

# NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY

## DIVISION OF INDUSTRIAL RELATIONS

### SAFETY CONSULTATION AND TRAINING SECTION



## STATE OF NEVADA

# CONSULTATION POLICY PROCEDURES MANUAL

DIR INSTRUCTION CSP 02-00-003

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## **Executive Summary**

This manual is intended to provide instructions regarding the internal operations of the Nevada Division of Industrial Relations, Safety Consultation and Training Section (SCATS), and is solely for the benefit of the agency. No duties, rights, or benefits are created or implied by this manual. The contents of this manual are not enforceable by any person or entity against the Division of Industrial Relations, SCATS, or the State of Nevada.

This manual has been reviewed and approved for use by the Nevada Department of Business and Industry, Division of Industrial Relations, Safety Consultation and Training Section. It replaces OSHA Instruction CSP 02-00-003.

**Summary of Changes.** The entire document has been reformatted and renumbered to conform to OSHA Instruction CSP 02-00-003.; updated references to SCATS Procedures where applicable; revised the Safe Partner Award Recognition Program description in Chapter 8 and added information regarding SCATS administering VPP.

## Chapter 1

### Introduction

#### I. Purpose.

This manual contains Nevada's policy instructions for implementing the Occupational Safety and Health Administration's (OSHA) consultation and training program as prescribed by Title 29, Code of Federal Regulations (CFR), Part 1908, On-site Consultation Agreements, and OSHA Directive CSP 02-00-003, Consultation Policies and Procedures Manual, dated 11/19/2015. Nevada SCATS as adopted with changes and this manual replaces the Federal CSP 02-00-003 dated 11/19/2015.

#### II. Scope.

This instruction applies to the Nevada Safety Consultation and Training Section (SCATS) program which operates consultation services under Section 21(d) of the Occupational Safety and Health Act of 1970 (OSH Act). Nevada also provides formal training under Section 23(g) of the OSH Act.

#### III. References.

- A. 29 CFR 1908. Consultation Agreements. 49 FR 25094, June 19, 1984, unless otherwise noted. See <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&r=PART&n=29y5.1.1.1.7>; Accessed January 14, 2015.
- B. Safety and Health Program Management Guidelines (FR 54:3904-3916); Standard Element Paragraph (STEP) Manual (CNS 3.6)g; 29 CFR 1908, Consultation Agreements.
- C. OSHA Field Operations Manual, CPL 02-00-150, April 22, 2011. See [www.osha.gov/OshDoc/Directive\\_pdf/CPL\\_02-00-150.pdf](http://www.osha.gov/OshDoc/Directive_pdf/CPL_02-00-150.pdf)
- D. CPL 02-00-025, "Scheduling System for Programmed Inspections," January 4, 1995
- E. OSHA Instruction IRT 01-00-013 (ADM 1-1.29A), The IMIS Consultation Data Processing Manual; December 12, 1996.

#### **IV. State Plan Impact**

##### **A. Notice of Intent and Equivalency.**

This instruction describes a Federal Program Change which revises and updates policies and procedures for the OSHA On-site Consultation Program. Nevada is an OSHA-approved State Plan that has written procedures for our state and local government employee on-site consultation programs and compliance policies relating to these programs as set out below. Nevada has established a recognition, achievement, and enforcement deferral program for the public sector, similar to the OSHA SHARP and Pre-SHARP. Nevada's on-site Consultation program follows the current year's OIS coding instructions.

Nevada has adopted this directive and has written procedures for its on-site consultation program relating to the programs set out below. Nevada has established a SHARP and Pre-SHARP program for the public sector.

##### **B. Submission Requirements.**

Nevada already has in place, enforcement policies and procedures that are different from this Instruction. State adoption, will be accomplished within six months. Nevada will post its different policies on its State Plan website and provide a link to OSHA. This action will occur within 60 days of the date of adoption. OSHA will post summary information of the State Plan responses to this Instruction on its website.

SCATS has adopted this directive with the modifications and additions that are contained herein. This directive will be fully implemented by October 1, 2017.

##### **C. General Requirements.** Section 21(d) of the Act and 29 CFR Part 1908 established requirements for state consultation and enforcement programs which remain in effect.

- a. Recognition and Achievement Programs. Nevada has established a SHARP and Pre-SHARP program for the private sector that offers a deferral from programmed enforcement inspections for employers

that successfully complete the requirements of the program. This program is compliant with 29 CFR 1908 and is described in Chapter 8.

Nevada will not grant deferrals from State Plan enforcement inspections based on consultation activities that do not meet the requirements of 29 CFR Part 1908 or an at least as effective alternative.

- b. Enforcement Policies. Nevada has adopted enforcement policies at least as effective as the enforcement policies established by 29 CFR Part 1908, including:
  - I. the definition of a consultation visit “in progress” and its effect on inspection scheduling (§ 1908.6(h));
  - II. not initiating a complaint inspection based on a posted List of Hazards (§ 1908.6(e)(8));
  - III. employer confidentiality (§ 1908.6(h) and § 1908.7(a)(3));
  - IV. limitations on the availability of the consultant’s written report (§ 1908.6(g)(2));
  - V. deferral from inspections for applicants implementing an effective safety and health management system (§ 1908.7(b)(4)(i)(A)); and
  - VI. removing recognition and achievement program participants from general schedule inspections (§ 1908.7(b)(4)(i)(B)).

## V. Definitions.

- A. OSH Act. *Occupational Safety and Health Act of 1970*. 29 USC § 651 *et seq.*
- B. Action Plan for Inspection Deferral (Action Plan). The written plan, developed by the consultant and approved by the Consultation Supervisor, outlining the necessary achievements and time frames

required for the employer to earn SHARP status. The Action Plan is implemented by the employer.

- C. Assistant Secretary. Assistant Secretary of Labor for Occupational Safety and Health.
- D. Closed Case Date (Safety and/or Health Closed Case Date). The date entered in OIS at the conclusion of an employer's visit-in-progress status for safety- and/or health-related assistance.
- E. Compliance Assistance Activities. Consultation assistance activities provided away from an employer's worksite. Examples include technical advice provided through telephone conversations and videoconferences; electronic and printed correspondence, such as e-mail and fax; speeches and presentations to stakeholders; off-site technical training not related to a visit; and marketing to employers, such as targeted mailings and door-to-door promotions.
- F. Compliance Assistance Authorization Act. Public Law 105-197 which codified the OSHA Consultation Program by amending Section 21 of the OSH Act.
- G. Compliance Officer. A Federal compliance safety or health officer (CSHO).
- H. Consultant. A state employee who provides consultation services under a 21(d) Cooperative Agreement.
- I. Consultation. All activities that may be provided to employers under the jurisdiction of an On-site Consultation Cooperative Agreement.
- J. Consultation Project Manager. The person who directs the day-to-day activity of a Consultation Project. For Nevada this is the Chief Administrative Officer.
- K. Cooperative Agreement. The legal instrument which enables the States to collaborate with OSHA to provide on-site consultation services in accordance with 29 CFR Part 1908.
- L. Days Away, Restricted, and Transferred (DART). A rate that represents the total non-fatal injuries and illnesses resulting in days away from

work, restricted work activity, and/or job transfer per 100 full-time employees for a given period of time (usually 1 to 3 years).

- M. Designee. The State official designated by the Governor to be responsible for oversight of an On-site Consultation Cooperative Agreement. For the State of Nevada this is the DIR Administrator.
- N. 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.
- O. Employee. A person employed at a worksite whose employer has requested consultation services and whose business affects interstate commerce.
- P. Employee representative. The authorized representative of employees at a site where there is a recognized labor organization representing employees.
- Q. 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.
- R. Hazard correction. The elimination or control of a workplace hazard in accordance with the requirements of applicable Federal or State statutes, regulations, or standards.
- S. 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.
- T. High-hazard business or operation. A business or operation on OSHA's high-hazard list; a supplemental high-hazard list approved by the Directorate of Cooperative and State Programs; or any national, state, or local emphasis program list.
- U. Imminent danger. Conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the

enforcement procedures otherwise provided by this Act. See Section 13(a) of the OSH Act and 29 CFR 1908.6(f)(1).

- V. 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.
- W. List of Hazards (Serious and Other-than-Serious). This list is utilized by State Plans that require verification of correction of all hazards identified and for use with SHARP applicants.
- X. Off-site Consultation. The provision of consultative assistance on occupational safety and health issues away from an employer's worksite by such means as telephone and correspondence, and at locations other than the employer's worksite, such as the consultation project offices. It may, under limited conditions specified by the Assistant Secretary, include training and education.
- Y. On-site Consultation. The process of walking through an employer's worksite, identifying hazards, conducting applicable safety and/or health program review, 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.
- Z. OSHA. The Federal Occupational Safety and Health Administration or the State agency responsible under a Plan approved under Section 18 of the OSH Act for the enforcement of occupational safety and health standards in that State.
- AA. OSHA Information System (OIS). An OSHA web-based system that is the next generation replacement for the existing OSHA Integrated Management Information System (IMIS).
- BB. 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.

