DOLI Virginia Occupational Safety and Health VOSH

VOSH PROGRAM DIRECTIVE: **03-001A** **ISSUED**: **July 1, 2003**

SUBJECT: **Consultation Policies and Procedures Manual**

A. **Purpose**.

This directive transmits to field personnel the overall policy framework for administering the OSHA Consultation Program and revises and clarifies processes and procedures for administering and monitoring Consultation Projects.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.

B. **Scope**.

This directive applies to all VOSH personnel, and specifically to Compliance and Consultation Services personnel.

C. **Reference**.

OSHA Instruction TED 3.6 (August 6, 2001)

D. **Cancellation**.

VOSH Program Directive 03-001 (June 15, 1987)

E. **Action**.

The Directors and Managers shall assure that the guidelines in this Directive are followed.

F. **Effective Date**.

July 1, 2003

C. Ray Davenport
Commissioner

Attachment: OSHA Instruction TED 3.6 (August 6, 2001)

Distribution: Commissioner of Labor and Industry
Directors and Managers
VOSH Compliance Staff
Cooperative Programs Staff
Legal Support Staff
OSHA Regional Administrator, Region III
OSHA Area Office, Norfolk

OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR — Occupational Safety and Health Administration

DIRECTIVE NUMBER: TED 3.6 | **EFFECTIVE DATE:** August 6, 2001

SUBJECT: Consultation Policies and Procedures Manual

ABSTRACT

Purpose: This instruction lays out the overall policy framework for administering the OSHA Consultation Program and revises and clarifies processes and procedures for administering and monitoring Consultation Projects.

Scope: OSHA-wide

Cancellation: OSHA Instruction TED 3.5B, Revised Consultation Policies and Procedures Manual, December 9, 1996;
OSHA Direction DIR 01-01 (TED 3.5C), Interim Guidance for Consultation Programs, March 7, 2001;
Memorandum from Paula O. White, Clarification of Consultation Full Service Visit and Limited Service Visit, November 19, 1998.

References: OSHA Instruction ADM 1-1.29A, Consultation Forms Manual;
Safety and Health Program Management Guidelines (FR 54:3904-3916);
Standard Element Paragraph (STEP) Manual (CNS 3.6);
29 CF 1908, Consultation Agreements.

State Impact: This instruction is a Federal Program Change requiring State implementation.

Action Offices: National, Regional, and Area Offices

Originating Office: Directorate of Federal-State Operations

Contact: Directorate of Federal-State Operations (DFSO)
Division of Consultation
Francis Perkins Building, Room N 3700
200 Constitution Avenue NW
Washington, DC 20210

Approval: By and Under the Authority of
R. Davis Layne
Acting Assistant Secretary

Executive Summary:

This manual cancels and replaces OSHA Instruction TED 3.5B and OSHA Direction 01-01 (TED 3.5C). It lays out the overall policy framework for administering and managing the OSHA Consultation Program, updates and clarifies the criteria and requirements for participation in the Safety and Health Achievement Recognition Program (SHARP) and outlines the requirements of the monitoring and evaluation system.

Major Changes:

" OSHA and its State partners, in accordance with the Government Performance and Results Act of 1993 (GPRA), operate under strategic plans that identify specific performance goals to be achieved by the agency. The results of compliance assistance activity are thus included in the overall results of OSHA-wide activity. Specifically, Consultation Project efforts are linked to Federal or State OSHA s strategic and performance goals. Consultation Project activities address the injuries and illness in the targeted industries or the causes of injuries, illnesses, or fatalities identified in the relevant strategic and annual performance plans. Consultation Projects develop annual project plans based on the strategic and annual performance plans that they support. The Consultation Annual Project Plan (CAPP) then becomes part of the Project s Cooperative Agreement and is subject to negotiation and approval by the Regional Office. Once approved the plan forms the basis for joint monitoring and evaluating the Project s performance during the performance period.

" The employer must agree to post the List of Hazards, as it was received from the Consultation Project, for either 3 working days or until the serious hazards are corrected, whichever is later. Agreed-upon modifications or extensions of correction due dates must also be posted. Posting must be in a prominent place where it is readily observable by all affected 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 the termination of the Consultation Visit in Progress status.

" The employer s name and the results of the onsite visit will remain confidential from State or Federal enforcement, except in situations where imminent dangers or serious hazards are not corrected as agreed upon, or where the employer has inspection deferral status or participates in a State s recognition and exemption program. If an enforcement inspection occurs after the conclusion of the consultation Visit in Progress, the employer is not required to inform the CSHO of the consultation onsite visit or furnish a copy of

the results, except to the extent that disclosure of information contained in the Report to the Employer is required by 29 CFR 1910.1020 or other standards.

" A consultation Visit in Progress extends from the beginning of the opening conference to the end of the correction due dates (including extensions). A consultation Visit in Progress takes precedence over a Programmed OSHA Inspection. The Office of Compliance Programs is drafting more detailed procedures to implement this provision.

" Employee participation is required in all site visits:

> If the site is has a recognized employee representative, then the 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 s representative during the physical inspection of the workplace. The consultant should encourage joint opening and closing conferences. If there is an objection to a joint conference, the consultant must conduct separate conferences with employer and employee representatives. The consultant may increase the number of employee participants in the physical inspection if he or she determines that additional representatives will improve the quality of the visit. The consultant may confer privately with the employee representative.
>
> If the site has no recognized employee representative, the consultant must confer with a reasonable number of employees during the course of the visit in order to identify and judge the extent of particular hazards within the scope of the employer s request and to evaluate the employer s safety and health management system. The employer must agree to permit such contact in order for the visit to proceed.

" Each state operating a Consultation Program under Section 21(d) of the OSH Act must operate a recognition and exemption program. The Federal Program is known as the Safety and Health Achievement Recognition Program (SHARP). Program operating in States with approved State Plans may be known by other names.

" An employer who meets all of the eligibility requirements for the SHARP program, corrects all hazards identified by the consultant, and shows reasonable promise of achieving milestones and time frames agreed upon with the consultant may be granted inspection deferral status. The deferral time frame recommended by the Consultation Project Manager, including extensions, must not exceed a total of 18 months from the expiration of the correction due date(s).

" Illness data are included in the data collected, so that the Lost Workday Injury and Illness (LWDII) rate and Total Recordable Case Rate (TRCR) replaces the Lost Workday Injury (LWDI) rate in the criteria for SHARP participation.

" In order to qualify for participation in SHARP, an employer must have reduced the LWDII rate and TRCR to *below* the industry average. Previously, the requirement was to have reduced the rates to *at or below* the industry average.

" After one year of participation, SHARP participants may be eligible to be exempted from Programmed Inspections for a period of two years. The employer must submit OSHA 200 Log data and a self-evaluation during the interim year.

" A multi-year calculation method is used to evaluate the injury and illness rates of a site applying for renewal of SHARP status. For renewals, the LWDII and TRCR data are averaged with the previous year s rate (for those renewing for the first time) or with two previous years (for those in SHARP two or more years). The rates are not averaged, but the raw data (number of employees, number of hours worked, number of recordable cases, etc) are used to compute the rate for the period.

" SHARP participants planning to relocate their facilities must notify the Consultation Project Manager sixty days in advance of the move, and a consultant must visit the new site within thirty days after the new site becomes operational to ensure that the safety and health management system is in place. Previously, participation in SHARP was automatically terminated if an employer relocated.

" An employer participating in SHARP must have a safety and health management system addressing, at a minimum, the major elements of the 1989 Safety and Health Program Management Guidelines:

Management leadership and employee involvement
Worksite analysis
Hazard prevention
Safety and health training

Although a written safety and health management system is not a requirement for participation in SHARP, we strongly recommend it, as described in the 1989 Safety and Health Program Management Guidelines.

" In the case of a fatality or catastrophe at a SHARP site, the employer must notify the OSHA Area Office within 8 hours of the incident. The Area Director must notify the Consultation Project Manager as soon as possible after notification of the incident. Until all citations have been issued, Consultation personnel must not discuss with the employer any issues related to the fatality or catastrophe. After all citations have been issued, the

Consultation Project Manager must evaluate the SHARP status of the worksite using the following criteria:

If an inspection is conducted and no citation is issued, an on-site visit must be conducted to assure that all elements of the safety and health program are still effective.

If an inspection is conducted and a serious or repeat violation is issued, a consultant must conduct an onsite visit to ensure that the safety and health management system is still operating effectively. If the consultant believes there is a connection between a serious citation and reduced effectiveness in the safety and health management system, the Consultation Project Manager must recommend that the SHARP employer withdraw from the program. If there is no connection, the employer must be counseled on how to prevent a recurrence.

If an inspection is conducted and a willful citation is issued, the SHARP employer must be asked to withdraw from the program. The employer may reapply 12 months after withdrawing from the program. If the enforcement action uncovered evidence that the site s application or annual self-evaluations was falsified, participation in SHARP must be terminated.

Consultation Policies and Procedures Manual (CPPM)

Table of Contents

Chapter One
Introduction 1-1

I. Purpose. 1-1

II. Scope. 1-1

III. References 1-1

IV. State Impact. 1-1

V. Significant Changes. 1-3

VI. Action Information. 1-7

VII. Definitions. 1-8

VIII. Cancellations. 1-13

IX. A Brief History of the OSHA Consultation Program. 1-13

X. How the Consultation Program Works. 1-14

XI. How the Consultation Program Is Administered. 1-15

Chapter Two
Promoting and Managing Consultation Services 2-1

I. Promoting Requests. 2-1

II. Communicating Employer Obligations and Rights. 2-3

IV. Managing Consultation Requests. 2-8

Chapter Three
Visit-Related Requirements 3-1

I. Preparation for a Visit 3-1

II. Use of the Safety and Health Program Assessment Worksheet (Revised Form 33). . . 3-2

III. Required Structure of a Visit. 3-3

Chapter Four
Training and Assistance Visits 4-1

I. Training 4-1

II. Documenting Training. 4-2

III. Recording of Time Spent Training. 4-2

IV. Qualifications of Trainers. 4-2

V. Resource-Related Considerations. 4-2

Chapter Five
Documenting Consultation Services 5-1

I. The Written Report to the Employer. 5-1

II. List of Hazards. 5-3

III. Case File. 5-3

Chapter Six
Consultation Visits in Progress 6-1

I. Maintaining Consultation Visit In Progress Status. 6-1

II. Termination of a Consultation Visit in Progress. 6-1

III. Referral to Enforcement. 6-2

Chapter Seven
Recognition and Exemption Programs 7-1

I. Recognition and Exemption Programs. 7-1

II. Safety and Health Achievement Recognition Program (SHARP). 7-1

III. Inspection Deferral Status. 7-6

Chapter Eight
Monitoring of Consultation Projects 8-1

I. Core Principles. 8-1

II. Framework of the Evaluation Process. 8-2

III. Annual Evaluation Reports. 8-3

IV. Dispute Resolution Process. 8-3

Chapter Nine
The Monitoring Process 9-1

I. Development, Review, and Monitoring of Consultation Annual Project Plans. 9-1

II. Quarterly Discussions. 9-1

III. Criteria for Acceptable Performance by the Consultation Project. 9-4

IV. Required Elements of an Internal Quality Assurance Program. 9-4

V. Evaluation Reports. 9-5

Chapter Ten
The Consultation Annual Project Plan 10-1

I. Purpose. 10-1

II. Consultation Annual Project Plan Submitted in Cooperative Agreement. 10-1

III. Content and Organization of the Consultation Annual Project Plan (CAPP). 10-2

IV. Changes to the Consultation Annual Project Plan. 10-7

Chapter Eleven
Monitoring Tools 11-1

I. Monitoring of Mandated Activities and Program Elements. 11-1

II. Mandated Activity Report for Consultation (MARC) Report. 11-1

III. Consultation Management Report (CMR). 11-2

IV. Onsite Review (OR) 11-2

V. Further Analysis 11-5

VI. Studies Initiated by the Assistant Secretary 11-6

Appendix A
Lost Workday Injury and Illness (LWDII) Rate A-1

Appendix B
Total Recordable Case Rate (TRCR) B-1

Appendix C
Sample Letter to Employers Receiving Low Priority C-1

Appendix D
Sample List of Hazards (Serious) D-1

Appendix E
Action Plan Template E-1

Appendix F
Interim-Year SHARP Site Self-Evaluation Template F-1

Appendix G
Mandated Activity Report for Consultation (MARC)
and Proposed Consultation Management Reports (CMRs) G-1

Appendix H
Program Assurances H-1

Appendix I
Checklist for Onsite Review I-1

Chapter 1

Introduction

I. Purpose. This instruction describes and implements the policies and procedures governing the administration and operation of the Consultation Program.

II. Scope. This instruction applies to Consultation Programs funded under part 21(d) of the OSH Act. Although private sector Consultation Programs funded under 23(g) grants are not subject to the specific policies and procedures documented here, they must operate programs that are at least as effective as the Consultation Programs funded under Section 21(d) of the OSH Act. (See Paragraph V below.)

III. References
- A. OSHA Instruction ADM 1-1.29A, Consultation Processing Forms Manual December 6, 1996
- B. Safety and Health Program Management Guidelines (FR 54:3904-3916)
- C. Standard Element Paragraph (STEP) Manual (CNS 3.6) April 1993
- D. 29 CFR 1908, Consultation Agreements

IV. State Impact. 29 CFR 1908, as amended on October 26, 2000, (effective December 26, 2000) and Chapters 1 through 7 of this Policies and Procedures Manual describe a Federal Program Change which requires State action. Sections 1908.1(a) and (c) and this Manual contain several provisions which establish specific State plan requirements. Section 23(g) private sector consultation programs must be at least as effective as the section 21(d) cooperative agreement programs (§ 1908.1(a)). In addition, all State plans shall establish enforcement policies applicable to the safety and health issues covered by the State plan which are at least as effective as the enforcement policies established by 29 CFR 1908, including a recognition and exemption program (§ 1908.1(c)). States will have 6 months from publication of this Instruction to meet these requirements.

A. Recognition and Exemption Program. As required by § 1908.1(c), State plans must develop and implement a recognition and exemption program, or revise an existing program, to be at least as effective as the Federal Safety and Health Achievement Recognition Program (SHARP) established by § 1908.7(b)(4) and described in Chapter 7 of this manual.

All States are now required to offer, as part of their State plan, a recognition and exemption program to small employers that is at least as effective as the Federal recognition and exemption program mandated by section 21(d) of the Act (as amended by the Compliance Assistance Authorization Act of 1998, PL 105-197) and established under Part 1908. (Such a program is a compliance activity, as the

exemption results in the removal of an employer from the State s programmed inspection schedule.) A recognition and exemption program can only be at least as effective if it is provided through an at least as effective consultation program. States may provide such consultation services either through a section 21(d) consultation program or a section 23(g) private sector consultation program that is at least as effective as the Federal consultation program under section 21(d). States may not grant exemptions from State plan inspections based on consultation activities that do not meet the requirements of Part 1908 (or an at least as effective alternative).

B. Related Compliance Policies and Procedures. All States must adopt the compliance policies and procedures related to the consultation program as described in the revision to 29 CFR 1908 and this Manual. These include: the definition of a consultation visit in progress and its effect on inspection scheduling (§ 1908.7(b) and Chapter I, section XI.LL); not initiating a complaint inspection based on a posted List of Hazards (§ 1908.6(e)(8)); employer confidentiality (§ 1908.6(h) and § 1908.7(a)(3) and Chapter II, section II.C.); limitations on the availability of the consultant s written report (§1908.6(g)(2) and Chapter V, section I); deferral from inspections for applicants implementing an effective safety and health management system; (§ 1908.7(b)(4)(i)(A) and Chapter VII, section III); and exempting recognition and exemption program participants from general schedule inspections (§ 1908.7(b)(4)(i)(B) and Chapter VII, section II).

C. Private Sector Consultation Programs Funded Under a State Plan. As required by

§ 1908.1(a), State plans operating private sector consultation programs under the authority of section 18 of the Act and funded under section 23(g) of the Act must be at least as effective as consultation programs operated under the authority of section 21(d) of the Act. Significant changes in the revised 1908 regulations and this Instruction include: requirements for employee participation (§ 1908.6(c) and (d) and Chapter 2); employer posting of the list of serious hazards and their abatement dates (§ 1908.6(e)(8) and Chapter 6); and written report to the employer and disclosure of certain confidential information to OSHA (§ 1908.6(g) and (h) and Chapter 2). All States operating 23(g) private sector consultation programs in lieu of section 21(d) consultation programs must amend their programs to reflect the revised Federal consultation program.

D. Public Sector Consultation. Although public sector consultation programs are not funded under section 21(d) or directly subject to the requirements of 29 CFR 1908, States are encouraged to apply the principles established in the revised federal private sector consultation program to the public sector, to the extent feasible. States may, but are not required, to establish a recognition and exemption program for the public sector.

E. State Adoption. All States must adopt (1) a safety and health recognition and exemption program, and (2) related compliance procedures, as discussed in Paragraphs A and B above, as established in this Instruction and 29 CFR 1908. (OSHA will issue a more detailed CPL Instruction further describing the compliance policies and procedures as they relate to the consultation program described in the revision to 29 CFR 1908 and this Instruction. At that time, States will be required to adopt more detailed implementing enforcement procedures.)

In addition, (3) those States with private sector consultation programs funded under section 23(g) must adopt changes to their consultation programs, as discussed in Paragraph C above, to be at least as effective as the programs funded under 21(d). (4) States which adopt parallel modifications to their public sector consultation programs, and related compliance policies, and/or establish a recognition and exemption program for the public sector, as discussed in Paragraph D above, also must submit appropriate documentation.

