose penalties.
- E. **Determining the Scope of the Consultation Visit.** The CPM must determine the scope of the consultation visit based on the employer's request (see Section IV.F below for additional information).



- F. **Participation in a Recognition and Achievement Program.** If an employer satisfies all the conditions required to participate in an achievement recognition program administered under Section 21(d) of the Occupational Safety and Health Act, then upon approval to participate by the RA or State Designee, that particular establishment may be deferred from OSHA or State Plan programmed inspection schedule. Safety and Health Achievement Recognition Program (SHARP) participants may be deferred from OSHA or State Plan programmed inspection schedule for a period of up to two (2) years upon initial approval or up to three (3) years for subsequent renewal periods. The deferral time frame for Pre-SHARP participants must not exceed a total of eighteen (18) months. (See Chapters 7 and 8.)
- G. **Employee Participation.** Employee participation and employee interviews are required for all consultation visits. See Chapter 4, subparagraph III.B.3 for additional information.
- H. **Imminent Danger Situations.** The employer must immediately eliminate employees' exposure to an imminent danger hazard (see 29 CFR 1908.6(f)(1)). Failure to immediately remove employees from exposure to the hazard will result in immediate referral to OSHA or State Plan enforcement. The employer must correct (eliminate, control) an imminent danger hazard by the mutually agreed upon hazard correction due date or any extensions, and provide the CPM with documentation of the actions taken to correct the hazard (see Chapter 4, Section IV). Failure to do so will result in referral to OSHA or State Plan enforcement (see Chapter 7, Section IV).
- I. **Serious Hazard Correction.** The employer must correct (eliminate, control) all serious hazards in accordance with the mutually agreed upon hazard correction due date(s) or any extensions, and provide the CPM with documentation of the actions taken to correct the hazards (see Chapter 4, Section IV). Failure to do so will result in referral to OSHA or State Plan enforcement (see Chapter 7, Section IV). Consultants must remind employers that they may be cited for any other-than-serious hazard and/or violations of regulatory standards identified during an OSHA or State Plan enforcement inspection.
- In addition to correcting serious and imminent danger hazards, employers requesting to participate in SHARP or Pre-SHARP must also correct other-than-serious hazards and regulatory violations, and send verification of the correction to the CPM by the mutually agreed upon hazard correction due dates.
- J. **Enforcement Inspections Following Consultation Services.** The following conditions apply if an OSHA or State Plan enforcement inspection occurs after

consultation services have been provided at an establishment (see Chapter 7, Section V for additional information).

1. Employer's Disclosure. If an enforcement inspection occurs after the conclusion of the consultation visit, the employer is not required to inform the compliance officer of the consultation visit or furnish a copy of the Written Report, except to the extent that disclosure of information contained is required by 29 CFR 1910.1020 (Access to Employee Exposure and Medical Records) or other standards.
2. Employer's Good Faith. If the employer chooses to provide OSHA or State Plan enforcement with a copy of the consultant's Written Report to the Employer, it may be used by OSHA or State Plan enforcement to determine the employer's "good faith" for purposes of adjusting any proposed penalties and judging the extent to which an enforcement inspection is required.
3. No Immunity from Citations in a Subsequent Enforcement Inspection. Regardless of the consultant's advice and the Written Report to the Employer, in a subsequent OSHA or State Plan enforcement inspection, a compliance officer is not precluded from finding hazardous conditions or violations of standards, rules, or regulations for which citations would be issued and penalties proposed.

- K. **Posting the List of Hazards (Serious).** The employer must agree to post the unedited List of Hazards (i.e., serious and any imminent danger hazards), for a minimum of three (3) working days, or until the hazards are corrected, whichever is later. Agreed-upon modifications or extensions of hazard correction due dates must also be posted for a minimum of three (3) working days or until the hazards are corrected, whichever is later. Previously corrected hazards do not have to be included in a new list.

Posting must be in a prominent place where it is readily observable by all employees. While in most instances, this will entail posting a hard copy of the List of Hazards, posting by electronic means is acceptable in cases where electronic transmission is the employer's normal means of providing notices to employees and each employee is equipped with an electronic communication device. Failure to post the List of Hazards will result in termination of the consultation visit in-progress status (see Chapter 7, Section III).

- L. **Employers' Rights.** In addition to the obligations stated above, the employer retains the following rights during and after a consultation visit:

1. Modify the Scope or Terminate the Consultation Visit. The employer has the right to modify the scope of the consultation visit or terminate participation at any time, including termination of the hazard assessment before its completion. The employer is responsible for correcting any serious and imminent danger hazards identified up to the point of termination. The employer's name and the findings of the consultation visit will remain confidential, except as discussed in Section II.C of this Chapter.
2. Request a Review of the Hazard Correction Schedule and Written Report Findings. The employer has the right to disagree with the hazard correction schedule and may within fifteen (15) working days of receipt of the Written Report to the Employer, appeal to the CPM for amendment of the hazard correction due date(s) or any other substantive findings of the Written Report. Disagreement over or amendment of the hazard correction schedule or Written Report findings does not relieve the employer of the responsibility to correct any serious and imminent danger hazards identified.
3. Request a Private Discussion with the Consultant. The employer has the right to request a private meeting with the consultant to discuss matters that he or she may wish not to discuss in the presence of the employee representative.

III. **Prioritizing and Scheduling Consultation Services.** The CPM must schedule consultation services according to a prioritizing method that focuses on the most serious deficiencies or hazards first, as defined by the following criteria:

- A. **Imminent Danger Situations or Congressional Designation.** First priority must be given to small businesses that indicate an imminent danger situation or are in industries (or indicate hazards) designated for higher priority by Congress.
- B. **Small Businesses in OSHA or State Plan Strategic Plan, National Emphasis Program, Local Emphasis Program, or Other "Targeted Industries."** Second priority must be given to small businesses that are in a "targeted" industry as defined by the OSHA or State Plan Strategic Plan, a National Emphasis Program, a Local Emphasis Program, other targeting programs, or the OSHA Strategic Partnership Program.
- C. **Referred by OSHA or State Plan to the Consultation Program.** Third priority must be given to small businesses for which OSHA or the State Plan directly suggests requesting a consultation visit. Third priority scenarios include, but are not limited to, small businesses receiving the OSHA Hazard Alert Letter (HAL); or small businesses that choose to request consultation services as a condition of

an OSHA or State Plan Settlement Agreement, actions involving an OSHA or State Plan Rapid Response Investigation (RRI), or Site Specific Targeting inspection plan or its equivalent. Coding of these consultation visits must be conducted in accordance with the applicable High-Hazard Type (North American Industry Classification System (NAICS), Alternative, Hazardousness, or Non-High-Hazard). Procedures to follow for referrals, including Severe Injury Reports, involving SHARP or Pre-SHARP establishments, forwarded by OSHA or State Plans to Consultation programs for evaluation and follow-up, are discussed in Chapter 7, Section VI.C.

D. **Small Businesses in High-Hazard Industries.** Fourth priority must be given to small businesses in high-hazard industries, as defined below, or that have the highest incidence rates. Establishments and operations are defined as "high-hazard" based on the following criteria:

1. High Incidence Rates. An establishment is considered "high-hazard" for priority consideration if that establishment's Days Away, Restricted, or Transferred (DART) rate is above the Bureau of Labor Statistics (BLS) national average for that industry. These requests shall be coded in OIS as "Hazardousness" for the High-Hazard Type.
2. High-Hazard North American Industry Classification System Codes. An establishment is considered high-hazard if it is in an industry with a NAICS code in the OSHA-generated High-Hazard Listing (i.e., Annual OSHA High Rate Industries Listing). These requests shall be coded in OIS as "NAICS" for the High-Hazard Type.
3. Alternative High-Hazard Listing. If an establishment is not in the OSHA-generated High-Hazard Listing, consultants may refer to an Alternative High-Hazard Listing developed by the state and approved for use by the RA. The RA will promptly submit the approved list to the OSHA Directorate of Cooperative and State Programs. These requests shall be coded in OIS as "Alternative" for the High-Hazard Type.
4. Secondary NAICS Codes. One or more hazardous work processes or work areas (for example, bindery in a publishing house) may be located within an establishment in an industry that is not in the high-hazard list. If such a process or area is the focus of a consultation visit, a secondary NAICS code for the process or area may be used to classify the establishment and, therefore, the priority for receiving a consultation visit would be classified as high-hazard. The secondary NAICS code must either be in the OSHA-generated High-Hazard Listing or in the OSHA-approved Alternative High-Hazard Listing for the state. These requests shall be coded in OIS as "NAICS" for the High-Hazard Type when the

secondary NAICS code is in the OSHA Annual High Rate Industries Listing; or coded in OIS as "Alternative" when the secondary NAICS code is in the approved Alternative High-Hazard Listing for the state.

5. Hazardous Processes. An establishment may also be classified as "high-hazard" based on the number of hazardous operations required to complete a work process and which cannot be described by a secondary NAICS code. These requests shall be coded in OIS as "Hazardousness" for the High-Hazard Type. OSHA's criteria for hazardous processes include the following:

- a. A substance in regular use at the establishment has a health code of HE1-HE4 (carcinogen, chronic toxicity and acute toxicity) located under Health Factors of the Chemical Sampling Information website.
- b. A substance in regular use at the establishment is explosive, or working conditions or work processes in use at the establishment pose an explosion hazard.

- E. **Small Businesses in Non-High-Hazard Industries.** Fifth priority must be given to small businesses that are not in a high-hazard industry, or that have lower workplace incidence rates.
- F. **Mid-Size Businesses (including franchise operations).** Sixth priority must be given to mid-size businesses (including franchise operations) that employ 250 or fewer employees at the establishment but more than 500 employees corporation-wide.
- G. **Large-Size Businesses.** The lowest priority must be given to businesses that employ more than 250 employees at the establishment. Consultation services to businesses in this size range will often be limited in scope but are allowed as resources permit.

#### IV. **Managing Consultation Requests.**

- A. **Requests for Consultation Visits.** The CPM must ensure that the following criteria are met before providing consultation services:
  1. No on-site consultation service may be provided in the absence of a request by the employer.
  2. A request for on-site consultation services must always include a request for a hazard assessment, unless an OSHA or State Plan enforcement

inspection or private consultant's hazard assessment, in the past twelve (12) months, provides an adequate foundation for conducting a consultation visit.

3. If an employer requests a consultation visit for more than one establishment under its control, each establishment must be addressed as a distinct request.
4. Employers who cannot be promptly scheduled for a consultation visit because of low scheduling priority or other program considerations must be informed of their statutory responsibility to maintain a safe and healthful workplace. See Sample Letter in Appendix A.
5. Construction Worksites.
  - a. While assistance with safety and health programs may be provided to subcontractors away from the worksite (i.e., off-site assistance), a subcontractor's request for on-site consultation services may be accepted only with the approval of the general contractor or the controlling employer at the worksite. Additionally, the requesting subcontractor must be made aware of the requirement to post the List of Hazards at the worksite (see subparagraph II.K above).
  - b. When a subcontractor requests a consultation visit, the general contractor or controlling employer must accept responsibility for ensuring the correction of all serious and imminent danger hazards identified during the course of the consultation visit. This responsibility includes hazards that were not created by the general contractor and those that might not be under the requesting subcontractor's control.
  - c. If a company's headquarters is in another state, CPMs may need to cooperate across state lines.
  - d. The same scheduling priorities must be applied to requests from construction worksites as for other employers requesting consultative assistance.
6. Multi-Employer Consultation Visits.
  - a. If a consultation visit on a multi-employer worksite is conducted at the request of a general contractor or an employer who has oversight or control over other employers at that worksite, it will be counted only once. The general contractor must make the

subcontractors at the worksite aware that a consultation visit was requested, and encourage the subcontractors to participate. However, the general contractor who requested the consultation visit has the responsibility to ensure all identified serious hazards and any imminent danger hazard are corrected.

- b. If individual employers request separate consultation visits to be conducted with the consent of the general contractor, these may be coded separately. These separate consultation visits will require that the correct procedures, including opening and closing conferences, a Written Report to the Employer, and other required elements of a consultation visit as outlined elsewhere in this Instruction are followed for each employer requesting a consultation visit.
  - c. When consultation visits are conducted for multiple employers at the same construction worksite, these requests can be associated/linked in OIS.
- B. **Responding to Requests for Consultation Services.** When responding to requests for information or consultation visits from employers, consultation personnel taking the request must first explain to the employer the information outlined in Section II of this Chapter, "Communicating Program Information, Employer Obligations and Rights." Additionally, consultation personnel will complete the OSHA Consultation Request Activity in OIS.
- C. **Entering Employers' Requests in OIS.** Employers' requests for consultation services expire one year from the finalization date of the request in OIS. The expiration date may be adjusted to another date for valid reasons by the CPM. The reason for the adjustment must be entered in OIS.
- D. **Withdrawing Employers' Requests in OIS.** If an employer's request for consultation services is to be withdrawn, OIS will allow withdrawing the request, if there are no consultation visits associated with it, or any associated consultation visits are deleted. OIS will permit deleting a consultation visit if an opening conference date is not associated with it.
- E. **Determining the Type of Consultation Visit.** The CPM must determine the type of consultation visit requested by the employer based on the following criteria:



A consultation visit is:	If its purpose is:
Initial	To provide a hazard assessment of a workplace. An initial consultation visit is conducted by a consultant(s) for the safety and/or health discipline. An initial consultation visit must consist of an on-site opening conference, an examination of relevant aspects of the safety and health program relating to the scope of the consultation visit, a walkthrough of the workplace, and an on-site closing conference.
Training and Education	To provide training and education to employers and their employees in safety and health programs and/or hazard identification and correction. See Chapter 5 for additional information.
Follow-up	<p>To verify the correction of previously identified hazards; assist the employer with activities relating to the development, implementation or improvement of a safety and health program; conduct follow-up industrial hygiene sampling for health hazards that were evaluated during an initial consultation visit; and if an employer is pursuing approval to participate in SHARP or has an approved Action Plan for Pre-SHARP participation, consultants may conduct follow-up consultation visits to verify the employer's progress in meeting program requirements and provide assistance.</p> <p>Consultants are required to address new hazards observed during a follow-up consultation visit (see Chapter 4, Section IV.A.2.c. for additional information).</p> <p>The CPM shall prioritize the performance of initial consultation visits, to identify hazards and maximize the number of employees removed from risk. To support this priority, follow-up consultation visits should generally be no more than fifteen (15) percent of the Consultation program's total number of consultation visits.</p>

- F. **Determining the Scope of the Consultation Visit.** The CPM must determine the scope of the consultation visit based on the employer's request (see Chapter 4, Section III.B.5 for additional information). If the employer requests a limited-service consultation visit, the Consultation program should strongly recommend the benefits of a full-service consultation visit, covering both safety and health disciplines, at the time of the request. Additionally, consultation personnel must encourage employers to request a complete safety and health program review, to assess and rate all 58 attributes of Form 33.



If the employer requests:	Then the scope of the consultation visit is:
A complete safety and/or health hazard assessment of all working conditions, equipment, processes and OSHA or State Plan mandated programs, at all locations of the establishment (wall to wall hazard assessment). Examples of OSHA or State Plan mandated programs are the Hazard Communication Program, Hearing Conservation Program, and Confined Space Program.	Full-service: <ul style="list-style-type: none"><li>• Full-service safety,</li><li>• Full-service health, or</li><li>• Full-service both (safety and health)</li></ul>
A less complete safety and/or health hazard assessment than that provided by a full-service consultation visit. For instance, a focused assessment of a particular work process; OSHA or State Plan mandated program such as a Hearing Conservation Program; limited location within the establishment; specific hazard or type of hazard; or a focused assessment that is conducted of some aspects of one discipline (i.e., safety or health) or some aspects of both disciplines at an establishment.	Limited-service: <ul style="list-style-type: none"><li>• Limited-service safety,</li><li>• Limited-service health, or</li><li>• Limited-service both (safety and health)</li></ul>

**G. Conducting Multiple Initial Consultation Visits in a Single 12-Month Period.**

OSHA's current policy permits two initial consultation visits at a specific establishment within a 12-month period. As noted previously, if the employer requests a limited-service consultation visit, the Consultation program should strongly recommend the benefits of a full-service consultation visit, covering both safety and health, at the time of the request.

However, at the request of the Consultation program, the Regional Administrator (RA) or State Designee may allow for additional limited-service safety and/or health initial consultation visits within a 12-month period when circumstances merit this assistance. Examples of when exceptions may be appropriate include the following for General and Construction Industries:

General Industry	Example(s)
The CPM becomes aware of emerging hazardous situations affecting a specific industry or work practice; extraordinary safety and health issues are identified at the establishment; and/or the employer requests sampling for health hazards that were not evaluated during a previous initial consultation visit.	New chemical process, new manufacturing process, equipment not present during the first assessment.
The consultant learns of non-routine, intermittent, high-hazard processes and operations, or seasonal work practices that are scheduled to be performed at a later date.	Shutdown processes, batch processing, special order requests.
Construction Industry	Example(s)
The establishment has progressed to a new phase of construction – (different from the construction phase during the original initial consultation visit) which introduces significantly different hazards; and/or the employer requests sampling for health hazards that were not evaluated during a previous initial consultation visit.	Earth work, foundation, structural, rough-in, utilities, or interior/exterior finish, new chemical process, etc.
New equipment or tasks at the establishment introduce the potential for an imminent danger or serious hazard to employees	Cranes, scaffolding, trenches, etc.

1. Regional Administrator or State Designee Considerations.

- a. Exceptions to the policy of a maximum of two initial consultation visits at a specific establishment within a 12-month period, must address serious or imminent danger hazards. Review and/or approval of such exceptions must be assessed on a case-by case basis. RAs or State Designees may also review these requests quarterly. CPMs who seek approval for an exception must consider their current backlog and whether the employer requesting assistance is conducting high-hazard activities.
- b. The RA or State Designee will notify the CPM of the decision in a timely manner.

2. Program Requirements Upon RA or State Designee Approval. CPMs will use the same request number but use a new visit number in OIS. Documentation of the justification for performing an additional initial consultation visit, and the RA or State Designee approval must be added to the employer's case file. See Appendix H, Consultation Visit Case File Organization, for details regarding the structure and content of consultation visit case files.

H. **Determining Site-Specific Sensitive Issues.** The CPM must evaluate the site-specific information in the OIS Consultation Request Activity and determine any

special circumstances that the consultant must prepare for before entering the establishment, including:

1. Establishment's Rules and Practices. The consultant must observe all appropriate safety and health rules and practices put in place by the employer, including requirements for safety clothing and other PPE.
2. Immunizations or Other Special Entrance Requirements. Immunizations and other special entrance requirements must be observed. The CPM must ensure that the consultant has the proper immunizations in such situations.
3. Personal Security Clearance. Where personal security clearances are required, the CPM must assign a consultant who has the proper clearances or ensure that appropriate clearances are secured prior to the consultation visit.

I. **Trade Secrets and Classified Information.** Any trade secret or classified information and/or personal knowledge of such information by state personnel must be handled in accordance with 29 CFR 1908.6(h). A trade secret, as referenced in Section 15 of the OSH Act, includes information concerning or related to processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association. See 18 USC 1905. It is essential to the effective enforcement of the Act that Consultation program personnel preserve the confidentiality of all information and investigations which might reveal a trade secret.

1. Restriction and Controls. When the employer identifies an operation or condition as a trade secret, it shall be treated as such. Information obtained in such areas, including all photographs, videotapes, and OSHA documentation forms, shall be labeled:

**"ADMINISTRATIVELY CONTROLLED INFORMATION"**  
**"RESTRICTED TRADE INFORMATION"**

- a. Under Section 15 of the OSH Act, all information reported to or obtained by consultants in connection with the consultation visit or other activity which contains or which might reveal a trade secret shall be kept confidential. Such information shall not be disclosed except to OSHA officials concerned with the enforcement of the OSH Act or, when relevant, in any proceeding under the OSH Act.
- b. 18 USC 1905 provides criminal penalties for federal employees who disclose such information. These penalties include fines of up

to \$1,000, imprisonment for up to one (1) year, and/or removal from office or employment.

- c. If the employer objects to the taking of photographs and/or videotapes because trade secrets would or may be disclosed, consultants should advise the employer of the protection against such disclosure afforded by Section 15 of the OSH Act and 29 CFR 1903.9. If the employer still objects, consultants shall contact the CPM.

2. Trade Secrets and Classification. Trade secrets shall not be labeled as "Top Secret," "Secret," or "Confidential," nor shall these security classification designations be used in conjunction with other words unless the trade secrets are also classified by an agency of the U.S. Government in the interest of national security.

J. **Counting Consultation Visits.** Initial consultation visits are to be counted within OIS according to the number of consultants servicing a particular request for consultative assistance.

1. If a single consultant addresses both safety and health disciplines during the initial consultation visit, it shall be entered into OIS as a single initial "both" consultation visit.
2. If two consultants service a request, one of whom focuses on the safety discipline and the other focuses on the health discipline, the consultation visit shall be entered into OIS as two initial consultation visits.

## Chapter 4

### Consultation Visit-Related Requirements

- I. **Preparation for a Consultation Visit.** A consultation visit shall be made only after appropriate preparation by the consultant. Before the consultation visit, the consultant shall become familiar with as many factors concerning the establishment's operation as possible. The consultant shall review all applicable codes and standards. In addition, the Consultation Program Manager (CPM) shall ensure that all necessary technical and personal protective equipment (PPE) is available and functioning properly (see 29 CFR 1908.6(a)).
  - A. **Research.** Each consultant is to review and analyze the data collected from the employer in the Occupational Safety and Health Administration (OSHA) Information System (OIS), Consultation Request Activity Report. Prior to the consultation visit, the consultant will identify and review the following information:
    1. Case File(s). The consultant is to evaluate all available data for the establishment, including:
      - a. Case files of previous consultation visits at the establishment (if applicable);
      - b. OSHA or State Plan inspection history for the establishment, by conducting an Establishment Search on OSHA's public webpage or State Plan equivalent source of information;
      - c. Typical hazards associated with the North American Industry Classification System (NAICS) code for the establishment;
      - d. Hazardous chemicals and their quantities at the establishment; and
      - e. Current and previous three (3) years' injury and illness rates for the establishment (or the rates for the period that the establishment has been in operation, if less than 3 years), Log and Summary of Work-Related Injuries and Illnesses (OSHA Forms 300 and 300A), and the Bureau of Labor Statistics (BLS) injury and illness rates for the establishment's NAICS code.
    2. References. Technical reference materials about potential hazards and industrial processes that may be encountered at the establishment, and any relevant standards.
    3. Sampling Methods. Appropriate sampling methods based on technical sources (see subparagraph I.B.2 below), information from prior consultation visits at the establishment in the OIS Consultation Request

Activity Report (if applicable), and any prior enforcement inspection activity.

4. Severe Violator Enforcement Program (SVEP). The consultant will ask the employer if the specific establishment (or location) is in the OSHA or State Plan SVEP list or check the establishment's status as part of the research that is done prior to conducting a consultation visit. If the consultant finds that the establishment is on the SVEP list, then in OIS at the Request and Visit Level Emphasis tab, the consultant must select the SVEP code from the National Emphasis Program drop down menu. See Chapter 7, section V.D for additional information.

B. **Hazard Assessment Materials and Equipment.** The CPM is responsible for ensuring that all materials and equipment required for an on-site hazard assessment are available in good working condition to the consultant. The consultant, however, is responsible for taking and using the equipment needed for the consultation visit.

1. Forms and Handouts. The consultant shall assemble all reports, forms, and other materials in sufficient quantity to conduct the on-site hazard assessment.
2. Sampling Equipment. The consultant shall select the necessary equipment and use standard sampling and calibration methods outlined in the OSHA Technical Manual, OSHA Directives, Wisconsin Occupational Health Laboratory (WOHL) sampling guide, guides from State Plan laboratories, manufacturer's recommendations, or other standard calibration procedures and practices. All sampling equipment shall be serviced and calibrated per the servicing guidelines of the Cincinnati Technical Center and/or the recommendations of the manufacturer.
3. Consultant Safety and Health Considerations. All necessary PPE must be made available to the consultant by the CPM. The consultant must use the required PPE during a consultation visit. The CPM must ensure that PPE is maintained in good working condition and that the consultant is trained on the proper use and limitations. This requirement includes a pre-consultation visit hazard review with the consultant, and the use of appropriate control strategies to reduce exposure to anticipated hazards in the workplace.

C. **Consultation Visit Confirmation.** At the time of the employer's request for a consultation visit, the Consultation program must ask the employer whether any OSHA or State Plan enforcement activity is "in-progress." This includes whether the employer has denied entry for OSHA or State Plan enforcement activity. If a

consultation visit is scheduled thirty (30) working days or more after the request date, the requesting employer shall be contacted within five (5) working days of the scheduled consultation visit to confirm the date. When confirming the scheduled consultation visit, the Consultation program must again inquire about any enforcement activity at the establishment. See Chapter 7, Section II.B for additional information.

- D. **Deleting Consultation Visits.** If a consultation visit needs to be deleted, OIS will permit deleting it as long as an opening conference date is not associated with it.

II. **The Safety and Health Program Assessment Worksheet (OSHA Form 33).** OSHA developed Form 33 as a tool to be used by all consultants nationwide.

- A. **Definition.** Form 33 is an evaluation tool developed by OSHA to assess employers' safety and health programs. Form 33 is used to assess the status of an employer's existing safety and health program, identify any deficiencies and inadequacies, and provide recommendations for corrective actions or continuous improvement. Additionally, Form 33 data can be used to provide information to an employer on how the safety and health program at its establishment compares to other establishments within the same industry.

Form 33 consists of 58 attributes (i.e., safety and health program characteristics or assessment criteria) used to evaluate an establishment's safety and health program. The 58 attributes are distributed within the seven safety and health program elements of Form 33 (i.e., Hazard Anticipation and Detection; Hazard Prevention and Control; Planning and Evaluation; Administration and Supervision; Safety and Health Training; Management Leadership; and Employee Participation). Form 33 is located in Appendix J of this Instruction.

B. **Form 33 Usage.**

1. Form 33 must be used by all 21(d) Consultation programs to conduct safety and health program evaluations. States operating private sector consultation under a 23(g) State Plan may use Form 33 after consultants have taken the training offered by the OSHA Training Institute.
2. No attribute described in Form 33 may be modified or deleted.
3. Consultants may only use Form 33 to score (or rate) attributes when they collect sufficient information or data from the workplace assessment to do so (e.g., observations of physical conditions; industrial hygiene surveys; potential safety or health hazards; observable behavior; interviews of employees, supervisors, and managers; review of relevant documents). For each attribute assessed, consultants must complete the comments



section of Form 33 by adding a summary of findings (i.e., adequacies and deficiencies) and recommendations for the employer. The recommendations must be based on the findings (e.g., how to correct identified deficiencies or continuous improvement measures).

4. Use of Form 33 is not required for consultation visits to construction sites, but it must be used when conducting consultation visits to a construction company's headquarters or base location.

**C. Form 33 Training.**

1. Consultants will not use Form 33 to assess employers safety and health programs and incorporate their findings and recommendations in OIS until after they have received formal training (i.e., OSHA 1500 Course, Introduction to On-Site Consultation).
2. The application of Form 33 to assess safety and health programs requires specialized knowledge on how to use the worksheet, including the characteristics of attributes, the safety and health program elements the attributes represent, the scoring (or rating) mechanism, and how to evaluate attributes at establishments.
3. The accumulated data collected on all Form 33 worksheets by trained and proficient consultants are used to advise employers and develop OSHA policies. It is therefore imperative that the data collected in each worksheet accurately reflects an employer's safety and health profile.