- CC. 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.
- DD. 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.
- EE. Programmed inspection. OSHA worksite inspections whose scheduling are based upon objective or neutral criteria. These inspections do not include imminent danger, fatality/catastrophe, formal complaints, and other critical inspections as determined by the Assistant Secretary.
- FF. Programmed inspection schedule. The set of criteria by which OSHA determines which sites to inspect in a given year. The worksites are selected according to national scheduling plans for safety and for health or special emphasis programs.
- GG. Recognition and achievement program. A Consultation Program for recognizing the achievement of a small employer who operates, at a particular worksite, an exemplary safety and health management system that results in the immediate and long-term prevention of job-related injuries and illnesses.
- HH. Safety and health management system. Refers to a comprehensive, employer-provided, site-specific system to protect employee safety and health, as outlined in the 1989 "Safety and Health Program Management Guidelines" (FR 54:3909-3916).
- II. Scope of Visit. For Full-Service and Limited-Service Visits.
  - 1. Full-service visit. An On-site Consultation visit that provides a complete, safety and/or health hazard survey of all working conditions, equipment, processes and OSHA-mandated safety and health programs at the worksite. There are three types of full-service visits:

- a. Full-service safety: when one consultant conducts a safety visit as defined above.
  - b. Full-service health: when one consultant conducts a health visit as defined above.
  - c. Full-service both: when one consultant conducts a single visit for both safety and health as defined above.
2. Limited-service visit. A less complete safety and/or health hazard survey than that provided by a full-service visit. A limited visit provides a focused survey of a particular work process or type of hazard or a focused survey that is conducted of one discipline, safety or health, or both disciplines at once. There are three types of limited-service visits:
- a. Limited-service safety: when one consultant conducts the safety visit as defined above.
  - b. Limited-service health: when one consultant conducts the health visit as defined above.
  - c. Limited-service both: when one consultant conducts a single visit for both safety and health as defined above.
- JJ. 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 elements of employer knowledge may not be considered.
- KK. Small business. For the purposes of the Consultation Program, a small business is defined as an employer having fewer than 250 employees at a fixed worksite and no more than 500 employees corporation-wide.
- LL. 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).

- MM. State. A State of the United States, the District of Columbia, and U.S. territories, such as the Commonwealth of the Northern Mariana Islands (CNMI), Puerto Rico, the Virgin Islands, or Guam.
- NN. Total Recordable Case Rate (TRC). A rate that represents the total non-fatal injuries and illnesses per 100 full-time employees for a given period of time (usually 1 to 3 years).
- OO. Trade Secret. Information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors or customers. See 18 USC 1905 and Section 15 of the OSH Act.
- PP. 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.
- QQ. Willful violation. Under the OSH Act, Sec. 17 a willful violation is one where the evidence shows either an intentional violation of the OSH Act or plain indifference to its requirements.
- RR. Visits. Visits can be classified as follows:
1. Initial Visit. A hazard assessment visit(s) provided by a safety or health consultant. An initial visit must consist of an on-site opening conference, an examination of all aspects of the safety and health management system relating to the scope of the visit, a walkthrough of the workplace, and a closing conference.
  2. Training and Assistance Visit. An On-site 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 On-site Consultation visit(s) conducted to verify the correction of previously identified hazards, address new hazards observed, and/or assist the employer with activities relating to implementation of a safety and health management system.

4. Visit-in-Progress. A Consultation visit-in-progress is from the beginning of the opening conference to the end of the correction due dates (including extensions).
- SS. 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.

## **VI. Background.**

- A. The Occupational Safety and Health (OSH) Act of 1970 (the Act) directs the Secretary of Labor to establish programs for education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in places of employment covered by the Act. Title 29, CFR, Part 1908, establishes the policy guidance for implementing the consultation programs established by the Secretary of Labor.
- B. Nevada provides on-site consultation services to employers as part of their state plan under Section 18(b) of the Act. Nevada's Occupational Safety and Health Act is promulgated in the Nevada Revised Statutes (NRS), Chapter 618. The Nevada State Plan is currently administered by the Division of Industrial Relations, Department of Business and Industry.
- C. Nevada's consultation services are provided through an Annual Cooperative Agreement with OSHA under Section 21 of the Act and in accordance with 29 CFR, Part 1908. The Nevada Safety Consultation and Training Section entered the 21(d) consultative program in July 1999. All formal training and education services and all public sector consultative services provided by the Nevada Safety Consultation and Training Section are funded under the State Plan 23(g) grant.

- D. Nevada Revised Statutes, Chapter 618 of the Nevada Occupational Safety and Health Act, Sections 618.257, 350, 353, 376, 383, and 977 explain the programs and duties of the Nevada Safety Consultation and Training Section.
  
- E. The Department of Business and Industry, Division of Industrial Relations, Safety Consultation and Training Section (SCATS) provides the following services without additional cost for Nevada employers:
  - 1. Workplace assessments to identify safety and health hazards.
  - 2. Hazard abatement assistance.
  - 3. Formal and informal training for employers and employees on workplace safety.
  - 4. Assistance in the developing and implementing effective written safety and health programs.
  - 5. Technical assistance to employers and employees with questions about workplace safety problems or programs.
  - 6. Workplace safety information to educate and remind employers and employees of the importance of workplace safety, such as a video lending library and various safety and health pamphlets.

## **VII. Program Goal.**

The overall goal of the Nevada consultation program is to reduce the incidence and severity of injury or illness to workers by enhancing employers' abilities to identify and control safety and health hazards. In pursuit of this goal, the Nevada consultation and training program provides on- and off-site consultation and training upon request to both public and private sector employers and employees. The primary program focus of the consultation and training programs is directed toward providing services to small employers working in high hazard industries; however, SCATS will make every effort to support a service request from any

Nevada employer.

## Chapter 2

### OSHA Cooperative Programs

#### I. **Cooperative Programs.**

DCSP offers a number of opportunities for employers and organizations to work cooperatively with OSHA. These Cooperative Programs (On-site Consultation, Alliances, Strategic Partnerships, Voluntary Protection Programs, and OSHA Challenge) offer a variety of services and benefits to participating organizations or employers. Each program is discussed in this Chapter along with the requirements for participation. Although the primary subject matter of this manual involves the Consultation Program, an overview of other OSHA cooperative programs is essential because consultants are actively involved in implementing these programs. States with OSHA-approved programs may have similar cooperative and voluntary compliance programs, such as those discussed below, as well as additional programs. Visit [www.osha.gov/dcsp/osp/](http://www.osha.gov/dcsp/osp/) for more information regarding State Plan State cooperative programs.

#### II. **On-site Consultation.**

OSHA's premier cooperative program is a free and confidential consultation service largely funded (90/10) by Federal OSHA. OSHA's On-site Consultation Program is delivered by state governments using highly qualified occupational safety and health professionals to help employers to (a) detect potential hazards at their worksite and (b) establish and maintain safe and healthful workplaces. The Consultation Program is completely separate from OSHA's enforcement efforts and does not issue citations or propose penalties. Although the On-site Consultation Program does not issue citations or propose penalties, employers receiving consultation services are required to correct all identified hazards as a condition of receiving program services.

The Consultation Program offers a variety of services for small businesses, including assisting in the development and implementation of an effective safety and health management system and offering training and education to the employer and employees at the worksite. Smaller businesses in high-hazard industries receive priority. On-site consultation visits include a walkthrough of employer worksites, identification of hazards, correction assistance, and

assistance in the development or improvement of the employer's occupational safety and health management system. An On-site Consultation visit will result in a written report to the employer, detailing findings and recommendations of the consultant. It may include training and education needed to address hazards or potential hazards at the worksite.

### **III. Safety and Health Achievement Recognition Program (SHARP).**

The Federal recognition and exemption program funded under Section 21(d) of the OSH Act is known as SHARP. Recognition and Achievement programs operating in States with approved State Plans may be known by other names, but the term SHARP is used in this manual to refer to the basic minimum requirements of any recognition and exemption program administered by an OSHA Consultation Project, whether under State or Federal jurisdiction. SHARP provides support for employers to develop, implement, and continuously improve their safety and health management systems. SHARP participation can provide immediate and long-term reduction of job-related injuries and illnesses. SHARP participants are deferred from OSHA programmed inspections and receive recognition on the OSHA website and publications. See Chapter 8 for additional information regarding SHARP.

### **IV. Voluntary Protection Programs (VPP).**

The Voluntary Protection Programs are designed to recognize and promote effective, systematic safety and health management. A hallmark of VPP is the principle that management, labor, and OSHA work together in a spirit of cooperation and trust in pursuit of a safe and healthful workplace. VPP participants are worksites that have successfully designed and implemented outstanding safety and health management systems. SCATS approves qualified sites for the VPP Star program. In the State of Nevada VPP is administered by SCATS, <http://4safenv.state.nv.us/consultation/recognition-programs/voluntary-protection-program>

- A. Star Program. The Star Program recognizes the safety and health excellence of worksites where employees are successfully protected from fatality, injury, and illness by the implementation of comprehensive and effective workplace safety and health management systems. These worksites are self-sufficient in identifying and controlling workplace hazards.

- B. Merit Program. The Merit Program recognizes worksites that have good safety and health management systems and that show the willingness, commitment, and ability to achieve site-specific goals that will qualify them for Star participation. This program is not currently offered in Nevada.
- C. Star Demonstration Program. This program enables OSHA to test the efficacy of different approaches. The Star Demonstration Program recognizes worksites that have Star quality safety and health management systems that differ in some significant fashion from the VPP model and thus do not meet current Star requirements. A Star Demonstration Program tests this alternative approach to protecting employees to determine if it is as protective as current Star requirements. This program is not currently offered in Nevada.

**V. Pre-SHARP.**

An employer who meets all the initial eligibility requirements for SHARP, corrects all hazards identified during the consultation visit, and shows reasonable promise of achieving SHARP status within the time frames agreed upon with the Consultation Supervisor may be approved as a Pre-SHARP participant. This Pre-SHARP status gives the employer a deferral from OSHA's programmed inspections. The deferral time frame recommended by the Consultation Supervisor, including extensions, must not exceed a total of 18 months from the expiration of the correction due date(s).

**VI. OSHA Strategic Partnership Program (OSP).**

An OSHA Strategic Partnership is an extended voluntary cooperative relationship between OSHA and groups of employers, employees, employee representatives, and/or other interested stakeholders designed to encourage, assist, and recognize efforts to eliminate serious hazards and achieve a high degree of employee safety and health. This program is available to all private sector employers, associations, labor organizations, and government agencies in locales where OSHA has jurisdiction. OSHA Strategic Partnership Programs may address all hazards at partner worksites or one or more discrete hazards of particular concern. An OSP can assist partners in the reduction of injuries and

illnesses through shared resources focused on the long-term development of effective safety and health management systems. OSHA Strategic Partnerships are formalized through written agreements that last for a specified period of time.