1. Adoption of Identical Policies and Procedures. If a State plan chooses to adopt policies and procedures identical to those in this Instruction, the State must implement the change within six months from the date of issuance of this Instruction and submit the cover page of the State's implementing guidance to the Regional Administrator. In addition, the State should note whether the change applies to the public sector.

2. Adoption of Alternative Policies and Procedures. If a State plan chooses to propose an at least as effective alternative approach, the State must submit one copy of a plan supplement to the Regional Administrator within six months from the date of issuance of this Instruction. The plan supplement must consist of a cover letter describing the change, documentation that the change has been implemented and distributed to appropriate staff, and a listing of significant differences with a statement of how the State's change is at least as effective as OSHA's consultation policy and procedures. In addition, the State should note whether the change applies to the public sector. The supplement may be submitted in electronic format.

V. Significant Changes.

A. Monitoring Policies and Procedures. OSHA and its State partners, in accordance with the Government Performance and Results Act of 1993 (GPRA), operate under strategic plans that identify specific performance goals to be achieved by the agency. The results of compliance assistance activity are thus included in the overall results of OSHA-wide activity. Specifically, Consultation Project efforts are linked to Federal or State OSHA s strategic and performance goals.

B. Consultation Project activities address the injuries and illnesses in the targeted industries or the causes of injuries, illnesses, or fatalities identified in the relevant strategic and annual performance plans. Consultation Projects develop annual project plans based on the strategic and annual performance plans that they support. The Consultation Annual Project Plan (CAPP) then becomes part of the Project s Cooperative Agreement and is subject to negotiation and approval by the Regional Office. Once approved the plan forms the basis for joint monitoring and evaluating the Project s performance during the performance period.

C. Posting the List of Hazards. The employer must agree to post the List of Hazards, as it was received from the Consultation Project, for either 3 working days or until the hazards identified on the list are corrected, whichever is later. Agreed-upon modifications or extensions of correction due dates must also be posted. Posting must be in a prominent place where it is readily observable by all affected 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 the termination of the Consultation visit in progress status.

D. Confidentiality of the Written Report to the Employer. The employer s name and the results of the onsite visit will remain confidential from State or Federal enforcement, except in situations where imminent dangers or serious hazards are not corrected as agreed upon, or where the employer participates in a State s inspection deferral or recognition and exemption program. If an enforcement inspection occurs after the conclusion of the consultation visit in progress, the employer is not required to inform the CSHO of the consultation onsite visit or furnish a copy of the results, except to the extent that disclosure of information contained in the Report to the Employer is required by 29 CFR 1910.1020 or other standards.

E. Consultation Visit In Progress. A consultation visit is in progress from the beginning of the opening conference to the end of the correction due dates (including extensions). A consultation visit in progress takes precedence over a Programmed OSHA Inspection. The Office of Compliance Programs is drafting more detailed procedures to implement this provision.

F. Employee Participation in Onsite Consultation Visits. Employee participation is required in all site visits. Requirements vary according to whether the site has a recognized employee representative, as explained in the following table.

If:	*then:*
the site has a recognized employee represent-ative	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 s representative during the physical inspection of the workplace. The consultant should encourage joint opening and closing conferences. If there is an objection to a joint conference, the consultant must conduct separate conferences with employer and employee representatives. The consultant may increase the number of employee participants in the physical inspection if he or she determines that additional representatives will improve the quality of the visit. The consultant may confer privately with the employee representative.
the site has no recognized employee represent-ative	the consultant must confer with a reasonable number of employees during the course of the visit in order to identify and judge the extent of particular hazards within the scope of the employer s request and to evaluate the employer s safety and health management system. The employer must agree to permit such contact in order for the visit to proceed.

G. Requirement to Operate a Recognition and Exemption Program. Each state operating a Consultation Program under Section 21(d) of the OSH Act must operate a recognition and exemption program. The Federal Program is known as the Safety and Health Achievement Recognition Program (SHARP). Program operating in States with approved State Plans may be known by other names.

H. Inspection Deferral Status. An employer who meets all of the eligibility requirements for the SHARP program, corrects all hazards identified during the consultation visit, and shows reasonable promise of achieving milestones and time frames agreed upon with the consultant may be granted inspection deferral. The deferral time frame recommended by the Consultation Project Manager, including extensions, must not exceed a total of 18 months from the expiration of the correction due date(s).

I. Safety and Health Achievement Recognition Program (SHARP). Several changes have been made in the criteria and requirements for SHARP participation.

1. Illness data are included in the data collected, so that the Lost Workday Injury and Illness rate (LWDII) and Total Recordable Case Rate (TRCR) replaces the Lost Workday Injury rate in the criteria for SHARP participation.

2. A qualifying employer must have reduced the Lost Workday Injury and Illness Incidence (LWDII) rate and Total Recordable Case Rate to *below* the industry average.

3. After one year of participation, SHARP participants may be eligible to be exempted from Programmed Inspections for a period of two years. The employer must submit OSHA 200 Log data and a self-evaluation during the interim year.

4. A multi-year calculation method is used to evaluate the injury and illness rates of a site applying for renewal of SHARP status. For renewals, the LWDII and TRCR data are averaged with the previous year s rate (for those renewing for the first time) or with two previous years (for those in SHARP two or more years). The rates are not averaged, but the raw data (number of employees, number of hours worked, number of recordable cases, etc) are used to compute the rate for the period.

5. SHARP participants planning to relocate their facilities must notify the Consultation Project Manager sixty days in advance of the move, and a consultant must visit the new site within thirty days after the new site becomes operational to ensure that the safety and health management system is in place.

6. Employers participating in SHARP must have safety and health management system addressing, at a minimum, the elements of the 1989 Safety and Health Program Management Guidelines:
   a. Management leadership and employee involvement
   b. Worksite analysis
   c. Hazard prevention
   d. Safety and health training

   Although a written safety and health management system is not a requirement for participation in SHARP, we strongly recommend it, as described in the 1989 Safety and Health Program Management Guidelines.

7. In the case of a fatality or catastrophe at a SHARP site, the employer is required by 29 CFR 1904.8 notify the OSHA Area Office within 8 hours of the incident. The Area Director must notify the Consultation Project Manager as soon as possible after notification of the incident. Until all citations have been issued, Consultation personnel must not discuss with the employer any issues related to the fatality or catastrophe. After all citations have been issued, the Consultation Project Manager must evaluate the SHARP status of the worksite using the following criteria:

a. If an inspection is conducted and no citation is issued, an onsite visit must be conducted to ensure that all elements of the safety and health management system are still operating effectively.

b. If an inspection is conducted and a serious or repeat violation is issued, an onsite visit must be conducted to ensure that the safety and health management system is still operating effectively. If the consultant believes there is a connection between a serious citation and reduced effectiveness in the safety and health management system, the Consultation Project Manager must recommend that the SHARP employer withdraw from the program. If there is no connection, the employer must be counseled on how to prevent a recurrence.

c. If an inspection is conducted and a willful citation is issued, the SHARP employer must be asked to withdraw from the program. The employer may reapply 12 months after withdrawing from the program. If the enforcement action uncovered evidence that the site s application or annual self-evaluations were falsified, participation in SHARP must be terminated.

VI. Action Information.

A. OSHA National Office

1. Directorate of Federal-State Operations. The Directorate of Federal-State Operations (FSO), through the Office of Cooperative Programs (OCP), Division of Consultation, is responsible for the nationwide coordination and administrative oversight of the national OSHA consultation program. OCP is responsible for establishing the policies and procedures that govern the operation, monitoring, and evaluation of the Consultation Program. The Consultation Policies and Procedures Manual (CPPM) is the program s principal policy guidance document. The Division of Consultation is also responsible for providing program support and assistance to the Regions and the States.

2. Directorate of Compliance Programs. The Directorate of Compliance Programs (DCP) is responsible for the nationwide enforcement of occupational safety and health standards. DCP is responsible for developing the annual programmed inspection schedule, inspection priorities and selection criteria, and responding to complaints, fatalities and catastrophes.

3. Directorate of Information Technology. The Directorate of Information Technology, through the Office of Management Data Systems (OMDS), is responsible for the design and administration of the Consultation Data System (CDS). This includes programming the Mandated Activity Report for Consultation (MARC) and Consultation Management Report (CMR), processing CDS information in the Integrated Management Information System (IMIS) and producing and distributing quarterly MARC, CMR and other specialized reports as may be needed. OMDS also designs and writes the software programs which enable the OSHA Regional Offices and the States to query the IMIS data base directly.

4. Directorate of Administrative Programs. The Directorate of Administrative Programs, through the Office of Financial Management, Division of Grants Management, is responsible for the day-to-day financial management of the Consultation program and the preparation of the annual instructions for the cooperative agreements and amendments. The Division also conducts an annual financial review of all agreement applications.

B. Regional Offices. The OSHA Regions are responsible for monitoring and evaluating the State consultation projects within their respective Regions and for preparing the Regional Annual Consultation Evaluation Report (RACER). The Regions provide technical assistance and communicate Federal program direction to the State. The Regions are also responsible for maintaining communication between themselves and the Consultation projects in their Region. Communication is an essential component of the Federal-State relationship.

C. States. The States are responsible for operating and maintaining programs that effectively meet the objectives of the OSHA-funded consultation program, in accord with 29 CFR 1908. The States are also responsible for submitting Annual Cooperative Agreements and developing a Consultation Annual Project Plan (CAPP) in accordance with their respective Federal or State Strategic Plan. A Consultation Program is required to evaluate itself annually by means of a Consultation Annual Project Report (CAPR) that is written in accordance with the monitoring and evaluation methods established in the Consultation Policies and Procedures Manual.

VII. Definitions.

A. Act. The Federal Occupational Safety and Health Act of 1970.

B. Action Plan for Inspection Deferral (Action Plan). The written plan, developed by the consultant and approved by the Consultation Project Manager, outlining the necessary achievements and time frames required for the employer to achieve SHARP status. The Action Plan is implemented by the employer.

C. Assistant Secretary. The Assistant Secretary of Labor for Occupational Safety and Health.

D. Compliance Assistance Authorization Act. Public Law 105-197, which codified the OSHA Consultation Program by amending Section 21 of the OSH Act.

E. Compliance Officer. A Federal compliance safety or health officer (CSHO).

F. Consultant. A state employee who provides consultation services under a 21(d) Cooperative Agreement.

G. Consultation. All activities that may be provided to employers under the jurisdiction of a consultation cooperative agreement.

H. Consultation Project Manager. The person who directs the day-to-day activity of a Consultation Project.

I. Cooperative Agreement. The legal instrument which enables the States to collaborate with OSHA to provide consultation in accordance with 29 CFR, Part 1908.

J. Designee. The State official designated by the Governor to be responsible for oversight of a Cooperative Agreement.

K. Education. Planned and organized activity by a consultant to convey to employers and employees information that would enable them to establish and maintain safe and healthful working conditions at their workplace.

L. Employee. A person employed at a worksite whose employer has requested consultation services and who s business affects interstate commerce.

M. Employee representative. The authorized representative of employees at a site where there is a recognized labor organization representing employees.

N. Employer. A person engaged in a commercial business with employees. This does not include the United States (except the United States Postal Service), any State, or political subdivision of a State.

O. Hazard correction. The elimination or control of a workplace hazard in accord with the requirements of applicable Federal or State statutes, regulations or standards.

P. Hazard Survey. Within the scope of the visit, 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.

Q. High-hazard business or operation. A business or operation on OSHA s high hazard list; a supplemental high-hazard list approved by the Director of Federal-State Operations; or any national, state, or local emphasis program list.

R. Imminent danger. Any conditions or practices in a place of employment which are such that a danger exists that could reasonably be expected to cause death or serious physical harm, either immediately or before the danger can be eliminated through the procedures set forth in 1908.6(f)(1).

S. Intervention. Consultation assistance provided away from an employer's worksite. This includes technical advice provided through telephone conversations and correspondence (including e-mail), speeches and presentations to stakeholders, offsite technical training, and targeted mailings.

T. List of Hazards (Serious). The List of Hazards (Serious) consists of all serious hazards identified by the consultant and their correction due dates as agreed upon by the employer and the consultant. The List of Hazards is the official document that must be posted by the employer.

U. List of Hazards (Serious and Other-than-Serious). This version of the List of Hazards is under development. It will be used by State Plans that require verification of correction of all hazards identified and for use with SHARP applicants.

V. Lost Workday Injury and Illness (LWDII) Rate. The number of injuries and illnesses involving workdays lost or restricted activity per one hundred full-time workers. See Appendix A for the details on calculating the LWDII rate.

W. Onsite consultation. The process of walking through an employer s worksite, identifying hazards, providing correction assistance, and helping to develop or improve the employer s occupational safety and health management system. It includes a written report to the employer on the findings and recommendations resulting from the visit. It may include training and education needed to address hazards or potential hazards at the worksite.

X. OSHA. The Federal Occupational Safety and Health Administration or the State agency responsible under a Plan approved under Section 18 of the Act for the enforcement of occupational safety and health standards in that State.

Y. Other-than-serious hazard. Any condition or practice which would be classified as an other-than-serious violation of applicable Federal or State statutes, regulations or standards, based on criteria contained in the current OSHA field instructions or approved State Plan counterpart.

Z. Program assessment. Refers to a consultant s review of an employer s existing safety and health management program. This review identifies elements considered adequate and elements that need development or improvement. Consultants use the Safety and Health Program Assessment Worksheet (Revised OSHA Form 33) to conduct the program assessment.

AA. Program assistance. Refers to the consultant s recommendations for developing or improving program elements. The Safety and Health Program Assessment Worksheet (Revised OSHA Form 33) is used as a guide to evaluate the existing safety and health program.

BB. Programmed Inspection. OSHA worksite inspections whose scheduling are based upon objective or neutral criteria. These do not include imminent danger, fatality/catastrophe, or complaint investigations.

CC. Programmed Inspection schedule. The set of criteria by which OSHA determines which sites to inspect in a given year.

DD. Recognition and exemption program. A Consultation program for recognizing the achievement of a small employer who operates, at particular worksite, an exemplary safety and health management system that results in the immediate and long-term prevention of job-related injuries and illnesses

EE. Safety and health management system. Refers to a comprehensive, employer-provided, site-specific system to protect worker safety and health, as outlined in the 1989 Safety and Health Program Management Guidelines (FR 54:3909-3916).

FF. Scope of Visit

1. Full service visit. An onsite consultation visit that provides a complete safety and health hazard assessment of all working conditions, equipment, and processes at the work site.

2. Limited service visit. An onsite consultation visit that provides a focused assessment of a particular work process or type of hazard or an assessment that is conducted by only one discipline safety or health.

GG. Serious hazard. Any condition or practice which would be classified as a serious violation of applicable federal or state statutes, regulations or standards, based on criteria contained in the current OSHA field instructions or approved State Plan counterpart, except that the element of employer knowledge may not be considered.

HH. Small business. For the purposes of the Consultation Program, a small business is one defined as having fewer than 250 employees at a fixed worksite and no more than 500 employees corporation-wide.

II. Standard Element Paragraph (STEP). Word processing files for entry of hazard information, which are customized by the user in preparing a written report to the employer. Each STEP describes an unsafe condition(s) covered by a standard(s), the potential effect on employees of that condition(s), the standard(s) referenced, and the recommended corrective action(s).

JJ. State. A State of the United States, as well as the District of Columbia, Puerto Rico, the Virgin Islands, or Guam.

KK. Total Recordable Case Rate (TRCR). The total recordable case rate is the rate of total non-fatal injuries and illnesses for the calendar year reviewed. These are cases where an employee becomes ill or is injured and experiences a loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment other than first aid, for a given calendar year. See Appendix B for details on calculating the TRCR.

LL. Training. The planned and organized activity of a consultant to transfer skills, techniques and methodologies to employers and their employees that will assist them in establishing and maintaining safe and healthful workplace conditions.

MM. Willful violation. Under the OSH Act, a willful violation is one where the evidence shows either an intentional violation of the act or plain indifference to its requirements.

NN. Visits

1. Initial Visit. A hazard assessment visit(s) provided by a safety or health consultant. An initial visit must consist of an opening conference, an examination of all aspects of the safety and health management system

relating to the scope of the visit, a walk-though of the workplace, and a closing conference.

2. Training and Assistance Visit. An onsite consultation visit that is conducted to provide training to employers and their employees in hazard identification and correction or in safety and health program development.

3. Follow-up Visit. An onsite consultation visit(s) conducted to verify the correction of previously identified hazards and/or the implementation of a safety and health management system.

4. Visit in Progress. A consultation visit is in progress from the beginning of the opening conference to the end of the correction due dates (including extensions). A consultation visit in progress takes precedence over a Programmed OSHA Inspection.

OO. Written Report to the Employer. The confidential report provided by the Consultation Project to the employer documenting all hazards identified, hazard correction recommendations, correction due dates, and an assessment of the employer s safety and health management system.

VIII. Cancellations.

A. OSHA Instruction TED 3.5B December 9, 1996

B. OSHA Direction DIR 01-01 (TED 3.5C) March 7, 2001

C. Memorandum from Paula O. White, November 19, 1998, Clarification of Consultation Full Service Visit and Limited Service Visit

IX. A Brief History of the OSHA Consultation Program.

Section 21(c) of the Occupational Safety and Health Act of 1970 (the Act) requires the Secretary of Labor to establish programs for the education and training of employers and employees in recognizing, avoiding, and preventing unsafe or unhealthful working conditions covered under the Act. Many States began providing onsite consultation services to employers as part of their State plan under Section 18(b) of the Act. OSHA soon recognized that employers needed help in understanding and complying with the sometimes complex regulations applying to their workplaces. In addition, small employers often lack the financial resources to hire private consultants to aid them in meeting their obligations under the Act. In response to the demand for similar onsite consultation in Federal enforcement States, in 1975, the Secretary of Labor set forth the regulation at 29 CFR Part 1908 (FR 40: 21935), which authorized Federal funding of

onsite consultation activity by States under Federal OSHA s jurisdiction. This activity was funded through Cooperative Agreements under the authority of Sections 21(c) and 7(c)(1) of the Act.