- D. Form 33 Completion.** Consultants must communicate the method of assessing a safety and health program and the benefits to employers and employees, at the time of the request for consultation services and during a consultation visit. Consultants must encourage employers to request a complete safety and health program review.

The following criteria must be followed when using Form 33:

1. All Industries (except the construction industry).

If:	Then:
The employer requests to participate in SHARP or Pre-SHARP.  OR  The employer requests a complete review of its safety and health program.	The consultant must assess and score all 58 attributes of Form 33.  (In these instances, the Consultation program will select “program assistance” in OIS at the Request Level, to indicate the employer requested a Complete Safety and Health Program Review.)
The employer does not request a complete review of its safety and health program.	If the consultant obtains sufficient safety and health information within the scope of the consultation visit to assess and score attributes, that portion of the worksheet should be completed. See subparagraph II.G below for additional information.  The consultant should encourage the employer to develop a safety and health program to protect employees.

2. Construction Industry. The completion of Form 33 for establishments in the construction industry depends on whether the site is a business’s headquarters or base or a construction site:

- a. If a construction company’s headquarters or base is being evaluated, follow the same criteria in Section II.D.1 above for Form 33 usage.
- b. If a construction site is being evaluated, Form 33 is not required, but the worksheet can be used as an evaluative tool, following the same criteria in Section II.D.1 above.

E. **Form 33 Comments.** Completion of the comments section of Form 33 with findings and recommendations is required for each attribute assessed (see

subparagraph II.B.3 above). Consultants use the comments section to provide a rationale for the score (or rating) assigned to attributes by giving employers a summary of their findings and recommendations for correcting deficiencies or for continuous improvement. Comments also provide employers with information that they can use to guide which area(s) to prioritize for action to improve the overall safety and health profile of their establishments.

F. **Description of Scores.** The scoring (or rating) method is based on the data collected by the consultant and is described during training. Only those attributes for which sufficient data has been collected during a consultation visit may be scored. A summary of the descriptions of attribute scores follows:

1. Zero means that no safety or health procedures/policies are present related to the attribute. (No Activity).
2. One means that some safety or health procedures/policies are present although major improvements are needed. (Little Activity).
3. Two means that considerable safety or health procedures/policies are present with only minor improvements needed. (Most Activity Completed).
4. Three means that no additional safety or health procedures/policies are needed at this time. (No Additional Activity Needed).
5. Not evaluated (N/E) is the default value and means no information (or not enough information) was collected to define a particular attribute. When this is the case, no score can be determined, and the score remains at the default value.

Consultants and CPMs should be aware that the data or information collected in Form 33 in OIS is used to describe national norms for industries and affects national policy decisions made by OSHA. Consequently, only factually based scores (i.e., using sufficient data collected from workplace assessments) shall be recorded/entered into Form 33 in OIS (see subparagraph II.B.3 above). Consultants must not “guess” scores. Attributes must be scored using the descriptions outlined above.

G. **Attributes to Score.** It is critical for consultants to encourage employers to request a complete safety and health program review and collect data on all aspects of an employer's safety and health program whenever feasible.

1. A complete safety and health program review must be conducted for SHARP or Pre-SHARP assessments or if requested by the employer (all 58 attributes of Form 33 must be assessed and scored (or rated)).
2. For all other instances that do not involve a complete safety and health program review, consultants are not limited to assess and score specific attributes of Form 33. Therefore, they can score any attribute for which they collect sufficient data. Basing attribute scores on the collection of sufficient data during workplace assessments will facilitate providing employers with relevant information to improve workplace safety and health.
3. Consultants should obtain sufficient information to properly assess and score a broad distribution of attributes and avoid the repetitive scoring of the same attributes during every consultation visit. However, the CPM may identify specific attributes for which sufficient information must always be collected to assess and score.
4. Although there is no nationwide policy concerning the minimum number of attributes to score on any single consultation visit, when the employer does not request a complete safety and health program review or to participate in SHARP/Pre-SHARP, Consultation programs may provide additional guidance. For example, the CPM may identify a specific number of attributes for which sufficient information must always be collected to assess and score (see section II.B.3 above). A high-performing Consultation program will collect sufficient information to assess and score an average of 8-12 attributes per consultation visit.

H. **Documenting Safety and Health Program Assessment in OIS.** Consultants will document the evaluation of an employer's safety and health program in Appendix J (OSHA Form 33) of the Written Report, in OIS. Consultants will also utilize the "Evaluation of Safety and Health Program" section of the Written Report to the Employer to summarize or provide additional information about the employer's overall safety and health program (see Chapter 6, Section I.C.4 for additional information).

The information below provides detailed guidance for completing Form 33 in OIS:

1. When an employer requests for both safety and health consultation visits with a complete safety and health program review and consultants of different disciplines conduct an initial consultation visit to the same establishment within 90 days of each other, a single Form 33, representing the mutually agreed upon scores of both consultants, must be sent to the

employer. The consultant who completes the first “final” consultation visit will fill out the Form 33 in OIS, incorporate findings and recommendations for each attribute assessed in the comments section of the worksheet, assign scores, and save it. The first consultant will indicate in the Written Report to the Employer that a Form 33 is pending, but will be submitted by the second consultant. The second consultant (of the other discipline) will incorporate their additional findings and recommendations for each attribute assessed in the comments section of the Form 33, save the worksheet, and include it in the Written Report. Both consultants may submit one Written Report with the completed Form 33 for both safety and health consultation visits, if within 20 federal working days after the closing conference for the first consultation visit, when feasible (see section III.D).

2. In the event there are different scores proposed by each consultant for the same attribute, both consultants will discuss any inconsistencies, mutually agree upon an appropriate score that reflects their combined findings and recommendations, enter the score into Form 33, and submit the Form 33 to the employer.
3. An employer may request a consultation visit in one discipline (i.e., safety or health), with a complete safety and health program review, and later request a second consultation visit in another discipline with a complete safety and health program review. If the second consultant’s consultation visit takes place more than 90 days after the first consultant’s consultation visit, the second consultant will not be able to incorporate findings and recommendations into the initial Form 33 in OIS. A separate Form 33 must be completed with the second consultant’s findings and recommendations.

III. **Required Structure of a Consultation Visit.** The consultation visit must proceed according to the following sequence:

- A. **Entry to the Workplace.** Upon arrival at the establishment, the consultant must introduce himself or herself and produce official state identification, which, at a minimum, identifies the consultant's name, employer, and place of employment.
- B. **Opening Conference.** The opening conference is necessary to establish a clear understanding of the purpose of the consultation visit and its procedures.
  1. General Information.
    - a. The first phase of the consultation visit is the opening conference with the employer or an authorized employer's representative. The

consultant must verify that the employer or a representative has the authority to make safety and health decisions and is authorized to implement necessary changes.

- b. The opening conference provides an opportunity to gain the employer's trust, allows the consultant to confirm the scope of the request, inquire again from the employer about any enforcement activity at the establishment, and review with the employer the terms of the consultation visit.

If a consultation visit is limited in scope (i.e., limited-service), the consultant must inform the employer that if a serious or imminent danger hazard outside the agreed upon scope of the consultation visit is identified in plain sight during the walkthrough, the employer will also be responsible for correcting the hazard, and is subject to referral to enforcement for failure to do so (see Chapter 7, Section IV for additional information).

- c. At the opening conference, the consultant shall explain the necessity for employee participation during the walkthrough to the employer and the employer must agree to permit such contact in order for the consultation visit to proceed (see 29 CFR 1908.6(c)(1)).
- d. The opening conference shall also be an opportunity for the consultant to gather additional information about the hazards in the workplace and the necessary PPE to protect the consultant during the consultation visit.

- 2. Introductions. The consultant must identify himself or herself and any other Consultation program personnel participating in the consultation visit. The employer, other company representatives, and employees or employee representative(s) must be identified and their names, titles, and contact information recorded in the case file notes.

- 3. Employee Participation. Employee participation is required during all consultation visits.

- a. The consultant shall retain the right to confer with individual employees during the course of the consultation visit in order to identify and judge the nature and extent of particular hazards within the scope of the employer's request, and to evaluate the employer's safety and health program (see 29 CFR 1908.6(c)(1)). Consultants must inform employers that employees have the right

to raise safety concerns without retaliation per section 11(c) of the OSH Act, which prohibits any person from discharging or in any manner retaliating or discriminating against any employee for exercising rights under the Act.

- b. Conferring with employees is an important tool for adequately assessing hazards and the safety and health program at an establishment. Therefore, the consultant must interview a representative number of randomly selected employees at different times during the consultation visit (e.g., opening conference, walkthrough, training, closing conference).

Determining a representative number of employees to confer with is dependent on multiple factors including, but not limited to the following:

- i. the scope of the employer's request for the consultation visit;
- ii. observations made during the walkthrough;
- iii. the nature of the business and the complexity of the operations or processes;
- iv. the number of employees at the workplace;
- v. the number of work shifts;
- vi. the most hazardous areas of the workplace; and
- vii. the types of employee positions such as:
  - a. Frontline Employees. Consultants will interview employees involved in the actual processes or production tasks at the workplace to properly assess hazards and verify aspects of the safety and health program (when conducting safety and health program evaluations). Discussions may take place at employees' workstations if it does not create a hazard or at another location in the workplace.

Employee interviews should include questions about training; documented/prescribed work procedures versus actual work practices; and



hazards to which employees may be exposed in the workplace, their knowledge of how to protect themselves from those hazards, including, how to properly use and maintain any required PPE.

- b. Maintenance Employees. Interviews of maintenance employees may include questions about work practices and procedures, level of adherence to the maintenance schedule (if any), responsiveness to conducting repairs (e.g., availability of funds, timeliness of repairs), and incidents involving equipment failure (if any).
  - c. Recordkeepers. The employee responsible for keeping injury and illness records should be interviewed; ideally, to ask follow-up questions after the consultant has reviewed the records. Questions may be used to assess the recordkeeper's understanding of the applicable injury and illness standards and the correct interpretation of the requirements, and to clarify entries in the records.
- c. In addition to employee participation described in subparagraphs III.B.3.a&b above, requirements for the participation of employee representatives vary according to whether the establishment has a recognized employee representative, as explained in the table below (see 29 CFR 1908.6(c)(2)(i)&(ii)).

If:	Then:
The establishment has a recognized employee representative	<p>An employee representative of affected employees must be afforded an opportunity to participate in the opening and closing conferences and to accompany the consultant and the employer/employer's representative during the physical inspection (i.e., walkthrough or hazard assessment) of the workplace.</p> <p>In the interest of time and clarity, the consultant is to encourage joint opening and closing conferences. If there is an objection to joint conferences, the consultant must conduct separate conferences with the employer and the employee representative.</p> <p>The consultant may permit additional employees (such as representatives of a joint safety and health committee, if one exists at the establishment) to participate in the walkthrough, where the consultant determines that such additional representatives will further aid the consultation visit (see 29 CFR 1908.6(c)(2)(i)).</p> <p>The consultant may confer privately with the employee representative(s).</p>
The establishment has no recognized employee representative	<p>The consultant must confer with a reasonable number of employees during the course of the consultation visit concerning matters of occupational safety and health (see 29 CFR 1908.6(c)(2)(ii)).</p>

4. Management Interviews. In addition to interviewing other employees, consultants will also interview managers and supervisors.
  - a. Managers. The consultant will interview a representative number of managers (i.e., managers responsible for different processes or operations within the scope of the consultation visit); for example, to determine their effectiveness in overseeing any assigned safety and health responsibilities. When evaluating the safety and health program, interviews of managers are essential to assess the depth

of management leadership in the safety and health program (e.g., management participation and commitment).

- b. Supervisors. The consultant will interview a representative number of supervisors (i.e., supervisors responsible for different processes or operations within the scope of the consultation visit). Interviews of supervisors should cover topics such as safety and health requirements for the workplace, established work practices and procedures, and employee training (relevant to the scope of the consultation visit). When evaluating the safety and health program, interviews of supervisors should cover topics such as safety and health goals and objectives, incentive program implementation, performance management, and disciplinary actions.
5. Scope of Consultation Visits. The scope of the consultation visit must be discussed with the employer and any employee representatives of affected employees based on the type of consultation visit that the employer has requested.
- a. On an initial consultation visit requesting limited-service, the consultant should strongly recommend the benefits of a full-service consultation visit.
  - b. If the scope of a consultation visit is limited-service, the consultant is required to document hazards within the scope of the employer's request and any hazards outside the scope if found in plain sight during the walkthrough. If the scope of the consultation visit is modified (as agreed to by the employer), then the consultant must re-evaluate the use of Form 33 based on the criteria outlined in Section II of this Chapter.
  - c. The CPM must determine whether the employer requests a complete safety and health program review. The CPM must ensure adequate time is allocated for the consultation visit, to assess and rate all 58 attributes of Form 33 when necessary to do so as described in Section II.D of this Chapter.
6. Employer's Obligations and Rights. The consultant must discuss the employer's obligations and rights as outlined in Chapter 3, Section II, which the employer must agree to in order for the consultation visit to continue.

7. Evaluating Employer's Injury and Illness Rates. If the employer did not provide the Log and Summary of Work-Related Injuries and Illnesses (i.e., OSHA Forms 300 and 300A) before the consultation visit, the consultant must review them at the opening conference and determine the employer's injury and illness rates. The consultant must review the employer's current and previous three (3) years' OSHA Forms 300 and 300A (or review the logs for the period that the establishment has been in operation, if less than 3 years). The consultant must calculate the injury and illness rates, compare them to the BLS rates for the employer's NAICS code, and inform the employer of the results. Consultants will also assess rates for employers that fall below the threshold for keeping injury and illness records and/or are in an industry exempt from keeping these logs. In these cases, the consultant must make an effort to determine the previous years' injury and illness rates using available employer information and data, and record the data in OIS. Consultants shall encourage employers that are not required to maintain OSHA Forms 300 and 300A to use these logs as tools for evaluating their safety and health programs.

C. **Walkthrough of the Workplace.** This phase of the consultation visit allows the consultant to become familiar with the establishment. If a hazard is identified (even if employee exposure is not observed), the consultant must document the hazard and the corrective action required by the employer. During the walkthrough of the workplace, the consultant must conduct the following activities:

1. Hazard Assessment. The consultant must inform the employer and the employee representative of all identified hazards at the time they are recorded. If an imminent danger hazard exists, exposed employees must be informed, and the employer must remove them from exposure immediately, pending correction of the hazard (see 29 CFR 1908.6(f)(1)). If the employer refuses to immediately eliminate employees' exposure to an imminent danger hazard, the consultant must promptly terminate the consultation visit and notify the CPM for referral to enforcement (see Chapter 7, Section IV).
2. Documentation of Identified Hazards. The consultant must record all facts pertinent to identified hazards in field notes to be included in the case file. All field notes, observations, analyses, written documentation, videotapes, photographs, sketches, and hazard descriptions are part of the hazard assessment record and must be retained in the case file. The consultant must document as much information as necessary to establish the specific characteristics of each identified hazard. If the employer or the employer's representative corrects the hazard "on the spot," the consultant must document the hazard and the correction method in the field notes and in

OIS (i.e., Hazard Detail tab). Consultants are required to include a narrative and/or picture(s) to support the verification of hazard correction.

3. Recommendation of Interim Protection. The consultant must indicate in the case file notes the nature of recommended interim protection measures (see 29 CFR 1908.6(e)(8); subparagraph III.D.3 below) and the dates they are expected to be replaced with the hazard correction measures. Extensions to the hazard correction due dates must also be documented in the case file and recorded in OIS.
4. Referrals for Technical Assistance. A consultant must promptly refer a hazard identified outside his/her scope of expertise to another consultant with that specific expertise. The consultant will inform the employer that guidance will be provided after obtaining technical assistance. In the interim, the employer must prevent employees from being exposed to the hazard.

- D. **Closing Conference.** Closing conferences must be conducted on-site with an employer and employee representatives, jointly or separately, at the conclusion of the initial consultation visit. Consultants must not delay conducting the closing conference for any reason, such as to afford more time to complete the Written Report, or wait for industrial hygiene sampling results. The date of the closing conference must be entered into OIS.

At the closing conference, the consultant must discuss the following:

1. Hazard Identification and Correction.
  - a. The consultant must discuss the classification of all identified hazards and possible methods of correction for all serious and imminent danger hazards. The employer shall immediately eliminate employees' exposure to an imminent danger hazard (see 29 CFR 1908.6(f)(1)), otherwise, the consultant shall promptly notify the CPM for referral to enforcement (see Chapter 7, Section IV).
  - b. The employer must start correcting hazards immediately and must not wait to receive the Written Report to the Employer before taking corrective action(s). The employer must send the verification of hazard correction to the CPM by the mutually agreed upon hazard correction due date(s).
  - c. The employer must prominently post the unedited List of Hazards (the original/modified list or the list generated following an

extension of the hazard correction due date(s)) upon receipt, in a location where it can be readily observed by all affected employees for a minimum of three (3) working days or until the hazards are corrected, whichever is later. See Chapter 3, Section II.K for additional information.

- d. Consultants must remind employers that they may be cited for any other-than-serious hazard and/or regulatory violation identified during an OSHA or State Plan enforcement inspection.
- e. Consultants must inform employers requesting to participate in SHARP or Pre-SHARP that in addition to correcting all serious and imminent danger hazards, they must also correct other-than-serious hazards and regulatory violations.

Refer to the [OSHA Field Operations Manual \(FOM\)](#), CPL 02-00-164, for details regarding the classification of hazards.

- 2. Hazard Correction Due Dates. The hazard correction due dates must be discussed with the employer and mutually agreed upon during the closing conference.
  - a. The hazard correction due dates must be the shortest reasonable period of time within which an employer can be expected to correct a hazard.
  - b. Any dispute regarding a hazard correction due date needs to be directed to the CPM for resolution.
  - c. The consultant must inform the employer that all serious and imminent danger hazards must be corrected in accordance with the mutually agreed upon hazard correction due dates or any extensions. Failure to do so will result in referral to OSHA or State Plan enforcement (see Chapter 7, Section IV).
  - d. Factors such as the potential risk posed by the hazard (i.e., the probability of the hazard resulting in an incident and the potential severity if an incident were to occur), availability and effectiveness of interim protection measures, and an employer's economic and work capability should be considered in determining hazard correction due dates.
- 3. Interim Protection. When a serious hazard(s) is identified and it is not immediately corrected in the presence of the consultant, the employer

must provide effective interim protection measures for affected employees at the establishment while the identified hazard(s) is being corrected (see 29 CFR 1908.6(e)(8)). However, in instances in which only a final resolution is appropriate, the removal of employees from exposure to hazards will be considered an interim protection measure.

The consultant shall review and discuss the interim protection measures with the employer during the closing conference to ensure that they are feasible and will be effective in preventing employees from being exposed to a hazard(s). The consultant must enter the interim protection information into OIS using the Hazard Detail tab. The selection of interim protection measures will be based on the following:

- a. Interim protection must be selected according to a hierarchy of controls that emphasizes engineering solutions first, if feasible, followed by safe work practices, administrative controls, and finally PPE.
  - b. Controls that may directly or indirectly introduce new hazards must be avoided. Examples include exhausting contaminated air into occupied work spaces or using hearing protection that makes it difficult to hear backup alarms.
  - c. A combination of control options must be used when no single method will fully protect employees.
4. Protection Plan of Action. In circumstances where a consultant determines that an identified serious or imminent danger hazard(s) requires a complex hazard correction solution(s) that may take more than 90 calendar days to implement, the Consultation program must require the employer to submit a Protection Plan of Action. The consultant will discuss the Protection Plan of Action with the employer during the closing conference.
- a. Circumstances that may require a Protection Plan of Action may include, but are not limited to (1) extensive redesign requirements, such as the installation of a ventilation system; (2) factors delaying correction that are beyond the employer's control; (3) or both.
  - b. The date for submitting the Protection Plan of Action will be established by the CPM. A separate plan must be submitted for each identified hazard. The employer will provide written periodic progress reports on the status of the hazard correction process to the CPM. The frequency of the reports shall be determined by the



CPM, but shall not be less than quarterly. This multi-step process for a Protection Plan of Action can be tracked in OIS.

- c. The plan, where appropriate, must, provide the following information for each hazard:
  - i. Identify the hazard, outline the anticipated long-term hazard correction procedures – steps to be taken by the employer to correct a hazard, and the dates of such actions (i.e., milestones or schedule for hazard correction); and
  - ii. Include information regarding how affected employees will be protected from the hazard or hazardous condition in the interim, until hazard correction is completed.
5. Comments on the Safety and Health Program. The consultant must discuss findings (i.e., adequacies and deficiencies) for the employer's safety and health program, and recommendations to resolve any deficiencies identified or for continuous improvement.
6. Additional Consultation Visits. The consultant will discuss with the employer the extent to which additional consultation visits may be needed (e.g., for training, verification of hazard correction, employee exposure monitoring). It is important for Consultation programs to work with employers to address emerging hazards and relevant emphasis programs. This work may include the consultant following up with additional consultation visits.
7. Training and/or Follow-up. The consultant will develop a schedule with the employer for training and/or follow-up consultation visits, as needed.
8. Communicating Health Sampling Results. When a health consultation visit that involves industrial hygiene sampling is conducted, the consultant will send the employer a report of the sampling results as described in Chapter 6, subparagraph I.C.6, with the Written Report, or addendum with an updated List of Hazards (if applicable). The consultant must contact the employer to explain the sampling results. When the sampling results indicate an overexposure, the consultant must discuss with the employer any additional hazards identified and develop hazard correction measures, including hazard correction due dates. The consultant will document the communication in the case file. See Chapter 6, Section I.A for additional information.

The consultant may determine that it is necessary to conduct a follow-up consultation visit for additional sampling to further assess the health hazard, provide additional assistance with hazard correction measures, and/or to verify the effective control of the health hazard.

- E. **Transmitting the List of Hazards.** The CPM must forward a List of Hazards, as part of the Written Report, to the employer and the employee representative no later than 20 federal working days after the closing conference date of the on-site hazard assessment. If there is a delay in producing the Written Report, a List of Hazards must be sent to the employer and employee representative separately, within a reasonable period of time (not greater than 20 federal working days) after the closing conference date of the on-site hazard assessment.

#### IV. **Post Consultation Visit Hazard Correction and Verification.**

- A. **Verifying Hazard Correction.** Following the consultation visit, the employer must provide the CPM with the documentation of the action(s) taken to correct serious and imminent danger hazards that were not verified as corrected on-site during the consultation visit, by the mutually agreed upon hazard correction due date(s). Employers requesting to participate in SHARP or Pre-SHARP must provide the CPM with the documentation of the action(s) taken to correct serious, imminent danger, and other-than-serious hazards, and regulatory violations, that were not verified as corrected on-site during the consultation visit, by the mutually agreed upon hazard correction due date(s).
1. Tracking Hazard Correction. CPMs will implement procedures to track employers' verification of the correction of serious and imminent danger hazards identified in the List of Hazards, and in the Protection Plan of Action (if applicable). This is to facilitate the timely verification of hazard correction by employers.
  2. Verification Methods. The following are the recognized hazard correction verification methods:
    - a. On-Site Verification. When a consultant witnesses the correction of a hazard during the consultation visit, the hazard correction will be documented accordingly in the Written Report to the Employer, OIS, and the case file. Consultants are required to include a narrative and/or picture(s) to support the verification of hazard correction.
    - b. Off-Site Verification for Serious or Imminent Danger Hazards. When the consultant is unable to verify the employer's correction of a serious or imminent danger hazard at an establishment, before

the conclusion of a consultation visit, the consultant must inform the employer that a written verification of hazard correction must be provided to the Consultation program.

- i. The written verification may be either faxed or sent via postal or electronic mail to the Consultation program (and include the employer's name and the name and address of the business).
  - ii. The written verification from the employer must include: a certification of the date the hazard(s) was corrected, as well as a description and/or picture (s) of the corrective method used. The employer may also include copies of receipts for purchased equipment or services and any other proof of hazard correction.
- c. Follow-up Consultation Visits. In addition to the above methods, Consultation programs may at their discretion conduct a follow-up consultation visit to an establishment to verify the correction of hazards identified in the List of Hazards.

Consultants who identify new serious or imminent danger hazards during a follow-up consultation visit will record these new hazards in OIS using the visit activity number under which the new hazards were identified. These hazards will be reported in a new List of Hazards and included in the follow-up report to the employer. These new hazards will be tracked for correction in OIS and in the case file.

See Chapter 3, Section IV.E for additional information on Follow-up Consultation Visits.

- B. **Extending Hazard Correction Due Dates.** An employer may request, and the CPM may grant, an extension of the time frame established for the correction of serious and imminent danger hazards identified in the List of Hazards. This extension shall only be granted when the employer has met all of the following criteria (see 29 CFR 1908.6(f)(3)): (1) demonstrated that a good faith effort has been made to correct the hazard within the established time frame, (2) shown evidence that hazard correction has not been completed because of factors beyond the employer's reasonable control, and (3) shown evidence that the employer is taking all available interim steps to protect affected employees from the hazard during the hazard correction period. Extensions to hazard correction due date(s) will be approved by the CPM for the shortest reasonable period of time. The CPM must ensure that all extensions of hazard correction due dates are documented promptly and accurately in OIS to maintain accurate records.

1. Requests for extensions must:
    - a. Be in writing. If the extension was initially requested by phone, a confirmation of the request must be received either via fax, postal or electronic mail.
    - b. Include all the steps taken by the employer to correct the hazard and the dates of such actions.
    - c. Include the date that hazard correction will be completed.
    - d. State the specific reason(s) why the hazard(s) has not been corrected.
    - e. Describe the interim protection measures implemented by the employer to prevent employees from being exposed to the hazard.
  2. Whenever an extension to a hazard correction due date(s) is granted, a new List of Hazards must be prepared by the Consultation program indicating the hazards granted an extension and the revised hazard correction due dates. Employers must prominently post the new List of Hazards for a minimum of three (3) working days or until the hazards are corrected, whichever is later. Previously corrected hazards do not have to be included in the new list. See Chapter 3, Section K.
  3. For any hazard correction due date, whether initial or extended, of more than 90 calendar days, the Consultation program must require the employer to submit a Protection Plan of Action for each serious or imminent danger hazard (see section III.D.4 above).
- C. **Hazard Correction Details in OIS.** The consultant must record hazard correction details in OIS, including subsequent extensions to hazard correction due dates. For hazards to be identified as corrected in the Mandated Activities Report for Consultation (MARC), the Safety/Health Case Close Date must also be entered into OIS.

## Chapter 5

### Training and Education Consultation Visits

- I. **Training and Education Services/Consultation Visits.** Training and Education services provide employers and their employees with Training and Education on safety and health programs and/or hazard identification and correction. Training and Education services may be provided during an initial consultation visit. Training and Education services may also be provided if any of the following occurred within the past twelve (12) months: the completion of a hazard assessment, such as an initial consultation visit; an OSHA or State Plan enforcement inspection; or a private consultant's hazard assessment. The hazard assessment must provide adequate foundation for conducting Training and Education services.
  - A. **Safety and Health Program Assistance.** Employers may request additional assistance with developing or improving a safety and health program during or after the initial consultation visit. This assistance may be provided during a Training and Education consultation visit, and must be documented by updating the information in the Safety and Health Program Assessment Worksheet, OSHA Form 33, in the OSHA Information System (OIS).
  - B. **Training and Education.** Consultants are to help employers determine their training needs. Consultants may provide training on a variety of safety and health topics; the development, implementation or improvement of a safety and health program; the anticipation and identification/recognition of hazards; and the control and/or elimination of hazards. This may include formal or informal training, either during an initial consultation visit or a Training and Education consultation visit.
    1. **Formal Training.** Formal training is typically conducted in a classroom or another setting other than the floor of a workplace. This type of training establishes a clear set of formal objectives for relaying training information for a safety and health topic, including but not limited to covering the main requirements of an OSHA standard, such as the Hazard Communication Standard (HCS). Formal training can assist the employer with meeting its training obligations, but ultimately, it is the responsibility of the employer to ensure employees receive and understand all required training, including training on site-specific hazards. Formal training requires preparing a syllabus and training objectives beforehand, and the use of an attendee roster. These must be maintained in the case file for the consultation visit, to document the Formal Training. Formal training may take place on-site or off-site:

a. On-site Training.