**VII. Alliances.**

Through the Alliance Program, OSHA works with groups committed to worker safety and health to prevent workplace fatalities, injuries, and illnesses. These groups include unions, consulates, trade or professional organizations, businesses, faith- and community-based organizations, and educational institutions. State On-site Consultation projects and other government agencies may also be signatories to OSHA Alliances. OSHA and the groups work together to develop compliance assistance tools and resources, share information with workers and employers, and educate workers and employers about their rights and responsibilities. Alliance Program participants do not receive exemptions from OSHA inspections or any other enforcement benefits.

**VIII. OSHA Challenge.**

This provides interested employers and workers the opportunity to gain assistance in improving their safety and health management systems. Challenge Administrators experienced in safety and health guide Challenge Participants through a three-stage process to implement an effective system to prevent fatalities, injuries, and illnesses. Challenge participants do not receive exemptions from OSHA programmed inspections.

## **Chapter 3**

### **Promoting and Managing Consultation Services**

#### **I. Promoting Requests**

SCATS will undertake a variety of promotional activities for the purpose of generating requests for our services and enhancing employer and employee awareness of safety and health criteria through formal and informal training and education, off-site assistance, mass media, and special emphasis programs and campaigns. SCATS will especially promote services to those employers that are targeted in Nevada OSHA's strategic plan.

##### **A. Methods.**

Promoting the availability of consultation and training services will be accomplished through a variety of methods and techniques, ranging from broad-based mass media campaigns to direct solicitation activities involving personal contact with employers. Promotional initiatives may include:

1. **Direct Mailings.** SCATS may use direct mailings of program information to the individual most responsible for business operations, such as the President, Vice President, or Comptroller, as a primary promotional tool. Direct mailings will be followed up with a telephone call or off-site visit when appropriate.
2. **Multimedia Campaign.** SCATS may use websites, television, radio, public service announcements, newspaper, e-mail, and employer/association newsletters to promote services that are available and to encourage employees to work safely.
3. **Informational Material/Publications.** SCATS may develop informational material when appropriate. Examples of this type of

material are: A Guide to Written Workplace Safety; and Nevada Workplace Safety: Your Rights and Responsibilities.

4. Web Site. SCATS will maintain an internet web site ([www.4safenv.state.nv.us](http://www.4safenv.state.nv.us)) where customers may review and download various safety and health program documents and educational materials that can be used to increase the effectiveness of the customer's safety and health programs.
5. Marketing/Public Speaking Engagements. SCATS will participate in presentations conducted at trade shows, professional association meetings, and so forth for the purpose of educating employers and employees about safety and health issues, new standards/rules, and other program-related issues for the purpose of increasing public awareness of safety and health and of the services offered by our Section.
6. Toll Free Number. In accordance with NRS 618.257.3, SCATS has established and maintains a toll free phone number (877-4SAFENV) so that small employers may readily contact the Section SCATS to seek and obtain assistance in complying with safety and health laws.

## **B. Cooperative Efforts**

SCATS has established working relationships with the following safety and health societies and other local public entities:

1. American Society Safety Engineers (ASSE)
2. Institute of Safety and Health Management (ISHM)
3. OTI Extension Outreaches
4. EMPLEO – Employment Education Outreach
5. Mexican Consulate

### **C. Identifying Target Audience**

1. NV OSHA Strategic Targeting List
2. BLS Accident & Injury Statistics
3. Nevada New Employers obtained from SilverFlume Portal and County Business Licenses
4. Worker's Compensation Data
5. Employers where newly published standards will have an impact

### **D. Evaluating Promotional and Outreach Activities.**

Efforts to promote consultation and training services will be documented and tracked by SCATS according to the type of activity and strategy. Promotional campaign success will be evaluated using customer surveys, injury and illness data, and other appropriate indicators to determine the effectiveness of the activity.

## **II. Communicating Employer Obligations and Rights**

SCATS consultants and trainers will advise employers of their rights and responsibilities as prescribed by 29 CFR 1908, Consultation Agreements; OSHA Instruction 02-00-003, Consultation Policies and Procedures Manual; and the Nevada Revised Statutes, Chapter 618, Nevada Occupational Safety and Health Act, during consultation visit opening and closing conferences, formal training sessions, and through dissemination of the *Nevada Workplace Safety: Your Rights and Responsibilities* pamphlet and other similar documents.

- A. **Independence** – SCATS is independent of the Federal and Nevada OSHA Enforcement programs.
- B. **Cost** – Consultative services are provided at no cost to Nevada employers and are supported by Federal and State funds.
- C. **Confidentiality** – Employer's utilizing SCATS services funded under the 21(d) of the OSH Act will not have the results from the consultation visit

publicized; the results will remain confidential from State and Federal enforcement, except in situations where imminent dangers or serious hazards are not corrected as agreed upon in the employer's Action Plan. (Per 29 CFR 1908.6(g)(2) " states may also disclose information contained in the consultant's report to the extent by 29 CFR 1910.1020 (Access to Employee Exposure and Medical Records) or other applicable OSHA standards or regulations"

Enforcement Disclosure – The identity of employers requesting on-site consultation, as well as the findings from the consultant's report, will not be provided to OSHA for use in any compliance activity as per 29 CFR 1908.7(a)(3). The only exceptions are in cases where an employer fails to eliminate imminent danger or serious hazards in the agreed upon time frames.

- D. **Employee Participation** – Employee participation is required on all on-site visits involving hazard identification. Where the site is represented by a collective bargaining unit all efforts will be made to ensure union participation in the visit.
- E. **No Citations or Penalties** – SCATS does not issue citations or propose penalties.
- F. **Imminent Danger** – Employers 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.
- G. **Hazard Correction** – Employers must correct all serious hazards in accordance with mutually agreed upon correction due dates and provide to the Consultant documentation of the action taken to eliminate or control the hazards. Failure to do so will result in a referral to enforcement. Employers should correct other-than-serious and regulatory violations in a timely manner but do not need to provide documentation of the correction, except for those employer's that are participating in the SHARP program.
- H. **Enforcement Inspection in Progress** – An enforcement inspection is considered "in progress" in the following situations:

1. From the time a compliance officer initially seeks entry to the workplace to the end of the closing conference.
  2. When right of entry is refused, the inspection is “in progress” until the District Manager or Chief Administrative Officer seeks a warrant or determines that allowing a consultation visit to proceed is in the best interest of employees.
  3. During and following an enforcement inspection, no consultation visit may take place until it has been determined whether or not:
    - a. Any citations will be issued.
    - b. A citation has been issued, and the contest period has expired.
    - c. Cited items have become final orders. If the consultant has reason to believe there are citations that have not become final orders, the Consultation Supervisor must contact Nevada OSHA to determine the employer’s status.
- I. **Enforcement Inspection Following Consultation Services** - The following conditions apply if an enforcement inspection occurs after consultation services have been provided:
1. **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.
  2. **No Immunity from Citations.** Regardless of the consultant’s advice and written report to the employer, in a subsequent enforcement inspection, a compliance officer is not precluded from finding hazardous conditions or violations of standards, rules, or regulations for which citations could be issued and penalties proposed.
- J. **Participation in a Recognition and Achievement Program** – If an employer satisfies all of the conditions required to participate in the

SHARP program, then that particular worksite will be deferred from NV OSHA's Programmed Inspection Schedule for period of up to two years upon initial approval and up to three years for subsequent renewal periods.

- K. **Posting the List of Hazards** – The employer must agree to post the list of Hazards, as it was received from SCATS, for a minimum of three working days or until all items have been abated, whichever is later. Agreed upon modifications or extensions must also be posted. Posting must be in a prominent place where it is readily observable by all employees. Posting by electronic 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** – In addition to the obligations stated above, the employer also retains the following rights during and after a consultation visit:
  - 1. **Modifying the Scope or Terminating the Visit.** 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 on-site visit will remain confidential in accordance with Section II.C. of this chapter.
  
  - 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 Chief Administrative Officer for amendment of the correction date(s) or any other substantive findings of the Written Report. Disagreement over or amendment of the correction schedule or report findings does not relieve the employer of the responsibility to correct serious hazards that were identified.

3. **Informing Enforcement.** If an enforcement inspection occurs after the conclusion of the consultation visit, the employer is not required to inform the CSHO of the consultation on-site visit or furnish a copy of the results, except to the extent that disclosure of information contained in such report is required by 29 CFR 1910.1020 (Access to Employee Exposure and Medical Records) 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**

Title 29, CFR, Part 1908 requires that preference be given to requests from more hazardous businesses, especially smaller establishments. Consultants are authorized to schedule consultation visits as necessary according to the priority system established by 29 CFR 1908 and this manual.

- A. **Imminent Danger Situations or Congressional Designations.** First priority will be given to employers who indicate an imminent danger situation or are in industries (or indicate hazards) designated for higher priority by Congress.
- B. **Small Employers Targeted in the State Strategic Plan, National Emphasis Program, Local Emphasis Program, or other “Targeted Industries”.** Second priority will be given to small employers who are in a "targeted" industry as defined by the Federal or the State Strategic Management Plan, a National Emphasis Program, a Local Emphasis Program, other targeting programs or the OSHA Strategic Partnership Program.
- C. **Referral by OSHA to the Consultation Program.** Third priority will be given to small employers whom are specifically referred by OSHA to the Consultation Program or for which OSHA directly suggests requesting a consultation.