In 1977, the level of Federal funding for State run consultation projects was increased to ninety percent, a level that provided a strong incentive for all States to enter into the program. Forty-eight States, the District of Columbia, and Guam operate OSHA onsite consultative programs under Section 21(d) agreements with Federal OSHA. Two States and two U.S. territories operate programs as part of their approved State plans, for which fifty percent funding is received from Federal OSHA through 23(g) grants.

Part 1908 has been amended several times in the intervening years. In 1983, OSHA published a proposed change to the consultation regulation to clarify a number of provisions and to change the focus of services provided to an employer during an OSHA consultative visit. The proposal raised a number of new issues, including the Agency s desire to shift the focus of the consultation visit from simply the identification and correction of specific workplace hazards to the broader and more comprehensive goal of addressing the employer s overall management system for ensuring a safe and healthful workplace. In addition, the proposal allowed for offsite consultation services, including training and education services, to be made available to employers. It also provided for an exemption from Programmed OSHA Inspections for employers who met specific criteria. A final rule including these provisions was published in the Federal Register on June 19, 1984 (FR 49: 25082).

The Occupational Safety and Health Compliance Assistance Authorization Act of 1998, Public Law 105-197, codified OSHA s 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 to ensure that employees would be allowed to participate in site visits, that employees would be informed of the results of site visits, that site visits would be conducted according to updated procedures, and that information obtained during site visits would be treated as confidential.

X. <u>How the Consultation Program Works</u>.

A. The consultation program is designed to assist employers in identifying and correcting serious hazards in the workplace. Priority in scheduling visits is generally given to small employers in high hazard industries. Consultation projects also provide assistance to employers in developing safety and health management systems. However, this assistance must be linked to a hazard evaluation visit by either the consultation project, by OSHA enforcement, or by a private consultant. The consultation project must have access to the report of the visit before providing program assistance. In the case of offsite technical training, the Consultation Project Manager may provide specific training services that are

not directly related to an onsite visit. Training and Interventions are discussed in Chapter 4.

B. Because consultation services are voluntary, an employer must request service and agree to certain obligations, the principal one being that the employer agrees to correct all serious hazards found during the consultation visit within an agreed-upon time frame. The details of the employer s obligations are discussed in Chapter 2.

XI. How the Consultation Program Is Administered.

A. Partnership between OSHA and the States. Cooperative Programs, including Consultation services, are an integral part of OSHA, complementing enforcement efforts to ensure 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), operate under strategic plans that identify specific performance goals to be achieved by the agency. The results of compliance assistance activity are thus included in the overall results of OSHA-wide activity. With the implementation of GPRA, intra-agency partnership in planning and strategy takes place at two operational levels:

1. Partnership between Consultation and Enforcement. Consultation Project efforts are linked to Federal or State OSHA s strategic and performance goals. Consultation Project activities address the injuries and illness in the targeted industries or the causes of injuries, illnesses, or fatalities identified in the relevant strategic and annual performance plans. Consultation Projects work as equal partners with enforcement programs in implementing Federal or State strategic and annual performance plans.

2. Partnership between State Consultation Projects and Federal OSHA. Each Consultation Project develops an annual project plan based on the strategic and annual performance plans that it supports. The Consultation Annual Project Plan (CAPP) then becomes part of the Project s Cooperative Agreement and is subject to negotiation and approval by the Regional and National Offices. Once approved the plan forms the basis for joint monitoring and evaluating the Project s performance during the performance period.

Chapter 2

Promoting and Managing Consultation Services

I. Promoting Requests. Consultation Project Managers must actively promote their services to small, high-hazard employers, especially those targeted in the OSHA or State strategic plan. Consultation Project Managers are encouraged to work with Federal and State enforcement programs and compliance assistance personnel in Regional Offices to promote consultation services to those who may benefit from them. States are encouraged to promote the availability of consultation services through a variety of methods and techniques, ranging from cooperative and partnership activities with other state, county, or municipal governments to broad-based mass media campaigns to direct solicitation involving face-to-face contact with employers.

Recognizing that each State has unique circumstances, OSHA recommends that States tailor their outreach activities to draw upon their own experience in promoting consultation, especially where results have previously been achieved. OSHA also encourages States to explore new avenues of promotion to ensure that services are being provided to those employers most in need and most able to effectively use the services. States with particularly effective promotional/outreach programs are encouraged to share their methods and strategies with others so the entire Consultation Program might benefit from their success.

A. Target Audiences. Outreach activities should target those employers identified in the Project s Consultation Annual Project Plan.

B. Methods. Speeches or presentations, which are generally made to employer or employee groups to provide information about the consultation service, are not considered training. These types of presentations must be recorded as an intervention on the Activity Hours (Time Reporting) form or the Compliance Assistance Activity form. The State may engage in other outreach activities such as (but not limited to) the following:

1. Direct solicitation of employers
2. Public presentations
3. Radio talk shows
4. Cooperative training seminars
5. Roundtable discussions
6. Safety and health conventions
7. Participation in association meetings
8. Publications

C. Cooperative Efforts. States are encouraged to seek out and establish working relationships with professional safety and health societies.

1. Group Activities. The State may conduct cooperative activities with any recognized group so long as the primary intent and outcome is the enhancement of safety and health in the workplace.

2. Leveraging of Resources. OSHA encourages the type of outreach where Consultation Projects pool their resources with recognized safety and health organizations to provide training or other outreach activities, with the understanding that no particular group is endorsed by either OSHA or the Consultation Program.

D. Identifying Target Audiences. To promote the Consultation Program effectively within the target audience, Projects should work closely with Federal or State enforcement authorities to identify those industries which are targeted in the Federal or State strategic plan and which are the subject of National or Local Emphasis Programs. The projects may:

1. Use State Workers Compensation data whenever available.

2. Focus on industries within which significant occurrences such as fatalities, catastrophes and/or the issuance of major citations and/or penalties have recently taken place.

3. Work with new employers who are 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 generate requests for services.

E. Evaluating Promotional and Outreach Activities. States should document, track, and evaluate efforts to promote consultation services. Periodically, States should analyze and assess the impact of their promotional and outreach activities in generating inquiries and requests for consultative services from the target audience. A State s inability to effectively promote its consultative services to the target audience will be viewed as a significant problem warranting serious attention by State and Federal monitors. Where promotion or outreach is ineffective, new strategies must be developed and implemented to address this problem.

II. Communicating Employer Obligations and Rights. In promoting the program, in response to any inquiry from the public regarding the program, and before agreeing to an employer s request for a consultation visit or formal onsite training, the Consultation Project Manager must clearly explain the following information:

A. Independence. The Consultation Program is independent of Federal or State OSHA enforcement.

B. Cost. Consultative services are provided at no cost to the employer and are supported by Federal and State funds.

C. Confidentiality. The employer s name and the results of the onsite visit will remain confidential from State or Federal enforcement, except in situations where imminent dangers or serious hazards are not corrected as agreed upon, or where the employer participates in a State s inspection deferral or recognition and exemption program.

D. Mission. The Consultation Program is dedicated to assisting small, high-hazard employers reduce occupational injuries and illnesses through the identification and correction of hazards.

E. Employee Participation. Employee participation is required in all site visits. Requirements vary according to whether the site has a recognized employee representative, as explained in the following table.

If:	***then:***
the site has a recognized employee represent-ative,	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 s representative during the physical inspection of the workplace. The consultant should encourage joint opening and closing conferences. If there is an objection to a joint conference, the consultant must conduct separate conferences with employer and employee representatives. The consultant may increase the number of employee participants in the physical inspection if he or she determines that additional representatives will improve the quality of the visit. The consultant may confer privately with the employee representative.

If:	*then:*
the site has no recognized employee represent-ative,	the consultant must confer with a reasonable number of employees during the course of the visit in order to identify and judge the extent of particular hazards within the scope of the employer s request and to evaluate the employer s safety and health management system. The employer must agree to permit such contact in order for the visit to proceed.

F. No Citations or Penalties. Consultants do not issue citations or propose penalties.

G. Imminent Danger Situations. The employer must correct imminent danger situations immediately, or remove employees from the danger area. Failure to remove employees from an imminent danger area will result in immediate referral to enforcement.

H. Hazard Correction. The employer must correct all serious hazards in accordance with mutually agreed upon correction due dates and provide to the Consultation Project Manager documentation of the action taken to eliminate or control the hazards. Failure to do so will result in referral to enforcement. Employers are encouraged to correct other-than-serious hazards in a timely manner but need not send verification of correction to the Consultation Project Manager, except in the case of inspection deferral status and SHARP (See Chapter 7).

I. Relationship to Enforcement. The Consultant must fully explain the relationship between consultation and enforcement as described below.

1. Enforcement Inspection in Progress. A consultation visit may not take place while a Federal or State enforcement inspection is in progress. A Consultation Project Manager may elect either to decline the request until such time as all citations have been issued or to accept the request and coordinate with the employer to set a visit date that falls after all citations have been issued. An enforcement inspection is considered in progress:

   a. From the time a compliance officer initially seeks entry to the workplace to the end of the closing conference.

   b. Where right of entry is refused, from the time a compliance officer initially seeks entry until the inspection is conducted and the closing conference held; the ~~Regional Administrator~~ Regional Director determines that a warrant to require entry will be sought; or the Regional Administrator or State Designee determines that allowing a

consultation visit to proceed is in the best interest of the safety and health of employees.

2. Consultation Services Following an Enforcement Inspection. Following an enforcement inspection, no consultation visit may take place until it has been determined that either no citations will be issued or a citation has been issued, the contest period has passed, and cited items have become final orders. If the consultant has reason to believe there are citations that have not become final orders, the Consultation Project Manager must contact the ~~OSHA Area Office~~ VOSH Regional Office to determine their status.

3. Enforcement Inspections Following Consultation Services. The following conditions apply if an enforcement inspection occurs after consultation services have been provided.

   a. Employer s Good Faith. If the employer chooses to provide enforcement with a copy of the consultant s written report to the employer, it may be used by enforcement to determine the employer s good faith for purposes of adjusting any proposed penalties and judging the extent to which an inspection is required.

   b. No Exemption from Citations. Regardless of the advice of the consultant and the consultant s written report to the employer, in a subsequent 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.

J. Participation in a Recognition and Exemption Program.. If an employer satisfies all of the conditions required to participate in the recognition and exemption program (See Chapter 7), then that particular worksite may be exempt from programmed inspections for a period not less than one year.

K. Posting the List of Hazards. The employer must agree to post the List of Hazards, as it was received from the Consultation Project, for either 3 working days or until the hazards identified on the list are corrected, whichever is later. Agreed-upon modifications or extensions of correction due dates must also be posted. Posting must be in a prominent place where it is readily observable by all affected 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 the termination of the Consultation visit in progress status.

L. Employer s Rights. Besides the obligations stated above, the employer also retains the following rights during and after a consultation visit:

1. Modifying the Scope of the Visit or Terminating the Service. The employer has the right to modify the scope of the visit or terminate participation in the visit at any time, including termination of the hazard survey before its completion. The employer is responsible for correcting any serious hazards identified up to the point of termination and, except in situations where imminent danger or serious hazards are not corrected as agreed upon, the employer s name and the results of the onsite visit will remain confidential in accordance with Section C, above

2. Correction Schedule and Report Findings. The employer has the right to disagree with the correction schedules and may, within 15 working days of receipt of the Written Report to the Employer, appeal to the Consultation Project Manager for amendment of the correction date(s) or any other substantive findings of the Report. Disagreement over or amendment of the correction schedule or report findings does not relieve the employer of the responsibility to correct serious hazards identified.

3. Informing Enforcement. If an enforcement inspection occurs after the conclusion of the consultation visit in progress, the employer is not required to inform the CSHO of the consultation onsite visit or furnish a copy of the results, except to the extent that disclosure of information contained in such a report is required by 29 CFR 1910.1020 or other standards.

4. 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 of Services. If an employer has a work process relating to a hazard that Congress has designated as a priority, that employer s request must be serviced before all other requests. The Consultation Project Manager must prioritize and schedule consultation services according to a prioritizing method that serves the worst first, as defined by the following criteria:

A. Imminent Danger Situations. First priority must be given to employers who indicate an imminent danger situation.

B. Small, High-Hazard Employers Targeted in the Federal or State Strategic Plan, National Emphasis Program, Local Emphasis Program, or other Targeted Industries. Second priority should be given to employers who employ fewer than 250 employees at the site, fewer than 500 employees corporation-wide and who are in a targeted industry as defined by the ~~Federal or~~ State Strategic Plans, National Emphasis Programs, Local Emphasis Programs, other targeting programs. ~~or the OSHA Strategic Partnership Program~~.

C. Small, High-Hazard Employers. Third priority should be given to employers who employ fewer than 250 employees at the site, fewer than 500 employees corporation-wide and who are in a high-hazard industry, as defined below, or who 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 OSHA consultation priority considerations if that establishment s Lost Work Day Injury and Illness (LWDII) rate is above the national average for that industry.

2. High-Hazard SIC Codes. An establishment is considered high-hazard if it is in an industry whose Standard Industrial Classification (SIC) code is on the OSHA generated listing of high-hazard industries (Annual OSHA High Rate Industries Listing).

3. Alternative High-Hazard Listing. If an establishment is not on the OSHA-generated listing, consultants may refer to an alternative high-hazard listing developed by the state and approved for use by OSHA s Directorate of Federal-State Operations.

4. Secondary SIC. 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 on the high-hazard list. If such a process or area is the focus of a visit, a secondary code may be used to classify the establishment and, therefore, the priority for receiving a visit, as high-hazard. To be used, the secondary SIC must be either on the OSHA generated high-hazard listing, or on the OSHA-approved alternative State listing.

5. Process Hazardousness. An establishment may also be classified as high-hazard based on the relative hazardousness of workplace processes which occur at the establishment and which cannot be described by a Secondary SIC code. Criteria for process hazardousness include the following:

a. A substance in regular use at the establishment has a health code of HE1 - HE4 in the OSHA Chemical Information Manual (carcinogen, chronic toxicity and acute toxicity) or is noted as highly toxic in that manual.

b. A substance in regular use at the establishment is explosive, or working conditions or work processes in use at the establishment are dangerous but not customary for the establishment SIC.

D. Small, Non-High-Hazard Employers. Fourth priority should be given to employers who employ fewer than 250 employees at the site, fewer than 500 employees corporation-wide and who are in a non-high-hazard industry, or who have lower workplace incidence rates.

E. Larger Employers. Last priority should be given to employers who employ more than 250 employees at the site or more than 500 corporation-wide. Only limited service visits may be conducted for these employers.

IV. Managing Consultation Requests.

A. Requests for Consultation Visits. The Consultation Project Manager must ensure that the following criteria are met before providing consultation services:

1. No onsite consultative visit may be provided in the absence of a request by the employer.

2. A request for onsite consultation services must always include a request for a hazard survey, unless a consultation hazard survey, ~~OSHA~~ VOSH inspection, or private consultation survey conducted in the past twelve months provides adequate foundation for conducting a training visit.

3. If an employer requests a consultation visit for more than one site under his or her control, each site must be dealt with as a distinct request.

4. Employers who cannot be promptly scheduled for a consultation visit because of low scheduling priority or other project considerations must be informed of their statutory responsibility to maintain a safe and healthful workplace. See Sample Letter in Appendix C.

5. Construction Sites

a. While assistance may be provided to subcontractors away from the worksite on safety and health management systems (offsite assistance), a subcontractor request for onsite consultation may be accepted only with the approval of the general contractor or the controlling employer at the site.

b. The general contractor or controlling employer must accept responsibility for ensuring the correction of any serious hazard, identified during the course of the visit, neither created by nor under the control of the requesting subcontractor.

c. If a company s headquarters is in another State, the Consultation Project may need to cooperate with the Consultation Project in that State.

d. The same scheduling priorities must be applied to requests from construction sites as for other employers requesting consultative assistance.

B. Responding to Requests for Consultation. When responding to requests for information or consultation visits, the individual taking the request must first explain the information outlined in Communicating Employer Obligations and Rights, located in Chapter 2, Paragraph II, (A-L) of this manual. Additionally, the individual should complete the OSHA Consultation Request Form (OSHA Form 20).

C. Determining the Type of Visit. The Consultation Project Manager must determine the type of visit being requested based on the following criteria.

A visit is a(n):	***if its purpose is:***
Initial Visit	to provide a hazard assessment by a safety or health consultant. An initial visit must consist of an opening conference, an examination of all aspects of the safety and health management system relating to the scope of the visit, a walk-though of the workplace, and a closing conference. Only one initial visit may be recorded by each discipline (safety or health) at the site within one year.

Training and Assistance Visit	to provide information or training to employers and their employees in hazard identification and correction or in safety and health program development. A training visit may only be provided in conjunction with a hazard assessment visit.
Follow-up Visit	to verify the correction of previously identified hazards and/or the implementation of a safety and health management system.

D. Determining the Scope of the Visit. The Consultation Project Manager must determine the scope of the visit based on the employer s request.