- i. If the on-site Training and Education consultation visit is subsequent to a hazard assessment that was not conducted by the Consultation program, the consultant must have access to the hazard assessment report and be able to confirm that any serious or imminent danger hazards identified in the report were or are being corrected. A copy of the hazard assessment report must be included in the corresponding case file.

To enter into OIS a Training and Education consultation visit, subsequent to a hazard assessment that was not conducted by the Consultation program, the consultant must indicate how the hazard assessment was conducted. The consultant will select “Yes” in OIS for OSHA (or State Plan) enforcement inspection conducted within the past 12 months, or a hazard assessment conducted by a third party (i.e., private consultant) within the past 12 months.

- ii. If the on-site training is provided during a Training and Education consultation visit, the consultant must also conduct a brief walkthrough of the workplace to verify hazard correction and review current conditions to determine that no new hazardous conditions exist. If additional serious or imminent danger hazards are noted during the walkthrough, these hazards must be documented in a corresponding initial consultation visit, hazard correction due dates noted, entered into OIS, and tracked to completion.
- iii. If an employer requests Formal Training for the same day as an initial consultation visit, the Formal Training may be counted as a separate Training and Education consultation visit in limited situations where it is cost effective to do so. In these instances, the consultant must be adequately prepared to conduct the training. Additionally, a closing conference for the initial consultation visit must be held first, prior to conducting the training. The Consultation program must send a separate letter to the employer describing the training and retain all required documentation in the case file see Section III of this Chapter for additional information).

- b. Off-site Training. Off-site training is technical in nature and takes place at a location other than the employer’s place of business. It may be coded as either a Training and Education consultation visit

or a Compliance Assistance Activity, based on the following criteria:

- i. If the off-site training is provided for employers that have had an initial consultation visit, and is directly connected to one or more hazards found during a consultation visit(s) at their establishments, it is to be recorded in OIS as a "Training and Education Visit."
- ii. If the off-site training is not directly related to an employer's corresponding on-site consultation visit or the employer has not had an initial consultation visit, it must be recorded in OIS as a Compliance Assistance Activity. A hazard assessment is not a prerequisite for providing this consultation service.

Note: If off-site training is conducted for several employers and is directly connected to a hazard found during a consultation visit(s) at their establishments, it is to be recorded in OIS as a Visit Activity for each employer present.

2. **Informal Training.** Informal training is performed without prior preparation and is casual and incidental. The purpose of informal training is to share information on hazard identification, evaluation, or control, or impart knowledge to employees and employers. This typically occurs on the floor of a workplace when hazards are identified or questions are raised to the consultant. This training is not comprehensive in nature, but clarifies the specific concerns raised by the employer or employees during the consultation visit. Informal training is most commonly performed during an initial consultation visit's hazard assessment. However, if this is performed during a Training and Education consultation visit, this training must be entered in OIS as such.

## II. **Resources-Related Considerations.**

- A. **Economies of Scale.** Off-site training leverages resources when one consultant can address a common training need for multiple employers.
- B. **Training Coordination.** To avoid the duplication of effort and to ensure the most efficient use of limited consultation resources, requests for off-site training must be approved by the CPM, and should be coordinated with other employers who are in need of similar or related training. Such assistance will be encouraged when it is the best and most expedient response to the needs of the specific employer and when it frees consultants to provide on-site assistance elsewhere. More specifically, off-site training should be coordinated with the Regional Administrator (RA) or State Designee, when appropriate, and provided where it



offers an effective and more efficient way to respond to the needs of a number of high priority employers (e.g., high-hazard industries, high incident rates, emphasis programs).

- C. **Over Reliance on Consultants by Employers.** Consultants should always encourage employers to develop their own training programs in order to reduce reliance on consultants and to ensure that the training programs are readily available for delivery to new employees and/or for annual employee refresher training.

### III. **Training Documentation.**

- A. **During the Initial Consultation Visit.** A description of the Training and Education services provided during the initial consultation visit must be included in the Written Report to the Employer. Training subjects must be entered into OIS along with the number of employees trained for each subject.
- B. **Following the Initial Consultation Visit.** Training and Education services provided after the Written Report has been sent to the employer must be followed up with a letter to the employer describing the training. A copy of the letter, pre-approved syllabus, and roster of attendees must be placed in the case file.
- C. **Training Log.** All Training and Education services must be tracked by each Consultation program. All Training and Education services conducted as part of a consultation visit must be entered into OIS accurately, with the training topic(s) and the number of people trained. Additionally, all off-site training conducted as a Compliance Assistance Activity must be accurately entered into the Compliance Assistance Module in OIS.
- D. **Recording Training Time.** CPMs may choose to record training activities under the Time Tracking Activity in OIS.

### IV. **Trainer's Qualifications.**

- A. **Informal Training.** To be qualified to provide informal training, the consultant must have:
  - 1. Completed OSHA course 1500, Introduction to On-Site Consultation.
  - 2. Subject-matter knowledge in the area of the training being offered.
  - 3. Demonstrated the ability to conduct informal training before being authorized to conduct it independently. That demonstration may involve a mentoring process, where the consultant observes an experienced consultant conduct informal training. Subsequently, the consultant will demonstrate to the satisfaction of the CPM an understanding of the

principles of the informal training process. The CPM shall maintain records, which will allow the RA to track who is authorized to conduct training during the biennial on-site review of the Consultation program.

- B. **Formal Training.** To be qualified to deliver formal training, the consultant must meet all the requirements for providing informal training in addition to all of the following:
1. Be selected by the CPM to deliver formal training; and
  2. Have a minimum of two years previous experience conducting formal training for adults, or be trained as a trainer by an accredited institution.
- C. **Trainer's Qualifications Waivers.** Based on the consultant's prior work history and skill set, the RA has the discretion to waive the requirements listed above in subparagraph IV.A (Trainer's Qualifications: Informal Training) and/or IV.B (Trainer's Qualifications: Formal Training). To obtain this waiver, the CPM must submit a written request to the RA.

## Chapter 6

### Documenting Consultation Services

- I. **The Written Report to the Employer (Written Report).** The Written Report to the Employer must be prepared at the conclusion of any initial consultation visit. Consultation visits other than initial consultation visits do not require a Written Report but must be concluded with a letter to the employer summarizing the consultation service(s) provided. The information contained in the Written Report is confidential and shall only be disclosed to the employer for whom it was prepared, except as discussed in Chapter 3, Section II.C. Any inappropriate disclosure would adversely affect the operation of the Occupational Safety and Health Administration (OSHA) On-Site Consultation Program and is prohibited.
- A. **Timing of the Written Report.** The Written Report must be sent to the employer by the consultant as soon as possible but no later than 20 federal working days after the closing conference, regardless of whether industrial hygiene sampling results were received by the Consultation program (if applicable). See Chapter 4, Section III.D.8 for additional information.
- If sampling results are received after sending the Written Report, the consultant will send the employer an addendum to the Written Report within five (5) federal working days of receiving the results. The addendum will contain all the information described in Section I.C.6 below, and an updated List of Hazards, if applicable. The consultant must also update the Hazards Record in the OSHA Information System (OIS), when applicable.
- B. **Responsibility for Preparing the Written Report.** The consultant that conducted the initial consultation visit is responsible for preparing the Written Report.
- C. **Required Elements of the Written Report.** Consultation programs are encouraged to use either the specific or generic Written Report template provided by OSHA in OIS. However, Consultation programs using their own template must include the following:
1. Executive Summary. This section must include all of the following information:
    - a. A summary of the employer's request;
    - b. The scope of the services provided;
    - c. The name of the consultant(s) that conducted the consultation visit;
    - d. Items of importance discussed during the opening conference;

- e. A description of the workplace and the working conditions;
  - f. A comparison of the establishment's Days Away, Restricted, or Transferred (DART) rate, and Total Recordable Case (TRC) rate to the Bureau of Labor Statistics (BLS) rates for the industry; and
  - g. Items of importance discussed during the closing conference.
2. Employers' Obligations and Rights. The Written Report must include the information on employers' obligations and rights, located in Chapter 3, Section II.
3. List of Hazards Identified. This is an itemization of all the hazards identified during the consultation visit including the classification of each hazard, the recommended hazard correction methods (i.e., eliminate, control) and interim protection measures, and for each serious or imminent danger hazard, the hazard correction due date(s). See Chapter 4, Section III.D.1 through 4 for additional information.
- a. The List of Hazards must accompany the Written Report. (See Chapter 4, Section III.E for additional information). The consultant must also send the employee representative a copy of the List of Hazards and any modifications and/or extensions to hazard correction due dates, using the contact information obtained during the opening conference. The first page of the List of Hazards must be printed on the Consultation program's letterhead. See Appendix B for a sample List of Hazards in the preferred format.
  - b. If the employer or the employer's representative corrects a hazard "on the spot" during the walkthrough, the consultant must document the hazard and the method used to correct the hazard in the field notes and in OIS (i.e., Hazard Detail tab). Consultants are required to include a narrative and/or picture(s) to support the verification of hazard correction. Consultants must also document the interim protection measures discussed with the employer at the closing conference.
  - c. If a Standard Element Paragraph (STEP) is used to describe a hazard (e.g., serious, imminent danger, other-than-serious), it must be modified to address the specific conditions at the employer's establishment.
4. Evaluation of Safety and Health Programs. This section of the report references the Safety and Health Program Assessment Worksheet (Form 33). In conjunction with the Form 33, the consultant may also use this section to summarize or provide additional information about the employer's overall safety and health program.

If Consultation programs do not customize this section (as described in the previous paragraph), the following language shall be utilized:

### **Recommended Practices for Safety and Health Programs**

In 2016, OSHA updated the 1989 Safety and Health Program Management Guidelines with the Recommended Practices for Safety and Health Programs, to reflect changes in the economy, workplaces, and evolving safety and health issues. The Recommended Practices for Safety and Health Programs is designed to be used in a wide variety of small and medium-sized business settings. The Recommended Practices present a step-by-step approach to implementing a safety and health program, built around seven core elements that make up a successful program.

The main goal of safety and health programs is to prevent workplace injuries, illnesses, and deaths, as well as the suffering and financial hardship these events can cause employees, their families, and employers. The Recommended Practices use a proactive approach to managing workplace safety and health. Traditional approaches are often reactive – that is, problems are addressed only after an employee is injured or becomes sick, a new standard or regulation is published, or an outside inspection finds a problem that must be fixed. The Recommended Practices recognize that finding and fixing hazards before they cause injury or illness is a far more effective approach.

The idea is to begin with a basic program and simple goals and grow from there. If you focus on achieving goals, monitoring performance, and evaluating outcomes, your workplace can progress along the path to higher levels of safety and health achievement.

Employers will find that implementing the Recommended Practices also brings other benefits. Effective safety and health programs help businesses:

- **Prevent** workplace injuries and illnesses.
- **Improve** compliance with laws and regulations.
- **Reduce** costs, including significant reductions in workers' compensation premiums.
- **Engage** employees.
- **Enhance** the social responsibility goals of businesses.
- **Increase** productivity and enhance overall business operations.

A study of small businesses who attained Safety and Health Achievement Recognition Program (SHARP) status in Ohio found that workers' compensation claims fell dramatically after working with the Consultation program to adopt an effective safety and health program with elements similar to the Recommended Practices. The study revealed that the State experienced a fifty-two percent (52%) decrease in the average number of claims, eighty percent (80%) decrease in cost per claim, eighty-seven percent (87%) decrease in the average lost time per claim, and eighty-eight percent (88%) decrease in claims per million dollars of payroll.

For additional information and resources to help you build an effective safety and health program visit [osha.gov](http://osha.gov).

5. Training Provided. A summary of informal training conducted during the consultation visit must be included in the Written Report, with the number of employees' involved and topics covered. Formal training must follow the guidelines specified in Chapter 5.
  6. Sampling Data. When industrial hygiene sampling is conducted, the consultant must include an explanation of the results in the Written Report or addendum (e.g., exposure levels, exposure limits, any hazards identified, recommended hazard correction measures, applicable OSHA or State Plan standards). The Written Report (or addendum) should also include information such as: sampling dates, duration, description of operation, job classification of employee(s) and personal protective equipment worn, types of sampling and analytical method(s) used (see Chapter 4 subparagraph I.B.2), any variable or condition that may have affected the results, exposure limits, and the results. If requested by the employer, the consultant should provide a copy of the sampling sheets and laboratory results. The consultant will use an appropriate template, such as tables, forms, and charts or narrative format to display results.
  7. Other Findings. In this section, the consultant must list and discuss any other safety and health issues noted and conferred on during the consultation visit, which go beyond minimum OSHA compliance. Examples may include best practices, experience modification factor, elements of a continuous improvement process (i.e., plan, do, check, act), information on innovations in safety and health, ergonomics principles, the use of leading versus lagging indicators, and preventative actions. This section must be used by the consultant to assist the employer go beyond the "find-it and fix-it" approach to employee safety and health, to a more comprehensive safety and health program approach.
  8. Safety and Health Program Assessment Worksheet (Form 33). When required, Form 33 must be included as an appendix to the Written Report. See Chapter 4 and Appendix J.
- D. **Cover Letter.** Every Written Report must be sent with a cover letter, including those sent electronically. Cover letter templates are provided by OSHA in OIS. When serious or imminent danger hazards are observed, the CPM must ensure that the cover letter transmitted with the Written Report includes the following paragraph:

**Accompanying this Written Report is a List of Hazards, which includes a description of serious and any imminent danger hazard(s) as well as the mutually agreed upon hazard correction due date(s). This List of Hazards must be posted, unedited, in a prominent location where it is readily**

**observable by all employees for three (3) working days or until the hazard(s) is corrected, whichever is later. If an extension to the hazard correction due date(s) is approved, a new List of Hazards will be sent to the employer showing the revised hazard correction due date(s). The new list must also be posted for a minimum of three (3) working days or until the hazard(s) is corrected, whichever is later.**

- II. **Case File.** Case files must be maintained in a defined, uniform format, whether in a format acceptable to the RA, or following the guidance in Appendix H of this Instruction. Appendix H specifies that Consultation programs may organize case files in a different manner than it describes, as long as all the contents listed in Appendix H are included in a consistent and organized fashion.



## Chapter 7

### Relationship to Enforcement

- I. **General.** The OSHA On-Site Consultation Program is completely separate from OSHA or State Plan enforcement efforts and does not issue citations or propose penalties. However, the On-Site Consultation Program depends on an effective OSHA or State Plan enforcement program to compel employers to achieve compliance.
  - A. **Consultation Visit Priority.** A consultation visit in-progress has priority over OSHA (or State Plan) compliance inspections pursuant to 29 CFR 1908.7(b)(1) except in those instances specified in subparagraph V.A.2 below (see 29 CFR 1908.7(b)(2)(i) through (iv)).
  - B. **Consultation Visit In-Progress.** A consultation visit shall be considered in-progress in regards to the working conditions, hazards, or situations covered by the consultation visit from the beginning of the opening conference through the end of the hazard correction due dates and any extensions (see 29 CFR 1908.7(b)(1)).
  - C. **Enforcement Inspection In-Progress.**
    - 1. A consultation visit shall not take place while an OSHA or State Plan enforcement inspection is in-progress at an establishment (see 29 CFR 1908.7(b)(3)).
      - a. An enforcement inspection shall be deemed in-progress from the time a compliance officer initially seeks entry to the establishment to the end of the closing conference (for the enforcement inspection).
      - b. Where entry is refused, an enforcement inspection shall also be considered in-progress until one of the following occurs:
        - i. The inspection is conducted;
        - ii. The Regional Administrator (RA) or appropriate State Plan enforcement official determines that a warrant to require entry to the workplace will not be sought; or
        - iii. The RA or appropriate State Plan enforcement official determines that allowing a consultation visit to progress is in the interest of employee safety and health.
    - 2. After the conclusion of an OSHA or State Plan enforcement inspection at an establishment, a consultation visit can only be conducted if:

- a. The enforcement inspection is closed with no citations issued; or
- b. A citation(s) was issued, and has become final order.

(See Appendix O of this Instruction for additional guidance.)

- 3. The Consultation Program Manager (CPM) must contact the RA or appropriate State Plan enforcement office to verify the status of an enforcement inspection when it is unclear.
- 4. Consultation personnel are not permitted to discuss with the employer any issues related to an OSHA or State Plan enforcement inspection at an establishment until after the enforcement inspection is closed without citations or all citations issued have become final orders.

D. **Final Order Date.** The final order date is as described in the OSHA Field Operations Manual, CPL-02-00-164, April 14, 2020 (see Chapter 15, Section XIII), or the State Plan equivalent.

## II. Scheduling.

- A. **Consultation Visit Request.** Employers seeking a consultation visit for an establishment must request and schedule the consultation visit directly with the Consultation program in the State where the establishment is located.
- B. **Consultation Visit Scheduling.** When an employer requests a consultation visit, the CPM must schedule consultation services according to a prioritization method that focuses on the most serious deficiencies or hazards first, as described in Chapter 3, Section III.

- 1. Current Federal/State Enforcement Activity. Consultation programs must inquire from employers if OSHA or State Plan enforcement activity is “in-progress” at an establishment as specified in Chapter 4, Section I.C. The consultant will also inquire about enforcement activities at the establishment during the opening conference for the consultation visit.

If the employer responds in the affirmative, then consultation personnel will explain to the employer that no consultation visit can take place until after the OSHA or State Plan enforcement activity is completed and one of the criteria in subparagraphs I.C.2&3 above is met.

- 2. Review of Enforcement Inspection Status. In addition to inquiring about enforcement activities from the employer, consultants will use the Establishment Search on osha.gov or their State Plan equivalent, to determine the status of an OSHA or State Plan enforcement inspection at the establishment prior to conducting a consultation visit (see Appendix O

of this Instruction, Guidance for Clarifying the Status of Enforcement Inspections at Establishments).

III. **Requirements for Maintaining a Consultation Visit In-Progress Status.** Employers are responsible for maintaining a safe and healthful work environment pending the correction of identified hazards. To maintain a consultation visit in-progress status, the employer must meet the following conditions:

- A. **Post the List of Hazards.** Prominently post the unedited List of Hazards (i.e., the original/modified list or the list generated following an extension of the hazard correction due date(s)) upon receipt, in a location where it can be readily observed by all affected employees, for a minimum of three (3) working days or until the hazards are corrected, whichever is later. See Chapter 3, Section II.K for additional information.
- B. **Correct Identified Hazards.** Correct all identified serious and imminent danger hazards by their correction due date (i.e., the original due date or the extended due date; see 29 CFR 1908.6(e)(8)).

IV. **Referral to Enforcement.**

- A. **Referral to OSHA or State Plan Enforcement Office.** This will occur for the following:
  - 1. Failure to Immediately Eliminate Employees' Exposure to an Imminent Danger Hazard. If, during the course of conducting a consultation visit at an establishment the consultant observes an imminent danger situation, the employer must be immediately informed. If the employer refuses to immediately eliminate employees' exposure to the hazard, the consultant must promptly terminate the consultation visit and notify the CPM.
  - 2. Serious or Imminent Danger Hazard(s) Not Corrected. After a consultation visit at an establishment, when it is determined that an employer is no longer acting in good faith and/or is refusing to correct a serious or imminent danger hazard within the mutually agreed upon time frame, including any extensions, the consultant must promptly notify the CPM.
- B. **Process for Referral to OSHA Enforcement or the Appropriate State Plan Enforcement Office.**
  - 1. Consultant. The consultant shall notify the CPM immediately of any situation described in subparagraphs IV.A.1&2 above.
  - 2. Consultation Program Manager. Upon determining that an employer is refusing to eliminate employees' exposure to an imminent danger hazard(s), or is refusing to correct identified serious or imminent danger hazard(s), the CPM will immediately notify the RA or State Designee.

3. Regional Administrator or State Designee. The RA or State Designee will determine whether the employer should be referred for enforcement action within five (5) federal working days of receiving the CPM's notification of failure to correct a serious hazard or within one (1) federal working day of being notified of failure to correct/eliminate exposure to an imminent danger situation. The RA or State Designee will also notify the OSHA Area Director or State Plan enforcement office (as applicable) of the establishment's loss of consultation visit in-progress status.
  - a. To assist the RA or State Designee in its determination, Consultation programs shall forward information regarding the establishment's identified hazards and the circumstances of the employer's refusal to correct a serious or imminent danger hazard or eliminate employees' exposure to an imminent danger hazard.
  - b. After the referral to OSHA or State Plan enforcement has been made, the Consultation program must update the OIS record by selecting "Referred to OSHA." After confirming the enforcement office has verified that the hazards are corrected, the Consultation program must select "Enforcement Verified Corrected" in OIS. Hazards referred to OSHA or the State Plan will remain in the OIS Uncorrected Hazard Report until the record is updated accordingly.

V. **Enforcement Inspections During a Consultation Visit In-Progress at Establishments Not Participating in Safety and Health Achievement Recognition Program (SHARP) or Pre-SHARP.**

Consultation programs shall follow the procedures described below when applicable.

A. **Consultation Visits In-Progress:**

1. Programmed Inspections. A consultation visit in-progress will take priority over OSHA or State Plan programmed inspections. Consultants must advise employers about their confidentiality rights and inform them that notifying a compliance officer of the consultation visit in-progress status will result in a delay of the programmed inspection until after the consultation visit in-progress is completed. See Chapter 3 Sections II.C&J for additional information.

**Note:** OSHA or the State Plan may assign a lower priority for programmed inspections at establishments where consultation visits are scheduled (see 29 CFR 1908.7(b)(1)).

2. Unprogrammed Inspections. The consultant shall terminate a consultation visit in-progress where one of the following OSHA or State Plan enforcement inspections is about to take place:

- a. Imminent danger investigations;
- b. Fatality/catastrophe investigations;
- c. Complaint investigations (Formal and Non-Formal); and/or
- d. Other critical inspections as determined by the Assistant Secretary.

**Note:** Referrals (includes Severe Injury Reports) and follow-up and monitoring inspections are included under other critical inspections as determined by the Assistant Secretary.

When a consultation visit in-progress is terminated as a result of an unprogrammed inspection, the Consultation program shall update OIS to ensure the information is captured in OIS reports.

- 3. Enforcement Follow-up and Monitoring Inspections. If an enforcement follow-up or monitoring inspection must be conducted while an establishment is undergoing a consultation visit, the inspection shall not be deferred. In such instances, the consultant must terminate the consultation visit until the enforcement inspection is completed and follow the criteria in section I.C above.

- B. **Fatality/Catastrophe During a Consultation Visit In-Progress.** If a fatality or catastrophe occurs during a consultation visit at an establishment, the consultant shall immediately terminate the consultation visit. The consultant shall remind the employer of its reporting obligation under 29 CFR 1904.39. Options for notifying OSHA of an incident include contacting the local OSHA Area Office, calling the OSHA hotline number (1-800-321-6742), or reporting on the OSHA website. Consultation programs in State Plans will advise employers to follow their State Plan mandated reporting protocols and time frames.
- C. **Severe Injury.** If an employee is hospitalized, or experiences an amputation or loss of an eye during a consultation visit, the consultant must remind the employer of its reporting obligation under 29 CFR 1904.39. Options for notifying OSHA of an incident include contacting the local OSHA Area Office, calling the OSHA hotline number (1-800-321-6742), or reporting on the OSHA website. Consultation programs in State Plans will advise employers to follow their State Plan mandated reporting protocols and time frames. The consultant will contact the CPM to determine whether to continue the consultation visit.
- D. **Severe Violator Enforcement Program.** An establishment identified on the OSHA or State Plan Severe Violator Enforcement Program (SVEP) list may receive on-site consultation services. If a consultation visit is performed at an establishment listed on the OSHA or State Plan SVEP list, then in OIS at the Request and Visit Level Emphasis tab, consultants must select the SVEP code from the National Emphasis Program drop down menu. Although the

establishment is receiving consultation services, in this situation a consultation visit in-progress status will not prevent OSHA or the State Plan from performing an enforcement inspection.

**E. Hazard Correction After Terminating Consultation Visit In-Progress Status.**

1. Termination of a consultation visit in-progress status may occur:
  - a. When a consultation visit is interrupted at the establishment by an unprogrammed OSHA or State Plan inspection; or
  - b. If after the consultation visit was conducted at the establishment, the employer, the RA, or State Plan informs the Consultation program that an unprogrammed inspection will be initiated in accordance with 29 CFR 1908.7(b)(2).

It is important to note that, with the termination of the consultation visit in-progress status, the employer is no longer exempted from programmed inspections of any kind.

2. Consultation programs must follow procedures described below after the termination of a consultation visit due to an unprogrammed OSHA or State Plan inspection at an establishment.
  - a. After notifying the RA or State Designee, the Consultation program will send a letter to the employer, informing them of any serious or imminent danger hazard(s) which were not verified as corrected on-site prior to the termination of the consultation visit in-progress status. This letter must include a list of the uncorrected hazards and the expected hazard correction due date(s).
  - b. The Consultation program must obtain the verification of hazard correction from the employer by the agreed-upon hazard correction due date(s) or any extension, after the termination of the consultation visit in-progress status (see Chapter 4, Section IV).
  - c. Although the consultation visit in-progress status was terminated, the employer is still responsible for correcting any serious or imminent danger hazards that were identified during the consultation visit.
  - d. The Consultation program will change the verified/referred code in the hazard resolution tab within OIS for any uncorrected hazards to “awaiting verification after interruption of visit in-progress status.”
3. After the consultation visit in-progress status has been terminated, if the employer fails to take the necessary action to correct a serious or imminent danger hazard(s) within the mutually agreed upon time frame or any

extensions thereof, the CPM shall notify OSHA or State Plan enforcement inspection and provide the relevant information for a referral (see section IV above).

**VI. Enforcement Inspections at SHARP and Pre-SHARP Establishments.**

- A. **Programmed Inspections.** Establishments that have achieved SHARP status are deferred from OSHA or State Plan programmed inspection schedule for up to two (2) years upon initial approval or three (3) years for subsequent renewal periods (see 29 CFR 1908.7(b)(4)(i)(B)). Pre-SHARP establishments are deferred from OSHA or State Plan programmed enforcement inspection schedule for up to 18 months (see 29 CFR 1908.7(b)(4)(i)(A)).
- B. **Unprogrammed Inspections.**
1. The consultant shall terminate a consultation visit in-progress when an OSHA or State Plan unprogrammed inspection is about to take place at a SHARP or Pre-SHARP establishment and follow procedures in subparagraphs V.B for fatalities/catastrophes, and V.E for hazard correction (as applicable).
  2. Pursuant to 29 CFR 1908.7(b)(4)(ii), the following types of incidents can trigger an unprogrammed inspection at SHARP and Pre-SHARP establishments:
    - a. Imminent danger
    - b. Fatality/catastrophe
    - c. Formal complaint
- C. **Referrals.** Per 29 CFR 1908.7(b)(4)(ii), OSHA does not conduct referral inspections at establishments participating in SHARP or Pre-SHARP. Referrals (including Severe Injury Reports) received by OSHA or State Plans for SHARP or Pre-SHARP establishments shall be forwarded to Consultation programs for evaluation and follow-up, and shall be treated as high priority. Consultation programs in State Plans shall ensure compliance with their Severe Injury Reporting Directive, as applicable.
1. Consultation programs must treat referrals as high priority, conduct an evaluation and follow-up within five (5) federal working days of receiving a referral, and provide the RA or State Designee with a report and final disposition within ten (10) federal working days of receiving the referral.
    - a. For referrals involving Severe Injury Reports, Consultation programs will conduct on-site evaluations and complete Appendix M, Incident Investigation Reporting Template (SHARP and Pre-SHARP Establishments). No additional documentation for



conducting a consultation visit is required, except the List of Hazards, when applicable, and any other documentation deemed necessary by the CPM.