- D. **More Hazardous, Smaller Businesses.** Fourth priority will be given to small employers 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 consideration if that establishment's DART rate is above the national average for that industry.
  2. High-Hazard North American Industrial Classification System (NAICS) Codes. An establishment is considered high-hazard if it is in an industry whose North American Industrial Classification System (NAICS) 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 Cooperative and State Program
    - a. Nevada educational and day care facilities that are required by State law to have periodic consultation visits as a condition of their licensing process will be afforded scheduling priority equivalent to a small, high hazard employer.
  4. Secondary NAICS Codes. One or more hazardous work processes or work areas (for example, bindery in a publishing house) may be located within an establishment in an industry that is not 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 NAICS code must be either on the OSHA-generated high-hazard listing or on the OSHA-approved alternative State listing.
  5. Hazardous Processes. An establishment may also be classified as "high-hazard" based on the number of hazardous operations required to complete a work process and which cannot be

described by a secondary NAICS code. OSHA's criteria for hazardous processes include the following:

- a. A substance in regular use at the establishment has a health code of HE1 - HE4 (carcinogen, chronic toxicity and acute toxicity) located under Health Factors of the Chemical Sampling Information website.
  - b. A substance in regular use at the establishment is explosive, or working conditions or work processes in use at that site pose an explosion hazard.
- E. **Small, Non-High-Hazard Employers.** Fifth priority will be given to small employers who are not in a high-hazard industry, or who have lower workplace incidence rates.
- F. **Mid-Size Employers (including franchise operations).** Sixth priority will be given to mid-size employers (including franchise operations) who employ fewer than 250 employees at the site but more than 500 employees corporation-wide.
- G. **Larger Employers.** The lowest priority will be given to employers who employ more than 250 employees at the site. Services to employers in this size range will often be limited in scope but are allowed as resources permit. Larger and/or less hazardous businesses will be informed that their requests for on-site services will typically receive a lower priority. When merited by the backlog of requests and their priority, the employer will be notified that targeting criteria and SCATS' backlog of requests preclude servicing the request in a timely manner. In such cases, it is appropriate to suggest alternative sources of assistance to the employer.

#### IV. Managing Consultation Requests

- A. **Requests for Consultation Visits.** The Consultation Supervisor will ensure that the following criteria are met before providing consultation services:

1. No On-site Consultation Visit may be provided in the absence of a request by the employer.
2. 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.
3. Employers who cannot be promptly scheduled for a consultation visit because of low scheduling priority or other SCATS considerations must be informed of their statutory responsibility to maintain a safe and healthful workplace.
4. Construction Sites.
  - a. While assistance may be provided to subcontractors away from the worksite on safety and health management systems (off-site assistance), a subcontractor request for on-site consultation may be accepted only with the approval of the general contractor or the controlling employer at the site.
  - b. Although the visit request was made by a subcontractor, the general contractor or controlling employer must accept responsibility for ensuring the correction of any serious hazard identified during the course of the visit. This responsibility includes hazards that were not created by the general contractor and those that might not be under the requesting subcontractor's control.
  - c. The same scheduling priorities must be applied to requests from construction sites as for other employers requesting consultative assistance.
5. Multi-Employer On-site Consultation Visits
  - a. If an on-site visit on a multi-employer worksite is conducted at the request of a general contractor or an employer who has oversight or control over other employers on that worksite, the visit should only be

counted once.

If individual employers request separate visits to be conducted with the consent of the controlling employer, these visits may be coded separately. These separate visits will require that the correct procedures, including opening and closing conferences, a written report, and other required elements as outlined in the CPPM, be followed.

- B. Responding to Request for Consultation.** When responding to requests for information or consultation visits, the individual taking the request must first explain the information outlined in Section II "Communicating Employer Obligations and Rights," located in this Chapter. Additionally, the individual should complete the OSHA Consultation Request Activity in OIS.
  
- C. Determining the Type of Visit.** The Consultation Supervisor must determine the type of visit being requested based on the following criteria:

A visit is an:	if its purpose is:
Initial Visit	to provide a hazard assessment by a safety or health consultant. Relating to the scope of the visit, an initial visit must consist of an on-site opening conference, an examination of all aspects of the safety and health management system, a walkthrough of the workplace, and a closing conference
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 determine if the previously identified hazards have been corrected, assist the employer with activities relating to the implementation of a safety and health management system, or both. However, the consultant is still required to document any serious hazards if found in plain sight during

	the follow-up visit and to ensure these hazards are corrected.
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**D. Conducting Multiple Initial On-Site Consultation Visits in a Single 12-Month Period.** OSHA's current policy permits two initial visits at a specific workplace within a 12-month period. As noted in this chapter, if the employer requests a limited-service visit, consultants should strongly recommend the benefits of a full service visit, covering both safety and health, at the time of the request (see Chapter 1, Section VII (GG)). However, Consultation Supervisors may allow for additional Limited-safety and/or Limited service-health initial visits within the same 12-month period when circumstances merit this assistance. Examples of when exceptions may be appropriate include the following for General and Construction Industries:

1. General Industry:
  - a. The Consultation Supervisor becomes aware of emerging hazardous situations affecting a specific industry or work practice, extraordinary safety and health issues are identified at the worksite, or both.
  - b. During the initial visit, the Consultant learns of non-routine, intermittent, high-hazard processes and operations, or seasonal work practices that are scheduled to be performed at a later date.
2. Construction Industry:
  - a. The worksite has progressed to a new phase of construction - different from the original initial visit (e.g., earth work, foundation, structural, rough-in, utilities, or interior/exterior finish, etc.) - which introduces significantly different hazards.
  - b. New equipment or tasks at the worksite introduce the potential for an imminent danger or serious hazard to employees (e.g., cranes, scaffolding, trenches, etc.).

3. Exceptions:
  - a. Exceptions to the two-visit maximum must address serious hazards. Review and/or approval of such exceptions may be addressed on a quarterly basis. Consultation Supervisors who seek an exception must consider their current backlog and whether the employer requesting assistance is conducting high-hazard activities.
  - b. Consultation Supervisors will use a new visit number to record exception visits.

**E. Determining the Scope of Visit.**

1. Full Service. Employers will be encouraged to request a full service visit covering all working conditions at the site and the employer's entire safety and health management program.
  - a. A visit may only be classified as a full service visit if the consultant has performed a complete evaluation of all working conditions, equipment, and processes at the work site. An appropriate level of program assistance will be provided in conjunction with all full service visits.
  - b. Full service visits may also be performed for subcontractors at multi-employer work sites provided that the consultant evaluates compliance at the entire work site, and all of the employer's applicable written safety programs and records are reviewed. When written programs and records are not reviewed in conjunction with the survey, the visit will be classified as a limited service visit.
  - c. Normally only one full service initial visit by each discipline (safety and health) may be performed at a particular work site in any 12 month period. Exceptions to this requirement are found in Chapter III, paragraph IV.D.3.
2. Limited Service.

- a. Employers may request a limited scope of service when such a visit is deemed more appropriate, or when the consultant is not able to perform an evaluation of sufficient depth to qualify as a full service survey. During the course of a limited service survey, consultants must identify all observed hazards, even if the noted hazards are outside the scope of the request.
  - b. There is no limitation on the number of limited service surveys that may be conducted at a site during any time period; however, the Consultation Supervisors will make every effort to ensure that consultation resources are effectively allocated to reach the maximum number of high hazard employers.
  - c. Normally only one safety and one health limited service visit will be permitted at the same general industry employer's work site at the same time. Additional limited service visits at that employer's work site will not normally be permitted until the employer has corrected any deficiencies identified during the previous visit. Deviations to this policy may be approved by a Consultation Supervisor if necessary to satisfy the employer's request and such actions will not detract from the survey's effectiveness.
3. **Abatement Assistance.** Assistance in correcting hazards cited by NV OSHA Enforcement may also be requested by the employer. Abatement assistance visits will not be scheduled until any citations become final orders.
  4. **Scope of Visit Changes.** Any changes to the scope of a visit that are requested by the employer after the consultation visit begins must be coordinated with, and approved by, a consultation supervisor.
- F. **Determining Worksite-Sensitive Issues.** The Consultation Supervisor will evaluate the site-specific information from the OIS Consultation Request Activity and determine any special circumstances that the consultant should prepare for before 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 Supervisor must ensure that the consultant has the proper immunizations for these situations.
3. Personal Security Clearance. Where personal security clearances are required, the Consultation Supervisor must assign a consultant who has the proper clearances or ensure that appropriate ones are secured prior to the visit.

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

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

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

- a. Under Section 15 of the OSH Act, all information reported to or obtained by consultants in connection with any inspection or other activity which contains or which might reveal a trade secret shall be kept

confidential. Such information shall not be disclosed except to other OSHA officials concerned with the enforcement of the OSH Act or, when relevant, in any proceeding under the OSH Act.

- b. Title 18 USC 1905 provides criminal penalties for Federal employees who disclose such information. These penalties include fines of up to \$1,000, imprisonment for up to one (1) year, and/or removal from office or employment.
- c. If the employer objects to the taking of photographs and/or videotapes because trade secrets would or may be disclosed, consultants should advise the employer of the protection against such disclosure afforded by Section 15 of the OSH Act and §1903.9. If the employer still objects, consultants shall contact the Consultation Supervisor.

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

H. **Counting Visits.** On-site Consultation initial visits should be counted within the OSHA Information System (OIS) according to the number of consultants who are servicing a particular On-site Consultation request.

- 1. If a single consultant addresses both safety and health matters during the initial on-site visit, this visit shall be entered into OIS as a single initial visit.
- 2. If two consultants service a request, one of whom focuses on safety matters and one of whom focuses on health matters, this visit shall be entered into OIS as two initial visits.

Regardless of how many consultants are participating on the on-site visit to an employer, a single request will not result in more than two initial visits, one safety and one health

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Safety Consultation and Training Section  
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## Chapter 4

### Visit Related Requirements

#### I. Preparation for a Visit.

An on-site consultative visit shall be made only after appropriate preparation by the consultant. Before the visit, the consultant shall become familiar with as many factors concerning the establishment's operation as possible. The consultant shall review all applicable codes and standards. In addition, the consultant shall ensure that all necessary technical and personal protective equipment is available and functioning properly. (See 29 CFR 1908.6(a).)

- A. **Research.** Each consultant should review and analyze the data collected from the employer on the OIS Consultation Request Activity. In addition, the following information should be reviewed before the visit:
1. **Case File.** The consultant should evaluate all available data for the worksite, including:
    - a. Case files of previous consultations at the establishment.
    - b. Employer's OSHA inspection history by conducting an establishment search on OSHA's database.
    - c. Typical hazards found under the North American Industrial Classification System (NAICS).
    - d. Hazardous chemicals and quantities.
    - e. Prior years' injury and illness national averages and the employers OSHA 300 logs.
  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 on the

Consultation Request Activities from prior visits as well as any prior enforcement inspection activity.