If the employer requests:	***then the Scope of the Visit is:***
a complete safety and health hazard assessment of all working conditions, equipment, and processes at the work site.	Full Service
a focused assessment of a particular work process or type of hazard or an assessment that is conducted by only one discipline safety or health.	Limited Service

E. Determining Worksite-Sensitive Issues. The Consultation Project Manager must evaluate the site specific information from the Consultation-20 Request Form and determine any special circumstances that the consultant should prepare for prior to entering the worksite, including:

1. Worksite Rules and Practices. The consultant must observe all of the employer s safety and health rules and practices, including safety clothing or other personal protective equipment.

2. Immunizations or Other Special Entrance Requirements. Immunizations and other special entrance requirements must be observed. The Consultation Project Manager must ensure that the consultant has the proper immunizations for these situations.

3. Personal Security Clearance. Where personal security clearances are required, the Consultation Project Manager must assign a consultant who has the proper clearances or ensure that appropriate ones are secured.

4. Classified Information and Trade Secrets. Any classified or trade secret information and/or personal knowledge of such information by State personnel must be handled in accordance with 29 CFR 1908.6(h).

Chapter 3

Visit-Related Requirements

I. Preparation for a Visit

A. Research. Each consultant should review and analyze the data collected from the employer on the Request Form (OSHA Form 20). In addition, the following information should be reviewed prior to the visit:

1. Case File. The consultant should evaluate all available data for the worksite, including the case file of previous consultations at the establishment, typical hazards found by SIC and micro-to-host reports of enforcement history.

2. References. The consultant should refer to technical reference material about potential hazards and industrial processes that may be encountered and refer to any relevant standards.

3. Sampling Methods. Appropriate sampling methods should be reviewed based on past experience and information in the Request for Consultation concerning the establishment.

B. Survey Materials and Equipment. It is the responsibility of the Consultation Project Manager to ensure that all materials and equipment required for an onsite survey are available to the consultant. The consultant, however, is responsible for taking and using the equipment needed for the onsite visit.

1. Forms and Handouts. The consultant should assemble all reports, forms and other materials in sufficient quantity to conduct the onsite survey. (See Forms Processing Manual, ADM 1-1.29A.)

2. Sampling Equipment. The Consultant should select the necessary equipment and prepare them using standard sampling and calibration methods outlined in the OSHA Technical Manual, the latest release of OSHA Instruction TED 1.15, OSHA Directives, Wisconsin Occupational Health Laboratory (WOHL) sampling guide, manufacturer recommendations, and other standard calibration procedures and practices as appropriate.

3. Personal Protective Equipment. All necessary personal protective equipment must be used. The Consultation Project Manager must ensure that the equipment is usable and that the consultant has been trained in its use and limitations.

C. Visit Confirmation. If an employer s requested visit is scheduled thirty days or more after the request date, the requesting employer should be contacted within five calendar days of the scheduled visit to confirm the visit date. At the time the employer is contacted to verify the scheduled visit, the employer must once again be asked whether any ~~Federal or State OSHA~~ VOSH inspection activity is in progress.

II. Use of the Safety and Health Program Assessment Worksheet (Revised Form 33). Deployment of the revised Safety and Health Program Worksheet will be staggered, with non-OSHA-Net States deploying before OSHA-Net States. Training on the use of the revised Worksheet will also be staggered. *Until the Worksheet has been deployed in a State and the State s staff have been trained, existing State rules on the use of the Worksheet apply.*

The Safety and Health Program Assessment Worksheet (Revised Form 33) must be used according to the following criteria:

If the request is for a:	***And on the Visit Form (OSHA 30) you mark:***	***Then on the Worksheet you must:***
Full Service Visit	Comprehensive	Complete all 50 basic attributes.
	Specific	Complete all of the relevant basic attributes.
Limited Service Visit	Specific	Complete all of the relevant basic attributes.
Training and Assistance Visit Program Assistance	Comprehensive	Complete all 50 basic attributes.
	Specific	Complete all of the relevant basic attributes.
Training and Assistance Visit any other type (Cited, Not Cited)	N/A	*Completion of any of the attributes is optional.*
Follow-up Visit	N/A	*Completion of any of the attributes is optional.*

III. Required Structure of a Visit. The onsite visit must proceed according to the following sequence.

A. Entry to the Workplace. Upon arrival at the worksite, the consultant must introduce himself or herself and produce identification (business card, State employee ID or both, etc.), which, at a minimum, identifies the consultant s name, employer, and place of employment.

B. Opening Conference. The first phase of the onsite visit is the opening conference. The conference is used to establish a clear understanding of the purpose of the visit and its procedures. It provides an opportunity to gain the employer s trust and allows the consultant an opportunity to confirm the scope of the request and to review with the employer the terms of the visit.

1. Introductions. The consultant must identify himself or herself and any one else in the party. The employer, other company representatives, and employees must be identified and their names recorded in the case file notes.

2. Scope of Visit. The scope of the visit must be discussed with the employer and any employee representatives of affected employees based on the type of visit that the employer has requested. If, during the visit, the employer modifies the scope of the visit, the consultant must re-evaluate the use of the Safety and Health Program Assessment Worksheet (Revised Form 33) based on the criteria outlined in Paragraph II above.

3. Employer s Obligations and Rights. The consultant must discuss the obligations and rights as outlined in Chapter 2, Paragraph II, (A-L), which the employer must agree to in order for the consultation visit to continue.

4. Evaluating Employer s Injury and Illness Rates. If the employer did not provide Lost Workday Injury and Illness (LWDII) rate or Total Recordable Case Rate (TRCR) information before the visit, the consultant must review the employer s OSHA 200 log to determine the employer s rates. The consultant must calculate the rates, compare them to the national average for the employer s SIC, and inform the employer of the results.

C. Walk-through of the Workplace. This phase of the onsite process allows the consultant to become familiar with the worksite. If a hazard is identified but employee exposure is not observed, the consultant must describe what could occur in the event of employee exposure and offer correction assistance. During the walk-through of the workplace, the consultant must conduct the following activities:

1. Hazard Survey. The consultant must bring identified hazards to the attention of the employer and the employee representative(s) at the time they are recorded. If an imminent danger exists, exposed employees must be informed and the employer must remove them from exposure immediately. Failure to remove employees from an imminent danger area must result in referral to enforcement.

2. Documentation. The consultant must record all facts pertinent to the identified hazard(s) in field notes to be included in the case file. All field notes, observations, analyses, written documentation, video, photographs, sketches, and hazard descriptions are part of the survey 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 note the hazard and the correction method in the field notes.

3. Recommendation of Interim Protection. The consultant must indicate in the case file notes whether interim protection is required, the nature of the recommended interim protection, and the date the interim protection must be in place.

4. Referrals. The consultant must note potential health/safety problems for referral to a respective health/safety consultant within the scope of the visit.

D. Evaluation of Workplace Safety and Health Management System. The evaluation must be conducted using the 1989 Safety and Health Program Management Guidelines (FR 54:3904-3916), which form the basis for the Safety and Health Program Assessment Worksheet (Revised Form 33). The elements of an effective safety and health management system included in the Guidelines are briefly discussed below:

1. Management Leadership and Employee Involvement. Management assigns safety and health responsibility and authority to supervisors and employees and holds them accountable. Management leadership includes policy formulation, annual goal-setting and program review, management example, and employee empowerment.

2. Worksite Analysis. Current and potential hazards are identified through the use of:

a. A thorough baseline survey to review work processes and individual potential hazards;

b. Management of change;

c. A job hazard analysis;

d. A self-inspection program, using checklists;

e. A system for reporting hazards, accident and incident investigation; and

f. An analysis of injuries and illnesses.

3. Hazard Prevention. Hazard prevention consists of:

a. Regular maintenance and housekeeping;

b. Emergency planning and preparation;

c. Training in first aid and cardio-pulmonary resuscitation;

d. Ready access to emergency care;

e. Medical surveillance; and

f. Such optional measures as preventive health care.

4. Hazard Control. This includes engineering controls such as guards, enclosures, and locks; personal protective equipment; safe work procedures; and administrative controls to control or eliminate hazards.

5. Safety and Health Training. This includes teaching all personnel about the hazards to which they may be exposed and how to identify, prevent, and control those hazards. Managers and supervisors also need training in program management topics such as enforcing rules, conducting drills, and performing accident investigations.

E. Closing Conference. In the closing conference, the consultant must:

1. Discuss the classification of identified hazards and possible methods of correction and mutually agreed upon correction dates for all serious hazards. Discuss classification and correction due dates for other-than-serious hazards if the site is a SHARP or inspection-deferral candidate.

2. Describe the adequacies and deficiencies of the employer's workplace safety and health management system.

3. Discuss with the employer the extent to which additional onsite visits may be needed for training or for the verification of hazard correction.

4. Develop a schedule for training and assistance or follow-up visits, as needed.

F. Transmitting the List of Hazards. The Consultation Project Manager must forward a List of Hazards to the employer and the employee representative as soon as possible but not longer than 20 days after the end of the closing conference.

Chapter 4

Training and Assistance Visits

I. Training. Consultants help employers determine their training needs and improve their ability to conduct workplace training. A consultant may provide formal or informal training, according to the employer s needs, as described below.

A. Formal Training. Consultants provide formal training in a classroom-like setting, following a syllabus which, upon completion of the training, must be placed in the case file. Formal training may take place onsite or offsite:

1. Onsite Training. Training visits may only be conducted onsite when specifically requested by the employer and only in conjunction with or within twelve months of a hazard survey. If the training visit is subsequent to a hazard survey not conducted by the Consultation Project, the consultant must have access to the survey report and be able to confirm that serious hazards were or are being corrected. The consultant must also conduct a brief walk-through of the workplace to verify hazard corrections and review current conditions to determine that no new hazardous conditions exist.

2. Offsite Training. Offsite training is of a specific technical nature and takes place at a location other than the employer's place of business. It may be coded as either a visit or an intervention, according to the following criteria:

a. Off-site training that is provided for a single employer and is directly connected to one or more hazards found during an initial or follow-up visit should be recorded on the Visit Form (OSHA Form 30).

b. Offsite technical training that is not directly related to an onsite visit (as specified in 2(a) above) should be recorded as an intervention on the Activity Hours and Compliance Assistance Web Application (OSHA Form 66). A hazard survey is not a prerequisite for providing this service.

B. Informal Training. Consultants provide informal training to employers and employees during the course of assisting in the development and improvement of effective safety and health management systems and in the identification and control of hazards. This training typically occurs during the initial visit or hazard

survey and involves a brief interruption of work or production to instruct individuals or small groups on concepts, techniques, or methods.

II. Documenting Training.

A. If training services are provided during the initial visit, a summary of the services provided must be included in the written report to the employer.

B. If training services are provided after the written report has been sent to the employer, in separate training visits, or during a follow-up visit, the consultant must send a letter describing the training to the employer and place a copy in the case file.

III. Recording of Time Spent Training. Instructions for recording data relevant to training delivery (including time spent on this activity) are in the IMIS Consultation Forms Manual, OSHA Instruction ADM 1-1.29.

IV. Qualifications of Trainers.

A. Informal Training. To be qualified to provide informal training a consultant must meet all of the following requirements:

1. Complete the Basic On-Site Consultation (OSHA 150) course;

2. Complete the Safety and Health Program Evaluation (OSHA 245) course;

3. Be a qualified consultant with knowledge of the hazard on which the training is being conducted.

B. Formal Training. To be qualified to deliver formal training a consultant must meet all of the requirements for informal training and all of the following:

1. Be selected by the Consultation Project manager to deliver formal training;

2. Be trained as a trainer; and

3. Have subject matter knowledge in the area of the formal training being offered.

V. Resource-Related Considerations.

A. Economies of Scale. Offsite training is a means of leveraging resources by using one consultant to address a common training need for multiple employers.

B. Coordination of Efforts. In order to avoid duplication of effort and to ensure the most efficient use of limited consultation resources, requests for offsite training approved by the Consultation Project Manager should be coordinated with other providers of similar or related training. In particular, the Consultation Project Manager should coordinate with Susan Harwood grantees, the OSHA Training Institute, OSHA Educational Centers, and Small Business Development Centers. In addition, the Regional Administrator or State Designee should be contacted to arrange joint training deliveries where appropriate.

C. Potential Over-Reliance on Consultants by Employers. One result of successful training by consultants is that employers may come to rely on or to expect consultants to provide all of their workplace training. In order to conserve scarce resources, consultants should encourage employers to develop their own training programs or refer employers to other training organizations or sources of information.

Chapter 5

Documenting Consultation Services

I. The Written Report to the Employer. The written report to the employer must be prepared at the conclusion of any initial visit and must include laboratory results, if applicable, of samples submitted for analysis. Visits other than initial visits do not require a written report to the employer, but must be concluded with a letter to the employer summarizing the activity. OSHA/VOSH considers a Written Report to the Employer to be confidential business information covered under Exemption 4 of the Federal Freedom of Information Act. Therefore, the Consultation Project Manager must provide it only to the employer.

A. Timing of the Report. The report must be sent to the employer as soon as possible but not longer than 20 days after the closing conference. If laboratory results are not yet available when the report is due to be sent, they should be sent as an addendum to the report as soon as they become available.

B. Responsibility for Preparing the Report. The consultant who conducted the initial visit prepares the report. If more than one consultant participated in the visit, the consultant to whom the visit was initially assigned is responsible for preparing the report.

C. Required Elements of the Written Report to the Employer. All projects must use the report to the employer template provided by OSHA. The following sections must be included in every report, although they need not be in this order, with the exception of the executive summary, which must be first:

1. Executive Summary. This section must include all of the following:

   a. A summary of the employer s request
   b. The scope of the services provided
   c. The name of the consultant conducting the visit
   d. Items of importance covered in the opening conference
   e. A description of the workplace and the working conditions
   f. A comparison of the site s LWDII and TRCR to the national industry average
   g. Items of importance covered in the closing conference

2. Employer s Obligations and Rights. The report must include the information outlined in Communicating Employer Obligations and Rights, located in Chapter 2, Paragraph II, (A-L) of this manual.

3. Hazards Identified. This is an itemization of all the hazards identified during the visit, the classification of the hazard, a correction due date for each serious hazard, and recommended methods to eliminate or control the hazard. If a hazard is corrected on the spot, the report must describe the method used to correct the hazard. If a Standard Element Paragraph (STEP) is used, it must be modified to meet the specific conditions of the employer s worksite.

4. Safety and Health Management System. In this section the consultant summarizes the analysis of the employer s safety and health management system through the use of the Safety and Health Program Assessment Worksheet (Revised OSHA Form 33). Although a template is provided, it is mandatory for this section to be specifically tailored to the worksite. All hazards observed (and reported on in paragraph (3) above) must be discussed as evidence of deficiencies in the safety and health management system. Recommendations to improve the existing safety and health management system must be included in this section.

5. Training Provided. A summary of both the formal and informal training which was conducted during the visit must be included in the report.

6. Monitoring Data. If sampling has been conducted, the appropriate template should be selected, including tables and charts to display the monitoring results.

7. Other Findings. In this section, the consultant must list and discuss any other identified safety and health issues that are subject to the general duty clause and which, if found by enforcement, would be cited.

8. Safety and Health Program Assessment Worksheet (Revised OSHA Form 33). If the use of a Safety and Health Program Assessment Worksheet (Revised OSHA Form 33) was required (See Chapter 3, Paragraph II), it must be included as an appendix to the report.

D. Cover Letter. Every report to an employer must be sent with a cover letter. Templates provided by OSHA include two types of letter, one for when no hazards were observed, and another for when serious hazards were observed. When serious hazards are observed, the Consultation Project Manager must ensure that the cover letter transmitting the Written Report to the Employer includes the following paragraphs:

Accompanying this report is a List of Hazards which includes a description of the serious hazard(s) and the date by which we mutually determined that the hazard(s) would be corrected. This List of Hazards must be posted, unedited, in a prominent location where it is readily observable by all employees for three working days or until the hazard(s) have been corrected, whichever is later. If we approve an extension to the correction due dates, a new List of Hazards will be sent to you showing the revised date(s).

During the time that you are working on correcting these hazard(s), OSHA may not conduct a scheduled inspection at your work site, provided that: a) you are within the correction due dates, b) interim protection is in place and c) the List of Hazards is posted. Should these conditions not be met, an OSHA compliance inspection may be conducted.

II. List of Hazards. The List of Hazards must accompany the consultant s written report to the employer. The consultant must also send the employee representative a copy of the List of Hazards and any modifications and extensions to correction due dates. The first page of the List of Hazards should be printed on the Consultation Project s letterhead. See Appendix D for a sample List of Hazards in the preferred format.

III. Case File. At a minimum, each case file must include:

A. All Consultation Forms (such as OSHA 20, 30, 40, etc.), field notes, observations, analyses, and other written documentation (such as hazard documentation, OSHA 200 logs, standard-required programs, safety and health programs, site layouts) gathered prior to and during the hazard survey.

B. For a formal training, evidence that either a hazard survey was performed or a Federal or State compliance officer or private consultant had visited the site, within the 12 months preceding the date of request for the training.

C. Any extensions granted must be documented, including written request by the employer for the extension, an explanation of why correction wasn t completed in the established time frame, and evidence that the employer is safeguarding employees against the hazard with interim protection during the correction period.

D. The Written Report to the Employer (WRE) that meets the requirements in Chapter 5, I.

E. The List(s) of Hazards provided to the employer, including all new Lists created as a result of approved extensions and revised correction due dates.

Chapter 6

Consultation Visits in Progress

I. Maintaining Consultation Visit In Progress Status. This chapter establishes procedures for ensuring that, while a consultation visit is in progress, the employer meets obligations established in the opening and closing conferences and in the written report to the employer. In order to maintain the status of consultation visit in progress, the employer must meet the following conditions.