- b. For referrals that do not involve Severe Injury Reports, Consultation programs will conduct an evaluation and follow-up as deemed necessary by the CPM (e.g., phone call, on-site consultation visit) and document specific findings and recommendations. Completion of Appendix M is not required for referrals that do not involve Severe Injury Reports.
2. CPMs will submit their documentation to the RA or State Designee.
3. The RA or State Designee will review all documentation received from the CPM and provide any additional guidance, as appropriate.
4. State Designees will submit the documentation and final disposition of referrals to their respective RA. The RA will review and provide any additional guidance as appropriate.
5. RAs will provide the OSHA Directorate of Cooperative and State Programs (DCSP), Office of Small Business Assistance (OSBA) with the documentation and final disposition of referrals.
6. The employer must implement corrective measures to address any deficiencies identified by the Consultation program within the specified time frame.

**D. Notifications for Incidents that Occur at SHARP or Pre-SHARP Establishments.**

1. Consultants will advise employers participating in SHARP or Pre-SHARP to report a fatality, catastrophe, or severe injury at their establishments, pursuant to OSHA or their State Plan mandated protocols and time frames, and also immediately notify the CPM (see subparagraphs V.B and V.C for additional information). Employers must also report all OSHA enforcement activities at their establishments to the CPM immediately.
2. CPMs in OSHA jurisdiction will report these incidents immediately to the respective RA. CPMs in State Plans will report to both to their State Designee and respective RA. CPMs will include the following information in their report: the date of the incident, the name and address of the employer, its SHARP or Pre-SHARP designation, and a description of the incident.
3. The RA will relay the incident notification received immediately to DCSP/OSBA.

VII. **Citations at SHARP or Pre-SHARP Establishments.** The following procedures must be followed for all OSHA or State Plan enforcement inspections at SHARP or Pre-SHARP establishments with the exception of fatalities and catastrophes, discussed in Section VIII of this Chapter.

- A. **No Citation or Other-than-Serious Citation Issued.** If no citation was issued, or a citation is issued and it is characterized as other-than-serious, when the citation becomes a final order, at the discretion of the CPM, a consultation visit may be conducted. The purpose of the consultation visit is to determine the continued effectiveness of the employer's safety and health program.
- B. **Willful, Serious, or Repeat Citations Issued.** If a citation characterized as willful, serious, or repeat becomes a final order or there is evidence that inaccurate information was provided by the employer when requesting to participate in SHARP or Pre-SHARP or in the Interim Year SHARP Site Self-Evaluation, the following procedures must be followed:
  - 1. The CPM must conduct an on-site evaluation within fifteen (15) federal working days, and provide the RA or State Designee with a report of findings and recommendations using Appendix M, Incident Investigation Reporting Template (SHARP and Pre-SHARP Establishments). No additional documentation for conducting a consultation visit is required, except for the List of Hazards, when applicable, and any other documentation deemed necessary by the CPM.
  - 2. The RA or State Designee will review the information, provide guidance, and make a final determination regarding continued participation in SHARP or Pre-SHARP.
  - 3. If the RA or State Designee makes a decision to terminate participation in SHARP or Pre-SHARP, the CPM will offer the employer the opportunity to withdraw within five (5) federal working days. If the employer chooses not to withdraw, the CPM will notify the employer of SHARP or Pre-SHARP status termination. The CPM must notify the RA or State Designee to remove the employer from the inspection deferral list. Consultation programs in State Plans must also notify the respective RA. The employer may re-apply to the program after twelve (12) months of the withdrawal or termination date.

VIII. **Fatalities/Catastrophes at SHARP or Pre-SHARP Establishments.** When a fatality or catastrophe at a SHARP or Pre-SHARP establishment is deemed work-related, the following procedures must be followed (regardless of whether a citation was issued) to determine the employer's eligibility to continue participating in SHARP or Pre-SHARP, after the enforcement inspection is closed without citations or all citations issued have become final orders:

- A. **Willful Citation Issued.** If a willful citation(s) becomes final order or there is evidence that inaccurate information was provided by the employer when requesting to participate in SHARP or Pre-SHARP or in the Interim Year SHARP Site Self-Evaluation, the CPM must inform the employer within fifteen (15) federal working days of the all citations becoming final order (enforcement inspection closing) to withdraw from the program immediately. If the employer does not withdraw voluntarily within five (5) federal working days of receiving the notice to withdraw, the CPM must notify the employer of SHARP or Pre-SHARP status termination. The CPM must notify the RA or State Designee to remove the employer from the inspection deferral list. Consultation programs in State Plans must also notify the respective RA. The employer may re-apply to the program after twelve (12) months of the withdrawal or termination date.
- B. **Serious, Repeat, Other-than-Serious or No Citation Issued.** If serious, repeat, or other-than serious citation becomes final order; or no citation was issued:
1. The CPM will conduct an on-site evaluation with the employer to assess the safety and health program for deficiencies. The CPM will allow the employer to make a case for continued participation in SHARP or Pre-SHARP.
  2. Using Appendix M of this Instruction, the CPM will submit all the information gathered, including the employer's input, to the RA or State Designee with its findings and recommendations within fifteen (15) federal working days of all citations becoming final order (enforcement inspection closing). No additional documentation for conducting a consultation visit is required, except for the List of Hazards, when applicable, and any other documentation deemed necessary by the CPM.
  3. The RA or State Designee will review all the information received and determine whether to terminate the employer's participation in SHARP or Pre-SHARP. The RA will notify the DCSP Director of the decision and provide all relevant documentation, including Appendix M.
  4. For State Plans, the State Designee will notify the RA of the decision and provide all relevant documentation, including Appendix M. The RA will provide guidance to the State Designee, if necessary, and notify the DCSP Director.
  5. The RA may request technical guidance from the DCSP Director at any time during this process.
  6. If a decision is made to terminate participation in SHARP or Pre-SHARP, the CPM will offer the employer the opportunity to withdraw within five (5) federal working days. If the employer chooses not to withdraw, the CPM will notify the employer of SHARP or Pre-SHARP status termination. The CPM must notify the RA or State Designee to remove the employer from the inspection deferral list. Consultation programs in

State Plans must also notify the respective RA. The employer may re-apply to the program twelve (12) months after the withdrawal or termination date.

IX. **Appeal Process for SHARP or Pre-SHARP Participation Terminations.** If an employer decides to appeal the termination of SHARP or Pre-SHARP status, the following applies:

- A. The employer has thirty (30) calendar days from the receipt of the termination notice to submit a written appeal to the DCSP Director, with an explanation of why the establishment should be allowed to continue to participate in SHARP or Pre-SHARP.
- B. The DCSP Director will review the employer's justifications and all relevant information, and make the final decision, in consultation with the RA, and following guidance from the Office of the Assistant Secretary.
- C. The DCSP Director will notify the employer, the RA, State Designee, and CPM of the decision.

## Chapter 8

### OSHA Safety and Health Achievement Recognition Program (SHARP), Pre-SHARP, and SHARP Pilots

- I. **Safety and Health Achievement Recognition Program.** SHARP is an achievement recognition program that must be administered by Consultation programs funded under Section 21(d) of the OSH Act. SHARP recognizes small businesses that operate exemplary safety and health programs.

Small businesses that meet SHARP participation requirements are deferred from the Occupational Safety and Health Administration (OSHA) or State Plan programmed inspection schedule for up to two (2) years upon initial approval, or for no more than three (3) years for subsequent renewal periods. See 29 CFR 1908.7(b)(4).

- A. **Employer Eligibility.** To begin the evaluation process for SHARP participation, Consultation programs must inform employers that they must meet the following criteria:
1. Operate a small business (see Chapter 1, Section XII.B for the exception to the small business size requirement).
  2. Have at least one (1) year of operating history at the particular establishment for which the employer is seeking SHARP participation.
  3. Request a consultation visit that involves a full-service safety and health hazard assessment and a complete review of the establishment's safety and health program using the Safety and Health Program Assessment Worksheet (Form 33).
  4. Submit injury and illness records, OSHA Form 300 (Log of Work-Related Injuries) and OSHA Form 300A (Summary of Work-Related Injuries and Illnesses), for the current year, and three preceding calendar years or the period that the establishment has been in operation (if less than three years).
  5. Submit a request to participate in SHARP. The request must be submitted by the employer.
  6. OSHA or State Plan Enforcement Inspection History.
    - a. The OSHA or State Plan enforcement inspection history of the establishment (i.e., specific location) that an employer is requesting to participate in SHARP (or Pre-SHARP) will be considered in the twelve (12) months preceding the request. Employers who have been cited during this timeframe must have taken action to effectively abate all identified hazards

and improve their safety and health program. For instance, failure to abate and/or repeat citations are indicators of inadequate safety and health management at the establishment.

- b. The existence of any of the following at the establishment (i.e., specific location) precludes participation in SHARP (or Pre-SHARP):
  - i. Open enforcement inspection(s), or pending or open contested citation(s), under appeal at the time of the request to participate (see 29 CFR 1908.7(b)(3); Chapter 7, Section I.C).
  - ii. Willful citations during the twelve (12) months prior to the request to participate. The Regional Administrator (RA) or State Designee has the discretion to review each case. The OSHA Directorate of Cooperative and State Programs (DCSP) will provide technical guidance to RAs or State Designees when requested.
  - iii. Work-related fatality of an employee during the twelve (12) months prior to the request to participate. The RA or State Designee has the discretion to review each case. DCSP will provide technical guidance to RAs or State Designees when requested.
  - iv. The establishment (i.e., specific location) for which the employer is requesting participation, is in OSHA or the State Plan Severe Violator Enforcement Program (SVEP) at the time of the request to participate.

B. **Employers Safety and Health Program Requirements.** Consultation programs must inform employers seeking SHARP participation approval that their establishments must meet the following criteria:

- 1. Have a full-service safety and health hazard assessment and a complete review of the establishment's safety and health program using the Safety and Health Program Assessment Worksheet (Form 33) found in Appendix J of this Instruction.
- 2. Receive a score (rating) of at least "2" on all fifty (50) basic attributes and all eight (8) stretch items of Form 33. "Stretch items" are the safety and health attributes beyond the basic attributes of a safety and health program.
- 3. Have injury and illness rates for the preceding calendar year that meets the requirements outlined in subparagraph I.G of this Chapter.

4. Not have incentive programs or similar practices that discourage employees from participating in the safety and health program such as reporting work-related injuries and illnesses or safety and health hazards.
- C. **Anti-Retaliation Program.** The CPM will recommend to employers seeking SHARP (or Pre-SHARP) approval that their establishments implement an anti-retaliation program. The anti-retaliation program should address management leadership, commitment and accountability; provide a system for listening to and resolving employees' safety and compliance concerns; provide a system for receiving and responding to reports of retaliation; provide anti-retaliation training for employees and managers; and involve a plan for program oversight. (See Recommended Practices for Anti-Retaliation Programs, OSHA Publication 3905).
- D. **Employers Request to Participate in SHARP.** Employers must submit a request for SHARP participation to the CPM after receiving a consultation visit that involves a full-service safety and health hazard assessment and a complete safety and health program review; and correcting all identified hazards (i.e., serious, other-than-serious, imminent danger) and regulatory violations.
- E. **SHARP Participation Requirements.** If approved to participate in SHARP, employers must agree to the following:
1. Post the SHARP certificate from the RA or State Designee granting SHARP status in a conspicuous place in the workplace upon receipt.
  2. Inform employees of the intention to participate in SHARP and engage them in the safety and health program measures, including the implementation of the Action Plan (see Appendix F, Occupational Safety and Health Program Action Plan Template). At establishments with recognized employee representative(s), the employer must also notify the employee representative(s).
  3. Implement the mutually agreed upon Action Plan developed with the consultant and approved by the CPM. At a minimum, the Action Plan must include a list of action items that the employer has agreed to implement and the projected completion dates for each action item identified to achieve the organization's safety and health goals and objectives for the continuous improvement of the safety and health program. The employer must provide to the Consultation program, written confirmation of the completion of each action item by the completion due date, and an explanation for any action item not completed, and when it will be completed. This updated Action Plan information must be included with the subsequent request for SHARP participation renewal.
  4. The employer must continue to pursue improvements with management's commitment, to ensure a safe and healthful work environment, that promotes employee participation in safety and health activities, assures



proficient training for employees, and actively engages in finding and fixing hazards to preclude incidents, at a minimum.

5. Notify the CPM about changes in working conditions (e.g., new work processes) that might introduce new hazards into the workplace.
6. Notify the CPM when the employer plans to relocate the establishment, at least sixty (60) calendar days in advance of the relocation (see subparagraph III.A.1 below).
7. Notify the CPM whenever ownership or major organizational changes occur that could affect the effectiveness of the safety and health program (see subparagraph III.A.2 below).
8. Within three (3) working days of receiving a whistleblower complaint (regarding occupational safety and health issues), the employer must notify the CPM of the complaint and send the CPM a copy of the complaint disposition.
9. Notify the CPM immediately in the case of an OSHA or State Plan enforcement inspection at the establishment. The employer must also notify the CPM immediately of a catastrophe, fatality or severe injury incident at the establishment. The employer must comply with OSHA or the State Plan mandated reporting requirements. See Chapter 7, Section VI.D.
10. Accurately complete and submit to the CPM the Interim Year SHARP Site Self-Evaluation, Appendix E of this Instruction. Submit a copy of the establishment's most recent OSHA Forms 300 and 300A as well as injury and illness incident reports with the self-evaluation. The employer must promptly correct any deficiencies noted by the Consultation program upon review.

- F. **Effective Safety and Health Program Implementation.** Consultants assess employers' safety and health programs using Form 33. Consultation programs reviewing employers' requests to participate in SHARP must ensure that they demonstrate the implementation of an effective safety and health program. Employers requesting to participate in Pre-SHARP must demonstrate the foundation of a safety and health program and a commitment to attain full and effective implementation. Although not a requirement for participating in SHARP or Pre-SHARP, a written safety and health program should be recommended by consultants. At a minimum, consultants must ensure that all safety and health program elements of Form 33 are effectively implemented.
- G. **Injury and Illness Rates.** In order to establish the Days Away, Restricted, or Transferred (DART) rate and Total Recordable Case (TRC) rate for their establishments, employers requesting to participate in SHARP must have at least

one (1) year of operating history at the particular establishment for which SHARP approval is requested.

Establishments that fall below the threshold for keeping OSHA Forms 300 and 300A and/or are in an industry exempted from keeping these OSHA logs must also have their injury and illness rates assessed as part of the process for determining eligibility to participate in SHARP. In these instances, the consultant will determine the establishment's injury and illness rates, using available employer information and data that is similar to the OSHA Forms 300 and 300A, for the most recent full calendar year, and will record the resulting data into the OSHA Information System (OIS). Below is a description of the methods for calculating the DART and TRC rates and how to assess data.

1. Assessing Injury and Illness Data for the Most Recent Calendar Year. For all employers requesting to participate in SHARP, DART and TRC rate calculations will be based on the OSHA Forms 300 and 300A information for the most recent full calendar year preceding the on-site evaluation (see alternative rate calculation methods in subparagraph I.G.2 below).
  - a. The calculated DART and TRC rates will be compared against the most recently published Bureau of Labor Statistics (BLS) rates for the North American Industry Classification System (NAICS) code for the establishment.
  - b. To qualify for SHARP, the establishment's DART and TRC rates must be below the published BLS rates for that industry. See Appendix C, Annual Rate Calculation Method.
  - c. Establishments that fall below the threshold for maintaining OSHA Forms 300 and 300A, and/or are in an industry exempt from maintaining these logs, must be able to provide relevant information and data to calculate injury and illness rates (i.e., DART and TRC rates) for their establishments, before being considered to participate in SHARP.
2. Alternative Rate Calculation Methods. The following alternative rate calculation methods are available for those employers whose calculated injury and illness rates are above the published BLS rates when the calculation method described in subparagraph I.G.1 above is used.
  - a. Assessing Injury and Illness Data for Three Calendar Years.
    - i. Where the establishment has at least three (3) years of operating history, the DART and TRC rate calculations may be based on the OSHA Forms 300 and 300A information for the most recent three (3) full calendar years, preceding the on-site evaluation (i.e., three-year average).

- ii. To qualify for SHARP, the establishment's calculated three-year average DART and TRC rates must be below the most recently published BLS rates for that industry.
  - iii. See Appendix D, Alternative Rate Calculation Methods, for the Three Calendar Years Rate Calculation Method.
- b. Assessing Injury and Illness Data for Four Calendar Years. For SHARP participation requests (i.e., first time or renewal) that a single or a relatively small number of incidents would cause the employer to be disqualified from participating in SHARP, if the three calendar years rate calculation method (I.G.2.a) is used, DART and TRC rates may be calculated using the best three out of the four most recent full calendar years injury and illness data, preceding the on-site evaluation. This is a two-step process, described below.
  - i. Firstly, the Consultation program must determine whether an establishment qualifies for the best three out of four calendar years calculation method by doing the following:
    - a. Use the most recent employment statistics (i.e., hours worked at the establishment by all employees in the most recent calendar year, including overtime hours), to calculate the hypothetical TRC and DART rates for the establishment, assuming the establishment had **two** cases during the year;
    - b. Compare the hypothetical rate to the most recently published three years of BLS combined injury and illness rates for the industry.
    - c. If the hypothetical rate (based on two cases) is equal to or higher than any of the most recently published three years of BLS combined injury and illness rates for the industry, the establishment qualifies for the best three out of four years calculation method.
  - ii. Secondly, to qualify for SHARP, the calculated best three out of four years' incident rates (i.e., DART and TRC rates) for the establishment must be below the most recently published BLS rates for that industry.
  - iii. See Appendix D for the Best 3 Out of 4 Calendar Years Rate Calculation Method.

3. Regional Administrator or State Designee Discretion. CPMs may propose, and either the RA or State Designee may approve SHARP status, in those rare instances where an establishment has injury/illness rates equal to or slightly greater than the BLS industry average after using the calculation methods described in subparagraphs I.G.1&2 above. In these instances, the CPM will select the override standard certification criteria in OIS, within the SHARP Module. The RA or State Designee will decide to either approve or reject the override.

In determining whether to grant an employer approval, the RA or State Designee must consider the following factors:

- a. The employer is currently a SHARP participant;
- b. The employer has a rating of at least "2" on all fifty (50) basic attributes and eight (8) "stretch items" of Form 33;
- c. The employer qualifies for the rate calculation method described in subparagraph I.G.2.b above, but fails to meet either the DART or TRC rate requirements; and
- d. The employer's history with the Consultation program.

#### H. **Consultation Programs' Responsibilities.**

1. Verification of Employer's Eligibility. Consultation programs must ensure that an employer satisfies all SHARP participation criteria, including the requirements specified in subparagraph I.A.6 for OSHA or State Plan Enforcement Inspection History. Consultation programs must also ensure that all elements of an effective safety and health program are fully operational. If hazards are found during the on-site evaluation, which reflect significant deficiencies resulting in a rating of 0-1 for any of the fifty-eight (58) attributes on the Form 33 evaluation of an employer's safety and health program, the establishment cannot be recommended for SHARP approval. The CPM may not recommend SHARP approval until the deficiencies have been corrected and is confident that an establishment's safety and health program will operate effectively.
2. Consultation Visits. Conduct a full-service safety and health hazard assessment and a complete safety and health program review of the establishment using Form 33. Form 33 comprises seven safety and health program elements that are assessed by using fifty-eight (58) attributes or criteria.

The Consultation program must ensure that for each attribute assessed, regardless of the rating assigned by the consultant (i.e., 0, 1, 2, or 3), Form 33 "Comments" column includes an accurate summary of the consultant's findings (i.e., rationale for the rating) and recommendations for correcting

deficiencies or for continuous improvement. See Chapter 4, Section II.

3. Recurring Hazards. Observed recurring hazards determined by the consultant to be previously verified as corrected by the employer should be taken into consideration when determining SHARP participation status.

Consultants must document these hazards in the “Comments” column of Form 33, attribute 3 (i.e., Effective surveillance of established hazard controls is conducted), and reflect this finding in other associated attributes. This is in addition to other findings.

4. Areas of Emphasis and Emerging Hazards. Emphasis programs are temporary programs that focus OSHA or State Plans on particular hazards in high-hazard industries. Consultants must evaluate the nature and scope of processes at establishments with respect to all Local, State, and National Emphasis Programs as appropriate. As the nature of work and the work environment continues to evolve, occupational safety and health measures are needed to address new trends and challenges as they emerge. These efforts may include a follow-up consultation visit.

5. Review Employers Incentive Programs.

- a. Employers Requesting to Participate in SHARP or Pre-SHARP. The CPM must ensure that the incentive program (or similar practices) of an employer requesting to participate in SHARP or Pre-SHARP does not contain provisions that could discourage employee participation in the safety and health program (see Appendix N, Incentive Programs). Where the incentive program has been determined to be ineffective (i.e., disincentives are found), the CPM must advise the employer of OSHA’s policy. The employer may choose to make an immediate change to the incentive program that will bring the program in line with OSHA’s policy. If the employer needs ninety (90) calendar days or less to eliminate the disincentive, to revise the program, or both, the CPM will reappraise the establishment after the change to the employer’s incentive program takes place. If an employer requesting to participate in SHARP or Pre-SHARP refuses to make the needed change, the CPM will inform the employer that the establishment is not currently eligible for SHARP or Pre-SHARP participation.
- b. Current SHARP or Pre-SHARP participants. To confirm that an incentive program does not contain provisions that could discourage employee participation, Consultation programs will incorporate this element into the review criteria when participants submit interim year self-evaluations, enter the reapplication process, and provide other reports. If disincentives are found, the

CPM will assist the SHARP or Pre-SHARP participant in reaching compliance with OSHA policy.

Refusal to make the recommended improvement to an incentive program is grounds to terminate participation in SHARP or Pre-SHARP. Failure to demonstrate effective implementation of incentive program changes during agreed upon time frames is also grounds to terminate SHARP or Pre-SHARP participation. The employer may voluntarily withdraw or established termination procedures will apply, including the RA or State Designee's written notice of termination and the participant's right to appeal in writing to the DCSP Director (see subparagraph III.B of this Chapter).

6. Action Plan Development. The Consultation program will provide technical assistance with developing Action Plans to employers that request to participate in SHARP or Pre-SHARP (see subparagraphs I.E.3 and II.B.2a of this Chapter).
7. Whistleblower Protection Programs (WPP) Case. CPMs may choose to delay recommending SHARP participation approval for an establishment with an open WPP case (regarding occupational safety and health issues), until such time as the WPP case is resolved.
8. Submission of SHARP Participation Requests for Approval. CPMs may not recommend SHARP participation approval to the RA or State Designee until the employer has corrected all identified deficiencies, and the CPM is confident that an establishment's safety and health program will operate effectively. After ensuring that the employer has met all the requirements, the CPM must confirm the employer's interest to participate in SHARP. Then the CPM will submit the request for SHARP approval to the RA or State Designee using OIS.

First time requests for SHARP participation must include the items described below (in subparagraph I.H.8.a through k). Renewal requests for SHARP participation must include the items described below and the requirements in section I.K of this Chapter.

- a. The CPM's recommendation for SHARP approval.
- b. A summary of the OSHA or State Plan Inspection History findings (see subparagraph I.A.6).
- c. OSHA Forms 300 and 300A for the current year and three preceding calendar years, or for the period that the establishment has been in operation (if less than three years), and the BLS injury and illness rates for the industry.



- d. The date and type of each consultation visit conducted during the time the employer was working toward SHARP approval or renewal.
  - e. A copy of the completed Form 33 for the establishment's complete safety and health program review.
  - f. The list of all hazards identified and the corrective actions documented in OIS.
  - g. Description of any workplace incentive program assessed by the Consultation program, including any updates made to align the program with the OSHA policy.
  - h. A copy of a mutually agreed upon Action Plan, which will provide an outline for the continuous improvement of the employer's safety and health program (see subparagraph I.E.3 above).
  - i. The recommended deferral period (see subparagraph I.J below).
  - j. Employer verification of the number of employees at the establishment and corporate-wide; and
  - k. Verification of the employer's request to participate in SHARP.
9. Notification of Approval. If a SHARP or Pre-SHARP participation request is approved by the RA or State Designee, the CPM must inform the employer of the duration of the deferral period.
10. Referrals and Enforcement Inspections. CPMs must follow procedures outlined in Chapter 7, Relationship to Enforcement, for SHARP and Pre-SHARP establishments.
11. Whistleblower Complaint Notification (regarding occupational safety and health). Upon notification by an employer, the CPM must immediately inform the RA or State Designee of any whistleblower complaints received by an employer, after obtaining approval to participate in SHARP or Pre-SHARP.
12. Renewal Notifications. The Consultation program must notify employers to request a consultation visit for SHARP renewal assessment between sixty (60) and one hundred eighty (180) calendar days before the expiration of SHARP status to prevent a lapse in deferral from OSHA programmed inspections (or notify employers participating in Pre-SHARP to request a consultation visit to determine eligibility to participate in SHARP between 60-180 calendar days before the expiration of Pre-SHARP status).



13. Review Interim Year SHARP Site Self-Evaluations. The Consultation program must review the employer's Interim Year Self-Evaluation and follow-up to address any safety and health concerns. The nature of the follow-up will be at the discretion of the CPM (e.g., telephone conversation, consultation visit). Interim Year SHARP Site Self-Evaluations will be entered into OIS within the SHARP Module.

I. **Regional Administrator or State Designee Responsibilities.** Upon receipt of all information required to assess eligibility to participate in SHARP, including verification that the establishment has met all SHARP participation requirements (see subparagraphs I.H.8 and I.K. (as applicable)), the RA or State Designee will:

1. Review all required information for SHARP approval requests submitted by the Consultation program; clarify any inconsistencies; check the Whistleblower database information on complaints and dispositions (regarding occupational safety and health issues); and verify that the employer has met all SHARP requirements.
2. Whistleblower Complaints. If an employer requesting approval for initial SHARP participation or renewal is the subject of an open WPP case (regarding occupational safety and health issues), the RA or State Designee, may exercise discretion to delay approval until such time as the WPP case is resolved.
3. If the RA or State Designee concurs to approve the SHARP participation request, he or she must provide the SHARP certificate and transmittal letter to the employer no later than twenty-five (25) federal working days from the receipt of the request to participate in SHARP containing all required information, including verification that all requirements have been met. The certificate will include the name of the establishment awarded SHARP, location of the establishment, and the period of deferral from OSHA or the State Plan's programmed inspection schedule. The Regional Office must indicate SHARP approval in OIS and input the approval dates for tracking purposes.
4. Notify the appropriate OSHA Area Office or State Plan Office of the establishment's SHARP approval status and facilitate the removal of the establishment from the programmed inspection schedule for the approved deferral period.
5. Provide a copy of the SHARP certificate and the transmittal letter to the CPM for the case file.
6. Update the status for SHARP participation requests in OIS (i.e., Approved, Rejected, Terminated, or Withdrawn). The RA will notify DCSP of establishments added to or removed from SHARP on a monthly basis. The State Designee will notify the RA of establishments added to or removed from SHARP.