4. **Severe Violator Enforcement Program (SVEP) Referral Cases.** Consultants should review the SVEP list as part of the research before conducting consultation visits. SCATS is responsible for contacting NV OSHA in situations involving SVEP.

**B. Survey Materials and Equipment.** The Consultation Supervisor is responsible for ensuring that all materials and equipment required for an on-site survey are available to the consultant. The consultant, however, is responsible for taking and using the equipment needed for the on-site visit.

1. **Forms and Handouts.** The consultant should assemble all reports, forms, and other materials in sufficient quantity to conduct the on-site survey. See the OSHA Information System Consultation User Guide and the current year's guidance.
2. **Sampling Equipment.** The Consultant should select the necessary equipment using standard sampling and calibration methods as outlined in the OSHA Technical Manual, OSHA Directives, Wisconsin Occupational Health Laboratory (WOHL) sampling guide, manufacturer's recommendations, and other standard calibration procedures and practices.
3. **Consultant Safety and Health Considerations.** All necessary personal protective equipment must be used. The Consultation Supervisor must ensure that the equipment is usable and that the consultant has been trained in its use and limitations. This requirement includes a pre-visit hazard review with the consultant and the use of appropriate control strategies to reduce exposure to anticipated hazards in the workplace.

**C. Visit Confirmation.** If an employer's requested visit is scheduled thirty (30) days or more after the request date, the requesting employer shall be contacted within five (5) working days of the scheduled visit to confirm the visit date. When verifying the scheduled visit, the employer must once again be asked whether any Federal or State OSHA inspection activity is "in progress" or whether the employer has denied entry to OSHA enforcement activity.

## II. The Safety and Health Program Assessment Worksheet (Form 33).

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

- A. **Definition.** The Safety and Health Program Assessment Worksheet is an evaluation tool to assess the employer's safety and health management system. Further, it can be used to provide information to an employer on the safety and health management system at one establishment and how it compares to other establishments in the same industry. The Worksheet (Form 33) is based on the 1989 Safety and Health Management Guidelines and consists of those elements or attributes used to evaluate a company's safety and health management system.
- B. **Worksheet Usage.** The Worksheet will be used by our consultants, once the consultant has taken the training offered by the OSHA Training Institute. Use of the Worksheet is not required for consultation visits to construction sites, but the Worksheet must be used when conducting consultation visits to a construction company's headquarters or base locations.
- C. **Worksheet Training.** Consultants will not attempt to complete the Worksheet and incorporate their findings in the official OSHA data system until they have received formal training (e.g. OSHA course 1500, *Introduction to On-site Consultation or other formal form 33 worksheet training*) on its use and the philosophy behind the attributes. Completion of the Worksheet requires specialized knowledge on how to evaluate the attributes (the safety and health management system elements) and in scoring those attributes. The accumulated data on all Worksheets is collected to establish industry norms, which are used to provide advice to employers and in developing OSHA policies. As a consequence, it is imperative that the data collected on each individual Worksheet is an accurate reflection of the employer's safety and health profile.
- D. **Procedures for Completing the Worksheet (Form 33).** The Worksheet must be completed using the following criteria:

1. If a SHARP site is being evaluated or a workplace is being considered for Pre-SHARP status, the Worksheet should be filled out completely.
2. If a site has requested Full-service both program assistance, then the entire Worksheet is completed.
3. If a site has requested Full-service safety or a Full-service health, then only relevant portions of the Worksheet are completed.
4. If a site requested a Limited-service safety, Limited-service health, or a Limited-service both visit, then only relevant portions of the Worksheet (Form 33) are completed.
5. If no program assistance is requested, but the consultant obtains safety and health information which would enable them to fill out a portion of the Worksheet, that portion should be completed.
6. If a construction company's headquarters or base is being evaluated, the Worksheet should be used, following the same criteria as identified in D. 1, 2, or 3 above.
7. If a construction site is being evaluated, the Worksheet is not required, but it can be used as an evaluative tool, following the same criteria as identified in D. 1, 2, or 3 above.

**E. Worksheet Completion.** Consultants are responsible for completing the Worksheet whenever one is required. This should be done by using the OIS.

When consultants of different disciplines conduct an initial visit to the same establishment within 90 days of each other, a single Worksheet, representing the mutually agreed upon scores of both consultants, must be sent to the employer. The consultant who completes the first visit will initiate the Worksheet process, but leave the Worksheet in "draft" in the system. The first consultant will indicate in his/her Written Report to the Employer that a Worksheet (OSHA Form 33) is pending, but will be submitted by

the second consultant. The consultant of the other discipline (second consultant) will complete the Worksheet and include it in his/her Written Report.

In the event that there are different scores proposed by each consultant for the same attribute, a mutually agreed upon score will be entered onto the Worksheet, and submitted to the employer.

- F. Worksheet Comments.** Completion of the comment section of the Worksheet is highly recommended when comments are beneficial to the employer in improving their management system. Consultants use this section to provide a rationale for the score and to give employers with meaningful recommendations on how to meet or improve on a specific attribute. If comments are omitted, an employer may be disappointed because he/she has no guidance on which area to prioritize for action first in order to improve the overall safety and health profile of the establishment.
- G. Scoring Method.** This scoring method is based on the data collected by the consultant. Only those attributes for which data has been collected during the visits may be scored. A quick summary of the scoring method for the attributes follows:
1. Zero means that no safety or health procedures/policies are even partially present to correct this hazard. (No Activity).
  2. One means that some safety or health procedures/policies are present although major improvements are needed. (Little Activity).
  3. Two means that considerable safety or health procedures/policies are present with only minor improvements needed. (Most Activity Completed).
  4. Three means that no additional safety or health procedures/policies are needed at this time. (No Additional Activity Needed).
  5. Not evaluated (N/E) is the default value and means no information was collected or observed for a particular

attribute. When this is the case, no score is required, and the score remains at the default value.

- H. **Attributes to Score.** Consultants will score an average of 8-12 attributes per visit. It is critical that we collect data nationally on all aspects of an employer's safety and health management system; consultants are urged to score the Worksheet using a broad distribution of attributes, and they should avoid the repetitive scoring of the same attribute during every visit, unless it is required by the State. Consultants are not limited to one section of the Worksheet; they can score any attribute for which they can find appropriate support (policy, procedure, observation or interview).
- I. **Safety and Health Program Assessment (Form 33).** When requested by the employer or required by the CPPM, consultants are to document the evaluation of employer's safety and health program assessment in an Appendix of the written report.

### III. Required Structure of a Visit.

The on-site 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 official state identification which, at a minimum, identifies the consultant's name, employer, and place of employment.
- B. **Opening Conference.** The first phase of the on-site visit is the opening conference with the employer or an authorized employer's representative. The employer or representative must have the authority to make safety and health decisions and be authorized to implement these changes. The opening conference is necessary 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 to confirm the scope of the request and to review with the employer the terms of the visit. If a visit is limited scope, the consultant must inform the employer that if a hazard outside of the agreed upon scope of the visit is identified in plain

sight during the walkthrough, the employer will still be responsible for correcting the hazard and is subject to referral to enforcement for failure to rectify the hazard.

1. **Introductions.** The consultant must identify himself or herself and any other SCATS personnel participating in the visit. The employer, other company representatives, and employees or employee representative(s) must be identified and their names, titles, and contact information recorded in the case file notes.
2. **Employee Participation.** Employee participation is required during all on-site visits. Requirements vary according to whether the site has a recognized employee representative, as explained below.

<b>if:</b>	<b>then:</b>
the site has a recognized employee representative	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. In the interest of time and clarity, 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 the employer and the employee representative. The consultant may increase the number of employee participants during the hazard survey if he/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 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.

3. **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. On an initial visit requesting limited service, the consultant should strongly recommend the benefits of a full service visit. If a visit is limited scope, the consultant is still required to document any hazards outside of the agreed upon scope of the visit if found in plain sight during the walkthrough. If the scope of the visit is modified based on hazards found in plain sight and/or the employer requests program assistance in areas that were not addressed when the visit was requested, then the consultant must re-evaluate the use of the Worksheet based on the criteria outlined in Section II of this Chapter.
  4. **Employer's Obligations and Rights.** The consultant must discuss the obligations and rights as outlined in Chapter 3, Section II A-L, which the employer must agree to in order for the consultation visit to continue.
  5. **Evaluating Employer's Injury and Illness Rates.** If the employer did not provide the Log of Work-Related Injuries and Illnesses (OSHA Form 300) information before the visit, the consultant must review the employer's current and previous three (3) years' Form 300 logs to determine the employer's rates. The consultant must calculate the rates, compare them to the national average for the employer's NAICS code, and inform the employer of the results. Employers that fall below the threshold for keeping records should also have their rates assessed. In these cases, the consultant must make an effort to estimate the previous years' injury and illness rates and record the data into the OIS. Consultants should encourage employers that are not required to maintain Form 300 logs to use this form as a tool for evaluating their safety and health system.
- C. Walkthrough of the Workplace.** This phase of the on-site process allows the consultant to become familiar with the worksite. If a hazard is identified but employee exposure is not observed, the consultant must document the hazard and require corrective action

by the employer. During the walkthrough of the workplace, the consultant must conduct the following activities:

1. **Hazard Survey.** The consultant must inform the employer and the employee representative of all identified hazards 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. If an employer fails to immediately remove an employee from an imminent danger area, the consultant must terminate the visit and immediately refer the employer for enforcement action through SCATS CAO.
2. **Documentation.** The consultant should record all facts pertinent to the identified hazard(s) in field notes to be included in the case file. The consultant should 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 should document the hazard and the correction method in the field notes.
3. **Recommendation of Interim Protection.** The consultant should indicate in the case file notes whether interim protection is required, the nature of the recommended interim protection, the date the interim protection must be in place and the dates that interim protections are expected to be replaced with the final agreed upon protections. Extensions to the interim protection periods must also be documented in the case file.
4. **Referrals.** For full-service both visits, if a consultant identifies a hazard not within their specific expertise, they must notify/refer the hazard to another consultant with that specific expertise. Additionally, if a visit is limited scope, the consultant must document all hazards, even if outside the visit scope, when the hazard is found in plain sight during the walkthrough.