A. Posting the List of Hazards. The employer must post the List of Hazards either electronically or in a location where it is readily observed by all affected employees for three days or until the hazards identified on the list are corrected, whichever is longer.

B. Hazard Correction

1. When a consultant identifies an imminent danger hazard or condition the employer must corrected it immediately or be referred immediately to enforcement.

2. When a consultant identifies a serious hazard, he or she must advise the employer of appropriate corrective methods, assist the employer in developing an action plan for hazard correction, and establish reasonable correction due dates with the employer. Where it is impossible to correct a serious hazard before the consultant leaves the employer s site, the consultant must recommend interim protection measures to the employer.

3. Where the consultant identifies other-than-serious hazards, the employer must be encouraged to correct those hazards. The consultant must discuss classification and correction due dates for other-than-serious hazards if the site is a SHARP or inspection-deferral candidate.

C. Verification of Hazard Correction. Where a consultant is unable to verify the correction of a serious hazard before the conclusion of the visit, the Consultation Project Manager must ensure that, at a minimum, the employer provides written notification that the hazard has been corrected. The written verification must include a signed narrative description of the corrective method employed, and may also include pictures, copies of receipts for purchased equipment or services, and any other proof of hazard correction.

II. Termination of a Consultation Visit in Progress. The status Consultation visit in progress must be terminated when ~~OSHA~~ VOSH initiates any of the following categories of inspections or investigations:

A. Imminent danger investigations

B. Fatality/catastrophe investigations

C. Formal Complaint investigations

D. Follow-up on previously cited violations that have not become final orders

III. Referral to Enforcement. Where the Consultation Project Manager determines that a serious hazard persists at a site that has received a consultation service, the Consultation Project Manager must make a referral to ~~OSHA~~ VOSH. Any of the following conditions is grounds for referral to ~~OSHA~~ VOSH:

A. An imminent danger situation that is not immediately corrected by the employer

B. A serious hazard that is not corrected within the established time frame, including extensions

Chapter 7

Recognition and Exemption Programs

I. Recognition and Exemption Programs. OSHA encourages small, high-hazard employers to operate exemplary safety and health management systems by offering participation in recognition and exemption programs. The Federal recognition and exemption program is known as the Safety and Health Achievement Recognition Program (SHARP). Programs operating in States with approved State Plans may be known by other names, but the term SHARP is used here to refer to the basic minimum requirements of any recognition and exemption program run by an OSHA Consultation Project, regardless of whether it is under State or Federal jurisdiction.

II. Safety and Health Achievement Recognition Program (SHARP). Employers who meet all of the eligibility criteria and on-going program requirements outlined below may be removed from ~~OSHA s~~ VOSH s Programmed Inspection Schedule for a period of not less than one year.

A. Employer s Eligibility. In order to be considered for participation in SHARP, an employer must:

1. Employ not more than 250 employees at the site and not more than 500 at all sites corporation-wide.

2. Be in an industry that is on OSHA s high-hazard list or a supplemental high-hazard list approved by the Director of Federal-State Operations or be on any national, state, or locally approved special emphasis program list.

3. Be a single, fixed worksite. (Multiple worksites under common control must be evaluated and approved separately. Employers at mobile worksites such as logging, longshoring, construction, etc., may not participate in SHARP.)

4. Have at least one year of operating history, in order to have established Lost Work Day Injury and Illness (LWDII) rate and Total Recordable Case Rate (TRCR). See Appendices A and B for rate calculation formulas.

5. Have reduced the Lost Workday Injury and Illness Incidence (LWDII) rate and Total Recordable Case Rate at the worksite to below the industry average. See Appendices A and B for rate calculation formulas.

B. Program Requirements. Employers requesting consideration for SHARP must:

1. Request a full service, comprehensive visit and correct all hazards (serious and other-than-serious) identified by the consultant.

2. Have implemented and maintain a safety and health management system addressing, at a minimum, the major elements of the 1989 Safety and Health Program Management Guidelines. Although a written safety and health management system as described in the 1989 Safety and Health Program Management Guidelines is not a requirement for participation in SHARP, OSHA/VOSH strongly recommends it.

3. Score at least two on all fifty basic attributes of the Safety and Health Program Assessment Worksheet (Revised OSHA Form 33).

4. Agree to notify the Consultation Project Manager prior to making any changes in working conditions or work processes that might introduce new hazards into the workplace.

C. Employers with Existing Exemplary Programs. If an employer has already satisfied all SHARP participation criteria described in Paragraphs A and B above, the Consultation Project Manager may recommend the site for final approval.

D. Consultation Project Manager s Responsibilities.

1. Verification of Employer s Eligibility. The Consultation Project Manager must ensure that the employer satisfies all SHARP participation criteria as described in Paragraphs A and B above and that all elements of an effective safety and health management system are fully operational.

   a. If hazards are found during the onsite evaluation, the Consultation Project Manager must be confident that the safety and health management system will still operate effectively. If the hazards found reflect deficiencies in the safety and health management system, the site cannot be recommended for SHARP approval until the deficiencies have been corrected, and the Consultation Project Manager is confident that the safety and health management system will operate effectively.

2. Submission of SHARP Requests for Approval. After ensuring that the employer has met all requirements above, the Consultation Project Manager must obtain a signed letter from the employer requesting SHARP approval. The Consultation Project Manager must then submit the employer s request to the ~~Regional Administrator or State Designee~~ Director of Cooperative Programs, together with the following:

a. The Consultation Project Manager s recommendation for SHARP approval.

b. The site s LWDII rate and TRCR and the national averages for that industry.

c. The SHARP log, including the date and type of each consultation visit conducted during the time that the employer was working toward SHARP approval.

d. A copy of the completed Safety and Health Program Assessment Worksheet (Revised OSHA Form 33) for safety and health visits.

e. An approval letter (for Commissioner s signature) and a SHARP certificate including the company name and period of exemption

3. Notification of Approval. If the SHARP request is approved, the Consultation Project Manager must inform the employer that the exemption period will extend for a period of one year from the date of issuance of the certificate of recognition.

a. Mail the signed SHARP certificate and approval letter to the company.

b. Notify the appropriate Regional Director so that the company can be removed from the **VOSH** General Programmed Inspection Schedule for the approval period, which begins the date the Central Office approves the employer s participation in SHARP.

c. Place a copy of the SHARP certificate and a copy of the transmittal letter in the case file.

d. Update the DOLI Web site to include the company name and location

F. ~~Regional Administrator s or State Designee s Responsibilities.~~ Director of Cooperative Programs Responsibilities. ~~Upon receipt of written verification that the employer has met all of the SHARP requirements, the Regional Administrator or State Designee~~ Director of Cooperative Programs must evaluate the recommendation and if in agreement submit the material to the Commissioner of Labor and Industry for final approval through the VOSH Director.

1. ~~Provide a copy of the SHARP certificate to the employer, including the company's name, location, and period of exemption.~~

2. ~~Notify the appropriate OSHA Area Director so that the company can be removed from the OSHA General Programmed Inspection Schedule for the approved exemption period, which begins on the date the Regional Office approves the employer's participation in SHARP~~.

3. ~~Provide a copy of the SHARP certificate and a copy of the transmittal letter to the Consultation Project Manager for the case file.~~

4. ~~Notify the National Office via the Consultation Project Officer's monthly update.~~

E. Exemption Period. The initial exemption period is one year. The renewal exemption period is one or two years, based on the recommendation of the Consultation Project Manager.

F. Changes that May Affect a SHARP Employer's Eligibility

1. Relocation. Employers planning to relocate their facilities must notify the Consultation Project Manager sixty days in advance of the move, and a consultant must visit the new site within thirty days after the new site becomes operational to ensure that the safety and health management system is in place. If this is not the case, the Consultation Project Manager must ask the employer to withdraw from the program.

2. Change in Ownership. Whenever ownership or major organizational changes occur that may impact the safety and health management system, the Consultation Project Manager must discuss the changes with the employer and schedule an onsite visit, if necessary.

G. Inspections at SHARP sites. The following types of incidents trigger inspections at SHARP sites:

1. Imminent danger

2. Fatality/Catastrophe

3. Formal complaints

4. Follow-up of previously cited violations that have not become final orders

H. Fatalities or Catastrophes at a SHARP site. In the case of a fatality or catastrophe at a SHARP site, the employer must notify the ~~OSHA Area~~ Regional Office within 8 hours of the incident. The ~~Area~~ Regional Director must notify the Consultation Project Manager as soon as possible after notification of the incident. Until all citations have been issued, Consultation personnel must not discuss with the employer any issues related to the fatality or catastrophe. After all citations have been issued, the Consultation Project Manager must evaluate the SHARP status of the work site using the following criteria:

1. If no citation is issued, an onsite visit must be conducted to ensure that all elements of the safety and health program are still effective.

2. If a serious or repeat citation is issued, a consultant must conduct an onsite visit to ensure that the safety and health management system is operating effectively.

   a. If the consultant believes there is a connection between a serious citation and reduced effectiveness of the safety and health management system, the Consultation Project Manager must recommend that the SHARP employer withdraw from the program.

   b. If the consultant believes there is no connection, the employer must be counseled on how to prevent a recurrence.

3. If a willful citation is issued or there is evidence that the site s application or annual self-evaluations was falsified, the employer must be asked to withdraw from the program. If the employer does not withdraw voluntarily within 5 working days, participation must be terminated. The employer may reapply 12 months after withdrawal or termination.

I. Renewal Requirements. Employers at SHARP sites must apply for renewal during the last quarter of the exemption period. The Consultation Project Manager may authorize the employer to submit a written request for SHARP renewal and then follow the steps under Paragraph D above, provided the following steps have been taken:

1. The Consultation Project Manager must provide a full service comprehensive visit to ensure that the safety and health management system has been effectively maintained or improved.

2. The employer must continue to meet all eligibility criteria and program requirements described in paragraphs A and B above, and the site s injury and illness data must be calculated using the multi-year method described in Appendices A and B.

3. As a condition of receiving a two-year exemption period upon qualifying for renewal of SHARP status, agree to conduct an interim-year self-evaluation and submit a written report that is based on the required elements of the 1989 Safety and Health Program Management Guidelines and includes OSHA 200 log data. See Appendix F for a template for this report.

J. Failure to Maintain Program Requirements. If an employer fails to maintain the participation criteria outlined in this chapter, the Consultation Project Manager should give the employer the opportunity to voluntarily withdraw from the program.

K. Voluntary Withdrawal from the Program. Any approved SHARP participant may withdraw at any time. Withdrawal may occur as a result of plant closing, economic difficulty, change in management, or at the request of the Consultation Project Manager. To withdraw, the employer must send a letter explaining the withdrawal and return the SHARP certificate to the Consultation Project Manager. The withdrawal is effective immediately upon receipt of the letter. The Consultation Project Manager must request that the ~~Regional Administrator or~~ State Designee approve the employer s withdrawal from SHARP.

L. Termination. If an employer fails to maintain the participation criteria outlined in this chapter and refuses the opportunity to voluntarily withdraw from the program, the Consultation Project Manager must request that the ~~Regional Administrator or~~ State Designee terminate the employer s participation in SHARP. The employer and the ~~Area~~ Regional Office must be notified in writing when SHARP participation is terminated. The written notice must contain the reason(s) for termination and outline the requirements for re-entry into the program.

III. Inspection Deferral Status. An employer who meets all of the eligibility requirements for the SHARP program, corrects all hazards identified during the consultation visit, and shows reasonable promise of achieving milestones and time frames agreed upon with the consultant may be granted inspection deferral. The deferral time frame recommended by the Consultation Project Manager, including extensions, must not exceed a total of 18 months from the expiration of the correction due date(s). All of the following criteria must be met prior to granting an inspection deferral.

A. Employer s Obligations and Employees Rights. The employer must:

1. Post the List of Hazards identified by the consultant.

2. Provide information on all serious hazards identified by the consultant to employees and inform employees when hazards are corrected.

3. Correct all hazards identified by consultants.

4. Show evidence of having the foundation of a safety and health management system.

5. Implement the Action Plan developed by the consultant outlining the necessary achievements and time frames required for the employer to achieve SHARP status. The employer must provide progress reports to the Consultation Project Manager and meet other state-specific or Consultation-Project-specific requirements.

6. Post a letter from the ~~Regional Administrator~~ Director of Cooperative Programs approving inspection deferral status. At sites having recognized employee representatives, the employer must notify the employee representative(s) of the employer s intention to participate in SHARP and involve the recognized employee representative in the process.

7. Agree to a full service comprehensive visit at the end of the deferral period, which initiates the SHARP application process.

8. Agree to notify the Consultation Project Manager prior to making any changes in working conditions or work processes that might introduce new hazards into the workplace.

9. Involve employees in the safety and health management system, including the implementation of the Action Plan.

10. Be capable of reducing the site s Lost Workday Injury and Illness (LWDII) Rate and Total Recordable Case Rate (TRCR) to below the industry national average within the deferral period.

B. Consultation Project Manager s Responsibilities. The Consultation Project Manager must:

1. Conduct an onsite follow-up visit to verify correction of all serious hazards and compliance with requirements to post the List of Hazards and other employee information requirements.

2. Develop and negotiate an Action Plan to be implemented by the employer. The Action Plan must outline a goal, recommended method of correction, and an expected completion date for each attribute of the Safety and Health Program Assessment Worksheet (Revised OSHA Form 33) that received a rating of less than two. The consultant should refer to the requirements of

the 1989 Safety and Health Program Management Guidelines as needed to develop the Action Plan. See Appendix E for an Action Plan template.

3. Determine if the employer is capable of meeting all SHARP requirements within the deferral period, including LWDII rate and TRCR requirements.

4. Provide a signed notice of intent to participate in SHARP, to be posted by the employer. If, at a site having a recognized employee representative, an employee representative objects to the site s involvement in SHARP, the Consultation Project Manager must advise the employer that the application cannot go forward until labor and management agree on the issue.

5. Recommend a deferral period (not to exceed a total of 18 months, including extensions, from the end of the correction due dates) to the Regional Administrator or State Designee.

6. Request that the ~~Regional Administrator or~~ State Designee terminate the employer s inspection deferral status, if the employer does not meet the program requirements.

C. Director of Cooperative Programs Responsibilities

1. The ~~Regional Administrator or~~ State Designee may grant an Inspection Deferral for the period recommended by the Consultation Project Manager and notify the appropriate ~~Area~~ Regional Office of the deferral. Prior to granting a deferral, the ~~Regional Administrator or~~ State Designee must ensure that:

   a. The LWDII Rate and TRCR requirements have been met or are likely to be met.

   b. The employer has the foundation of a safety and health management system.

   c. The Action Plan adequately outlines the goal, recommended method of correction, and an expected completion date for each attribute of the Safety and Health Program Assessment Worksheet (Revised OSHA Form 33) that received a rating of less than two.

2. Termination of Deferral. The ~~Regional Administrator or~~ State Designee must notify the employer and the Area Office in writing when an employer s inspection deferral status is terminated. The letter must contain

the reason(s) for termination and outline the requirements for re-entry into the program.

Chapter 8

Monitoring of Consultation Projects

I. Core Principles. The scope of OSHA's evaluation includes any Consultation activity that receives Federal funding under Section 21(d) of the Occupational Safety and Health (OSH) Act. The purpose of the monitoring and evaluation process is to determine whether Consultation is having an impact on workplace safety and health and fulfilling its mandated requirements under 29 CFR 1908. While evaluation findings, conclusions, and recommendations remain OSHA s responsibility under the OSH Act, the evaluation process itself is a joint endeavor which requires collaboration and mutual agreement. The process is based on the following principles.

A. Linkage to Strategic and Annual Performance Plans. Consultation activities in Federal enforcement States will be linked to Federal OSHA s strategic and annual performance plans, while those in State plan States will be linked to State strategic and annual performance plans. As a result, Consultation activity in Federal and State plan States may be variously tracked against State, Regional, or Federal goals. Because not all performance goals are relevant in every region or State, individual Consultation Projects must detail, in their Consultation Annual Project Plans (CAPPs), how their activities will support the State or Federal annual performance plan.

B. Outcome-Oriented Evaluation. The focus of monitoring and evaluation is on evaluating a Project s results against the targets set in its Consultation Annual Project Plan (CAPP) and its contribution to the achievement of Federal or State annual performance goals.

C. Flexibility. The monitoring and evaluation process is designed to permit differences among Consultation Projects by comparing each Project s performance to its own targets, rather than to a national standard or goal.

D. Partnership. The monitoring and evaluation process will be performed jointly by the Projects and Federal OSHA. The process described in this manual identifies those activities which will be performed by Consultation Projects and those which will be performed by Federal OSHA. The monitoring process requires coordination between Regional consultation monitoring staff and State plan monitoring staff to ensure that Consultation projects in State plan States are not subject to two unique sets of monitoring requirements.

E. On-Going Communication. On-going communication between the Projects and Federal OSHA is a key component of the monitoring and evaluation process. In addition to regular, informal communication between States and Federal OSHA, formal communication processes are established through the procedures defined in this manual, such as quarterly monitoring discussions.

F. Regulatory Consistency. Activities and program elements mandated in 29 CFR 1908 will continue to be monitored to ensure that Consultation Projects meet statutory and regulatory requirements.

II. Framework of the Evaluation Process. Evaluating Consultation Projects is an on-going process. It entails the regular, joint review of data from a variety of sources throughout the evaluation period to track a Project s progress in achieving the performance targets it set in its CAPP and to ensure that the Project is meeting its mandated responsibilities. The primary focus of the evaluation of Consultation Projects is assessing their progress toward accomplishing performance targets set in the CAPP, which, by their linkage to strategic and annual performance plans, are tracked in the long term via OSHA or State strategic plan measures. As these outcome measures may not be available on a quarterly basis and often lag by a year or more, quarterly discussions of progress should be informed by activity and intermediate measures while viewing the targets set in the CAPP. Throughout the evaluation period, Regional and Consultation Project staff will also review quarterly Mandated Activity Reports for Consultation (MARC) and monthly Consultation Management Reports (CMR). These will be augmented by any specific measures for unique State, Regional, or Federal program elements.