7. Referrals and Enforcement Inspections Related to SHARP Establishments. Follow procedures outlined in Chapter 7, Relationship to Enforcement, for SHARP establishments.

**J. Duration of SHARP Status.**

1. All initial approvals of SHARP status will be for a period of up to two (2) years, commencing from the date the RA or State Designee approves an employer's SHARP application. After the initial approval, all SHARP renewals cannot exceed a period of three (3) years.
2. The period of deferral from the programmed inspection schedule will begin on the date that the RA or State Designee approves the employer's request to participate in SHARP.
3. During the participation period, employers must submit the following to the CPM:
  - a. A copy of the establishment's OSHA Forms 300 and 300A;
  - b. A copy of the establishment's Injury and Illness incident reports; and
  - c. Information regarding the completion of item(s) set forth in the Action Plan.

**K. SHARP Renewal Requirements.** The CPM will begin to process an employer's request for SHARP renewal when the requirements outlined in subparagraph I.H.8 for SHARP participation and the following requirements have been met:

1. The Consultation program has conducted a full-service safety and health consultation visit and a complete safety and health program review using Form 33, to ensure that the safety and health program continues to be effectively implemented and improved upon;
2. The Consultation program has verified that the employer continues to meet all eligibility and program requirements; and
3. The Consultation program received and reviewed the employer's Interim Year SHARP Site Self-Evaluation for the previously approved SHARP participation period, an updated Action Plan (see subparagraph I.E.3 above), and the OSHA Forms 300 and 300A. Any deficiencies identified were promptly corrected by the employer. The employer's Interim Year SHARP Site Self-Evaluation and updated Action Plan are required to assess the employer's continued eligibility, during the SHARP participation renewal years, and must be included with the renewal request submitted by the Consultation program to the RA or State Designee.

- L. **SHARP Renewal Approval.** Renewal for SHARP participation must be approved by the RA or State Designee prior to the expiration of SHARP status to assure continued eligibility for deferral from the programmed inspection schedule. The Regional Office must enter the SHARP renewal status into OIS within the SHARP Module.

If an employer fails to request a consultation visit to assess eligibility for SHARP renewal before the expiration of the SHARP deferral period, the CPM may process the renewal request at the discretion of the RA or State Designee. It is the responsibility of the CPM to ensure that renewal of SHARP status occurs before the expiration of the deferral period (see subparagraph I.H.12).

- II. **Pre-SHARP Status.** Pre-SHARP is an achievement recognition program awarded to small businesses that do not meet SHARP participation requirements, but show a reasonable promise of achieving agreed-upon milestones and time frames to meet SHARP participation requirements, within the Pre-SHARP deferral period. Small businesses that achieve Pre-SHARP status, may be granted a deferral from OSHA or the State Plan's programmed inspection schedule (see subparagraph II.D).

- A. **Employer Eligibility.** To begin the evaluation process for Pre-SHARP participation, Consultation programs must inform employers that they must meet the following criteria:

1. Operate a small business (see Chapter 1, Section XII.B for the exception to the small business size requirement).
2. Have at least one (1) year of operating history at the particular establishment for which the employer is seeking Pre-SHARP participation.
3. Request and receive a consultation visit that involves a full-service safety and health hazard assessment, and a complete review of the establishment's safety and health program.
4. Submit injury and illness records, OSHA Forms 300 and 300A, for the current year and three preceding calendar years, or for the period that the establishment has been in operation (if less than three years).
5. Submit a request to participate in Pre-SHARP. The request must be submitted by the employer.
6. OSHA or State Plan Enforcement Inspection History. See subparagraph I.A.6.

- B. **Pre-SHARP Requirements.** The CPM shall inform employers that the following criteria must be met prior to and following the granting of Pre-SHARP status.

1. Initial Requirements.

- a. Receive a consultation visit that involves a full-service safety and health hazard assessment and a complete review of the establishment's safety and health program using Form 33.
- b. Post the List of Hazards identified by the consultant(s).
- c. Provide information regarding all hazards identified by the consultant(s) to employees.
- d. Correct all identified hazards (serious, other-than-serious, imminent danger) and regulatory violations identified by the consultant(s).
- e. Submit hazard correction verification to the Consultation program.
- f. Inform employees of hazard correction(s).
- g. Provide evidence of having the foundation of a safety and health program.

2. Pre-SHARP Participation Requirements.

- a. Implement the Action Plan developed with the consultant and approved by the CPM outlining the necessary achievements and time frames required for the employer to achieve SHARP status. The employer must provide timely progress reports to the CPM (see Appendix F of this Instruction).

The Action Plan must include achievable and measurable goals, objectives, and corrective measures to address deficiencies in the implementation of the safety and health program (i.e., attributes of Form 33 for which the employer received a rating of 0 or 1).

At a minimum, the Action Plan must include a list of action items that the employer has agreed to implement and the projected completion dates for each action item to achieve the organization's safety and health goals and objectives for addressing deficiencies in the safety and health program and attain SHARP status.

- b. Upon receipt of an approval letter from the RA or State Designee granting Pre-SHARP status, the employer must post the letter in a conspicuous area. At establishments having recognized employee

representative(s), the employer must notify the employee representative(s) of the employer's intention to participate in Pre-SHARP and involve the recognized employee representative in the process.

- c. Involve employees in the safety and health program, including the implementation of the Action Plan.
  - d. Notify the CPM about changes in working conditions (e.g., new work processes) that might introduce new hazards into the workplace (see subparagraph III.A.3).
  - e. Notify the CPM when the employer plans to relocate the establishment, at least sixty (60) calendar days in advance of relocation (see subparagraph III.A.1).
  - f. Notify the CPM whenever ownership or major organizational changes occur that could affect the effectiveness of the safety and health program (see subparagraph III.A.2).
  - g. Within three (3) working days of receiving a whistleblower complaint (regarding occupational safety and health issues), notify the CPM of the complaint and send the CPM a copy of the complaint disposition.
  - h. Notify the CPM immediately in the case of an OSHA or State Plan enforcement inspection at the establishment. The employer must notify the CPM immediately of a catastrophe, fatality, or severe injury incident at their establishment. The employer must comply with OSHA or their State Plan mandated reporting requirements. See Chapter 7, Section VI.D.
  - i. Agree to a consultation visit that involves a full-service safety and health hazard assessment and a complete safety and health program review using Form 33, at the end of the Pre-SHARP deferral period, which will initiate the process for evaluating the employer's eligibility to participate in SHARP.
- C. **Anti-Retaliation Program.** See subparagraph I.C above.
- D. **Pre-SHARP Deferral Time Frame.** The deferral time frame recommended by the CPM must not exceed a total of eighteen (18) months from the expiration of the latest hazard correction due date(s), including extensions.
- E. **Consultation Program Responsibilities.** The Consultation program must:
- 1. Verify both correction of all hazards identified and compliance with the requirement to post the List of Hazards.

2. Perform functions specified in subparagraphs I.H.2 through 6, for Pre-SHARP participation requests.
3. Determine if the employer is capable of meeting all SHARP requirements within the deferral period, including DART and TRC rate requirements.
4. Assist the employer in the development of an Action Plan to be implemented by the employer.
5. Provide the RA or State Designee a copy of the employer's Form 33 evaluation, the Action Plan, documentation of the List of Hazards identified and corrective actions in OIS, injury and illness records (see subparagraph II.A.4), description of any workplace incentive programs, and any open WPP case (regarding occupational safety and health issues).
6. Provide a signed notice of intent to participate in Pre-SHARP, to be posted by the employer.
7. Provide the RA or State Designee a letter or e-mail certifying that the employer exhibits reasonable promise of achieving the agreed-upon milestones within the Pre-SHARP deferral period.
8. Recommend a Pre-SHARP deferral period to the RA or State Designee (see subparagraph II.D).
9. Perform functions specified in subparagraphs I.H.8 through 11, for Pre-SHARP establishments.
10. Submit the request to participate in Pre-SHARP in OIS.
11. Request that the RA or State Designee terminate the employer's Pre-SHARP status if the employer fails to maintain Pre-SHARP requirements or fails to meet SHARP requirements within the established time frame.
12. CPMs may choose to delay recommending approval to participate in Pre-SHARP for an establishment with an open WPP case (regarding occupational safety and health issues) until such time as the WPP case is resolved.

F. **Regional Administrator or State Designee Responsibilities.** The RA or State Designee may grant a deferral from OSHA programmed inspections for the period recommended by the CPM after receiving and reviewing all required information for requests to participate in Pre-SHARP, no later than twenty-five (25) federal working days from the receipt date. The RA or State Designee will notify the appropriate OSHA Area Office or State Plan Office of the deferral period and provide the Pre-SHARP award letter to the employer as well as a copy to the CPM.

1. Prior to granting a deferral, the RA or State Designee must concur that:
  - a. The establishment has met or is likely to meet the applicable DART and TRC rate requirements;
  - b. The employer has in place the foundation of a safety and health program; and
  - c. The Action Plan adequately outlines the goal, recommended method of correction, and an expected completion date for each attribute of Form 33 that received a rating of less than "2" (see subparagraph II.B.2.a).
2. The RA or State Designee will update the status for Pre-SHARP participation requests in OIS (i.e., Approved, Rejected, Terminated, or Withdrawn). The RA will notify DCSP of establishments added to or removed from Pre-SHARP on a monthly basis. The State Designee will notify the RA of establishments added to or removed from Pre-SHARP.
3. Whistleblower Complaints. If an employer requesting to participate in Pre-SHARP is the subject of an open WPP case (regarding occupational safety and health issues), the RA or State Designee may exercise discretion to delay approval until such time as the WPP case is resolved.

### III. General Employer and Consultation Program Obligations.

#### A. Changes that Could Affect a SHARP or Pre-SHARP Employer's Eligibility.

For all changes described below, the CPM must request that the employer correct any identified deficiencies and verify correction. If the employer fails to correct identified deficiencies within the agreed upon timeframe, the CPM should encourage the employer to voluntarily withdraw or established termination procedures will apply.

1. Relocation. Consultants must inform employers planning to relocate their facilities that they must notify the Consultation program sixty calendar (60) days in advance of the move. Consultants must also conduct a consultation visit to the new location within thirty calendar (30) days after it becomes operational to ensure that an effective safety and health program is in place and all SHARP or Pre-SHARP participation requirements are being met. If this is not the case, the CPM must request that the employer correct identified deficiencies and verify correction.
2. Change in Ownership and Organizational Changes. Whenever ownership or major organizational changes occur that may impact the effectiveness of a company's safety and health program, the employer must notify the



CPM. The CPM must then discuss the changes with the employer and schedule a consultation visit, if necessary.

3. Changes in Working Conditions that Introduce New Hazards. Whenever there are changes in working conditions (e.g., new processes) that might introduce new hazards into the workplace, the employer must notify the CPM. The CPM must discuss the changes with the employer and schedule a consultation visit, if necessary.

**B. Voluntary Withdrawal or Termination from SHARP or Pre-SHARP.** If an employer fails to maintain the participation criteria outlined in this Chapter, the CPM must give the employer the opportunity to voluntarily withdraw.

1. Voluntary Withdrawal from the Program. Any approved SHARP or Pre-SHARP participant may withdraw at any time. Withdrawal may occur for various reasons such as establishment closure, change in management, or at the request of the employer or CPM. To withdraw, the employer must send a letter explaining the withdrawal and/or return the SHARP certificate or Pre-SHARP approval letter to the CPM. The withdrawal is effective immediately upon receipt of the employer's withdrawal letter and/or SHARP certificate/Pre-SHARP approval letter.

The CPM will notify the RA or State Designee of the employer's withdrawal from SHARP or Pre-SHARP. Withdrawal from the program will result in termination of the deferral from OSHA or the State Plan programmed inspection schedule.

2. Termination of Inspection Deferral Status. If an employer fails to maintain the participation criteria outlined in this Chapter and refuses the opportunity to voluntarily withdraw, the CPM must request that the RA or State Designee terminate the employer's participation in SHARP or Pre-SHARP. The employer and the Area Office or appropriate State Plan Office must be notified in writing when an employer's SHARP or Pre-SHARP participation is terminated. The written notice to the employer must contain the reason(s) for the termination and outline the requirements for re-entry.
3. When there is a change in SHARP or Pre-SHARP status, the RA or State Designee must update status information accordingly in OIS (i.e., Approved, Rejected, Terminated, or Withdrawn).

**C. Enforcement Inspections, Incidents, and Appeal Process.** Chapter 7 (Sections VI through IX) describes the procedures for Consultation programs to follow when enforcement inspections and incidents occur at SHARP or Pre-SHARP establishments, and the appeal process for employers when participation is terminated.

IV. **SHARP Pilots.** SHARP Pilots enable OSHA to work with stakeholders (e.g., Consultation programs, small businesses, industry representatives) to demonstrate the effectiveness of alternative methods for achieving excellence in safety and health programs. All SHARP Pilot Programs must conform to the requirements of 29 CFR 1908.

A. **Framework.** SHARP Pilots must be designed to meet one of the following requirements:

1. Test alternatives, which, if successful, will allow previously ineligible establishments to participate in SHARP.
2. Explore the application of SHARP in industries where OSHA lacks substantial experience.
3. Test alternatives that could improve current standards in safety and health management.
4. Explore opportunities to develop innovations and improvements in safety and health management.

B. **Duration.** SHARP Pilots will be approved for an agreed upon timeframe not to exceed five (5) years.

C. **Process Overview.** Consultation programs cannot implement SHARP Pilots without first obtaining approval from the RA and DCSP. There are two types of SHARP Pilots – pilots proposed by Consultation programs and national pilots created by OSHA.

1. SHARP Pilots Proposed by Consultation programs. Consultation programs may propose SHARP Pilots if desired. Pilots proposed by individual Consultation programs must be designed to fill an existing gap, address one or more items in the framework described above, and be submitted for review and approval by the RA with jurisdiction, in consultation with DCSP.

Proposals to implement a SHARP Pilot must include a description of the Pilot, delineate the policies that will be used to administer the Pilot, explain the data gathering techniques that will be utilized to evaluate the Pilot, and explain how it will diverge from the standard requirements of SHARP.

- a. Consultation programs in OSHA jurisdictions must submit their Pilot proposals or programs to the RA. The RA will review and approve the Pilot in consultation with DCSP. Upon approval, the RA will administer the Pilot, and the approval of individual establishments to the Pilot.

- b. Consultation programs in State Plans will submit their Pilot proposals or programs approved by their State Designees to the respective RA for review and approval in consultation with DCSP. Following approval by the RA in consultation with DCSP, the State Designee will administer the approved Pilot and approve individual establishments to the Pilot.
  - c. The Consultation programs will be responsible for collecting appropriate data, according to the structure of the Pilot and submitting it to the RA annually.
  - d. The RA is responsible for submitting the Pilot data received from Consultation programs to DCSP annually.
2. National SHARP Pilots Established by OSHA. National Pilots established by OSHA must include a description of the Pilot, delineate the policies that will administer the Pilot, explain the data gathering techniques that will be utilized to evaluate the Pilot, and explain how it will diverge from the standard requirements of SHARP.

**D. On-Site Consultation Programs' Proposals to Participate in a National SHARP Pilot.**

- 1. Consultation programs that intend to participate in a National SHARP Pilot must review the national program/policy for the Pilot and develop a proposal or program for implementing the requirements of the national Pilot consistent with the national policy.
- 2. Consultation programs in OSHA jurisdictions interested in participating in a national Pilot must submit their proposals to the RA for review and approval, in consultation with DCSP.
- 3. Consultation programs in State Plans interested in participating in a national Pilot must submit proposals approved by their State Designees to the respective RA for review and approval, in consultation with DCSP.

**E. Approval of Employers to Participate in SHARP Pilots.** After a Consultation program's SHARP Pilot proposal or program has been approved by the RA, in consultation with DCSP, the Consultation program must prescribe all SHARP participation requirements in the Pilot to employers requesting to participate. This includes on-site evaluations, periodic annual reviews, quarterly data collection, and other monitoring techniques. Establishments approved to participate in a Pilot will receive the same types of benefits as other SHARP establishments. Establishments approved to participate in a Pilot will receive deferrals from programmed inspections for a period of up to one (1) year. The Regional Office must update OIS with the SHARP Pilot information in the SHARP Module. The RA will notify DCSP of establishments added to or

removed from SHARP Pilots on a monthly basis. The State Designee will notify the RA of establishments added to or removed from SHARP Pilots.

- F. **Outcome of a SHARP Pilot.** After a SHARP Pilot has concluded, the RA or State Designee will direct an assessment of the goals of the Pilot, including injury and illness information, the effect of various policy changes, and other pertinent information. The State Designee will share findings with the respective RA. The RA will share findings with DCSP as well as a recommendation as to whether the Pilot should be included in the general criteria for SHARP participation.

## Chapter 9

### Monitoring of On-Site Consultation Programs

- I. **Purpose.** The purposes of monitoring and evaluating Consultation programs are as follows:
  - A. Ensure and demonstrate the continued effectiveness of consultation services provided to employers;
  - B. Ensure Consultation programs' compliance with the requirements of the Occupational Safety and Health Act, 29 CFR Part 1908, this Instruction, and other policy issuances;
  - C. Discover areas in need of improvement, track progress in addressing previously identified opportunities for continuous improvements, and highlight best practices; and
  - D. Enable the Occupational Safety and Health Administration, (OSHA) Directorate of Cooperative and State Programs (DCSP), to identify and address policy issues affecting the OSHA On-Site Consultation Program.
- II. **Evaluation Parameters.** The monitoring and evaluation process is based on the following principles:
  - A. The focus is to measure a Consultation program's outcomes against the goals set in its Consultation Annual Program Plan (CAPP) and its contribution to the achievement of OSHA or State Plan annual performance goals (see the current On-Site Consultation Cooperative Agreement Application Instructions).
  - B. Completion of consultation visits including all required documentation in accordance with appropriate standards.
  - C. Program performance parameters captured by the Mandated Activities Report for Consultation (MARC) standards.
  - D. Effectiveness of a Consultation program's Internal Quality Assurance Program (IQAP).
  - E. The monitoring and evaluation process requires cooperative work between OSHA and Consultation programs. The process described herein identifies activities that will be performed by Consultation programs and those that will be performed by OSHA. In State Plans the monitoring process requires coordination between the Regional Administrator (RA) and State Plan monitoring staff to ensure that Consultation programs funded under Section 21(d) of the OSH Act are not subject to two different sets of monitoring requirements.

III. **Framework of the Monitoring/Evaluation Process.** The monitoring and evaluation of a Consultation program's performance will be assessed through the following means:

A. **Quarterly Discussions.** The RA and the Consultation Program Manager (CPM) must meet (or confer by telephone) at least once every quarter to review the Consultation program's progress in meeting the goals in the CAPP and the MARC, and address any issues that arise. The RA must document the issues discussed and any commitments made during the quarterly discussions.

1. Purpose. Quarterly discussions provide an opportunity to assess a Consultation program's performance on an ongoing basis. This method of sharing information and conducting joint reviews of performance goals on a quarterly basis facilitates the annual evaluation process and permits early identification of potential issues or performance challenges. It also identifies successful strategies that could be shared with other Consultation programs.
2. Frequency and Timing of Quarterly Discussions. The purpose of quarterly discussions is to review data and other relevant information for the previous quarter. It is important for regions to hold quarterly discussions within 1-2 months following the end of the previous quarter. The scheduling of quarterly discussions should take into account the availability of quarterly data, the extent of any preliminary review needed, and submission deadlines for annual performance plans and evaluation reports. Discussions must occur at least quarterly, however, communication should not be limited to the quarterly discussions. Informal discussions, working sessions, and other meetings for a variety of purposes, including CAPP development, should be held as necessary. Quarterly discussions may take place in person or via telephone.
3. Focus of Quarterly Discussions.

Quarterly Meeting	Agenda Items as Areas of Focus
First	Discuss end-of-year data for the previous fiscal year, if available.  Discuss data sources to be used for Consultation program evaluation.  Review CAPP details and make any necessary adjustments.  Review the IQAP.  Agree upon a schedule for the year's quarterly discussions.

	<p>Discuss the annual evaluation process and reports for the previous fiscal year (CAPR and Regional Annual Consultation Evaluation Reports (RACER)).</p> <p>Discuss due dates that permit submission of the CAPR to the National Office by January 15; draft due to the Regional Office by December 1-15.</p>
Second	<p>Discuss first quarter performance and mandated activities data to assess the Consultation program's year-to-date progress toward its annual performance goals, including activities supporting the agency's mission through special emphasis programs (National Emphasis Programs (NEPs), Local Emphasis Programs (LEPs) and targeted industries).</p> <p>Discuss the contents of the evaluation reports for the previous fiscal year (CAPR and RACER); RACER due to the National Office by April 30; draft due to the Program by April 15.</p>
Third	<p>Discuss second quarter performance and mandated activities data to assess the Consultation program's year-to-date progress toward its annual performance goals, including activities supporting OSHA's mission through special emphasis programs (NEPs, LEPs and targeted industries).</p> <p>Discuss any new or previously unresolved issues/concerns.</p> <p>Begin planning the goals and strategies to be included in the following year's CAPP and dates for submission of the CAPP.</p>
Fourth	<p>Discuss third quarter performance and mandated activities data to assess the Consultation program's year-to-date progress toward its annual performance goals, including activities supporting the agency's mission through special emphasis programs (NEPs, LEPs, and targeted industries).</p> <p>Finalize next fiscal year's CAPP.</p>



4. Quarterly Discussion Topics. Prior to the meeting, the RA and the CPM will agree to an agenda. As a courtesy, the agenda, applicable documents, and data reports to be discussed should be shared between the CPM and the RA prior to the meeting. Additional topics that may be discussed at each quarterly meeting include:
  - On-site review schedule, findings/recommendations in the on-site review report, Consultation program's response to the report, follow-up;
  - Staffing (current number of safety and health consultants, vacancies, intent to fill vacancies, when new consultants will be ready to conduct consultation visits independently);
  - Consultation program's responses to RACER recommendations;
  - Safety and Health Achievement Recognition Program (SHARP)/Pre-SHARP, potential new establishments and renewals;
  - OSHA or State Plan training courses;
  - Effect of state policies and procedures or other factors that impact the Consultation program;
  - Best practices;
  - New and unresolved issues;
  - Appropriate use of resources; and
  - Other issues relevant to either party.
5. Documentation. The RA must maintain a written record of each quarterly discussion indicating the date, location, and persons in attendance, a summary of the significant issues discussed, and the conclusions reached. Commitments made by either party, such as to supply information or assistance, must also be documented. The RA must provide copies of quarterly discussion reports to the Consultation program.

B. **Mandated Activities Report for Consultation (MARC).** Mandated activities for Consultation programs are tracked via the MARC report. (See Appendix G for a complete list of the measures included in the MARC.) The MARC consists of performance indicators, expected performance standards (where applicable), and the Consultation program's performance data.

1. Frequency. The MARC report is available as an OSHA Information System (OIS) report to be run independently at any time by a CPM. For the National Office and Regional Office liaison calls, the MARC report is run quarterly for each Consultation program and includes data for the most recent quarter and fiscal-year-to-date.
2. Data Sources. Most of the performance data will be obtained from OIS. Some useful reports in OIS for tracking performance are Sampling Scan Consultation Report, NAICS Activity Report, CNS Coding Summary Report, Visit Scan Summary Report, EOY CNS Metrics, MARC, CAPP

Tracking Report, Requests Pending, Uncorrected Hazards, and Written Reports Pending. However, in some instances, the CPM will be required to submit data to the RA.

3. Measurement Standard or Reference. A Consultation program's performance is compared to criteria established by regulation or policy. These criteria are listed in the "Reference" column in the MARC report.
  4. Guidelines for Use. The RA and CPM are to jointly review the MARC reports quarterly, and discuss performance that does not meet the standard. Initial review by all parties should take place before the quarterly discussion.
    - a. Initial Review. Any potential challenge or shortfall in performance found during the initial review of the MARC data should be investigated to determine its significance, cause, and any necessary corrective actions.
    - b. Discussion of Findings. The findings and possible causes of any performance variances should be presented at the quarterly discussion. If additional analysis is required, the RA and CPM should agree on how to proceed.
    - c. Further Review. Data collection and review should be considered a joint responsibility whenever possible. The data sources to be used, the method of evaluation, and issues of potential data accuracy, should be addressed during the quarterly discussion.
    - d. Follow-up Action. If remedial action is required, the RA and CPM should agree upon possible courses of action.
- C. **Annual Assurances (OSHA Restrictions and Conditions).** Maintenance of the fundamental On-Site Consultation Program requirements must be assured by an annual commitment from the state through the On-Site Consultation Cooperative Agreement. Effective implementation of the assurances is monitored by the Consultation program through sound management practices that include the effective use of an IQAP to assess performance data obtained from OIS and other available information. In the event that an activity or program element assured by the Consultation program is not observed, the RA may conduct appropriate monitoring activities.
- D. **On-site Review.** An on-site review is a routine monitoring activity conducted by the RA to assess the quality of a Consultation program's services and its IQAP. The RA must conduct a minimum of one (1) on-site review every two (2) years. Additional reviews may be conducted when a Consultation program is experiencing difficulties or for other reasons identified by the RA.

1. Challenges or potential challenges in the general operational system identified during the on-site review must be discussed during the on-site review. The RA may interview the CPM and consultants regarding any concerns or apparent challenges arising out of the on-site review. (See Appendix I, Checklist for On-site Review.)
2. Review of Operational Elements. The on-site review must include a review of:
  - a. Training received by consultants;
  - b. On-the-job evaluations;
  - c. Lapse time from employers' requests to the delivery of consultation service (OIS: CNS Visit Metrics Report);
  - d. Management reports (i.e., pending written reports, pending hazard corrections, number of employers' requests for consultation services, and pending consultation visits found in the OIS Requests Pending Report);
  - e. Hiring and vacancies;
  - f. The Consultation program's budget (i.e., program expenditures - this is not an audit);
  - g. Recent Consultation program developments;
  - h. Verification of the monitoring of consultants' performance;
  - i. Promotion of the Consultation program's recognition and achievement programs (i.e. SHARP and Pre-SHARP);
  - j. Marketing initiatives;
  - k. Consultation program's IQAP;
  - l. The Consultant Function Competency Statements (Appendix K) is another tool that can be utilized to verify performance and the training received by consultants. It can also be utilized by the Consultation program for identification of core consultant competencies, and by the RA for verification purposes;

Note: Appendix K also describes the authority of the RA to evaluate the education and experience of prospective hires for consultant positions prior to being assigned work under the 21(d) Cooperative Agreement (see 29 CFR 1908.8(b)(1)&(2)).

- m. The selection and use of proper personal protective equipment (PPE); and
  - n. The appropriate use of the Safety and Health Program Assessment Worksheet (Form 33) by consultants.
3. Case File Review. Case files are to be selected randomly from all closed cases with closing conference dates in the nine (9) months preceding the current on-site review using OIS reports (e.g., Visit Scan Detail Report, Visit Scan Summary Report).
- a. Sample Size. The sample must include a minimum of three (3) initial case files per consultant, up to a total of thirty-six (36). If a Consultation program has more than one office and/or more than twelve (12) consultants, additional case files can be reviewed as appropriate. The sample must include consultants who have the least experience as well consultants with seniority on the job. At least two (2) of the three (3) case files selected per consultant must be cases where serious hazards were found. For Consultation programs where case files are retained in field offices, the sample must be selected so that all field offices are represented in proportion to the number of case files they contribute to the total number of case files.
  - b. Sample Selection. Some useful OIS reports to help determine the sample include the Samples in Draft Status Report, Sampling Scan Consultation Report, and Visit Scan Detail Report. After determining the total number of achievement recognition program cases, the selection is to be made as follows:
    - i. If the total number of SHARP or Pre-SHARP establishments is more than ten (10), randomly select ten (10) of these establishments, review all case files associated with the ten (10) establishments, and then randomly select the remainder of the sample from the non-SHARP/Pre-SHARP case files.
    - ii. If the total number of SHARP or Pre-SHARP establishments is less than ten (10), select all case files associated with all of them, and then randomly select the remainder of the case file sample from the non-SHARP/Pre-SHARP case files.
    - iii. If the randomly selected non-SHARP or non-Pre-SHARP case files do not include at least five (5) Training and Education case files, the sample should be increased by as many randomly selected training files as needed to add up to five (5).