**D. Closing Conference.** Closing conferences must be conducted at the end of the initial visit. Consultants may not delay conducting the

closing conference to give them more time to complete the Written Report. Note that the Written Report must be sent to the employer no later than 20 calendar days after the closing conference is held. In the closing conference, the consultant must conduct the following activities:

1. Hazard(s) Identified and Date of Correction. Discuss the classification of identified hazards, possible methods of correction, and mutually agree upon correction dates for all serious hazards. The correction due date(s) for serious hazards should be for the shortest feasible time frame. Hazard correction time frame begins immediately after the closing conference, not on the written report receipt date. The employer must start correcting hazards immediately and must not wait for the written report before taking corrective action. Other-than-serious hazards and violations of OSHA regulatory standards must also be brought to the attention of the employer. In addition, the consultant must inform the employer that other-than-serious hazards and regulatory standards violations should be corrected in the shortest time frame. Failure to correct these hazards and regulatory violations can be cited by OSHA enforcement. Refer to OSHA Field Operations Manual (FOM), CPL 02-00-150, for details regarding classification of hazards. See also Chapter 3, Section II.G, of this manual.
2. Comments on the Safety and Health Management System. Describe the adequacies and deficiencies of the employer's safety and health management system and make recommendations to resolve any deficiencies identified.
3. Additional On-site Visits. Discuss with the employer the extent to which additional on-site visits may be needed for training, verification of hazard correction, and/or employee exposure monitoring. It is important for SCATS to work with employers to address emerging hazards and areas of emphasis. This work may include SCATS following up with additional verification visits.
4. Training and/or Follow-up Visits. Develop a schedule with the employer for training and/or follow-up visits, as needed.

- E. Transmitting the List of Hazards.** The Consultation Supervisor must forward a List of Hazards to the employer and the employee representative no later than 20 calendar days from the closing conference date. If there is a delay in producing the Written Report, which includes the List of Hazards, a separate List of Hazards report must be produced within a reasonable period of time (not greater than 20 calendar days) after the closing conference.

## Chapter 5

### Training and Assistance Visits

#### I. Training and Assistance Visits.

Training and Assistance Visits are primarily conducted to provide an employer with safety and health program assistance, training and education, and/or correction assistance. Training and Assistance Visits may be provided only after a hazard survey, such as initial consultation visit, an OSHA inspection, or a private consultant survey has been conducted within the past 12 months. The hazard survey must provide adequate foundation for conducting services through a training and assistance visit.

- A. **Program Assistance.** Employers may request additional assistance with development of a Safety and Health Management Systems (SHMS) after the initial visit. This assistance will be documented through use of Safety and Health Assessment Form in OIS.
  
- B. **Formal Training.** The SCATS training unit is a 23(g) and state-funded program established to provide regulatory awareness training for employers and employees. The training unit develops and presents a variety of on-site and off-site formal regulatory awareness training and education programs. It also conducts a variety of outreach programs to make employers aware of the Section's available consultation and training services.

Formal training programs will be developed and used throughout the state by all trainers so that the presentation materials are documented and the goals, objectives, and major concepts of the topic are consistent statewide.

Formal training programs will consist of various programs providing regulatory awareness. The intent is to provide the client with an understanding of the requirements so that they can evaluate their hazards and institute appropriate initial and on-going training for their employees.

Formal training programs will be thoroughly researched and provided with instructional note pages. The note pages will instruct trainers in the goals,

objectives, and major concepts of the topic to ensure that the topics are consistently presented.

- C. **Training Function of Consultants.** While training and education is an inherent part of the consultative process, consultation training is not intended to become the major emphasis of the consultation visit.

Consultants are in a unique position to provide assistance to employers and employees at the work site. Informal training, conducted by consultants at the job-site, will be focused towards the hazards, non-compliances, and conditions found during the consultation visit. Such informal training will complement the formal training and education efforts of the SCATS Training Unit, the OSHA Training Institute (OTI), and the Educational Centers authorized by OSHA through OTI.

Much of the assistance provided to employers or employees during hazard surveys and follow-up visits is considered to be informal training and education. Consultants are encouraged to provide this type of incidental training and education.

D. **Training and Education.**

1. The SCATS Training Supervisor is responsible for ensuring the timely preparation and distribution of the training classes that will be conducted at the SCATS office training facilities.
  - a. All employer requests for formal training and education will be referred to the SCATS Training Unit.
  - b. Information on SCATS training should be provided to the employer during the consultation visit. This information is available on the SCATS website.

- E. **Informal Training.** All informal training will be conducted in conjunction with a consultation visit. This is so training needs can be established based on the conditions noted during the hazard survey and the training can be tailored to the nature of the hazards or potential hazards in each specific workplace. Such training and education will be conducted by the

consultant at the work site in a manner which makes it most relevant to the circumstances at the site.

- F. Off-site Formal Training.** SCATS may present off-site formal training when requested by the employer and SCATS has determined that it is more convenient and cost-effective to conduct the training at the employer's site. All off-site formal training will be conducted in accordance with the policies and priorities established by SCATS.

## **II. Training Documentation.**

- A. During the Initial Visit.** Training services provided during the initial visit must be included in the written report to the employer.
- B. Following the Written Report.** Training services provided after the written report has been sent to the employer must be followed up with a letter to the employer describing the training and a copy of the letter must be placed in the case file.

## **III. Recording Training Time.**

- A.** Instructions for recording consultant's time spent performing training related activities are found in SCATS Procedures.
- B.** Instructions for recording trainer's time are found in SCATS Procedures.
- C.** Accomplishment of training events also requires completion of the Presentation Report. The Presentation Report will be submitted to the Training Supervisor following completion of the training event.
- D.** Reporting to the Employer.

1. If informal training and education services are provided by the consultant during the initial visit, a summary of the services provided will be included in the written report to the employer. See Chapter 6, Documenting Consultation Services, of this manual for additional instructions on developing this section of the report.

#### **IV. Trainers' Qualifications**

- A.** Formal and Informal Training. To be qualified to provide formal or informal training the consultant must have:
1. Have subject-matter knowledge in the area of the training being offered and demonstrated the ability to conduct training.
  2. Consultants should demonstrate their ability to conduct informal training before being authorized to conduct it on their own. That demonstration may involve a mentoring process, where the consultant observes an experienced consultant conduct informal training and demonstrates to the satisfaction of the Consultation Supervisor an understanding of the principles of the informal training process.

#### **V. Trainer's Qualifications Waivers.**

Based on the consultant's prior work history and skill set, the Chief Administrative Officer has the discretion to waive the requirements listed above in paragraphs IV.A – Trainer's Qualifications.

## Chapter 6

### Documenting Consultation Services

#### I. The Written Report to the Employer (Written Report).

The Written Report to the employer will be prepared at the conclusion of any initial visit and will include field sampling results (including a copy of laboratory results, if applicable) for any sampling performed. Visits other than initial visits do not require a written report, but these visits will be concluded with a letter to the employer summarizing the activity. The information contained in the consultation written report is confidential and will only be disclosed to the employer for whom it was prepared, as provided for in 29 CFR 1908.7(a)(3). Any inappropriate disclosure would adversely affect the operation of the SCATS program and is forbidden except as allowed or required by 29 CFR 1908, 29 CFR 1910.1020, or other applicable OSHA standards or regulations.

- A. Timing of the Written Report.** The Written Report must be sent to the employer as soon as possible but not longer than 20 calendar days after the closing conference. Consultants may not delay conducting the closing conference in order to give themselves more time to complete the Written Report.
  
- B. Responsibility for Preparing the Written Report.** The consultant who conducted the initial visit is responsible for the preparation of the written report. If one safety and one health consultant conduct two visits, the consultant to whom the visit was initially assigned is responsible for preparing the written report and obtaining input from the other consultants.
  
- C. Required Elements of the Written Report.** Consultants may elect to use the report templates that are provided by OSHA in the OIS system. However, Consultants can also create and use their own templates as long as they include the following information:
  - 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(s) 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 DART and TRC rates to the national industry average; and
  - 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 3, Section II, 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. Other-than-serious hazards and violations of OSHA regulatory standards must be brought to the attention of the employer. The consultant must inform the employer that these hazards and standards violations must also be corrected in the shortest feasible time frame. Failure to correct these hazards and regulatory standards can be cited by OSHA.

4. Evaluation of Safety and Health Management System. In this section of the report, consultants are to refer the reader to the safety and health program assessment worksheet of the written report. Consultations may also utilize this section of the written report to summarize or provide additional information of the employer's overall safety and health management system.

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. **Sampling Data.** If sampling has been conducted, the appropriate template should be selected, including tables, forms, and charts, to display the results.
  7. **Other Findings.** In this section, the consultant must list and discuss any other 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 (Worksheet).** If the use of a Worksheet was required, it must be included as an appendix to the report.
- D. **Cover Letter.** Every Written Report must be sent with a cover letter. There are several template cover letters available for use. The consultant will determine which cover letter to use and submit it for the supervisor to sign. When serious hazards are observed, the Consultation Supervisor must ensure that the cover letter transmitting the Written Report includes the following paragraph:

**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 (3) 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)**

## II. List of Hazards.

The List of Hazards must accompany the consultant's Written Report. The consultant must also send the employee representative a copy of the List of Hazards and any modifications and/or extensions to correction due dates, using the contact information obtained during the "Opening Conference." The first page of the List of Hazards should be printed on SCATS' letterhead.

**III. Case File.**

SCATS Case Files are maintained in a defined, uniform format. Even though SCATS organizes files in a different manner, they are consistent and follow SCATS procedure 3019.

## Chapter 7

### Relationship to Enforcement

#### I. General.

SCATS is completely separate from NV OSHA's enforcement efforts and does not issue citations or propose penalties. However, SCATS depends on having an effective NV OSHA Enforcement Program to compel employers to achieve compliance. Additionally, SCATS relies on enforcement as a deterrent to ensure that employers rectify all identified hazards.