A. Quarterly Discussions. Federal and Project representatives must meet (or confer by telephone) at least once in every quarter to review the Project s progress on the CAPP and MARC, and address any issues or problems that arise. The Region must document the issues discussed and any commitments made during the quarterly discussions. See Chapter 9 for details.

B. Performance Tracking and Reports. The quarterly Mandated Activity Report for Consultation (MARC) defines acceptable performance of some mandated activities (See Chapter 11 and Appendix G). Mandated program elements not amenable to measurement by MARC are addressed through Onsite Review (OR), internal quality assurance programs, or assurances in the Cooperative Agreement.

1. Federal OSHA is responsible for tracking mandated Project activities through quarterly review of the MARC, conducting ORs, and reviewing operations on an on-going basis.

2. Projects are responsible for program management and review through monthly review of the CMR and any other sources of information for measuring progress toward annual performance targets established in the CAPP.

C. Annual Assurances (OSHA Restrictions and Conditions). Maintenance of the fundamental program requirements listed in Appendix H must be assured through an annual commitment (OSHA Conditions and Restrictions) from the State, to be included in the Cooperative Agreement. Effective implementation of the assurances is monitored by the Consultation Project through sound management

practices that include an internal quality assurance program, use of data obtained from the Consultation Management Report (CMR), and use of other data. In the event that an activity or program element assured by the Project is not observed, the Region may conduct appropriate monitoring activities. See Chapter 9, Paragraph IV, Required Elements of an Internal Quality Assurance Program and Chapter 11, Paragraph IV, Onsite Review (OR).

D. Onsite Review (OR). An onsite review is a routine monitoring activity conducted by the Region to assess the quality of a project's services and its quality assurance program. The Region must conduct a minimum of one onsite review every two years. Additional reviews may be conducted when a project is experiencing program difficulties or for other reasons determined by the Regional Administrator. See Chapter 11, Paragraph IV, Onsite Review (OR).

E. Other Evaluation Tools. Additional evaluation tools, including Federal OSHA interviews with Consultation Project staff, case file reviews, and further analysis of issues identified in routine monitoring may be used as needed to address questions of Consultation Project performance in relation to its approved targets or its mandated responsibilities. See Chapter 11, Paragraph V, Further Analysis.

III. Annual Evaluation Reports. Annual evaluation reports, described below, should be submitted via e-mail. If this is not possible, floppy disks are acceptable.

A. Consultation Annual Project Report (CAPR). Each Consultation Project must prepare a CAPR to summarize and analyze the progress made in attaining the targets it set out in its Consultation Annual Project Plan. It may include a summary and evaluation of the Project s outcome data, including a summary of its quarterly progress updates, discussion of obstacles faced, and the reasons for not meeting projected targets. The CAPR is prepared after the end-of-year data have been compiled and is due annually on January 15. The CAPR will be used by OSHA s National Office when it prepares its annual GPRA report to the Congress, in which the results of all of the Consultation Projects will be aggregated to summarize the national success of the Consultation Program.

B. Regional Annual Consultation Evaluation Report (RACER). This report is prepared by each Regional Office in conjunction with Consultation Project staff. The RACER analyzes the results attained by the Project and evaluates the Project s performance of its mandated activities. It includes documentation of any significant issues and recommendations for addressing them, as well as a summary of the reports of quarterly discussions. This report is due annually on March 31.

IV. Dispute Resolution Process. Regions and Consultation Projects are expected to make every reasonable effort to resolve differences at the lowest organizational level possible. In the event that a Project and Region cannot agree on the resolution of an issue relating

to program administration or the monitoring and evaluation system, either may seek resolution by the Assistant Secretary for Occupational Safety and Health through established channels.

Chapter 9

The Monitoring Process

I. Development, Review, and Monitoring of Consultation Annual Project Plans.

The primary focus of monitoring and evaluation is the Consultation Annual Project Plan (CAPP), which identifies the strategies and activities to be undertaken by the project to support the strategic and annual performance plans of Federal or State OSHA in which it operates. The following principles govern the development, review, and monitoring of CAPPs.

A. CAPPs must be negotiated between the Consultation Project and its Regional Administrator. Regional and Federal OSHA approval of the annual Consultation Cooperative Agreement, of which the CAPP is a part, indicates agreement on the terms of the CAPP.

B. Consultation-related outcome data is reported, in Federal States, through the OSHA Performance Tracking and Measurement System (OPTMS). Data relating to Consultation Projects in State jurisdictions is reported independently by the State to the Region. Timely delivery of data for preliminary analysis before the quarterly discussion is essential to the effectiveness of the process.

C. Data-based tracking of mandated activities is conducted primarily by the Region, using the MARC report. Intermediate and activity performance measures are tracked through Consultation Management Reports (CMRs) and any unique measures developed by a State or Consultation Project.

D. Performance data found in the MARC and CMR should be jointly reviewed by the Consultation Project and the Regional Consultation Project Officer in quarterly discussions held at least four times a year. Problems or deficiencies in the data system or in achieving performance targets must be discussed during quarterly discussions.

E. Annual evaluation reports focus primarily on the attainment of targets set in the CAPP and secondarily on any deficiencies relating to mandated activities or program elements.

II. Quarterly Discussions.

A. Purpose. Quarterly discussions provide an opportunity to assess Project performance on an on-going basis. This method of sharing information and conducting joint reviews of Project performance targets on a quarterly basis facilitates the annual evaluation process and permits early identification of potential issues or performance problems.

B. Frequency and Timing of Quarterly Discussions. 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, but communication is not limited to the quarterly discussions. Informal discussions, working sessions, and other meetings, for a variety of purposes including development of CAPPs, should be held as necessary. Quarterly discussions may take place in-person or via telephone.

C. Focus of the Quarterly Discussions

Quarterly Meeting	Timing	Focus of the Meeting
First	October-November	Discuss end-of-year data for the previous fiscal year, if available Review the details of and make any necessary minor adjustments to the Project s CAPP Review the Project s Internal Quality Assurance Program Agree upon a schedule for the year s quarterly discussions and upon due dates that permit submission of the CAPR to the National Office by January 15 Coordinate the annual evaluation process and begin discussing evaluation reports for the previous fiscal year
Second	January-February	Review first quarter performance and mandated activities data to assess the Project s year-to-date progress toward its annual performance targets Discuss any additional issues that have arisen or were identified but not resolved previously Discuss the findings of the evaluation reports for the previous fiscal year
Third	April-May	Discuss second quarter data, assessing the Project s year-to-date progress toward its annual performance targets Discuss any additional issues that have arisen or were identified but not resolved previously Begin discussing the targets and strategies to be included in the following year s CAPP
Fourth	July-August	Discuss third quarter data, assessing the Project s year-to-date progress toward its annual performance targets Finalize the next fiscal year s CAPP Discuss any additional issues that have arisen or were identified but not resolved previously

A. Quarterly Discussion Topics. Examples of discussion topics include:

1. Progress in meeting annual performance targets

2. Status of Federal and State strategic or annual performance plans

3. Review of mandated activity reports

4. Results of an onsite review or follow-up on issues arising from an onsite review

5. Project s Internal Quality Assurance Program

6. Issues that may relate to the Project s assurances or quality assurance program

7. Effect of State policies and procedures or other impact factors

8. Status of Project responses to prior evaluation reports

9. Appropriate use of resources

10. Upcoming Federal or State training courses

11. Follow-up on commitments made during the previous quarterly discussion

12. Any other issues of concern to either party

B. Documentation. The Federal OSHA Regional representative must maintain a written record of each quarterly discussion indicating the date, location, 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, should also be documented. The Federal OSHA representative must provide copies of quarterly discussion reports to the Project.

II. Criteria for Acceptable Performance by the Consultation Project. The following criteria will be used by Federal OSHA Regional monitoring staff to determine whether a Project s performance falls within the range of acceptability:

A. Monitoring must focus on evaluating a Project s performance against its own established performance targets. An individual Project s performance should not be compared to the performance of other Projects. Instead, the focus should be on determining the extent to which a Project has achieved what it set out to achieve in its CAPP.

B. There may be significant time lags in the reporting of primary outcome level data due to data collection constraints (for example, the time lag for receipt of Bureau of Labor Statistics data is often up to 18 months). In the absence of outcome-level data, the Region and the Project should jointly review activity- and intermediate-outcome-level results to determine whether the Project has applied sufficient resources (using activity-level data) and directed those resources to areas where an impact is likely to be made (intermediate outcome-level data).

C. Reasonable progress toward performance targets constitutes acceptable performance. Where progress has not been to the degree expected, either or both evaluation reports (see below) must contain an analysis of the factors contributing to the unexpected outcome and identification of necessary changes in strategy or project operations.

III. Required Elements of an Internal Quality Assurance Program. Consultation Projects must operate internal quality assurance programs to ensure the maintenance of those program requirements that are covered by assurances in the Cooperative Agreement. A comprehensive quality assurance program must include systems to ensure:

A. Training and supervising consultants through the use of:

1. On-the-job evaluations (optional)

2. Review of work products

3. The Orientation for New Consultants (OSHA 150) course and mentoring for all new hires

4. E-cats and technical links found on the OSHA website

B. Communicating (verbally or in writing) to employers:

1. Employer s obligations

2. The relationship of Consultation Programs to enforcement

3. Program, State, or other policies and procedures

C. Ensuring that hazards are identified, correction advice is offered to employers, and abatement 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 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

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

IV. Evaluation Reports. Each year, the Region and the Consultation Project prepare reports documenting the Project s results with respect to its Consultation Annual Project Plan and its mandated activities. The Project prepares the Consultation Annual Project Report (CAPR), and the Region prepares the Regional Annual Consultation Evaluation Report (RACER). The results reported in the CAPRs are aggregated by the National Office into a summary of consultation projects activity, intermediate outcome, and outcome data, are included in Federal OSHA s annual GPRA performance report to the Congress.

A. Consultation Annual Project Report (CAPR). This report is a summary and analysis of the Project s progress made toward attaining the targets set in its CAPP.

1. Due Date. The Consultation Project Manager must submit the CAPR to the Regional Administrator by December 1 of each year. The Regional Administrator must forward all of the CAPRs in the Region to the National Office by January 15 of each year.

2. Contents. The CAPR must include the following elements:

a. Executive Summary. The Executive Summary should highlight key contributions, put results into context with the State/Federal strategic plan and program budget, clarify program rationale and relationships between major program activities and intended results, identify what worked and what didn't work, and the way in which the 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 should include:

(1) For each Federal or State annual performance goal addressed in the CAPP, the CAPR should contain a summary of results achieved by the Consultation Project. The strategies and activities used to achieve the targets set in the CAPP should be evaluated. Did these strategies work and were the activities used to implement these strategies effective? What modifications need to be made to the strategies and activities to more effectively reach the goals? Were there situations where external factors affected performance? Are there ways to coordinate with others or leverage resources or knowledge that would help to achieve the goals?

(2) Any specific performance measures relating to the Consultation Program or performance measures developed by the Consultation Project Manager should be analyzed in the CAPR. Did the results exceed expectations? By how much? Did activities and effort fall short of expectations? By how much?

(3) Finally, the measures themselves should 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 the strategic goal, strategies and activities. What measurements were effective in gauging performance and which measurements were simply counts of activity? Did the project use the measurements to evaluate progress and adjust future implementation strategies?

c. Special Accomplishments. These may be results that were far beyond expectations, successes that were achieved in areas, issues, or constituencies that had formerly been considered difficult or unlikely. These may also outline the successes 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:

(1) Results relating to any state-specific initiatives, if there were any.

(2) Any areas where annual Project goals have not been met or other new issues have evolved.

e. Internal Quality Assurance Program. Describe the findings on each element of your internal quality assurance plan and discuss the measures you are taking or will take to make any needed improvements. See Paragraph IV., above, for the required elements of the IQA.

B. Regional Annual Consultation Evaluation Report (RACER). This report is an annual assessment and is prepared by OSHA s Regional Office staff. Its purpose is to analyze each Project s strategic impact and the performance of its mandated activities for the year. It should also include documentation of any significant issues and recommendations for addressing them.

1. Due Date. The Regional Office must submit each Project s RACER to the Directorate of Federal-State Operations by March 31 of each year.

2. Contents. The RACER must include the following elements:

a. Executive Summary. This section provides a bullet-point summary of the performance of the Consultation Project and any items on which the Project must take action for continuous improvement.

b. Assessment of the Consultation Project s Annual Performance in Relation to its Consultation Annual Project Plan. This section should include an analysis of the Project s performance as it relates to the projections and goals outlined in the Consultation Annual Project Plan. The Region s analysis should include evaluation of the Project s results presented by the Project in its CAPR. It may also include documentation of any significant issues and recommendations for addressing them, as well as a summary of the reports of quarterly discussions.

c. Assessment of Project s Performance of Mandated Activities. This section should evaluate the Project s continued performance of its mandated activities, as determined by a review of MARC reports, the Project s Internal Quality Assurance Program, and, if an Onsite Review was conducted that year, by the results of the OR.

d. Other Issues (Optional). The Region may wish to address or highlight additional issues regarding the Project s performance that were not included in the previous sections of the report.

e. Appendices

(1) Consultation Annual Project Report (CAPR)

(2) Data printout for the end-of-year Mandated Activity Report for Consultation (MARC)

(3) Summary of the Onsite Review

Chapter 10

The Consultation Annual Project Plan

I. Purpose. This chapter describes the requirement that the Consultation Cooperative Agreement include a detailed Consultation Annual Project Plan (CAPP) developed in partnership with the Regional Administrator s representative.

II. Consultation Annual Project Plan Submitted in Cooperative Agreement.

A. The CAPP is a detailed narrative description of how the Consultation Project s activities will support either the Federal or State annual performance plan in the coming program year. It may also include local goals.

B. As much as possible, Consultation Project activities must link to the strategic and annual performance plans they support. However, individual Consultation Projects are not required to support every Federal or State performance goal.

If a Consultation Project is...	***the Project s activities must...***
under Federal jurisdiction	support Federal OSHA s strategic and annual performance plan
in a State plan State	support the State s strategic and annual performance plan. It may also support Federal issues not covered by the State Plan

C. Developing Annual Project Plans in Cooperation with Regional Offices

1. Each Consultation Project Manager develops the CAPP in cooperation with its Regional Office, Area Office, or both, meeting early in the process to agree upon the goals to be supported as well as the activities and strategies to be applied.

2. In the third quarter of each year, each Consultation Project Manager must provide a draft Cooperative Agreement to its Regional Office.

3. The Consultation Project Manager and the representative from the Regional or Area Office must negotiate the elements in the annual project plan, which is included as part of the draft Cooperative Agreement. The Consultation Project Manager revises the draft as necessary.

D. Due Dates. Each year, Consultation Project Managers and their Area or Regional officials must agree upon a schedule that permits sending the Cooperative Agreement application to the National Office by the due date.

E. Performance Monitoring and Evaluation

1. Performance of Consultation Projects in Federal enforcement States is tracked against performance goals set in Federal OSHA s strategic and annual performance plans.

2. Performance of Consultation Projects in State plan States is tracked against performance goals set in the State s strategic and annual performance plans.

F. Partnership with Enforcement. Consultation Project Managers should participate fully in the overall planning process and should work as partners with enforcement representatives in developing Federal, Regional, or State annual performance plans.

III. Content and Organization of the Consultation Annual Project Plan (CAPP). Each Consultation Project Manager must develop a CAPP identifying the activities to be performed in support of the Federal or State strategic and annual performance plans. Each CAPP must include the following elements.

A. Overview of the Consultation Project

1. Organizational Chart.

2. Staffing Chart. The following chart must contain the number of full and part-time staff employed by the Consultation Project, expressed in full-time equivalents (FTEs), for each category of staff. All projects must have the equivalent of two safety and two health professionals, in addition to managerial and support personnel. The numbers in the chart below are examples only.

Consultation Project Staff Category	Number of FTEs
1. Managerial Staff	0.75
2. Consultants Safety	3.50
3. Consultants Health	2.00
4. 100% State-Funded Consultants Safety	0.50
5. 100% State-Funded Consultants Health	0.50
6. Clerical/data systems support	2.00
7. Marketing staff	0.25
8. Trainers	1.00
Total Number of FTEs	10.50

3. Change(s) in Project s Status. Any changes in the status of the Project, such as the organizational unit within which the Consultation Project is located or the structure of the unit or organization must be provided.

A. Operational Description by Annual Performance Goal. List and discuss ***each*** of the applicable Federal or State annual performance goals to be supported by the Project, local emphasis programs, and special initiatives, including a description of each of the following elements:

1. Strategies. Describe the specific strategies that will be used to target results for that performance goal (for example, developing and promoting a Web-based chat room for discussion of safety and health program issues, or partnering with other State agencies to promote training around the State)

2. Activities. List the type and projected number of activities. These should correspond to the activities listed in the Projected Activity Chart

3. Impact. Describe the anticipated impact of performing the activities described.

The tabular format in Operational Description by Annual Performance Goal" on the following page contains all of the required information categories.