- c. Case File Review Focus. The quality of the following services provided by the Consultation program must be evaluated on the basis of the case files. (See Appendix I for the criteria applying to Case File Review.) The RA must review and discuss the findings of the Case File Review with the CPM including:
  - i. Safety and health program assistance;
  - ii. Identification and classification of hazards;
  - iii. Recommendations for hazard correction and control;
  - iv. Relationship of hazards found to deficiencies in the employer's safety and health program;
  - v. Training and education;
  - vi. SHARP evaluations;
  - vii. Written Reports to Employers; and
  - viii. Procedures for extension processing.
- 4. Review of Recent Consultation Program Developments. The RA must review recent developments, which may include:
  - a. Changes in staffing;
  - b. Recent developments within the Consultation program or its larger organization (for example, state government or university) which may impact the working conditions and staffing of the Consultation program;
  - c. The progress of consultants in meeting the goals of their annual training plans;
  - d. Whether on-the-job evaluations are being conducted according to the schedule established in the On-Site Consultation Cooperative Agreement;
  - e. Budgetary issues; and
  - f. The status of previously discussed, analyzed, or corrected performance issues.
- 5. Closing Conference. A closing conference must be held with the CPM, in person or by telephone, to discuss the results of the on-site review and to

reach an agreement on actions to be taken by the Consultation program to address any findings. OSHA must inform the CPM that the findings will be reported in the RACER. A written list or summary of any findings and recommendations for improvement will be provided to the CPM at the closing conference.

6. Documentation of the On-site Review. The documentation of the on-site review by OSHA must include a record of the total number of case files available for review, a list of the case files contained in the sample, and a copy of the summary letter sent to the CPM. The list of case files is to include both the case number and the name of the company.
  - a. Summary Letter/Summary Report. Within 45 calendar days after the on-site review, the RA must send the CPM a letter or a report documenting any findings and time frames for addressing them. The report will include any recommendations. The report must include the operational elements listed in section III.D.2 of this Chapter. As a courtesy, a draft of the report shall be sent to the CPM prior to the official transmission of the final report so that the CPM may have a sufficient period to comment on the draft.
  - b. Final Findings. Final findings must be included in the RACER.
  - c. Response to the Report. A formal response to the on-site review report shall be provided by the Consultation program to the RA within forty-five (45) calendar days of receiving the final report. The response shall include documentation and assurances of all actions taken/that will be taken to address findings, and the completion dates/projected completion dates. The Consultation program may include in the response if/how recommendations will be addressed. In addition, the Consultation program will provide the RA with updated information on the status of outstanding findings by the agreed upon timeframe(s).
  - d. Follow-up to the On-site Review. Subsequent quarterly discussions with the CPM should include appropriate follow-up on any issues identified in the on-site review report. Resultant programmatic changes or improvements to the Consultation program must be discussed and documented as part of the quarterly discussions.
- E. **Other Evaluation Tools.** Additional evaluation tools, including OSHA's interviews with Consultation program staff, case file reviews, and further analysis of issues identified in routine monitoring, may be used as needed to address questions of Consultation program performance in relation to its approved goals or its mandated responsibilities.

IV. **Annual Evaluation Reports.** Annual evaluation reports, described below, are to be submitted via electronic methods such as email.

A. **Consultation Annual Program Report (CAPR).** Each Consultation program must prepare a CAPR to summarize and analyze the progress made in attaining the goals set out in its Consultation Annual Program Plan (CAPP). The CAPR must include a summary and evaluation of the outcome data, a summary of the quarterly progress updates, discussion of obstacles faced, and the reasons for not meeting projected goals. The CAPR is prepared after the end-of-year data has been compiled and is due annually by the end of the calendar year to the RA. Some useful OIS reports to assist with this process are: the CAPP Tracking Report, the Coding Summary Report, and the NAICS Activity Report.

1. **Due Date.** The CPM must submit the CAPR to the RA by December 1 of each year. The RA must forward all CAPRs to DCSP by January 15 of each year.

2. **Content.** The CAPR must include the following elements:

a. **Executive Summary.** The Executive Summary highlights key contributions; puts results into context with the OSHA or State Plan Strategic Plan and the Consultation program's budget; clarifies the program's rationale, relationships between major program activities and the intended results; and identifies successful and unsuccessful efforts as well as the methods with which the Consultation program will revise strategies to achieve the desired results.

b. **Discussion of Results in Achieving CAPP Performance Goals.** The discussion of results in achieving CAPP performance goals must include the following:

i. For each OSHA or State Plan annual performance goal addressed in the CAPP, the CAPR must contain a summary of results achieved including an evaluation of the strategies and activities used to achieve the goals set in the CAPP. Questions to address may include:

- Did these strategies work and were the activities used to implement them effective?
- What modifications are needed to the strategies and activities to more effectively reach goals?
- Were there situations where external factors affected performance?
- Are there ways to coordinate with others or leverage resources or knowledge to help achieve goals?

ii. Any specific performance measures relating to the Consultation program or performance measures developed



by the CPM must be analyzed in the CAPR. Questions to address may include:

- Did the results exceed expectations, and by how much?
- Did activities and efforts fall short of expectations, and by how much?

iii. Finally, the measures themselves must be evaluated. Did the program evaluate the right things, did they measure things that they had direct control over, and were the data elements essential to measuring the effectiveness of strategic goals, strategies and activities? What measurements were effective in gauging performance and what measurements were simply counts of activities? Did the Consultation program use measurements to evaluate progress and adjust future implementation strategies?

c. Special Accomplishments. These could be results that were far beyond expectations; and successes that were achieved in areas or constituencies that had formerly been considered difficult or unlikely. These could also outline the success of a new methodology or activity that could be implemented in other states.

d. Other Issues or Adjustments. Comment on these issues and describe proposed actions or adjustments:

i. Results relating to any state-specific initiatives, if any.

ii. Areas where annual goals were not met or new issues have emerged.

e. Internal Quality Assurance Program (IQAP). Describe the findings on each element of the IQAP and discuss the status of planned and/or completed measures taken or that will be taken to make needed improvements. See section VIII of this Chapter for the required elements of the IQAP.

B. **Regional Annual Consultation Evaluation Report (RACER).** The RA prepares this report with supporting information provided in the CAPR and other Consultation program reports. The RACER analyzes the results attained by the Consultation program and evaluates its mandated activities performance. Documentation of any findings and recommendations for addressing them, as well as a summary of the reports of quarterly discussions, must be included. For further details regarding preparation of the RACER, the RA can refer to the current year's guidance on the On-Site Consultation Program limited access web page.

1. Due Date. The RA must submit each Consultation program's RACER to DCSP by April 30 of each year.
  2. Contents. The RACER must include the following elements:
    - a. Executive Summary. This section provides a bullet-point summary of the Consultation program's performance and any items on which it must take action for continuous improvement.
    - b. Assessment of the Consultation Program's Annual Performance in Relation to its Consultation Annual Program Plan. This section must include an analysis of the Consultation program's performance as it relates to the projections and goals outlined in its CAPP. The RA's analysis must include an evaluation of the results presented in the Consultation program's CAPR. It must also include documentation of any findings and recommendations for addressing them as well as a summary of the reports of quarterly discussions.
    - c. Assessment of Program's Performance of Mandated Activities. This section evaluates the Consultation program's continued performance of its mandated activities as determined by a review of the MARC data; the program's IQAP; and, if an on-site review was conducted that year, the results of the on-site review.
    - d. Other Issues (Optional). The RA may wish to address or highlight additional issues regarding the Consultation program's performance that were not included in the previous sections of the report.
- V. **Dispute Resolution Process.** The RA and CPM should resolve differences at the lowest organizational level possible. In the event a resolution cannot be reached on an issue relating to program administration or the monitoring and evaluation system in place, either the RA or CPM may seek resolution by the Assistant Secretary for Occupational Safety and Health through established channels.
- VI. **Development, Review, and Monitoring of Consultation Annual Program Plans.** The primary focus of monitoring and evaluation is the CAPP that identifies the strategies and activities to be undertaken by the Consultation program to support the OSHA or State Plan strategic and annual performance plan.
- VII. **Criteria for Acceptable Performance by the Consultation Program.** The following criteria will be used by the RA to determine whether a Consultation program's performance falls within the range of acceptability:
- A. Monitoring must focus on evaluating a Consultation program's performance against its own established performance goals outlined in the CAPP. Individual

Consultation program's performance should not be compared to the performance of other Consultation programs.

- B. In the absence of outcome-level data, the RA and the CPM should jointly review resource information in conjunction with areas likely to provide an impact to determine the effectiveness of the Consultation program.
- C. All Consultation programs are expected to achieve the goals outlined in the CAPP. In certain circumstances, substantial progress toward performance goals may constitute acceptable performance. Where progress has not been to an acceptable degree, either or both the CAPR and RACER must contain an analysis of the factors contributing to the unexpected outcomes and the identification of necessary changes in strategy or program operations.

VIII. **Required Elements of an Internal Quality Assurance Program (IQAP).** Every Consultation program must operate an IQAP to ensure it continues to meet program requirements covered by the assurances in its On-Site Consultation Cooperative Agreement. A comprehensive IQAP must include systems to ensure:

- A. Training and supervising consultants through the use of:
  - 1. On-the-job evaluations;
  - 2. Review of work products;
  - 3. Training requirements established in the current year's On-Site Consultation Cooperative Agreement and mentoring for all new hires;
  - 4. Materials and information in technical links found on the OSHA website; and
  - 5. Consultation Function Competency Statements should be adhered to for training and orientation purposes. See Appendix K.
- B. Communicating (verbally or in writing) to employers:
  - 1. Employers' rights and obligations;
  - 2. The relationship between the OSHA On-Site Consultation Program and enforcement; and
  - 3. Program, state, or other policies and procedures.
- C. Hazards are identified, appropriate hazard correction recommendations are offered to employers, and hazard correction is verified.
- D. Program management that includes:

1. Clearly written and regularly communicated policies and procedures;
2. Use of data and other information to effectively manage the Consultation program;
3. Individual accountability;
4. Maintenance of program uniformity through regular communication, updates, and meetings;
5. Promoting and marketing of consultation services to targeted employers and stakeholders; and
6. Evaluating service delivery using random audits (and other optional evaluative tools, such as surveys, questionnaires, focus groups, or training evaluations) to check for broad, programmatic trends in service delivery.

IX. **Evaluation Reports.** Each year, the RA and the CPM prepare reports documenting the Consultation program's results with respect to its CAPP and its mandated activities. The CPM prepares the CAPR, and the RA prepares the RACER. The results reported in the CAPRs and RACERs are aggregated by the National Office into a summary of Consultation program activities and outcomes, and used for policy and decision making.

X. **Further Analysis.** Issues identified for further analysis in the course of routine monitoring should be examined in terms of their impact on the effectiveness of a Consultation program's operations. In addition to the MARC, customized OIS reports with limited selection criteria may be useful, these include the CNS Coding Summary Report, CNS Statistics Report, CNS Evaluation Report, and the CNS Visit Metrics Report. Other approaches available to the RA or State Designee include:

- A. **Interview.** An interview is a planned discussion to obtain information from specific Consultation program staff, employers, employees, or other persons, apart from personal communication that occurs during an on-site review or as part of day-to-day communication with staff.
- B. **Non-Routine Case File Review.** A non-routine case file review may be conducted to examine the documentation relating to a specific consultation visit. If a case file review is used in conjunction with an interview, it may serve to verify the observed Consultation program activity.
- C. **Other Sources of Information.** Sources of information other than those specified in this Chapter may include, but are not limited to, attendance at training sessions, examination of program documents other than case files, review of equipment or laboratory facilities, and evaluation of sample analyses. The RA and the Consultation program may determine other sources of information that may need to be accessed.

- XI. **Studies Initiated by the Assistant Secretary.** The Assistant Secretary for Occupational Safety and Health may initiate special studies of a Consultation program to review recent activities or the implementation of consultation policies and procedures.

## Appendix A

### Sample Letter to Employers Receiving Low Priority

Dear Employer,

Thank you for requesting an occupational safety and health consultation visit and for your interest in improving workplace safety and health for your employees. Unfortunately, we are unable to provide consultation services to your company at this time. Our policies specifically require us to give first priority to requests from the smallest employers with the most hazardous conditions. However, we will keep your request on file in the event that we are able to provide consultation services to you in the future.

Even though we are unable to provide consultation services to you at this time, you are still responsible for providing a safe and healthful workplace for your employees. Therefore, I would encourage you to seek other sources of safety and health assistance available to employers in your industry (e.g., your insurance carrier).

The Occupational Safety and Health Administration (OSHA) provides several resources to assist employers with achieving compliance. Compliance assistance information is posted on OSHA's website ([www.osha.gov](http://www.osha.gov)) which all employers can quickly access at no charge. A great number of OSHA publications and posters are available for downloading and/or mail order. The text of regulations and standards are readily available, as well as Letters of Interpretation, Fact Sheets, Frequently Asked Questions (FAQs), and Small Entity Compliance Guides.

OSHA also offers many publications that address specific hazards, standards, and industries. One of the most popular publications is the Small Business Handbook, OSHA Publication 2209-02R 2005. Among its many features, the handbook contains an industry-specific checklist to help employers meet the requirements of the *Occupational Safety and Health Act* of 1970.

Thank you for requesting assistance from the [name of Consultation program]. If we can provide any further information, please feel free to contact us.

Sincerely,  
Consultation Program Manager

**Appendix B**

**Sample List of Hazards**

(Preferred Format)

**LIST OF HAZARDS (SERIOUS)**

This List of Hazards must be posted, unedited, in a prominent place where it is readily observable by all affected employees for three (3) working days, or until the hazards are corrected, whichever is later.

**VISIT NUMBER: 515196904**

**VISIT DATE(S): 03/16/2020**

T & R Eye Center  
432 Main Street  
Dallas, TX 75003

This notification of serious hazards and any imminent danger hazard(s) identified during the consultation visit is **not** a citation. The T & R Eye Center is a voluntary participant in the Consultation program and has agreed to correct the hazards on this list within the hazard correction due date(s) specified. The T & R Eye Center has also agreed to make information on other-than-serious hazards as well as corrective actions proposed by the consultant available to employees upon request.

<b>ITEM</b>	0001	<b>STANDARD</b>	1910.0132(d)(01)
<b>INSTANCE</b>	A	<b>CORRECTION DUE DATE:</b>	4/6/2020
<b>DESCRIPTION:</b> The location of the hazard, the description of the hazardous condition, a list of job titles exposed to the hazard, the recommended hazard correction method, and interim protection measures (e.g., any personal protective equipment needed to protect employees from the hazard, use of portable equipment pending repair of faulty equipment).			

<b>ITEM</b>	0002	<b>STANDARD</b>	1910.0151(c)
<b>INSTANCE</b>	A	<b>CORRECTION DUE DATE:</b>	4/6/2020
<b>DESCRIPTION:</b> The eyewash station in the Battery Room is placed correctly; however, only hot water can be accessed which would cause further injury to the eye(s). Maintenance personnel work in the Battery Room. An eliminator valve plumbed into the system would eliminate this problem. A portable eyewash station in the Battery Room is recommended pending repairs.			



## Appendix C

### Annual Rate Calculation Method

#### I. Annual Rate Formula.

Annual rates are calculated by the formula  $N \times 200,000 \div Q$  where:

200,000 = Equivalent of 100 full-time employees working 40 hours per week, 50 weeks per year.

Q = Total number of hours worked by all employees in the year.

N = Total number of recordable injuries and illnesses that occurred during year.

##### A. For the **Total Recordable Case (TRC) rate**:

Use the total number of cases listed on the OSHA Form 300 in columns:

- Column H (Days away from work),
- Column I (Job transfer or restriction), and
- Column J (Other recordable cases).

$$N = H + I + J$$

##### B. For the **Days Away Restricted and Transferred (DART) rate**:

Use the total number of cases listed in the OSHA Form 300 in columns:

- Column H (Days away from work), and
- Column I (Job transfer or restriction).

N = Number of recordable injuries and illnesses that involved days away from work, days of restricted work activity or job transfer during the year.

$$N = H + I$$

#### II. **Rounding Instructions.** You must round the rates to the nearest tenth following traditional mathematical rounding rules. For example, round 5.88 up to 5.9; round 5.82 down to 5.8; round 5.85 up to 5.9.

#### III. **Comparison to National Averages.**

A. Compare the TRC and DART rates to the most recently published Bureau of Labor Statistics (BLS) national average (available online at [www.osha.gov/oshstats/work.html](http://www.osha.gov/oshstats/work.html)) for the North American Industry Classification System (NAICS) code of the employer's.

B. If BLS rates are not available for both the DART and TRC, then use the next smallest NAICS code (i.e., six digit NAICS code to a five digit NAICS code).

- C. If BLS rates are available for either the DART or TRC, then use the BLS data that is available.
- D. To qualify for SHARP, the employer's annual DART and TRC rates must be below the published BLS averages

## Appendix D

### Alternative Rate Calculation Methods

#### I. Rounding Instructions.

You must round the rates to the nearest tenth following traditional mathematical rounding rules. For example, round 5.88 up to 5.9; round 5.82 down to 5.8; round 5.85 up to 5.9.

#### II. General Information.

200,000 = Equivalent of 100 full-time employees working 40 hours per week, 50 weeks per year.

Cases (i.e., injuries and illnesses) listed in the OSHA Form 300 in columns:

- Column H (Days away from work),
- Column I (Job transfer or restriction), and
- Column J (Other recordable cases).

Q = Total number of hours worked by all employees during the year.

#### III. 3 Calendar Years Rate Calculation Method.

To qualify for SHARP the employer's 3-year average DART and TRC rates must be below the most recently published BLS rates for the industry.

##### A. 3-Year Total Recordable Case (TRC) Rate Method:

$$((\text{Year 1 OSHA Log columns H+I+J}) + (\text{Year 2 OSHA Log columns H+I+J}) + (\text{Year 3 OSHA Form 300 columns H+I+J})) \times 200,000 \div (\text{Year 1 Q} + \text{Year 2 Q} + \text{Year 3 Q})$$

##### B. 3-Year Days Away, Restricted, or Transferred (DART) Rate Method:

$$((\text{Year 1 OSHA Log columns H+I}) + (\text{Year 2 OSHA Log columns H+I}) + (\text{Year 3 OSHA 300 Form columns H+I})) \times 200,000 \div (\text{Year 1 Q} + \text{Year 2 Q} + \text{Year 3 Q}).$$

**Example**

Establishment Name: \_\_\_\_\_

Year	Hours Worked by all Employees (Q)	Total # of Cases (H+I+J)	TRC Rate	Total # of Cases (H+I)	DART Rate
2016	186,322	1	1.1	1	1.1
2017	189,496	0	0.0	0	0.0
2018	191,692	2	2.1	1	1.0
<b>Total</b>	567,510	3		2	
<b>Three Year TRC</b> $= (3 \times 200,000) \div 567,510 = 1.057 = 1.1$			<b>Three Year DART</b> $= (2 \times 200,000) \div 567,500 = 0.704 = 0.7$		
<b>Three-Year Rates (2016-2018)</b>			<b>1.1</b>		<b>0.7</b>
<b>Most Recently Published BLS National Average for NAICS 562213 2017 – TRC/DART</b>			1.3		1.3

**IV. Best 3 out of 4 Calendar Years Rate Calculation Method.**

**Example**

Establishment Name: \_\_\_\_\_

Year	Hours	Total # of Cases	TRC Rate	Number of Cases Involving Days Away from Work, Restricted Activity or Job Transfer	DART Rate
2015	51,762	0	0.0	0	0.0
2016	53,071	0	0.0	0	0.0
2017	54,246	0	0.0	0	0.0
2018	51,469	1	<b>3.9</b>	1	<b>3.9</b>
<b>Total</b>	159,079	0		0	
<b>Three-Year Rate (2015-2017)</b>			0.0		0.0
<b>BLS National Average 2017 NAICS (325180)</b>			2.3		1.3

- A. Using the most recent calendar year's hours worked, calculate the hypothetical DART and TRC rates assuming that the employer had **two cases** for the year.

Most Recent Calendar Year	Hours Worked	TRC (Use 2 hypothetical cases)	Hypothetical TRC Rate	DART (Use 2 hypothetical cases)	Hypothetical DART Rate
2018	51,469	2	$2 \times 200,000 / 51,469 = 7.8$	2	$2 \times 200,000 / 51,469 = 7.8$

- B. Compare the hypothetical rate to the 3 most recently published years of BLS combined injury and illness rates for the industry.

3 Most Recently Published Years of BLS Combined Injury and Illness Rates for the Industry (Specify the NAICS Code: 325180)			Hypothetical DART and TRC Calculated in the Above Step
Calendar Year	TRC	DART	7.8
2017	2.3	1.3	
2016	1.1	0.6	
2015	2.0	0.9	

- C. If the hypothetical rate is equal to or higher than the BLS rate for any of the three most recent BLS published rates, the employer qualifies for the best three out of four calendar years calculation method. In this example, the hypothetical DART/TRC rate is 7.8. This is higher than any of the three most recent BLS rates, therefore, the employer qualifies for the best three out four years rate calculation method.
- D. Since the employer qualifies, use the best 3 out of the 4 most current full calendar years of OSHA Form 300 data to calculate the TRC and DART rates (i.e., 2015-2017 data with TRC and DART rates of zero).
- E. To qualify for SHARP, the employer's 3-year average DART and TRC rates must be below the most recently published BLS industry average. This employer will meet the injury/illness rate requirement for SHARP.

## Appendix E

### Interim-Year SHARP Site Self-Evaluation Template

Establishment Name:

Address:

Employer/Representative's Name:

Title/Position:

Date:

- I. **Safety and Health Program Recommendations and Status:** SHARP participants are committed to continue maintaining and improving their Safety and Health Programs. Please explain the systems you are working on to maintain or improve or any recommendations you are acting on, and any actions you have taken to improve your safety and health program in the past year.

A. Program/Recommendations:  
Status:

B. Program/Recommendations:  
Status:

C. Program/Recommendations:  
Status:

D. Program/Recommendations:  
Status:

- II. **Significant Events:** Please discuss below any significant events that have occurred over the past year and the steps that you have taken to ensure that your safety and health program is operating effectively. (Include any fatalities, catastrophes, imminent danger incidents, recordable serious injuries and illnesses, complaints, OSHA enforcement inspections, and the results of all investigations and program changes made.)

A. Event:  
Correction:

B. Event:  
Correction:

- III. **Days Away, Restricted, or Transferred (DART) Rate and Total Recordable Case Rate (TRC) Requirements:**

<b>DART Rate Calculation</b>			
Year	Hours Worked	Sum of Columns H + I*	Rate
Employer's Two-Year or Three-Year Rate: _____			
Bureau of Labor Statistics (BLS) Average for NAICS: _____			
Percent Below the BLS Rate: _____			

\*OSHA Form 300

<b>TRC Rate Calculation</b>			
Year	Hours Worked	Sum of Columns H + I + J*	Rate
Employer's Two-Year or Three-Year Rate: _____			
BLS Average for NAICS: _____			
Percent Below the BLS Rate: _____			

\*OSHA Form 300

- IV. **Other Safety and Health Program Improvements:** Please outline improvements that you have made or activities you have engaged in to improve your safety and health program.

Please provide accurate information. Submit a copy of your establishment's most recent OSHA Forms 300 and 300A as well as injury and illness incident reports with the self-evaluation. You must promptly correct any deficiencies noted by the Consultation program upon review.



## Appendix F

### Occupational Safety and Health Program Action Plan Template

#### NOTES:

1. The first page of this Action Plan (containing the instructions below) will be printed on the Consultation program's letterhead.
2. Consultation programs should review the Safety and Health Program Resource List on the On-Site Consultation Program's limited access web page.
3. Each workplace is different, therefore, an Action Plan must be site specific.
4. F-1 – is the Action Plan Template for Consultation programs to use for SHARP or Pre-SHARP participants. Although the template shows only Goal 1 for all safety and health program elements listed, Consultation programs will expand the template as necessary to include all identified goals (e.g., Goal 1, 2, etc.). Suggested action items for accomplishing a goal should be listed under "recommendations." Consultation programs may also use this template to develop Action Plans for establishments that are not participating in SHARP or Pre-SHARP, to help those employers identify goals for improving workplace safety and health as well as how to achieve them.
5. F-2 – is an optional Action Plan tool that employers may use to execute the action items for achieving goals at their establishments and/or send status updates to the Consultation program.

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#### Instructions

##### **Pre-SHARP Participation Requirements**

This Action Plan outlines the necessary action items and time frames for completing them, in order for your company to achieve the safety and health goals and objectives for addressing deficiencies in your Safety and Health Program and attain the Safety and Health Achievement Recognition Program (SHARP) status. All portions of this Action Plan must be completed by the conclusion of the deferral period granted by the Regional Administrator or State Designee.

Based on your present Total Recordable Case (TRC) and Days Away, Restricted, or Transferred (DART) rates, as well as the mutually agreed upon goals and timeframes for achieving them, you must submit progress reports describing your activities and the completion of your goals in the Action Plan on \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ to the Consultation Program Manager (CPM), and meet all requirements for Pre-SHARP participation, to continue in the programmed inspection deferral status.

If you are not able to accomplish a goal in the determined timeframe, you must contact the CPM to request an extension of the timeframe for achieving that specific goal. Please note that your Deferral Period is not to exceed a total of 18 months, including extensions, from the last hazard correction due date. Do not hesitate to contact the Consultation program for technical assistance.

##### **SHARP Participation Requirements**

This Action Plan outlines measures for achieving your organization's safety and health goals and objectives for continuous workplace safety and health improvement. You are responsible for diligently implementing, reviewing, and updating the Action Plan. Changes to the Action Plan must be coordinated with the Consultation program. Do not hesitate to contact the Consultation program for technical assistance.