- A. On-site Consultation Visit Priority.** A consultation visit-in-progress has priority over NV OSHA compliance inspections pursuant to 29 CFR 1908.7(b), except in those instances provided below at Section III H. (1-4). 29 CFR 1908.7(b)(2)i-iv.
- B. Visit-in-Progress.** A consultation visit-in-progress is defined as a Consultation on-site visit in regards to the working conditions, hazards, or situations covered by the visit from the beginning of the opening conference through the end of the correction due dates and any extensions. 29 CFR 1908.7(b)(i).
- C. Enforcement Activity.** NV OSHA may assign a lower priority for programmed enforcement activity to those worksites for which on-site consultation visits are scheduled.

#### II. Scheduling

- A. On-site Visit Request.** Employers seeking an on-site consultation visit must request and schedule an opening conference directly with SCATS.
- B. On-site Visit Scheduling.** Once the employer has requested an on-site consultation visit, the scheduling of the on-site visit shall be based upon the nature of the employer's request and the employer's placement within SCATS prioritization schedule. See Chapter 3.

1. **Current Federal/State Inspection Activity.** Consultation personnel must ask the employer whether or not any Federal or NV OSHA inspection/enforcement activity is currently taking place at the worksite. If the employer answers in the affirmative, then Consultants will explain to the employer that no on-site consultation can take place until the NV OSHA inspection/enforcement activity is final and/or any cited item(s) have become final order(s).
2. **Visit Date Confirmation.** If an employer's requested visit is scheduled 30 days or more after the request date, Consultants will contact the employer within 5 working days of the scheduled visit to confirm the visit date. When the employer is contacted to confirm the scheduled visit, Consultants must once again verify that no Federal or State OSHA inspection activity is underway.

### **III. On-site Consultation Visits and Enforcement.**

Consultants will determine the scope of the on-site consultation visit based upon the employer's request. An employer's worksite cannot be subject to concurrent consultation- and enforcement-related visits. Enforcement may assign a lower priority to worksites receiving a consultation visit until the completion of the correction due dates and any extensions or the consultation closing conference, see 29 CFR 1908.7(b).

- A. Full-Service Both On-site Consultation Visits.** If a worksite is undergoing a full-service both on-site consultation visit, which provides a complete safety and health hazard survey of all working conditions, equipment, processes, and OSHA-mandated safety and health programs at the worksite, programmed enforcement activity may not occur until after the end of the worksite's visit-in-progress status.
- B. Full-Service Safety, Full-Service Health, and Limited-Service On-site Consultation Visits.** An on-site consultation visit-in-progress status is discipline related. If a worksite is undergoing a full-service safety, full-service health, or a limited service visit, programmed enforcement activity may only proceed under the working conditions, equipment, processes not under the visit-in-progress status. See Chapter 1. Section VII.GG.

- C. Enforcement Follow-up and Monitoring Inspections.** If an enforcement follow-up or monitoring inspection is to be conducted while a worksite is undergoing an on-site consultation visit, the inspection shall not be deferred; however, its scope shall be limited only to those areas required to be covered by the follow-up or monitoring inspection. In these instances, the consultant must halt the On-site Consultation Visit until the enforcement inspection has been completed. In the event OSHA issues a citation as a result of the follow-up or monitoring inspection, an on-site consultation visit may not proceed regarding the newly cited item(s) until they have become final order(s).
- D. On-site Consultation Follow-up and/or Training and Assistance Visits.** On-site consultation follow-up and/or training and assistance visits must be deferred if an OSHA enforcement inspection is to be conducted. The consultant may continue with follow-up and/or training and assistance activity only after enforcement inspection activity at the worksite is final and any cited item(s) have become final order(s).
- E. Fatality/Catastrophe during Visit.** If a fatality or catastrophe occurs during an on-site consultation visit, the consultant shall immediately terminate the visit. If on-site conditions permit, the consultant should remind the employer of their obligation under 29 CFR 1904.39 to notify OSHA enforcement of the incident.
- F. Severe Violator Enforcement Program (SVEP).** A company identified on NV OSHA' Severe Violator Enforcement Program (SVEP) list may still receive On-site Consultation Services. Although the company is receiving consultation services, in this situation Consultation visit-in-progress status does not block enforcement from performing an inspection.
- G. Requirements of Visit-in-Progress Status.** A consultation visit shall be considered to be a visit-in-progress from the beginning of the opening conference to the end of the correction due dates (including extensions). To maintain the status of visit-in-progress, the employer must meet the following conditions:
1. Posting the List of Hazards. Employers must prominently post the List of Hazards, once received, in a location where it can be readily observed by all affected employees. Employers must prominently post the List of Hazards for a minimum of three (3) working days and should not remove it until the hazards identified on the list are

corrected. For the visit to remain a visit-in-progress, identified hazards may not remain uncorrected past their correction due date (past the original due date or the extended due date). See 29 CFR 1908.6(e)(8).

2. Hazard Correction. Employers must take action to eliminate exposure to hazards which, in the judgment of the consultant, present an imminent danger as well as to correct all hazards identified as serious in order to maintain the visit-in-progress status. The employer must also provide documentation of the action(s) taken to eliminate or control the identified hazards to SCATS by fax, letter, or e-mail.

**H. Termination of Visit-in-Progress Status.** Regardless of the scope of a visit-in-progress, a consultation visit is terminated when OSHA enforcement initiates any of the following:

1. Imminent danger investigation,
2. Fatality/catastrophe investigation,
3. Complaints, or
4. Other critical inspections as determined by the Assistant Secretary.

Note: Referrals are included under other critical inspections as determined by the Assistant Secretary.

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

**A. Hazard Correction.** Consultants must inform the employer that all serious hazards must be corrected in accordance with mutually agreed upon correction due dates and that they must provide to the Consultant documentation of the action(s) taken to eliminate or control the hazards identified on the List of Hazards. In addition, consultants must inform

employers that they should correct other-than-serious hazards and regulatory violations in a timely manner, but employers are not required to send verification of the correction of these hazards to the Consultant. Consultants also must inform employers that they may be cited for any serious hazards, other-than-serious hazards, and/or regulatory violations identified during an NV OSHA enforcement inspection.

- B. Correction Due Dates.** The consultant will recommend suggested correction due dates to the employer. The correction due dates must be the shortest interval within which an employer can reasonably be expected to correct the hazard. Factors such as an employer's economic and work capability may be considered in devising correction due dates. The correction due dates must be discussed and agreed upon during the closing conference. Any dispute regarding a correction due date needs to be directed to the Consultation Supervisor.
- C. Extending Correction Due Dates.** An employer may request, and the Chief Administrative Officer may grant, an extension of the time frame established for the correction of hazards identified on the List of Hazards. This extension may only be granted when the employer has met all of the following criteria: (1) demonstrated that a good faith effort has been made to correct the hazard within the established time frame, (2) shown evidence that correction has not been completed because of factors beyond the employer's reasonable control, and (3) shown evidence that the employer is taking all available interim steps to safeguard affected employees against the hazard during the correction period. Extensions to correction due date(s) will be approved for the shortest reasonable period of time.
1. Requests for extensions must:
    - a. Be in writing. If the extension was initially requested by phone, a confirmation of the request must be received either via fax, postal or electronic mail;
    - b. Contain the reason(s) why the hazard has not been corrected;
    - c. Contain the number of days needed for the extension; and

- d. Describe and provide documentation of the interim protection provided to affected employees to protect them from the particular hazard(s).
2. Whenever an extension to a correction due date(s) is granted, a new List of Hazards must be prepared by the Consultant indicating the hazards granted an extension and the revised date(s) of correction. Employers must prominently post the new List of Hazards for a minimum of three (3) working days and should not remove it until the hazards identified on the list are corrected. Any hazards that have previously been corrected do not have to be included in the new list. See chapter 3.
3. For any hazard correction due date, whether initial or extended, of 90 days or greater, the Chief Administrative Officer may require the employer to submit an Action Plan for each serious hazard.

**D. Interim Protection(s).** Where a serious hazard(s) is identified and is not immediately corrected in the presence of the consultant, employers must provide effective interim protections when appropriate for affected employees at the worksite while the identified hazard(s) are being corrected. Interim protections include, but are not limited to, the following:

1. **Engineering Controls.** Engineering controls consist of, but are not limited to, substitution, isolation, ventilation and equipment modification.
2. **Administrative Controls.** Any procedure that significantly limits daily exposure by control or manipulation of the work schedule or manner in which work is performed is considered a means of administrative control. The use of personal protective equipment (PPE) is not considered a means of administrative control.
3. **Work Practice Controls.** Work practice controls are one type of administrative control in which the employer modifies the manner in which the employee performs assigned work. Such modification may result in a reduction of exposure through such methods as changing work procedures, improving sanitation and hygiene practices, or making other changes in the way the employee performs the job.

4. Personal Protective Equipment (PPE) and/or Clothing. Providing the proper PPE to all affected employees and training them in the proper selection, use, and maintenance of the required PPE.

**E. Action Plan.** In circumstances where a consultant determines that an identified serious hazard(s) requires a complex correction solution(s) that may take more than 90 days to institute, the employer is required to submit an Action Plan. These plans need to be approved by the Chief Administrative Officer. Circumstances that may require such an Action Plan may include, but are not limited to, (a) extensive redesign requirements, such as the installation of a ventilation system; (b) factors delaying correction that are beyond the employer's control; (c) or both.

1. The date for submitting the Action Plan will be established by On-site Consultation personnel. A separate Action Plan must be submitted for each identified hazard.
2. The Action Plan, where appropriate, should:
  - a. Identify the hazard and steps to be taken to correct it,
  - b. Outline the anticipated long-term hazard correction procedures,
  - c. Include milestones (or a schedule) for correcting the hazard, and
  - d. Include information regarding how affected employees will be protected from the hazard or hazardous condition in the interim until hazard correction is completed.
3. The employer will provide written periodic progress reports on the status of the hazard correction process. The frequency of the reports is to be determined by SCATS.