Operational Description by Annual Performance Goal

Federal or State Performance Goal# and Statement	Consultation Strategy	Description of Planned Consultation Activities	Anticipated Impact of Consultation Activities
Annual Performance Goal #x		Activity 1 ..... Activity 2	Result 1 Result 2
Annual Performance Goal #y		Activity 1 ..... Activity 2	Result 1 Result 2
Annual Performance Goal #z			
Annual Performance Goal #xx			
Annual Performance Goal #yy			
Annual Performance Goal #zz			
Local Emphasis Program			
Special Initiative			

B. Projected Visits. Estimate the total number of consultation activities to be performed during the year covered by the project plan, broken out by annual performance goal. Include the following information:

1. Initial visits

2. Training visits

3. Follow-up visits

4. Total visits (combined strategic and non-strategic)

The tabular format in Projected Visits" on the following page contains all of the required information categories.

Projected Visits

Annual Performance Goal#	Projected Visits						
	Initial Visits		Training		Follow-Up		Combined Totals by Goal
	Safety	Health	Safety	Health	Safety	Health	
Annual Performance Goal #x							
Annual Performance Goal #y							
Annual Performance Goal #z							
Annual Performance Goal #xx							
Annual Performance Goal #yy							
Annual Performance Goal #zz							
Local Emphasis Program							
Other							
Total by Safety or Health							
Combined Safety and Health Activities							

C. Strategy and Target(s) for Recognition and Exemption Program. Describe the strategy for promoting the recognition and exemption program and identify the target number of participants agreed upon with the Region.

D. Changes to the Internal Quality Assurance Program. Provide a detailed description of any changes to the means by which the Consultation Project ensures consistent and reliable consultation services. See Chapter 9, Paragraph IV, Required Elements of an Internal Quality Assurance Program.

E. Appendix 1: State Annual Performance Plan. If the Consultation Project supports a State annual performance plan, attach a copy of the State s Annual Performance Plan.

II. Changes to the Consultation Annual Project Plan. Once a CAPP is approved, formal revisions to it need not be made. However, modifications, including those to emphasis, strategy, or targeting, must be discussed in quarterly discussions and documented in the Regional Annual Consultation Evaluation Report.

Chapter 11

Monitoring Tools

I. Monitoring of Mandated Activities and Program Elements. The day to day responsibilities for ensuring that the various mandated elements are in place is distributed between the Regions and the Consultation Project Managers. The Regional Consultation Project Officer tracks certain mandated activities through the Mandated Activity Report for Consultation (MARC). The Consultation Project Manager tracks those mandated elements covered in assurances in the Cooperative Agreement through the Consultation Management Report (CMR), the project s internal quality assurance program (detailed in Chapter 9, Paragraph IV), and other methods. The Regional Consultation Project Officer ensures the effectiveness of the Consultation Project Manager s program management through Onsite Reviews conducted every two years. The MARC, CMR, and Onsite Review are described in this chapter.

II. Mandated Activity Report for Consultation (MARC) Report. Consultation mandated activities are tracked via the Mandated Activity Report for Consultation (MARC) report. This report is not the only data source for evidence of mandated activities, as performance measurement data relating to the strategic and annual performance goals will also, in many cases, reflect on mandated activities. (See Appendix G for a complete list of the measures included in the MARC.) The MARC consists of indicators; a standard, where applicable; and performance data.

A. Frequency. The MARC report is run quarterly for each Project and includes data for the most recent quarter and fiscal-year-to-date. The report is also available as a micro-to-host report to be run independently by a Consultation Project Manager.

B. Data Source. OSHA s Integrated Management Information System (IMIS) is the source of most performance data, but in some instances, it is provided by the Consultation Project Manager to the Regions.

C. Measurement Standard or Reference. In some cases, a Project s performance is compared to criteria established by regulation or policy. These criteria can be found in the Reference column in the MARC and CMR. Performance that falls short of a particular standard or reference should not automatically be construed as failure, but should be discussed and, insofar as possible, attempts should be made to explain it and correct any deficiencies determined to have caused it.

D. Guidelines for Use. Regional and Project staff should jointly review the Mandated Activity Report for Consultation (MARC) reports quarterly and discuss performance that does not meet the standard. Initial review by designated Federal and Project officials should take place before the quarterly discussion.

E. Initial Review. Any potential problem found during the initial review of the MARC data should be further investigated to determine its significance and the amount and type of attention it should receive. Both Federal and Project reviewers should explore the cause and extent of data that do not meet the performance standards.

1. Discussion of Findings. OSHA or, in the case of a joint review, OSHA and the Project, should present the findings and possible causes of any performance variances at the quarterly discussion. If additional analysis is required, OSHA and the Project should agree on how this will be done.

2. Further Review. Data collection and review of data should be considered a joint responsibility whenever possible. The data sources to be used and the method of evaluation should be discussed at the quarterly discussion, as should issues of potential data accuracy, where appropriate.

3. Follow-up Action. If remedial action is required, OSHA and the Project should agree upon possible courses of action.

III. Consultation Management Report (CMR). Some mandated activities are tracked in the CMR, which is used primarily by the Consultation Project Managers to monitor their own performance. This report contains management information on the operations of a Consultation Project, including efficiency measures and intermediate outcome measures (See Appendix G for a list of proposed CMRs).

A. Frequency. The CMR is run monthly and contains monthly and year-to-date totals. The report is also available as a micro-to-host report.

B. Guidelines for Use. The CMR is primarily a report of activity data for a Consultation Project Manager s use in internal management. OSHA representatives and Project staff may also use the CMR to supplement the MARC as a source of information for evaluating potential problems related to carrying out mandated activities.

IV. Onsite Review (OR). The Region conducts an Onsite Review to assess the effectiveness of the Project s system for the delivery of consultative services, particularly in relation to mandated program elements not covered by MARC. Regions must conduct ORs at least once every two years. The OR provides an opportunity to discuss the general operations and quality assurance program of the project and provide assistance in delivering high quality consultative assistance. Problems or potential problems in the general operational system identified during the OR should be discussed during the OR. The Region may interview the Consultation Project Manager and consultants regarding any concerns or apparent problems arising out of the OR. (See Appendix I for an OR checklist.)

A. Operational Elements to Be Reviewed. The OR should include a review of:

1. Training received by consultants

2. On-the-job evaluations

3. Lapse time from request to delivery of service

4. Management reports (i.e., written reports pending, pending hazard corrections, number of requests, and visits pending)

5. Hiring and vacancies

6. The Project s budget (i.e., project expenditures this is not an audit)

7. Recent consultation project developments

8. Monitoring of consultants performance

9. Promotion of the Project s recognition and exemption program (SHARP)

10. Marketing initiatives

11. The Project s internal quality assurance programs

12. The consistent use of the Safety and Health Program Worksheet (Revised OSHA Form 33) by all consultants

B. Case File Review. Files should be selected randomly from all closed cases with closing conference dates in the nine months preceding the current onsite review.

1. Sample Size. The sample must include a minimum of 3 initial case files per consultant, up to a total of 36. For those projects with more than 12 consultants, the sample should be adjusted to include those consultants who have the least experience or seniority on the job. At least two of the three case files selected per consultant must be cases where serious hazards were found. For Projects 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 population.

2. Selecting the Sample. Selection should be made as follows. First, determine the total number of recognition-program cases. Then:

a. If the total number of recognition-program case files is more than ten, randomly select ten of the recognition-program case files and then randomly select the balance of the sample from the non-recognition-program case files.

b. If the total number of recognition-program case files is less than ten, select them all, and then randomly select the balance of the sample from the non-recognition-program case files.

c. If the randomly selected non-recognition-program case files do not include at least five training case files, the sample should be increased by as many randomly selected training files as needed to total five.

3. Focus of the Case File Review (CFR). The quality of the following services provided by the Consultation Project should be evaluated on the basis of the case files. (See Appendix I for the criteria applying to Case File Review.) The Region must review and discuss findings of the CFR with the Consultation Project Manager.

a. Safety and health program assistance

b. Identification and classification of hazards

c. Recommendations for hazard correction and control

d. Relationship of hazards found to deficiencies in the employer s safety and health management system

e. Training and education

f. Exemption program evaluations

g. Written reports to employers

C. Review of Recent Consultation Project Developments. The Region must review recent developments, which may include:

1. Changes in staffing

2. Recent developments within the Consultation Project or its larger organization (for example, State government or university) which may impact on the working conditions and staffing of the Consultation Project

3. The progress of consultants and the project in meeting the goals of their annual training plans

4. Whether on-the-job evaluations are being conducted according to the schedule established in the Cooperative Agreement

5. Budgetary issues

6. The status of previously discussed, analyzed, or corrected performance issues

D. Closing Conference. A closing conference must be held with the Consultation Project Manager, in person or by telephone, to discuss the results of the Onsite Review and to reach agreement on actions to be taken by the Project to correct any deficiencies. OSHA must inform the Consultation Project Manager that the findings will be reported in the Regional Annual Consultation Evaluation Report (RACER) and may provide a written list or summary of any deficiencies and recommendations for improvement with the Consultation Project Manager at the closing conference.

E. Documentation of the OR. OSHA s documentation of the Onsite Review 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 Consultation Project Manager.

1. Summary Letter. Within forty-five days after the Onsite Review, OSHA must send the Consultation Project Manager a letter documenting any deficiencies, recommendations, and time frames for addressing them. A draft of this letter must be sent to the Consultation Project Manager prior to the official transmission so that the Consultation Project Manager may have a sufficient period to comment on the draft.

2. Final Findings. Final findings must be included in the Regional Annual Consultation Evaluation Report.

3. Follow-Up to the OR. Subsequent quarterly discussions with the Project should include appropriate follow-up to any issues raised in the OR. Resultant programmatic changes or improvements to the program should be discussed and documented as part of the quarterly discussion.

V. 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 Project s operations. In addition to MARC and CMRs, customized IMIS host reports with limited selection criteria may be useful. Other approaches available to the Regional Administrator or State Designee include:

A. Interview. A interview is a planned discussion to obtain information from specific Project staff, employers, employees, or other persons, apart from personal communication that occurs in the conduct of an onsite review or as part of day-to-day communication with staff.

B. Non-Routine Case File Review (CFR). A non-routine case file review may be conducted to examine the documentation relating to a specific consultation visit. If a CFR is used in conjunction with an interview, it may serve to verify the observed Project 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 Project documents other than case files, review of equipment or laboratory facilities, and evaluation of sample analyses. The Region and the Project may determine other sources of information that may need to be accessed.

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

Appendix A

Lost Workday Injury and Illness (LWDII) Rate

The annual LWDII Rate is calculated according to the following formula:

$$\text{LWDII Rate} = \frac{\text{\# lost workday injuries and illnesses x 200,000}}{\text{\# employee hours worked}}$$

Where:

Lost workday injury and illnesses = sum of Column 2 and Column 9 from the OSHA Log in the reference year.

employee hours worked = sum of employee hours worked in the reference year.

200,000 = base for 100 full-time workers working 40 hours per week, 50 weeks per year

Sample One-Year LWDII Rate Calculation:

In calculating the LWDII Rate of an establishment scheduled for inspection in October 1999, injury and illness cases and employment data for the preceding calendar year is used.

LWDIIs in 1998 = 5
workers employed in 1998 = 54
employee hours worked in 1998 = 54 workers x 40 hours x 50 weeks = 108,000

$$\text{LWDII Rate} = \frac{5 \times 200{,}000}{108{,}000}$$

$$= \frac{1{,}000{,}000}{108{,}000}$$

$$= 9.26 \text{ (rounded to 9.3)}$$

Sample Two-Year LWDII Rate Calculation:

An establishment scheduled for inspection in October 2000 employed an average of 50 workers in 1999 and 54 workers in 1998. The injury and illness cases and employment data for the two preceding calendar years will be used.

LWDIIs in 1998 = 5
LWDIIs in 1999 = 6
employee hours worked in 1998 = 108,000

employee hours worked in 1999 = 100,000

Two-Year LWDII Rate =

$$\frac{5\ [\text{Year 1 \# LWDII}] + 6\ [\text{Year 2 \#LWDII}] \times 200{,}000}{108{,}000\ [\text{Year 1 \# employee hours worked}] + 100{,}000\ [\text{Year 2 \# employee hours worked}]}$$

$$= \frac{(5 + 6) \times 200{,}000}{108{,}000 + 100{,}000}$$

$$= \frac{2{,}200{,}000}{208{,}000}$$

$$= 10.58 \text{ (rounded to 10.6)}$$

Three-Year LWDII Rate Calculation:

When determining the rate for an employer who has been in SHARP for two or more years, calculate the LWDII Rate as in the two-year sample above, but include the third year s data.

Appendix B

Total Recordable Case Rate (TRCR)

The Total Recordable Case Rate (TRCR) is the rate of total non-fatal injuries and illnesses for the calendar year reviewed. The TRCR is compared to the rate in the column of Total Cases that most precisely corresponds to the Standard Industrial Classification (SIC) code of the site under review. The column of Total Cases is found in the table of Incidence Rates as reported in the annual BLS Data on Occupational Injuries and Illnesses.

The annual TRCR is calculated according to the following formula:

$$\text{TRCR} = \frac{(\text{\# recordable injuries} + \text{\# recordable illnesses}) \times 200{,}000}{\text{\# employee hours worked}}$$

Where:

recordable injuries = sum of Column 2 and Column 6 from the OSHA Log in the reference year.

recordable illnesses = sum of Column 9 and Column 13 from the OSHA Log in the reference year.

employee hours worked = sum of employee hours worked in the reference year.

200,000 = base for 100 full-time workers working 40 hours per week, 50 weeks per year

Sample One-Year TRCR Calculation:

An establishment scheduled for inspection in October 1999 employed an average of 54 workers in 1998. Therefore, injury and illness cases and employment data for the preceding calendar year will be used.

recordable injuries = 9

recordable illnesses = 4

employee hours worked in 1998 = 54 workers x 40 hours x 50 weeks = 108,000

$$\text{TRCR} = \frac{(9 + 4) \times 200{,}000}{}$$

108,000

$$= \frac{2,600,000}{108,000}$$

= 24.07 (rounded to 24.1)

Sample Two-Year TRCR Calculation:

An establishment scheduled for inspection in October 2000 employed an average of 50 workers in 1999 and 54 workers in 1998. The injury and illness cases and employment data for the two preceding calendar years will be used.

In calendar year 1998:

recordable injuries = 9

recordable illnesses = 4

employee hours worked = 108,000

In calendar year 1999:

recordable injuries = 14

recordable illnesses = 7

employee hours worked = 100,000

Two-Year TRCR =

$$\frac{9 + 4 \text{ [Year 1 recordable data]} + 14 + 7 \text{ [Year 2 recordable data]} \times 200,000}{108,000 \text{ [Year 1 \# employee hours worked]} + 100,000 \text{ [Year 2 \# employee hours worked]}}$$

$$= \frac{(9 + 4 + 14 + 7) \times 200,000}{108,000 + 100,000}$$

$$= \frac{6,800,000}{208,000}$$

= 32.69 (rounded to 32.7)

Three-Year TRCR Calculation:

When determining the rate for an employer who has been in SHARP for two or more years, calculate the TRCR as in the two-year sample above, but include the third year s data.

Appendix C

Sample Letter to Employers Receiving Low Priority

Dear:

Thank you for requesting an occupational safety and health consultation visit and for your interest in improving the worksite 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 services to you in the future.

Even though we are unable to provide 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.

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

Sincerely,

Consultation Project Manager

Appendix D

Sample List of Hazards (Serious)
(Preferred Format)

LIST OF HAZARDS (SERIOUS)[1]

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

VISIT NUMBER: 515196904
VISIT DATE(S): 01/17/01

Wilson Eye Center
435 Pine Street
Dallas, TX 75003

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

ITEM	0001	**STANDARD**	1910.0132(d)(01)
INSTANCE	A	**CORRECTION DUE DATE:**	02/23/01
DESCRIPTION: A list of job titles, any potential hazards associated with the job and what personal protective equipment, if any, would be needed to protect the employee from the hazard or hazards.			

ITEM	0002	**STANDARD**	1910.0151(c)
INSTANCE	A	**CORRECTION DUE DATE:**	02/23/01
DESCRIPTION: The eyewash station is placed correctly; however, only hot water can be accessed which would cause further injury to the eye(s). An eliminator valve plumbed into the system would eliminate this problem.			

[1] The first page of the List of Hazards should be printed on the Consultation Project s letterhead.

ITEM	0003	STANDARD	1910.1030(d)(02)(i)
INSTANCE	A	CORRECTION DUE DATE:	02/23/01
DESCRIPTION: New types of engineering controls are on the market that can help eliminate sharps (needle) injuries. The facility needs to be evaluating these and moving toward the use of any system that would be feasible for their type of practice.			

ITEM	0004	STANDARD	1910.1200(e)(01)(i)
INSTANCE	A	CORRECTION DUE DATE:	02/23/01
DESCRIPTION: A list of hazardous chemicals that are onsite needs to be added to the written HAZARD COMMUNICATION PROGRAM.			

If you have any questions regarding this list of hazards which cannot be answered by our employer, please contact the state consultation program at (555) 693-2231 or (555) 693-1671.

Appendix E

Action Plan Template

Action Plan for Inspection Deferral Status[1]

This action plan outlines the necessary achievements and time frames you must meet in order for your company to achieve SHARP status. You must provide progress reports to the Consultation Project Manager and meet all specific requirements necessary to continue in inspection deferral status.

Employer Information

Employer
Address
City, State Zip Code
Visit Number:
Visit Date(s):
Last Correction Due Date:

LWDII Rate and TRCR Goals

	LWDII Rate	TRCR
Current Employer s Rate Data		
BLS Average for SIC _____		
Percent Above the BLS Rate:		

Safety and Health Management System Goals

Management Commitment and Employee Involvement:

Goal 1:
Recommendations:
To be completed by:

Goal 2:
Recommendations:

---

[1] The first page of the Action Plan for Inspection Deferral Status should be printed on the Consultation Project s letterhead.