**F-1: Action Plan Template for SHARP or Pre-SHARP Participation**

Establishment Name:

Consultation Visit Number:

Last Hazard Correction Due Date:

Establishment Address:

Consultation Visit Date(s):

**Safety and Health Program Goals**

Management Leadership:

Goal 1:

Recommendations:

To be completed by:

Employee Participation:

Goal 1:

Recommendations:

To be completed by:

Hazard Identification and Assessment:

Goal 1:

Recommendations:

To be completed by:

Hazard Prevention and Control:

Goal 1:

Recommendations:

To be completed by:

Safety and Health Education and Training:

Goal 1:

Recommendations:

To be completed by:

Safety and Health Program Evaluation and Improvement:

Goal 1:

Recommendations:

To be completed by:

**Total Recordable Case (TRC) and Days Away, Restricted, or Transferred (DART) Goals**

	TRC Rate	DART Rate
<b>Current Employer's Incident Rate Data</b>		
<b>Bureau of Labor Statistics (BLS) Average Rates for the North American Industry Classification System (NAICS) Code: _____</b>		
<b>Percentage Above the BLS Rates for the NAICS Code</b>		
<b>Incident Rate Reduction Goals</b>		

## F-2: Optional Safety and Health Program Action Plan Tool for Implementation at Workplaces

### Action Plan

Establishment Name:

Address:

Visit Date(s):

Last Hazard Correction Due Date:

Goals (your overall aim)	Objectives (specific achievements to reach a goal)	Action Items (the tasks that you need to do to meet your objectives)	Employees Assigned Tasks	Projected Completion Dates	Actual Completion Dates	Resources Needed to Accomplish Goals	Status Updates
<b>EXAMPLE ONLY</b>  1. Establish mechanisms to find and fix hazards.	a. Conduct routine inspections.  b. Conduct routine maintenance.  c. Promptly conduct repairs.  d. Assess changes/new operations before implementing them.	a. Develop a list of potential hazards and requirements for inspections and maintenance.  b. Create inspection and maintenance checklists.  c. Develop and establish routine inspection and maintenance schedules.  d. Establish procedures for requesting and completing repairs and assessing changes/new operations.  e. Supervisors and managers review and implement.  Note: Use available resources (e.g., experienced and trained employees, industry guidelines, manufacturer's recommendations, OSHA, NIOSH tools)	a. [insert name or title of assigned employee]  b. [insert name or title of assigned employee]  c. [insert name or title of assigned employee]  d. [insert name or title of assigned employee]  e. [inset name or title of assigned employee]	a. [insert date]  b. [insert date]  c. [insert date]  d. [insert date]  e. [insert date]	a. [insert date]  b. [insert date]  c. [insert date]  d. [insert date]  e. [insert date]	1. Allocate time to complete assigned tasks.  2. Budget funds to conduct necessary repairs and routine maintenance.	a. In-progress/on-track for timely completion.  b. In-progress/on-track for timely completion.  c. Completed.  d. Completed.  e. Pending completion of Action Items a and b; followed by senior management's review and approval.
2.							

### Estimated Costs of Injuries and Illnesses and Impact on Profitability ([Use OSHA Safety Pays tool](#)).

Direct Costs: \_\_\_\_\_ Indirect Costs: \_\_\_\_\_ Total Costs: \_\_\_\_\_ Sales to Cover Indirect Costs: \_\_\_\_\_

Sales to Cover Total Costs: \_\_\_\_\_

*Improving workplace safety and health will eventually result in cost savings for your business.*

## Appendix G

### Mandated Activities Report for Consultation (MARC)

Mandated Activities Report for Consultation	
Measure	Standard
1. Percent of initial consultation visits conducted in high-hazard establishments.	Not less than 90%
2. Percent of initial consultation visits to small businesses.	Not less than 90%
3. Percent of initial, follow-up, and training and education consultation visits during which the consultant conferred with employees.	100%
4A. Percent of serious hazards corrected in a timely manner (i.e., within 14 days of the latest correction due date).	100%
4B. Percent of serious hazards NOT corrected in a timely manner (i.e., greater than 14 days after the latest correction due date).	0%
4C. Percent of serious hazards referred to enforcement.	--
4D. Percent of serious hazards verified corrected within the original timeframe or on-site.	65%
5. Number of uncorrected serious hazards with correction date greater than 90 days past due.	0%

## Appendix H

### Consultation Visit Case File Organization

- I. **Introduction.** Case files must be maintained in a defined, uniform format, whether in a format acceptable to the Regional Administrator (RA), or in accordance with the requirements outlined in this appendix. This appendix provides a description of the filing structure for a case file. A Consultation program may organize its case files differently as long as all the required contents of a case file listed in this appendix are included in a consistent and organized manner. Consultation programs may maintain case files using printed and/or electronic medium. Consultation programs are responsible for providing printed copies of these records upon request by the Occupational Safety and Health Administration (OSHA). Consultation program are also responsible for meeting the National Archives and Records Administration's (NARA) electronic recordkeeping requirements (see Section VIII of this appendix)
- II. **Consultation Visit Case File Definition.** A consultation visit's case file must comprise of all the essential documents relating to a single consultation visit to an establishment. Separate initial consultation visits to the same establishment should be filed in separate consultation visit case files. However, actions which form an essential part or continuation of the original consultation visit, such as follow-up and training and education consultation visits, must be filed in the original case file. Simultaneous health and safety consultation visits to the same establishment must be filed separately if they constitute complete and separate consultation visits. Materials, such as videotapes or audiotapes, filed separately from the case file, and other documentary materials maintained in electronic medium, are considered integral parts of the case file.
- III. **External Consultation Visit Case File Structure.**
  - A. **Organized Filing.** Use a systematic organized filing system, for example, an alphabetic filing system.
  - B. **Label Preparation.** The case file should have a label with at least the legal name of the business.
- IV. **Internal Consultation Visit Case File Structure.**
  - A. **Electronic Documents.** If electronic files are maintained, either in addition to, or instead of paper files, the electronic documents relating to one case file must be maintained together as a unit.
  - B. **Forms and Notes.** All official forms and notes constituting the basic documentation of a consultation visit must be part of the case file. These materials should be attached to the RIGHT side of the case file folder in the order noted in paragraph V.A of this appendix. All official forms and notes relating to follow-up consultation visits should be maintained in the same order, but should be placed on top of the forms and notes relating to the original consultation visit.

- C. **Correspondence.** All correspondence relating to the consultation visit should be attached to the LEFT side of the folder in reverse chronological order; that is, with the most recent correspondence on top. See paragraph V.B of this appendix for examples of a correspondence. Forms and notes related to training and education consultation visits should be maintained on the left side on top of the correspondence(s) for the initial consultation visit.
- D. **Mail Receipts.** Mail or electronic mail receipts should be attached to the documents to which they relate (e.g., Written Report to the Employer). If a mail receipt cannot be placed behind the related document, place the receipt on a blank sheet of paper and staple the paper to the applicable document.
- E. **Miscellany.** Miscellaneous consultation visit case file documents that cannot clearly be categorized as described in paragraph IV.B or IV.C above should be filed as correspondence on the LEFT side of the folder. If the documents are too voluminous to fit easily into the consultation visit case file folder, file them in a separate location, but note the location in the consultation visit's case file diary sheet.

If a case file has been started for an establishment, safety manuals and other similar materials should be placed in the folder, and a cross-reference note placed in the consultation visit's case file diary sheet. These materials could include a list of competent persons, a list of employees trained or any additional information related to occupational safety and/or health matters for the establishment.

#### V. **Filing Arrangement – Consultation Visit Case File Contents.**

- A. **Forms and Related Documentation.** The following is a list of the documents that appear on the RIGHT side of the case file. File amendments and any official notes with the forms to which they relate. File these forms in this order, FROM TOP TO BOTTOM:
  - 1. Written Report to the Employer
    - a. Cover letter
    - b. Executive summary
    - c. Employer obligations and rights
    - d. List of Hazards Identified
    - e. Employer Report of Hazard Correction Action(s) Taken
    - f. Safety and Health Program Evaluation
    - g. Training Provided by the Consultant
    - h. Sampling Report (if applicable)

2. OSHA Information System (OIS) Hazard Summary Form
3. Consultation Visit Form
4. Employer's Request Form
5. OSHA Form 300 or data obtained to support injury and illness rates
6. In this section include any sampling forms and photos such as:
  - a. OSHA 91A Air Sampling Worksheet;
  - b. OSHA 91B Air Sampling Report;
  - c. OSHA 93 Direct Reading Report;
  - d. OSHA 98 Screening Report;
  - e. OSHA 92 Noise Survey Report;
  - f. OSHA 99 Octave Band Analysis and Impact Noise; and
7. Photo Mounting Worksheets to support the hazards identified.
8. Technical Information. This includes occupational safety and health information obtained from the establishment such as the employer's safety and health reports, safety data sheets, and record of safety and health related training.
9. OSHA Establishment Compliance Record. The establishment's enforcement inspection history may be obtained from the OSHA Establishment Search on osha.gov or the State Plan equivalent source of information.
10. Field Notes.
11. Other Materials (deemed relevant by the consultant).
12. Videotapes and Audiotapes. These are videotapes and audiotapes related to specific consultation visits. Videotapes and audiotapes are recorded materials and are an integral part of the consultation visit's case file.

**B. Correspondence and Miscellaneous Documents.**

1. Method of Filing Correspondence and Miscellaneous Documents. These materials should be FILED IN REVERSE CHRONOLOGICAL ORDER (i.e., with the most recent correspondence and other information on top). The diary sheet is an exception to the reverse chronological order rule.



DO NOT file these materials in the order in which they are listed below in subparagraph V.B.2.

2. The following is a list of the types of correspondence and miscellaneous case documentation which should appear on the LEFT side of the case file:
  - a. Diary Sheet. This sheet is placed on the top of the material on the left side of the folder. The diary sheet may be used to note important telephone and face-to-face conversations, the date of important actions such as the opening conference date, the date the report was sent to employer, and any other activities deemed important enough to note in the summary of contacts. The diary sheet may also be used to document the receipt date of important correspondence such as verification of hazard correction and extensions to hazard correction due dates.
  - b. Hazard Correction Information.
  - c. Letter of verification of hazard correction.
  - d. Supporting documentation for the verification of hazard correction (e.g. pictures, purchase orders, receipt of purchase).
  - e. Letter to the employer about hazard correction due dates that are past due.
  - f. Progress report for hazard correction.
  - g. Documents for extending hazard correction due dates.
  - h. Letter referring the employer to OSHA or State Plan enforcement because of hazards overdue for correction.
  - i. Informal Documentation. This includes memoranda of conversations and documents recording telephone calls, meetings, and emails.

**VI. Numbering System.**

- A. DO NOT organize the case file documents into appendices. Divider tabs may be used to permit easy reference.
- B. DO NOT number the pages of the case file as a unit.

**VII. Subdividing Consultation Visit Case Files.** Elements of a consultation visit's case file such as extensive field notes and hazard correction information may be identified for easy

reference using dividers with index tabs. This will allow consultants and others to quickly and easily find frequently referenced paperwork.

- VIII. **Substitution of Paper Records.** Electronic media such as videotapes and audiotapes containing consultation visit records, may be used as substitutes for paper records in the case file. Any of these materials may be filed separately and maintained in an electronic medium. Records stored in an electronic medium must be maintained as a unit in an electronic document management system, and clearly identified as part of a specific case file. This is in lieu of printing and filing them in the case file. The electronic filing system must meet all NARA requirements for an electronic recordkeeping system.
- IX. **Case File Disposition.** For current case file disposition instructions, see the On-Site Consultation Program's limited access web page.

## Appendix I

### Checklist for On-Site Review of Consultation Programs

Operational Review of the Consultation Program	✓   ✗	Comments
Progress in meeting annual training plans		
On-the-job evaluations for consultants		
Lapse time from request to delivery of service		
Management reports (i.e., written reports pending, pending hazard corrections, number of employer requests, and consultation visits pending)		
Hiring and vacancies		
Program expenditures and budgetary issues		
Monitoring of consultants' performance		
Promotion of the Consultation program's achievement recognition program (i.e., Safety and Health Achievement Recognition Program (SHARP))		
Marketing initiatives		
The Consultation program's Internal Quality Assurance Program (IQAP)		
Consistent use of the Safety and Health Program Assessment Worksheet, OSHA Form 33, by all consultants		
Pertinent changes in the organization of the Consultation program		
Performance issues carried over from the previous review		
Items requiring action to correct deficiencies		
<b>Criteria Applying to All Case Files</b>		
Requirement	✓   ✗	Comments
Are all field notes, observations, analyses, and other written documentation gathered prior to and during the hazard assessment included in the case file (e.g., hazard documentation, OSHA Form 300, OSHA or State Plan mandated programs, safety and health programs, site layouts)?		
Does the case file contain an evaluation of the employer's safety and health program using the Safety and Health Program Assessment Worksheet, OSHA Form 33, when applicable?		
Does the Form 33 contain evidence (i.e., findings) adequate to support the recommendations and scores assigned each attribute?		
If the purpose of the consultation visit was to do a formal training: Was there evidence in the case file that within the 12 months preceding the date of the employers request for training – a hazard assessment was performed by the Consultation program or private sector safety or health consultant; or an OSHA or State Plan enforcement inspection occurred?		

<p>If the employer was granted an extension of the original hazard correction due date:</p> <ul style="list-style-type: none"><li>- Was the request by the employer in writing?</li><li>- Did the request include all the steps taken by the employer to correct the hazard and the dates of such actions?</li><li>- Did the request include the date that hazard correction will be completed?</li><li>- Did the request state the specific reason(s) why the hazard has not been corrected?</li><li>- Did the request describe the interim protection measures implemented by the employer to prevent employees from being exposed to the hazard?</li></ul>		
<p>Does the Written Report to the Employer contain:</p> <ul style="list-style-type: none"><li>- Summary of employer's request?</li><li>- Employer's obligation and rights?</li><li>- Scope of services provided?</li><li>- Name of the consultant(s) that conducted the consultation visit?</li><li>- Items of importance discussed during the opening conference?</li><li>- Description of the workplace and the working conditions?</li><li>- Comparison of the establishment's Total Recordable Case rate (TRC) and Days Away, Restricted, or Transferred (DART) rates to the most recently published Bureau of Labor Statistics' (BLS) national average for that industry?</li><li>- The List of Hazards Identified?<ul style="list-style-type: none"><li>• Consistent and proper classification of identified hazards, particularly serious or imminent danger hazards, including the applicable standards and a statement about the interim protection measures recommended at the closing conference?</li><li>• Appropriate recommendations for hazard correction (e.g., control, eliminate)?</li><li>• Standard Element Paragraphs (STEPS) modified to meet the specific conditions at the establishment?</li></ul></li><li>- Safety and Health Program Evaluation (as applicable)?<ul style="list-style-type: none"><li>• Discussion of the employer's safety and health program?</li></ul></li></ul>		

<ul style="list-style-type: none"><li>• Discussion of how the hazards identified relate to deficiencies in the employer's safety and health program and appropriate site-specific recommendations?</li></ul> <p>- Appropriate summary of any training provided during the initial consultation visit, including the number of employees involved and the topics covered?</p> <p>- Required sampling data information when applicable (as appropriate)?</p> <p>- Items of importance discussed during the closing conference?</p>		
Were there any delays from the date the employer requested for consultation services to the date the consultation visit occurred?		
Was the Written Report to the Employer issued more than 20 federal working days after the closing conference?		

Did the OSHA Information System (OIS) Visit Activity include the number of employees interviewed?		
Were all serious hazards corrected and the documentation of hazard correction measures implemented included in case file?		
<b>Additional Criteria Applying Only to Health Consultation Visit Case Files:</b>		
H1. Were the appropriate sampling techniques and practices used and documented in the case file?		
H2. Were the appropriate number of industrial hygiene samples taken relative to the nature of the suspected hazard and the number of employees involved?		
H3. Were the appropriate sampling instruments used for the job?		
H4. Was there evidence of proper sampling instrument calibration either on the OIS forms or a separate calibration log?		
H5. Were the necessary sampling data recorded on sampling sheets and field notes?		
<b>Additional Criteria Applying Only to SHARP Case Files (This pertains only to cases in which achievement recognition status has been granted)</b>		
S1. Is there documentation that the employer met all eligibility requirements?		
S2. Was a full-service hazard assessment, addressing both safety and health hazards, conducted?		
S3. Is there verification (written or observed on-site) that ALL hazards identified during the hazard assessment were corrected?		
S4. Is there adequate evidence that the attributes listed on Form 33 were implemented at the "2" level or above?		
S5. Are the employer's TRC and DART rates below the most recently published BLS national average for that industry or is there documentation of an alternative calculation method properly applied?		
S6. If an incentive program was in place, is there evidence (e.g., documentation, interviews) that it emphasizes positive employee engagement in safety and health activities?		

## Appendix J

### Safety and Health Program Assessment Worksheet (OSHA Form 33)

<b>Request Number</b>		<b>Visit Number</b>		<b>Visit Date</b>	
<b>Employer</b>					
<b>Site Location</b>					
<b>Legend:</b> 0 = No; 1 = No, Needs major improvement; 2 = Yes, Needs minor improvement; 3 = Yes; NA = Not Applicable; NE = Not Evaluated * = Stretch Items Attribute of Excellence					

Synthesis Item Score						
	0	1	2	3		
With the total knowledge you now have of this organization (whether or not such knowledge has been captured by attribute ratings), use your professional judgment to assign an overall score for the organization's safety and health system.						
Hazard Anticipation and Detection						
	0	1	2	3	NA	NE
1. A comprehensive, baseline hazard survey has been conducted within the past five (5) years.						
<b>Comments:</b>						
2. Effective safety and health self-inspections are performed regularly.						
<b>Comments:</b>						
3. Effective surveillance of established hazard controls is conducted.						
<b>Comments:</b>						
4. An effective hazard reporting system exists.						
<b>Comments:</b>						
5. Change analysis is performed whenever a change in facilities, equipment, materials, or processes occurs.						
<b>Comments:</b>						
6. Accidents are investigated for root causes.						
<b>Comments:</b>						
7. Material Safety Data Sheets are used to reveal potential hazards associated with chemical products in the workplace.						
<b>Comments:</b>						
8. Effective job hazard analysis is performed.						



<b>Comments:</b>						
9. Expert hazard analysis is performed.						
<b>Comments:</b>						
10. *Incidents are investigated for root causes.						
<b>Comments:</b>						
<b>Hazard Prevention and Control</b>						
	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>NA</b>	<b>NE</b>
11. Feasible engineering controls are in place.						
<b>Comments:</b>						
12. Effective safety and health rules and work practices are in place.						
<b>Comments:</b>						
13. Applicable OSHA-mandated programs are effectively in place.						
<b>Comments:</b>						
14. Personal protective equipment is effectively used.						
<b>Comments:</b>						
15. Housekeeping is properly maintained.						
<b>Comments:</b>						
16. The organization is properly prepared for emergency situations.						
<b>Comments:</b>						
17. The organization has an effective plan for providing competent emergency medical care to employees and others present at the site.						
<b>Comments:</b>						
18. *Effective preventive maintenance is performed.						
<b>Comments:</b>						
19. An effective procedure for tracking hazard correction is in place.						
<b>Comments:</b>						
<b>Planning and Evaluation</b>						
	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>NA</b>	<b>NE</b>
20. Workplace injury/illness data are effectively analyzed.						
<b>Comments:</b>						
21. Hazard incidence data are effectively analyzed.						
<b>Comments:</b>						
22. A safety and health goal and supporting objectives exist.						
<b>Comments:</b>						
23. An action plan designed to accomplish the organizations safety and						

health objectives is in place.						
<b>Comments:</b>						
24. A review of in-place OSHA-mandated programs is conducted at least annually.						
<b>Comments:</b>						
25. *A review of the overall safety and health management system is conducted at least annually.						
<b>Comments:</b>						
<b>Administration and Supervision</b>						
	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>NA</b>	<b>NE</b>
26. Safety and health program tasks are each specifically assigned to a person or position for performance or coordination.						
<b>Comments:</b>						
27. Each assignment of safety and health responsibility is clearly communicated.						
<b>Comments:</b>						
28. *An accountability mechanism is included with each assignment of safety and health responsibility.						
<b>Comments:</b>						
29. Individuals with assigned safety and health responsibilities have the necessary knowledge, skills, and timely information to perform their duties.						
<b>Comments:</b>						
30. Individuals with assigned safety and health responsibilities have the authority to perform their duties.						
<b>Comments:</b>						
31. Individuals with assigned safety and health responsibilities have the resources to perform their duties.						
<b>Comments:</b>						
32. Organizational policies promote the performance of safety and health responsibilities.						
<b>Comments:</b>						
33. Organizational policies result in correction of non-performance of safety and health responsibilities.						
<b>Comments:</b>						
<b>Safety and Health Training</b>						
	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>NA</b>	<b>NE</b>
34. Employees receive appropriate safety and health training.						
<b>Comments:</b>						

35. New employee orientation includes applicable safety and health information.						
<b>Comments:</b>						
36. Supervisors receive appropriate safety and health training.						
<b>Comments:</b>						
37. *Supervisors receive training that covers the supervisory aspects of their safety and health responsibilities.						
<b>Comments:</b>						
38. Safety and health training is provided to managers.						
<b>Comments:</b>						
39. *Relevant safety and health aspects are integrated into management training.						
<b>Comments:</b>						
<b>Management Leadership</b>						
	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>NA</b>	<b>NE</b>
40. Top management policy establishes clear priority for safety and health.						
<b>Comments:</b>						
41. Top management considers safety and health to be a line rather than a staff function.						
<b>Comments:</b>						
42. *Top management provides competent safety and health staff support to line managers and supervisors.						
<b>Comments:</b>						
43. Managers personally follow safety and health rules.						
<b>Comments:</b>						
44. Managers delegate the authority necessary for personnel to carry out their assigned safety and health responsibilities effectively.						
<b>Comments:</b>						
45. Managers allocate the resources needed to properly support the organizations safety and health system.						
<b>Comments:</b>						
46. Managers assure that appropriate safety and health training is provided.						
<b>Comments:</b>						
47. Managers support fair and effective policies that promote safety and health performance.						
<b>Comments:</b>						
48. Top management is involved in the planning and evaluation of safety						

and health performance.						
<b>Comments:</b>						

49. Top management values employee involvement and participation in safety and health issues.						
<b>Comments:</b>						
<b>Employee Participation</b>						
	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>NA</b>	<b>NE</b>
50. There is an effective process to involve employees in safety and health issues.						
<b>Comments:</b>						
51. Employees are involved in organizational decision making in regard to safety and health policy.						
<b>Comments:</b>						
52. Employees are involved in organizational decision making regarding the allocation of safety and health resources.						
<b>Comments:</b>						
53. Employees are involved in organizational decision making regarding safety and health training.						
<b>Comments:</b>						
54. Employees participate in hazard detection activities.						
<b>Comments:</b>						
55. Employees participate in hazard prevention and control activities.						
<b>Comments:</b>						
56. *Employees participate in the safety and health training of co-workers.						
<b>Comments:</b>						
57. Employees participate in safety and health planning activities.						
<b>Comments:</b>						
58. Employees participate in the evaluation of safety and health performance.						
<b>Comments:</b>						
This copy of the Revised Form 33 is intended for example purposes only and not for program use. To view the current Revised Form 33 and OMB Number/Expiration Date, please go to <a href="http://www.osha.gov">www.osha.gov</a> or the OSHA Information System (OIS).						

## Appendix K

### Consultant Function – Competency Statements and Consultant Qualifications

All consultants are employees of the state and are qualified under state requirements for employment in the field of occupational safety and health. Consultants must demonstrate adequate education and experience to satisfy the Regional Administrator (RA) before being assigned to work under a 21(d) Cooperative Agreement, and annually thereafter. Consultants must demonstrate that they meet the requirements in 29 CFR 1908.8(b)(2), and that they have the ability to perform satisfactorily pursuant to the 21(d) Cooperative Agreement. Accordingly, RAs shall evaluate the education and experience of prospective hires for consultant positions *prior* to assigning work under the 21(d) Cooperative Agreement. Consultation programs and RAs will use the competency statements below to evaluate the qualifications and competencies of consultants and prospective consultants.

#### **#1 Recognition and Evaluation of Occupational Hazards**

**Possesses the knowledge, skills, and abilities to adequately recognize and evaluate workplace safety and health hazards.**

- ▶ **Possesses fundamental technical, legal, and procedural knowledge.**
  - ✓ Demonstrates proficiency in the fundamentals of occupational safety and health.
  - ✓ Applies substantive knowledge of technical areas (e.g., electricity, machine guarding, hazardous materials, industrial toxicology, ergonomics, ventilation, fall protection, noise, respiratory protection).
  - ✓ Demonstrates proficiency in the anticipation, recognition, evaluation, control, and management of occupational health hazards including chemical, physical, biological and ergonomic stressors.
  - ✓ Possesses a basic knowledge of the Occupational Safety and Health Administration (OSHA), its mission, and the relationship between OSHA and Consultation programs funded under Section 21(d) of the OSH Act.
  - ✓ Understands and applies the relationship with enforcement requirements found in the OSHA Field Operations Manual (FOM) or State Plan equivalent.
  - ✓ Recognizes hazards and violations of regulations, and standards (e.g., 29 CFR 1910, 29 CFR 1926); documents hazards, regulatory violations, and hazard correction measures in accordance with OSHA or State Plan and On-Site Consultation Program's policies and procedures.
  - ✓ Has knowledge of agencies and organizations, other than OSHA or the State Plan that can be of assistance to the employer.
- ▶ **Plans and prepares for consultation visits.**
  - ✓ Researches establishment history, industry processes and associated hazards, hazard correction options, industrial hygiene sampling methods, and best practices.
  - ✓ Reviews establishment inspection history, prior consultation visits, and verifies the Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) codes.
  - ✓ Inquires about safety and health hazards that may be present in a workplace.

- ✓ Charges, calibrates, and tests equipment and instruments following appropriate procedures to ensure that they are in proper working condition for consultation visits.

► **Conducts on-site consultation visits.**

- ✓ Conducts opening and closing conferences in a manner consistent with the Consultation Policies and Procedures Manual (CPPM).
- ✓ Models appropriate safe behavior and work practices established at the workplace.
- ✓ Recognizes when personal protective equipment (PPE) is necessary, and knows how to properly maintain and correctly don and doff the appropriate PPE.
- ✓ Describes the hazard recognition and evaluation process to the employer.
- ✓ Comprehends workflow.
- ✓ Conducts walk around inspections of workplaces; reviewing safety and health programs and applicable OSHA or State Plan mandated programs (e.g., Hearing Conservation Program); and inspecting machine and equipment operations, environmental conditions, work practices and processes, protective devices and equipment, and safety and/or health procedures.
- ✓ Demonstrates the ability to effectively interview management, supervisors, employee representatives, and employees to acquire a wide range of information, such as specific details on hazardous operations or processes, information on working conditions, and information used to evaluate the total workplace environment.
- ✓ Evaluates current work practices and written procedures, such as lockout/tagout programs and hazard communication programs.
- ✓ Identifies, documents, and classifies hazards (serious, other-than-serious, imminent danger).
- ✓ Records field notes adequately.
- ✓ Uses instrumentation to measure safety hazards and/or health stressors.
- ✓ Conducts industrial hygiene sampling/monitoring using standard sampling and calibration methods outlined in the OSHA Technical Manual, OSHA Directives, Wisconsin Occupational Health Laboratory (WOHL) sampling guide, guides from State Plan laboratories, manufacturer's recommendations, or other standard calibration procedures and practices.
  - ◆ Identifies jobs or locations to sample.
  - ◆ Develops a sampling plan.
  - ◆ Obtains proper sampling media and equipment.
  - ◆ Collects and handles samples with technical accuracy.
  - ◆ Records appropriate monitoring conditions.

► **Analyzes information related to health hazard assessments.**

- ✓ Understands the assessment of instrument readings relative to safe/unsafe conditions, permissible exposure limits (PELs), and recommended exposure limits (RELs).
- ✓ Reviews and correctly interprets laboratory results to determine if employee exposures exceed PELs or RELs.
- ✓ Conducts appropriate statistical tests (i.e., sampling and analytical error).
- ✓ Interprets all employee exposure monitoring and related data accurately, in accordance with accepted safety and industrial hygiene practices.