To be completed by:

Worksite Analysis:

Goal 1:
Recommendations:
To be completed by:

Hazard Prevention:

Goal 1:
Recommendations:
To be completed by:

Safety and Health Training:

Goal 1:
Recommendations:
To be completed by:

Participation Requirements

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 LWDII Rate, TRCR, and the goals and timeframes above, you must submit progress reports describing your activities and the completion of your goals on _____, _____, and _____.

If you are not able to complete a goal in the determined timeframe, you must contact the Consultation Project Manager to request an extension of that specific goal. Please note that your Deferral Period may not exceed a total of 18 months, including extensions, from the last correction due date(s).

Appendix F

Interim-Year SHARP Site Self-Evaluation Template

1. Safety and Health Management System Recommendations and Status: When you qualified for SHARP and received your approval, the consultant provided specific recommendations to assist you in continuing to improve your safety and health management system. Please outline those recommendations, their present status, and the steps you have taken to implement them.

   A. Recommendation:
      Status:

   B. Recommendation:
      Status:

   C. Recommendation:
      Status:

   D. Recommendation:
      Status:

2. 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 management system is operating effectively. (Include any fatalities, catastrophes, imminent danger incidents, complaints, OSHA inspections, and the results of all investigations and program changes made.)

   A. Event:
      Correction:

   B. Event:
      Correction:

3. LWDII Rate and TRCR Requirements:

LWDII Rate Calculation

Year	Hours Worked	Sum of Columns 2 and 9	Rate
2001			
2002			
2003			

Total

Employer s Two-Year or Three-Year Rate	
BLS Average for SIC _____	
Percent Below the BLS Rate:	

TRCR Calculation

Year	Hours Worked	Sum of Columns 2 and 6	Sum of Columns 9 and 13	Rate
2001				
2002				
2003				

Total

Employer s Two-Year or Three-Year Rate	
BLS Average for SIC _____	
Percent Below the BLS Rate:	

4. Other Safety and Health Management System Improvements: Please outline improvements that you have made or activities you have engaged in to improve your safety and health management system.

Appendix G

Mandated Activity Report for Consultation (MARC) and Proposed Consultation Management Reports (CMRs)

MARCs		
Measure	**Standard**	**Source**
1. Percent of initial consultation visits conducted in high-hazard establishments	Not less than 90%	CAM 1
2. Percent of initial visits to small businesses	Not less than 90%	CAM 2
3. Percent of initial, follow-up, and training and assistance visits during which the consultant conferred with employees	100%	Modified CAM 10
4A. Percent of serious hazards verified corrected in a timely manner (within 14 days of the latest correction due date)	100%	Modified CAM 12
4B. Percent of serious hazards NOT verified corrected in a timely manner (greater than 14 days after the latest correction due date)		New
4C. Percent of serious hazards referred to enforcement		Modified CAM 12
5. Number of uncorrected serious hazards with correction date >90 days past due		New

Proposed CMRs		
Indicator	**Reference**	**Source**
1. Percent of interventions by type		New
2. Percent of interventions by topic		New
3. Days from request to visit. 1 - 250 Employees Controlled 251- 500 Employees Controlled 500+ Employees Controlled	One-year, rolling average from month-to-month.	Modified N6 CAM 4
4. Percent of serious hazards. Safety Health Total		Modified N6 CAM 6
5. Percent of initial visits where hazards were found. Safety Health Total		Modified N6 CAM 7
6. Number of visits by type of visit.	Fixed-number, subject to negotiation	Modified N6 CAM 19
7. Average time per visit by type of visit.		Modified N7CAM 4
8. Number of formal training sessions Visit-Related Non-Visit Related	Fixed-number, subject to negotiation	New
9. Number of backlogged requests (by type of service requested). Safety Health Total		Modified N7 CAM 5
10. Number of hazards (by hazard classification category).		New
11. Recognitions and Exemptions requested	Fixed number, subject to negotiation.	New
12. Recognitions and Exemptions granted		
13A. Average number of days between opening conference and closing conference		Modified N6 CAM 9

Proposed CMRs		
Indicator	**Reference**	**Source**
13B. Average number of days between closing conference and written report Without Samples With Samples	20 days - Visits Without Samples 30 days - Visits With Samples	
14. Average number of consultations per FTE		Modified N6CAM 18
15. Time spent on consultation (by consultation categories on Form 50)		N7 CAM 6
16. Time spent on program support (by program support categories on Form 50)		N7 CAM 7

Appendix H

Program Assurances
(OSHA Restrictions and Conditions)

Maintenance of the following fundamental program requirements must be assured through an annual commitment (OSHA Conditions and Restrictions) included in the Cooperative Agreement.

1. Priority in scheduling
2. Encouraging requests
3. Employer s obligations and responsibilities
4. Priority given to the most hazardous operations and small businesses
5. Preparation of consultants for visits
6. Format of onsite visit
7. Consultant s right to confer with employees
8. Employee representative s opportunity to accompany visit
9. Explanation of the relationship between consultation and enforcement
10. Focus of onsite activity
11. Identification and classification of hazards
12. Inform employers that a failure to abate serious hazards will result in a referral to enforcement
13. Written report to employer
14. Confidentiality of employers requesting and receiving consultation services
15. Independence of consultation from enforcement
16. Description of Consultation Visit in-Progress
17. Termination of onsite visit for certain compliance inspections
18. Obligations under recognition program
19. Consultants qualifications
20. Monitoring performance of consultants
21. Reporting

Appendix I

Checklist for Onsite Review

Operational Review of the Consultation Project:	/	Comments
Progress in meeting annual training plans		
On-the-job evaluations		
Lapse time from request to delivery of service		
Management reports (i.e., written reports pending, pending hazard corrections, number of requests, and visits pending)		
Hiring and vacancies		
Project expenditures and budgetary issues		
Monitoring of consultants performance		
Promotion of the Project s recognition and exemption program (SHARP)		
Marketing initiatives		
The Project s internal quality assurance program		
The consistent use of the Safety and Health Program Worksheet (Revised OSHA Form 33) by all consultants		
Pertinent changes in the organization		
Performance issues carried over from previous review		
Items requiring action to correct deficiencies		

Criteria applying to all case files:		
Requirement	**/**	**Comments**
Are all field notes, observations, analyses, and other written documentation (such as hazard documentation, OSHA 200 logs, standard-required programs, safety and health management systems, site layouts) gathered prior to and during the hazard survey included in the case file?		
Does the file contain an evaluation of the employer s safety & health management system (Safety and Health Program Assessment Worksheet Revised OSHA Form 33)		
Does the Safety and Health Program Assessment Worksheet (Revised OSHA Form 33), contain evidence adequate to support the conclusions and recommendations made for each indicator?		
If the purpose of the visit was to do formal training, was there: evidence in the file that either a hazard survey was performed or a Federal or State compliance officer, or private sector safety or health consultant had visited the site, within the 12 months preceding the date of request for the training?		
If the employer was granted an extension of the original assigned Correction-Due Date (CDD): Was the request by the employer in writing? Did the request include reasons why correction wasn t completed in the established time frame? Did the request include evidence that the employer is safeguarding employees against the hazard with interim protection during the correction period?		

Criteria applying to all case files:		
Requirement	**/**	**Comments**
Does the Written Report to the Employer contain: summary of employer s request? scope of services provided? name of consultant? items of importance covered in the opening conference? description of the workplace and working conditions? comparison of the site s LWDII and TRCR to the national industry average? consistent and proper classification of identified hazards, particularly serious hazards, including the corresponding applicable standards and codes and a statement that interim protection was recommended at the closing conference, if appropriate? appropriate recommendations for hazard correction and control, including technical advise as appropriate? Standard Element Paragraphs (STEPs) modified to meet the employer s specific conditions? discussion of the relation of hazards found to deficiencies in the employer s safety and health management system, with appropriate site-specific recommendations? discussion of the employer s safety and health management system? an appropriate summary of any training provided during the hazard survey? items of importance covered in the closing conference?		
Additional Criteria Applying Only to Health Files:		
H1. Does the case file reflect appropriate sampling techniques?		
H2. Were the appropriate number of samples taken relative to the nature of the suspected hazard and the number of workers involved?		
H3. Were the appropriate sampling instruments used for the job?		
H4. Was there evidence of proper sampling instrument calibration either on the CDS forms or a separate calibration log?		

Additional Criteria Applying Only to Health Files:		
H5. Were the appropriate sampling techniques and practices followed?		
H6. Were the necessary sampling data recorded on sampling sheets and field notes?		
Additional Criteria Applying Only to SHARP Files: (pertaining only to cases in which recognition has been granted)		
S1. Was a full service survey, addressing both safety and health hazards completed?		
S2. Is there verification (written or observed onsite) that ALL hazards identified during the hazard survey were corrected?		
S3. Is there adequate documentation that the elements listed on the Safety and Health Program Assessment Worksheet Revised OSHA Form 33 were implemented at the 2" level or above?		
S4. Are the employers LWDII and TRCR below the industry average?		
S5. Is there evidence of operating history of at least one year?		
Additional Criteria Applying Only to Case Files Containing On-the-Job Evaluations:		
J1. Are all on-the-job evaluations conducted according to the project s internal quality assurance program?		

Remarks:

Index

Act 1-8
Action Offices 1-7
    OSHA National Office 1-7
    Regional Offices 1-8
    States 1-8
Action Plan 1-8, 7-6-7-8, E-1
Annual Assurances 8-2
Annual Evaluation Reports 8-3
    Consultation Annual Project Report (CAPR) 8-3
    Regional Annual Consultation Evaluation Report (RACER) 8-3
Assistant Secretary 1-9
Case File 5-3
Case File Review
    Closing Conference 11-5
    Documentation of the OR. 11-5
    Focus of the Case File Review 11-4
    Follow-Up to the OR. 11-5
    Review of Recent Consultation Project Developments 11-4
    Sample Size 11-3
    Selecting the Sample 11-3
Changes to the Consultation Annual Performance Plan 10-7
Compliance Assistance Authorization Act 1-9
Compliance Officer 1-9
Consultant 1-9
Consultation 1-9
Consultation Annual Project Plans 9-1
    Changes to the Consultation Annual Project Plan 10-7
    Development, Review, and Monitoring 9-1
Consultation Annual Project Report (CAPR) 9-5
Consultation Management Report (CMR) 11-2
    Frequency 11-2
    Guidelines for Use 11-2
    Proposed CMRs G-2
Content and Organization of the Annual Project Plan 10-2
    Section 1: Overview of the Consultation Project 10-2
    Section 2: Projected Activities 10-3
    Section 3: Operational Description 10-5
    Section 4: Changes to the Internal Quality Assurance Program 10-7
    State Annual Performance Plan 10-7
Cooperative Agreement 1-9
Definitions 1-8
Designee 1-9
Education 1-9
Employee 1-9

Employee representative 1-9
Employer. 1-9
Employer s Rights 2-6
Full service visit 1-11
Hazard Abatement 6-1
Hazard correction 1-10
Hazard Survey 1-10, 3-4
High-hazard business or operation 1-10
History of the OSHA Consultation Program 1-13
How the Consultation Program Is Administered 1-15
    Partnership between OSHA and the States 1-15
How the Consultation Program Works 1-14
Imminent danger 1-10
Inspection in Progress 2-4
interim-year self-evaluation F-1
Internal Quality Assurance Program 9-4, 10-7
Intervention 1-10
Limited service visit 1-12
List of hazards 1-4, 1-10, 2-5, 5-2, 5-3, 6-1, 7-6, D-1
    Posting the List of Hazards 2-5
    Posting the List of Hazards. 6-1
Lost Workday Injury and Illness Rate (LWDII) 1-10
Major Changes 1-3
    General 1-3
    Monitoring Policies and Procedures 1-3
    Safety and Health Achievement Recognition Program (SHARP) 1-5
Managing Consultation Requests 2-6, 2-8
    Requests for Consultation 2-8
Mandated Activity Report for Consultation (MARC) Report 11-1
    Data Source 11-1
    Discussion of Findings 11-2
    Follow-up Action 11-2
    Frequency. 11-1
    Further Review 11-2
    Guidelines for Use 11-1
    Initial Review 11-2
    Mandated Activity Report for Consultation (MARC) G-1
    Measurement Standard or Reference 11-1
Monitoring of Mandated Activities and Program Elements 11-1
    Further Analysis 11-5
    Studies Initiated by the Assistant Secretary 11-6
Monitoring System 8-1
    Core Principles 8-1
    Framework of the Evaluation Process 8-2
    Linkage to Strategic and Annual Performance Plans 8-1
    Other Evaluation Tools 8-3

Onsite consultation 1-10
Onsite Review (OR) 11-2
Checklist for Onsite Review I-1
Components of the Onsite Review 11-3
Operational Elements to Be Reviewed 11-3
Onsite Review (OR) 8-3
Opening Conference 3-3
OSHA 1-11
Other-than-serious hazard 1-11
Outreach Activities 2-6
Evaluating Promotional and Outreach Activities 2-2
Performance Tracking and Reports 8-2
Criteria for Acceptable Performance by the Consultation Project 9-4
Pre-SHARP Inspection Deferral 7-6
Consultation Project Manager s Responsibilities 7-7
Employer s Obligations and Employees Rights 7-6
Regional Administrator s or State Designee s Responsibilities 7-8
Regional Administrator s Responsibilities 7-8
Preparation for a Visit 3-1
Research 3-1
Survey Materials and Equipment 3-1
Visit Confirmation 3-2
Program Assurances (OSHA Restrictions and Conditions) H-1
Program Assessment 1-11
Evaluation of Workplace Safety and Health Management System 3-4
Program Assistance 1-11
Programmed Inspection 1-11
Programmed Inspection schedule 1-11
Promoting and Managing Consultation Requests 2-1
Encouraging Requests 2-1, 2-3
Qualifications of Trainers 4-2
Formal Training 4-2
Informal Training 4-2
Quarterly Discussions 8-2
Documentation 9-3
Frequency and Timing of Quarterly Discussions 9-2
Purpose 9-1
Quarterly Discussion Topics 9-3
Recognition and exemption program 1-8, 1-11
Changes that May Affect a SHARP Employer s Eligibility 7-3
Consultation Project s Responsibilities 7-2
Employers with Existing Exemplary Programs 7-2
Failure to Maintain Program Requirements 7-5
Program Eligibility 7-1
Program Requirements 7-1
Renewal Requirements 7-5

Temporary Deferral While Working Toward SHARP Status 6-1
Termination 7-6
Voluntary Withdrawal from the Program 7-5
Recognition and Exemption Programs 7-1
Exemption Period 7-3
Safety and Health Recognition and Exemption Program 7-1
Referral to Enforcement 6-2
Regional Annual Consultation Evaluation Report (RACER) 9-7
Relationship to Enforcement 2-4
Required Structure of a Visit 3-3
Entry to the Workplace 3-3
Required Structure of an On-Site Visit 3-2
Closing Conference 3-5
Entry to the Workplace 3-3
Opening Conference 3-3
Walk-through of the Workplace 3-3
Responding to Requests for Consultation 2-9
Construction Sites 2-8
Determining the Scope of the Visit 2-9
Determining the Type of Visit 2-9
Safety and health management system 1-11
Safety and Health Recognition and Exemption Program 7-1
Consultation Project Manager s Responsibilities 7-2
Employers with Existing Exemplary Programs 7-2
Failure to Maintain Program Requirements 7-5
Fatalities or Catastrophes at a SHARP site 7-4
Inspections at SHARP sites 7-4
Pre-SHARP Inspection Deferral 7-6
Program Eligibility 7-1
Program Requirements 7-1
Regional Administrator s or State Designee s Responsibilities 7-3
Renewal Requirements 7-5
Termination 7-6
Voluntary Withdrawal from the Program 7-5
Sample Letter to Employers Receiving Low Priority C-1
Scheduling and Prioritizing Visits 2-6
Congressionally Mandated Activities 2-6
Imminent Danger Situations 2-6
Larger Employers 2-8
Small, High-Hazard Employers 2-7
Small, High-Hazard Employers Targeted in the Federal or State St 2-6
Small, Non-High Hazard Employers 2-8
Scope of Visit 1-11
Limited service visit 1-12
Serious hazard 1-12
Small business 1-12

State 1-12
State Impact 1-1
The Consultation Annual Project Plan 10-1
Content and Organization of the Annual Project Plan 10-2
Developing Annual Project Plans in Cooperation with Regional Off 10-1
Due Dates 10-1
Partnership with Enforcement 10-2
Performance Monitoring and Evaluation 10-2
Submitted in Cooperative Agreement 10-1
The Written Report to the Employer 5-1
Cover Letter 5-3
Required Elements of a Report to the Employer 5-1
Total Recordable Case Rate (TRCR) 1-12
Appendix B Total Recordable Case Rate (TRCR) B-1
Training 1-12, 4-1
Formal Training 4-1
Informal Training 4-1
Offsite Training 4-1
Onsite Training 4-1
Qualifications of Trainers 4-2
Recording of Time Spent Training 4-2
Reporting to the Employer 4-2
Resource-Related Considerations 4-2
Speeches and Presentations to Stakeholders 4-2
Training and assistance (T&A) visit 1-13
Training and Assistance Visit 1-13
Training by Consultants 4-1
Informal Training 4-1
Offsite Training 4-1
Onsite Training 4-1
Recording of Time Spent Training 4-2
Verification of Hazard Correction 6-1
Visit in progress 1-13
Termination of a Consultation Visit in Progress 6-1
Visits 1-12
Initial Visit 1-12
Willful Violation 1-12
Written Report to the Employer 1-13