**#2 Evaluate Safety and Health Programs**

**Possesses the knowledge, skills, and abilities needed to evaluate an employer's current safety and health program and communicate appropriate recommendations to improve the overall effectiveness.**

- ▶ **Possesses an understanding of safety and health programs, including management commitment, employee involvement, worksite analysis, hazard prevention and controls, safety and health training.**
  - ✓ Applies the OSHA Recommended Practices for Safety and Health Programs proficiently.
  - ✓ Applies the Safety and Health Program Assessment Worksheet (Form 33) proficiently.
- ▶ **Communicates the method of assessing a safety and health program and the benefits to management and employees.**
- ▶ **Evaluates establishments' injury and illness data and hazard analyses history.**
  - ✓ Reviews available injury and illness data or logs (OSHA Form 300 and 301) and hazard identification records.
  - ✓ Calculates Days Away, Restricted or Transferred (DART) rate, and Total Recordable Case Rate (TRC) rate; and compares these with the most recently published Bureau of Labor Statistics' (BLS) national averages for the establishment's industry.
  - ✓ Identifies injury, illness, and hazard incidence trends in safety and health documents reviewed, such as, OSHA Forms 300 and 301, reports of unsafe conditions, incident investigations, near misses.
  - ✓ Conducts injury, illness, and hazard root cause analyses.
- ▶ **Evaluates other available performance measure records and information, such as loss data, absenteeism, turnover, quality assurance program, and employee/management interview findings.**
- ▶ **Reviews and evaluates safety and health program activities.**
  - ✓ Gathers sufficient written, verbal, and visual information/data for the establishment to correctly score (or rate) performance for each Form 33 attribute assessed.
  - ✓ Completes Form 33 for the establishment to capture findings and recommendations for each attribute assessed within the elements of a safety and health program (i.e., hazard anticipation and detection; hazard prevention and control; planning and evaluation; administration and supervision; safety and health training; management leadership; and employee participation).
- ▶ **Recognizes and demonstrates the correlation between hazard, injury, and illness history and safety and health program deficiencies.**
- ▶ **Communicates the safety and health program evaluation findings and recommendations to management and employees in a closing conference.**
  - ✓ Discusses with the employer, the suitability of the establishment to participate in SHARP or Pre-SHARP and the participation requirements (when applicable).
- ▶ **Prepares a report of findings and recommendations.**

- ✓ Details findings and recommendations for developing or improving safety and health program attributes as specified in the CPPM.
- ✓ Provides or refers employers to helpful occupational safety and health resources.

### **#3 Provide Occupational Safety and Health Training**

**Possesses the knowledge, skills and abilities to provide effective formal and informal occupational safety and health training to employers and employees, either on-site or off-site.**

- ▶ **Designs training programs by conducting research, needs assessment, and developing presentation materials appropriate for the intended audience.**
  - ✓ Develops clear and measurable training objectives.
  - ✓ Applies instructional design strategies to appropriate audiences.
    - ◆ Adult learning principles
    - ◆ Multi-cultural education principles
  - ✓ Ensures that training and resource materials reflect current literature and industry trends.
- ▶ **Develops training presentations.**
  - ✓ Determines the appropriate technology (e.g., PowerPoint) and format (e.g., lecture, workshops) for training delivery.
  - ✓ Develops appropriate training handouts, job aids, and reference materials.
- ▶ **Delivers effective training on-site and off-site.**
  - ✓ Networks within OSHA and other groups (e.g., Small Business Development Centers) to provide and market comprehensive safety and health training.
  - ✓ Identifies the need for informal training and makes use of opportunities to provide informal training to employers and employees during a consultation visit, including during the walk around.
  - ✓ Identifies opportunities for formal training, and provides formal training based on the findings of the walk around, when necessary.
  - ✓ Conducts training evaluations to receive feedback from the audience.
- ▶ **Encourages employers to develop and train employees in safety and health areas.**
  - ✓ Provides information on other possible training sources such as OSHA Training Institute Education Centers.

### **#4 Manage Consultation Program Processes and Reports**

**Possesses the knowledge, skills, and abilities to present information collected in the field in the Written Report to the Employer, ensuring that appropriate technical information and policies are incorporated, and that key information is transmitted to the OSHA Information System (OIS).**

- ▶ **Demonstrates the ability to manage work processes effectively.**
  - ✓ Prioritizes assignments appropriately.



- ✓ Collects records in a timely manner and schedules consultation visits in accordance with the Consultation program's procedures.
  - ✓ Manages case file load efficiently and ensures timely submission of reports.
  - ✓ Manages correspondences in a timely manner. These include employers' hazard correction responses, extension requests for hazard correction due dates, and requests for information.
  - ✓ Proficiently and accurately performs data entry requirements for OIS.
- **Organizes and documents information for the Written Report and case file.**
- ✓ Utilizes computer technology for research, consultation visit data collection, and report preparation effectively.
  - ✓ Organizes and consolidates documentation pertinent to case files in a logical or required format.
  - ✓ Prepares the Written Report to the Employer in a professional manner, covering all the required elements in accordance with current policy.
  - ✓ Recommends and documents interim protection measures.
  - ✓ Ensures that all hazards identified are included in the List of Hazards, with an accurate and complete description of the hazards, their location(s), sketches, and photographs (if available).
  - ✓ Provides recommendations for correcting hazards related to chemical overexposures (e.g., engineering controls).
  - ✓ Provides an explanation of industrial hygiene sampling results with comparisons to OSHA PELs and RELs (as required by the CPPM), which is technically correct and easily understood by employers.
- **Applies Consultation Policies and Procedures.**
- ✓ Ensures that all policies are followed in accordance with 29 CFR 1908, On-Site Consultation Cooperative Agreements, the CPPM, and other applicable policy documents.

#### **#5 Provide Hazard Prevention and Correction Assistance**

**Possesses the knowledge, skills, and abilities to effectively provide assistance with hazard prevention and correction (i.e., control, eliminate) to employers.**

- **Provides assistance with developing hazard prevention and correction measures (i.e., control, eliminate).**
- ✓ Ensures that hazard prevention and correction measures are assessed, and the selection is consistent with the OSHA hierarchy of controls.
  - ✓ Applies knowledge of manufacturing and construction processes, materials, tools, equipment, and procedures to assist employers with developing hazard prevention and correction measures (engineering, administrative/work practice, and PPE).
  - ✓ Assists employers with developing and implementing hazard prevention and correction measures (e.g., engineering, administrative/work practice controls and identifying appropriate PPE).
  - ✓ Provides solutions or recommendations for interim protection measures.
  - ✓ Assists employers with developing Action Plans for improving their safety and health programs (when necessary).

- ✓ Coordinates and seeks assistance with identifying hazard prevention and correction measures when additional expertise is necessary.
- ▶ **Evaluates hazard correction measures (i.e., control, eliminate).**
  - ✓ Provides technical assistance with evaluating hazard correction measures.
  - ✓ Works with employers to mutually agree on reasonable hazard correction due dates.
  - ✓ Effectively reviews and responds to employers requests to extend hazard correction due dates.
  - ✓ Verifies the correction of serious and imminent danger hazards on-site or via appropriate written verification of hazard correction from the employer to the Consultation program.
  - ✓ Determines the need and priority for follow-up consultation visits, and conducts them if appropriate.
- ▶ **Possesses knowledge of OSHA or State Plan abatement procedures.**
  - ✓ Provides assistance with hazard correction measures during consultation visits after OSHA or State Plan citations issued have become final orders (see Chapter 7 of the CPPM for additional guidance).
  - ✓ Provides assistance with hazard correction in response to an OSHA or State Plan enforcement referral for SHARP/Pre-SHARP establishments (see Chapter 7 of the CPPM for additional guidance).
  - ✓ Possesses knowledge of OSHA or State Plan enforcement policies and procedures to assist employers with OSHA or State Plan abatement, such as:
    - ♦ Petition for Modification of Abatement (PMA)

## **#6 Provide Off-site Technical Support**

**Possesses the knowledge, skills, and abilities to provide effective off-site technical support.**

- ▶ **Researches and responds to employers' requests for assistance.**
  - ✓ Proficient in the use of the internet to research and gather accurate information from credible sources.
  - ✓ Utilizes current literature, reference books, monographs, consensus standards, industry best practices, and networking opportunities, to ensure the quality of support services provided to employers.
  - ✓ Informs employers of agencies that can provide assistance, other than OSHA or the State Plan.
- ▶ **Effectively communicates technical information.**
  - ✓ Communicates technical information in a manner which is easily understood.
  - ✓ Encourages employers and employees to communicate questions or concerns.
  - ✓ Respects the confidentiality of employer and/or employee questions or concerns.

## **#7 Promote Consultation Program Services**

**Possesses the knowledge, skills, and abilities to effectively promote consultation services and communicate the value of a safe and healthful workplace to employees and employers.**

- ▶ **Looks for opportunities to market the Consultation program:**
  - ✓ to employers, trade associations, and small businesses in high-hazard industries; and
  - ✓ within their own organization, associated state agencies, and university programs.
- ▶ **Recommends and applies effective marketing methods.**
- ▶ **Promotes and communicates the value of safe and healthful workplaces.**
- ▶ **Explains Consultation program services and eligibility requirements to employers on initial contact.**
- ▶ **Utilizes a variety of marketing options to promote SHARP.**

#### **#8 OSHA Consultant Professionalism**

**Models professional conduct and growth.**

- ▶ **Promotes the health and safety of employers and employees as the guiding principle in all consultation services provided.**
- ▶ **Fosters constructive professional working relationships with others; is professional, flexible, and courteous, even when discussing or eliciting sensitive or controversial information.**
- ▶ **Recognizes and avoids conflicts of interest.**
- ▶ **Pursues professional growth and development opportunities.**
  - ✓ Keeps current with industry trends through research and/or networking.
  - ✓ Considers personal performance, proactively seeks and responds constructively to feedback from others, and applies the information received to enhance performance and progress toward career goals.
  - ✓ Devotes substantial effort to increasing professional knowledge and skills and keeping up-to-date in the safety and health profession (e.g., attend training courses, meetings, and conferences; read professional publications; join professional associations; seek on-the-job training experiences; pursue professional certification).
  - ✓ Provides on-the-job training and mentoring to less-experienced employees in the Consultation program.
  - ✓ Takes the initiative to seek new or additional responsibilities and challenges; and continually applies greater levels of effort, persistence, and autonomy toward the achievement of goals.

## **Appendix L**

### **Reserved Process Safety Management**

**Appendix M**  
**(Pending Office of Management and Budget Paperwork Reduction Act Approval)**

**Incident Investigation Reporting Template (SHARP and Pre-SHARP Establishments)**

Note: When required in this Instruction to complete Appendix M, only the List of Hazards is required (when applicable) and any other documentation deemed necessary by the CPM.

**SECTION 1**

Incident Investigation Date:  Visit Number:  Request Number:   
User ID:  RID:  Region:  State:   
Date of Incidence:  OSHA Inspection Date:   
OSHA Inspection # (if applicable):

**Select One:**

Fatality ☐ Catastrophe ☐ Imminent Danger ☐ Formal Complaint ☐  
Referral - Severe Injuries only ☐

**SECTION 2**

Establishment Name:   
Establishment Address:   
OIS Site ID #:  NAICS:  Union Name (if applicable):   
Select One Program: SHARP ☐ Pre-SHARP ☐ SHARP Pilot ☐  
Current Program Status:  Duration in Program:   
Last Renewal Date of Program:  Last Evaluation Date of Program:   
Number of Employees at the establishment:   
Number of Contractors at the establishment:   
Number of Temporary and/or Seasonal Employees at the establishment:

**SECTION 3** (Please complete this section with information pertaining to the incident only)

Total Number of Fatalities:  Total Number Injured:  Total Number Ill:   
Number of Employees: Fatalities  Injured  Ill   
Number of Contractors: Fatalities  Injured  Ill   
Number of Temporary and/or Seasonal Employees: Fatalities  Injured  Ill

Were Employees Performing the Activities Related to the Incident? Yes ☐ No ☐

Were Contractors Performing the Activities Related to the Incident? Yes ☐ No ☐

Were Temporary or Seasonal Employees Performing the Activities Related to the Incident?  
Yes ☐ No ☐

#### **SECTION 4**

##### **Description of Incident:**

**Instructions:** Please provide a description of the incident (i.e., what happened, where, when, how).

##### **On-Site Consultation program's Findings (Root Causes):**

[See OSHA's [Incident \(Accident\) Investigations: A Guide for Employers](#), December 2015]

##### **Instructions:**

In this section, the Consultation program will specify its investigation findings (i.e., root causes – Why did the incident happen?) and the safety and health program deficiencies identified. For example, if a hazard assessment was not conducted and resources were not provided to purchase an appropriate guard – this is a hazard identification and control deficiency with a potential management leadership failure (to provide adequate funding). Multiple deficiencies can occur concurrently.

##### **On-Site Consultation program's Recommendations for Corrective Actions:**

##### **Instructions:**

The Consultation program will recommend specific corrective actions that the employer participating in SHARP or Pre-SHARP must implement to address the deficiencies identified during the investigation. It is important to assure a safe and healthful work environment that is the corner stone of SHARP. For example, train supervisors on how to conduct hazard assessments (to find and fix hazards) and management should assure an adequate budget for implementing safety and health measures. The recommendations may be included in the employer's Action Plan (as appropriate).

The safety and health of all employees at the establishment is paramount. The integrity of SHARP, the Consultation program, and OSHA is vital.

**Additional Information** (if any): For example, include any additional input from the employer in this section.

## Investigation Reporting Guidance

### **Incident Example:** OSHA Incident #[1039807.015](#)

To access this incident, visit OSHA.gov, select Data & Statistics, then select Inspection Information.

### **Incident Description**

An employee was operating a custom bending press break machine. He was bending a small metal part, which kept slipping out of place. The employee tried to hold it in place with his finger while operating the press with his foot to bend the metal. The metal slipped and the press came down on his left index finger instead of the metal part, smashing and amputating it, just proximal to the fingernail bed.

OSHA issued a citation to the employer with an initial penalty amount of \$4,900 which was reduced to \$2,940 for not complying with 29 CFR 1910.212(a)(3)(ii).

### [1910.212\(a\)\(3\)\(ii\)](#)

The point of operation of machines whose operation exposes an employee to injury, shall be guarded. The guarding device shall be in conformity with any appropriate standards, therefore, or, in the absence of applicable specific standards, shall be so designed and constructed as to prevent the operator from having any part of his body in the danger zone during the operating cycle.

**Consultation program's Findings (Root Causes):** (See OSHA's [Incident \(Accident\) Investigations: A Guide for Employers](#), December 2015.)

Below are some questions that the consultant or CPM may ask to identify safety and health program deficiencies assuming this incident ([#1039807.015](#)) occurred at a SHARP establishment:

Why was the point of operation of the press not guarded? Is this how the press has been operated in the workplace? When was the press installed in the workplace? Was it installed prior to the SHARP approval or afterwards? If it was in the workplace at the time of the SHARP approval, was it assessed during the approval process (i.e., hazard assessment)? If yes, what was the assessment finding? Did the employer have a guard for the point of operation at the time of SHARP assessment? If yes, what happened afterwards? Subsequent to the SHARP approval, was the press used without the guard (i.e., workplace modus operandi)?

If the press was installed after SHARP approval, did the employer notify the Consultation program – as required for changes in the workplace that might introduce new hazards? If there was no guard for the press - why was a guard not purchased? Are there adequate resources to meet the safety and health needs of the workplace? Was a hazard assessment conducted for the press? If not, why was a hazard assessment not conducted? Was the supervisor aware of the regulatory requirement to guard the press? If not, why? If yes, why did the supervisor not ensure compliance with the standard?

What did employees say about using the press (the consultant must interview employees who use the press or work in the area and have observed the press in use)? Were employees aware of the hazard? If yes, what action did they take to address it (e.g., express their concern to their supervisor, submit a work order request for a guard)? If employees took any action, what was the outcome? If employees did not take any action – why not? Did employees recognize the hazard? Was the employee involved in the incident trained to use the press? Have other employees who work with the press received training? Who provided the training? If the training was provided in-house, was the trainer found to be proficient? Was training effectiveness verified by the supervisor (e.g., observed employees using with the press)? Did employees who use the press experience near-misses prior to this incident? What was the proper procedure (i.e., if there was an established procedure) for employees to perform the task?

**Consultation Program's Recommendations for Corrective Actions**

Recommendations will be made to address findings or root causes. For example, if there was a finding that the employee was never trained about the point of operation hazard and how to operate the equipment properly – then establishing processes to ensure that all employees receive the proper training before starting work for this operation and all other operations at the SHARP establishment would be a recommendation. The recommendation must also include verifying training effectiveness and retraining employees when necessary.



## **Appendix N**

### **Employers' Incentive Programs**

The Occupational Safety and Health Administration's (OSHA) mission is to assure safe and healthful working conditions for working men and women. This is also a goal for small businesses that have achieved SHARP status or are working towards attaining SHARP status (i.e., Pre-SHARP establishments). These small businesses have the opportunity to lead the way by example and to inspire positive and creative change throughout their industries.

By working cooperatively, OSHA, Consultation programs, and SHARP/Pre-SHARP participants can demonstrate that incentive programs (or similar practices, if any), which emphasize positive employee engagement in safety and health activities such as hazard reporting and correction, can be an important tool in an effective safety and health program.

1. Workplace incentives that promote safety and health awareness, injury and illness reporting, and employee engagement are an acceptable part of a SHARP injury and illness prevention program. A positive incentive program encourages or rewards employees for participating in the injury and illness prevention program, this includes reporting injuries, illnesses, near-misses, or hazards. Examples of positive incentives include providing tee shirts to employees serving on safety and health committees, offering modest rewards for suggesting ways to strengthen workplace safety and health, or throwing a recognition party at the successful completion of a company-wide safety and health training.
2. Incentives that discourage employees from participating such as injury and illness reporting are not acceptable and do not meet the injury and illness prevention program requirements to qualify as a SHARP participant. For example, an incentive program that focuses only on injury and illness rates may have the effect of discouraging employees from reporting an injury or illness. When an incentive program discourages employees from reporting injuries or hazards or (in particularly extreme cases) disciplines employees for reporting injuries or hazards, problems remain concealed, investigations do not take place, nothing is learned or corrected, and employees remain exposed to harm.

## Appendix O

### Guidance for Clarifying the Status of Enforcement Inspections at Establishments

This appendix highlights the procedure for inquiring about enforcement activities at workplaces prior to conducting consultation visits. It also gives guidance on how to use the Establishment Search on osha.gov to determine the status of OSHA enforcement inspection cases.

1. Consultation programs shall take the following steps prior to conducting a consultation visit:
  - a. Inquire from the employer, at the time of the employer's request for a consultation visit, if OSHA (or State Plan) enforcement activity is "in-progress," including whether the employer has denied entry for OSHA (or State Plan) enforcement activity at the establishment.
  - b. Inquire about enforcement activities again (see #1a), when confirming the date for a consultation visit scheduled thirty (30) days or more after the request date. In these instances, the employer must be contacted at least five (5) working days before the scheduled consultation visit to confirm.
  - c. Use the Establishment Search on osha.gov (or State Plan equivalent) to determine the status of an OSHA (or State Plan) enforcement inspection at the establishment prior to conducting a consultation visit (<http://www.osha.gov/pls/imis/establishment.html>).
  - d. Inquire about enforcement activities again (see #1a) during the opening conference for the consultation visit.
  - e. Contact the Regional Office (or State Plan enforcement office) for clarification if the status of an enforcement inspection is unclear. For example, an employer reports an enforcement inspection to the Consultation program, but it is not reflected in the Establishment Search or State Plan equivalent (as applicable).
2. If there has been an enforcement inspection, a consultation visit can only be conducted after:
  - a. An enforcement inspection has been closed with no citations, as noted in the Establishment Search labeled "Inspection Detail 1" below.
  - b. An enforcement inspection resulted in a citation(s) and the citation(s) has become final order. Final order (see OSHA Field Operations Manual, CPL-02-00-164, Chapter 15, Section XIII.) is established when:
    - i. The employer has not contested citations 15 working days after issuance. The current date must be greater than 15 working days past the Issuance Date (see Inspection Detail 2).

- ii. The employer has signed an Informal Settlement Agreement (ISA; See Inspection Detail 3).

ISAs are signed within 15 working days of a citation being issued. ISAs are indicated in the “Last Event” column of the Establishment Search. Note that some items (such as grouped items) may not have an ISA noted in the “Last Event” column. The Consultation program may proceed when an ISA is indicated for any of the citations listed because this indicates that the employer and OSHA have agreed to terms for the entire enforcement inspection case.

- iii. The employer has contested the citations and there has been a Formal Settlement for all citations issued (see Inspection Detail 4). Check the “Last Event” column of the Establishment Search.

- iv. The employer has contested the citations and there has been a final order from an Administrative Law Judge, Occupational Safety and Health Review Commission, or Court of Appeals resolving all citations issued.

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**Inspection Detail (1)**

**Case Status: CLOSED**

**Inspection: 9999999.10 – John Doe, Inc.**

**Inspection Information - Office: Nevada Reno**

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Nr: 9999999.10	Report ID: 0123456	<b>Open Date: 06/26/2020</b>
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John Doe, Inc.

99 Sesame Street  
Elmo, NV 012345

Union Status: NonUnion

SIC:

NAICS: 423990/Other Miscellaneous Durable Goods Merchant  
Wholesalers

Mailing: 99 Sesame Street, Elmo, NV 012345

Inspection Type: Referral			
Scope:	Partial	Advanced Notice:	N
Ownership:	Private		
Safety/Health:	Safety	<b>Close Conference:</b>	<b>07/08/2020</b>
		<b>Close Case:</b>	<b>07/10/2020</b>
Related Activity:	Type	ID	Safety
	Referral	0789101	Health
			Yes
<b>Case Status: CLOSED</b>			

NOTE: THERE ARE NO CITATIONS ISSUED (OR LISTED) AND THE CASE IS CLOSED

**Inspection Detail (2)**

**Case Status: CLOSED**

**Inspection: 1234567.10 – Jane Doe, Inc..**

**Inspection Information - Office: Utah**

Nr: 1234567.10    Report ID: 07891011

Open Date: 05/03/2019

Jane Doe Inc.

99 Elmo Street  
Sesame, UT 12345

Union Status: NonUnion

SIC:

NAICS: 452990/All Other General Merchandise Stores

Mailing: 99 Elmo Street, Sesame, UT 12345

NOTICE: This is an OSHA ARCHIVE Document, and may no longer represent OSHA policy.

Inspection Type: Referral

Scope: Partial

Advanced Notice: N

Ownership: Private

Safety/Health: Safety

Close Conference: 05/23/2019

Close Case: 07/12/2019

Related Activity: Type	ID	Safety	Health
Referral	12345679	Yes	

**Case Status: CLOSED**

Violation Summary						
	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	1			2		3
Current Violations	1			2		3
Initial Penalty	\$5,000	\$0	\$0	\$1,000	\$0	\$6,000
Current Penalty	\$5,000	\$0	\$0	\$1,000	\$0	\$6,000
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items										
#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	<a href="#">01001A</a>	Serious	19100036 G02	05/30/2019	06/19/2019	\$5,000	\$5,000	\$0		Z - Issued
2.	<a href="#">01001B</a>	Serious	19100036 G04	05/30/2019	06/19/2019	\$0	\$0	\$0		Z - Issued
3.	<a href="#">01001C</a>	Serious	19100037 A03	05/30/2019	06/19/2019	\$0	\$0	\$0		Z - Issued
4.	<a href="#">01001D</a>	Serious	19100037 B02	05/30/2019	07/05/2019	\$0	\$0	\$0		Z - Issued
5.	<a href="#">02001A</a>	Other	19100022 A01	05/30/2019	06/19/2019	\$1,000	\$1,000	\$0		Z - Issued
6.	<a href="#">02001B</a>	Other	19100176 B	05/30/2019	06/19/2019	\$0	\$0	\$0		Z - Issued
7.	<a href="#">02002</a>	Other	19100303 G01	05/30/2019		\$0	\$0	\$0		Z - Issued

NOTE: THERE IS NO CONTEST INDICATED AND THE CURRENT DATE IS MORE THAN 15 DAYS PAST THE ISSUANCE DATE

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**Inspection Detail (3)**

**Case Status: CLOSED**

**Inspection: 9912345.015 – John Smith, Inc.**

**Inspection Information - Office: Hartford**

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Nr: 9912345.015	Report ID: 099999	Open Date: 01/22/2020
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John Smith, Inc.

99 John Smith Road  
Elmo, CT 09999

Union Status: NonUnion

SIC:

NAICS: 452990/All Other General Merchandise Stores

Mailing: 99 John Smith Road, Elmo, CT 09999

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Inspection Type: Complaint

Scope: Partial      Advanced Notice: N

Ownership: Private

Safety/Health:	Health	Close Conference:	01/22/2020
		Close Case:	08/24/2020

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Related Activity:	Type	ID	Safety	Health
	Complaint	1234567	Yes	

**Case Status: CLOSED**

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	1		3			4
Current Violations			2	1		3
Initial Penalty	\$6,361	\$0	\$275,671	\$0	\$0	\$282,032
Current Penalty	\$0	\$0	\$171,000	\$5,000	\$0	\$176,000
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items											
	#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
	1.	<a href="#">01001</a>	Other	19100157 E03	07/16/2020	09/01/2020	\$5,000	\$6,361	\$0		I - Informal Settlement
	2.	<a href="#">02001</a>	Repeat	19100037 A03	07/16/2020	09/01/2020	\$95,000	\$106,029	\$0		I - Informal Settlement
Deleted	3.	<a href="#">02002</a>	Repeat	19100157 C01	07/16/2020	09/01/2020	\$0	\$84,821	\$0		I - Informal Settlement
	4.	<a href="#">02003</a>	Repeat	19100176 B	07/16/2020	09/01/2020	\$76,000	\$84,821	\$0		I - Informal Settlement

NOTE: THERE IS AN INFORMAL SETTLEMENT AGREEMENT (SEE “LAST EVENT” COLUMN)

#### Inspection Detail (4)

**Case Status: CLOSED**

**Inspection: 123456789.015 – Jane Smith Inc**

#### Inspection Information - Office: Washington Region 4

Nr: 123456789.015 Report ID: 999999.0

Open Date: 11/02/2018

Jane Smith Inc

99 Jane Smith Road  
Elmo, WA 99999

Union Status: NonUnion

SIC:

NAICS: 452990/All Other General Merchandise Stores

Mailing: 99 Jane Smith Road, Elmo, WA 99999

Inspection Type: Complaint

Scope: Complete

Advanced Notice: N

Ownership: Private

Safety/Health: Safety

Close Conference: 04/16/2019

Close Case: 09/24/2019

Related Activity:	Type	ID	Safety	Health
	Complaint	1396513	Yes	

**Case Status: CLOSED**

Violation Summary						
	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	5	7				12
Current Violations	5	4				9
Initial Penalty	\$13,200	\$490,000	\$0	\$0	\$0	\$503,200
Current Penalty	\$13,200	\$280,000	\$0	\$0	\$0	\$293,200
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items											
	#	ID	Type	Standard	Issuance	Abate	Curr \$	Init \$	Fta \$	Contest	LastEvent
	1.	<a href="#">01001A</a>	Willful	296-800-31025(1)	04/23/2019	11/02/2018	\$70,000	\$70,000	\$0	05/10/2019	F - Formal Settlement
	2.	<a href="#">01001B</a>	Willful	296-800-31010	04/23/2019	11/02/2018	\$0	\$0	\$0	05/10/2019	F - Formal Settlement
	3.	<a href="#">01001C</a>	Willful	296-800-14025	04/23/2019	11/02/2018	\$0	\$0	\$0	05/10/2019	F - Formal Settlement
Deleted	4.	<a href="#">01002A</a>	Willful	296-800-31025(1)	04/23/2019	11/02/2018	\$0	\$70,000	\$0	05/10/2019	F - Formal Settlement

NOTE: THERE IS A FORMAL SETTLEMENT AGREEMENT (SEE "LAST EVENT" COLUMN)