**F. Verification of Hazard Correction.**

1. **Imminent Danger.** Consultants shall ensure that all hazards that present an imminent danger to employees are corrected immediately. If not corrected immediately, the consultant shall refer the employer to enforcement.
2. **Serious Hazards.** Consultants shall verify that all hazards identified as serious are corrected within the time set forth in the correction due date(s).
  - a. The Consultant will employ a tracking system to assure the timely verification of serious hazard corrections.
  - b. Serious hazards must be verified as having been corrected or eliminated within the correction due dates identified in the written report to the employer and the List of Hazards, or as outlined in the Action Plan.
3. **Verification Methods.** The following are the recognized verification methods:
  - a. **On-site Verification.** When a hazard correction has been witnessed by a consultant during the visit, the hazard will be considered corrected, noted accordingly in the written report to the employer, and appropriately documented in OIS and the case file. Consultants are required to provide a description and/or picture(s) to support the verification of the hazard correction.
  - b. **Off-site Verification.** When a consultant is unable to verify the correction of a serious hazard before the conclusion of the visit, the consultant must inform the employer that they are required to provide written confirmation of the hazard correction along with full documentation. Written verification may be faxed or sent via postal or electronic mail to the Consultant. Documentation from the employer must include a certification by the facility manager of the date that the hazard(s) was corrected or eliminated and a description and/or picture (s) of the corrective method employed. The employer may also include copies of receipts for purchased

equipment or services and any other proof of hazard correction.

- c. Follow-up Visit. In addition to the above methods, Consultants may at their discretion conduct a follow-up visit to the worksite to verify the correction of those hazards identified on the List of Hazards. Consultants who identify new serious or imminent danger hazards during follow-up visits will use the initial visit activity number to record additional hazards.
4. Initiation of an OSHA Enforcement Inspection. SCATS will implement the following procedures after the termination of a consultation visit due to the initiation of an OSHA enforcement inspection, in accordance with the requirements in 29 CFR Part 1908.7, Relation to Enforcement:
    - a. Once SCATS is informed that an enforcement inspection will be initiated in accordance with 29 CFR 1908.7(b)(2), the Consultant must terminate the visit and change the verified/referred code in the hazard resolution tab within OIS for any unabated/outstanding hazards to “awaiting verification after interruption of visit-in-progress status.” Although the visit is terminated, the employer is still responsible for abating any hazards that were identified during the consultation visit. The Consultation Supervisor will send a letter to the employer, informing them of any hazards which were not verified as abated prior to the termination of the consultation visit. This letter must include a list of the unabated hazards and expected hazard correction due date(s).
    - b. The abatement of all hazards identified during the consultation visit must continue to be verified through the agreed-upon hazard correction period following the procedures within this Manual. The employer is required to provide certification of abatement to the Consultation Supervisor. It is important to note that, with the termination of the visit-in-progress status at the employer’s worksite, the employer is no longer exempted from programmed enforcement activities of any kind.

- c. If the employer fails to take the action necessary to correct hazards within the agreed upon time frame or any extensions thereof, the Chief Administrative Officer shall notify OSHA enforcement and provide the relevant information for a referral.

**G. Referral to Enforcement.** An employer's refusal or failure to correct an imminent danger situation and/or identified serious hazards shall result in a referral to NV OSHA enforcement.

1. Referral to NV OSHA Enforcement will occur for the following:
  - a. Failure to Immediately Correct an Imminent Danger. If, during the course of conducting an on-site consultation visit the consultant observes an imminent danger situation, he/she must immediately inform the employer. If the employer refuses to correct or fails to eliminate the hazard immediately, the consultant will terminate the visit immediately and then make a referral to OSHA enforcement.
  - b. Serious Hazard(s) Not Corrected. When it is determined that an employer is no longer acting in good faith and/or is refusing to correct or eliminate a serious hazard within the established due date, including any extensions, a referral to enforcement must be made at that time.
2. Process for referral to OSHA Enforcement or the appropriate State plan enforcement office:
  - a. Consultant. The consultant conducting the visit shall notify the Consultation Supervisor immediately upon an employer's:
    - i. Refusal to correct or eliminate an imminent danger, or
    - ii. Refusal to correct or eliminate a serious hazard.
  - b. Consultation Supervisor. Upon determining that an employer is no longer acting in good faith and/or is refusing to correct identified hazards, the Consultation Supervisor will immediately notify the Chief Administrative Officer.

- c. Chief Administrative Officer. The Chief Administrative Officer will determine whether the employer is to be referred for enforcement action within five (5) days of the notification of hazard violation or within one (1) day if there is an imminent danger situation. The Chief Administrative Officer will also notify the NV OSHA Chief Administrative Officer of the worksite's loss of visit-in-progress status.

#### **H. Deletions and Deferrals.**

1. Pre-SHARP. If a worksite is in pre-SHARP status, that is, is in the process of meeting the criteria for SHARP, NV OSHA programmed inspections at the site may be deferred for up to 18 months while the employer is working to achieve recognition and exemption status. See 29 CFR 1908.7(b)(4)(i)(A).
2. SHARP. If a worksite achieves SHARP status, it is to be removed from NV OSHA's programmed inspection schedule for a period established by SCATS. Deferrals from NV OSHA's programmed inspection schedule for worksites that have achieved SHARP recognition are for two (2) years upon initial approval and three (3) years for subsequent renewal periods. See 29 CFR 1908.7(b)(4)(i)(B).
3. VPP. If a worksite achieves VPP status, it is to be removed from NV OSHA's programmed inspection schedule for a period established by SCATS in accordance with the Nevada VPP manual.

## Chapter 8

### Nevada Recognition Programs

#### I. **Safety and Health Achievement Recognition Program.**

SHARP is an exemption and recognition program administered by SCATS that recognizes the safety practices of small employers that operate an exemplary safety and health management system. Employers who meet the qualifications for SHARP are removed from NV OSHA's programmed inspections schedule for two (2) years upon initial approval and for up to three (3) years for subsequent renewal periods. (29 CFR 1908.7(b)(4)) Pre-SHARP is a deferral program granted to employers actively progressing toward the achievement of SHARP status and is also administered by SCATS.

##### A. **Program Eligibility.**

Employers who request a consultation visit may be considered for participation in SHARP. Priority for SHARP and Pre-SHARP participation will be given to employers with 250 or less employees onsite and fewer than 500 corporate-wide employees. As of July 1, 2017 Nevada SCATS is administering the Voluntary Protection Program (VPP). Larger employers over 250 or 500 corporate wide will be eligible to apply for VPP.

In order to begin the SHARP process, SCATS will inform employers that they must:

1. Request a consultation visit that involves a full service safety and health hazard identification survey of all working conditions, equipment, processes and OSHA-mandated safety and health programs at the worksite, including a comprehensive assessment of the worksite's safety and health management system; and
2. Have at least one (1) year of operating history at the particular worksite for which the employer is seeking SHARP participation.

**B. SHARP Program Requirements.**

SCATS will inform employers seeking SHARP approval that their worksites must:

1. Receive a full-service safety and health consultation visit and a comprehensive review of their safety and health management system with all hazards found by the consultant(s) corrected;
2. Agree to SHARP requirements and sign the SCATS SHARP commitment letter during the opening conference.
3. Receive a score of at least "2" on all 50 basic attributes of the Form 33. Additionally, all "stretch items" of the Form 33 must be scored. "Stretch items" are the safety and health attributes above the basic attributes of a foundational safety and health management system, such as employee participation in hazard prevention and control activities within the worksite;
4. Agree to notify the SCATS Chief Administrative Officer (CAO) and request a subsequent on-site consultation visit when changes in working conditions or work processes occur that may introduce new hazards into the workplace.
5. Have an injury/illness rate for the preceding year that meets the requirements as outlined in subparagraph D, Injury and Illness Rates, below;
6. Not have rate-based incentive programs that discourage employee reporting of work-related injuries and illnesses or safety and health hazards; and
7. The employer must agree to send the interim year evaluation by February 15<sup>th</sup> and provide OSHA 300 injury and illness logs.

- C. 1989 Safety and Health Program Management Guidelines.** SCATS when reviewing SHARP applicants will ensure that applicants implement, demonstrate, and maintain a safety and health management system. At a minimum, consultants will ensure that the major elements of the 1989 Safety and Health Program Management Guidelines (as measured by the Form 33) have been addressed. Although not a requirement for

participation in SHARP, a written safety and health management system as described in the 1989 Safety and Health Program Management Guidelines should be recommended by consultants. Consultants should make the employer aware, that a written safety and health management system is a requirement of the Voluntary Protection Program (VPP), if the employer should have an interest in that program.

- D. Injury and Illness Rates.** In order to establish the DART and TRC rates at their worksite, SHARP applicants must have at least one (1) year of operating history at the particular worksite for which SHARP approval is requested. Employers who fall below the threshold for keeping OSHA 300 records and/or are in an industry that is exempted from keeping OSHA logs should also have their injury and illness rates assessed as part of their SHARP application process. In these cases, the consultant estimates the employer's injury and illness rates, using available employer data that is similar to the OSHA 300, for one (1) year and records the resulting data into the OIS. This section establishes the methods for calculating DART and TRC rates as well as the rate requirements for SHARP participants.
1. For all applicants, DART and TRC calculations will be based on the OSHA Form 300 information for the last full calendar year preceding the on-site evaluation. The calculated DART and TRC rates will be compared against the most recently published Bureau of Labor Statistics (BLS) rates for that industry. To qualify for SHARP, the applicant's DART and TRC rates must be below the published BLS industry average.
  2. Worksites that are exempt from maintaining OSHA Form 300 logs must be able to provide rates comparable to the OSHA 300 injury/illness log for their site before being considered for SHARP.
  3. The following alternative calculation methods are available for those applicants whose calculated injury and illness rates are above the published BLS average if the calculation method above is used.
    - a. Where the applicant has at least three (3) years of operating history, the DART and TRC rate calculations may be based on the OSHA Form 300 information for the most recent three (3) full calendar years preceding the on-site evaluation. The calculated average DART and TRC rates for the last three (3)

years will be compared to the most recently published BLS national average for that industry. To qualify for SHARP, the applicant's average DART and TRC rates must be below the most recently published BLS industry averages.

- b. For SHARP applicants for whom a single or a relatively small number of incidents would cause the applicant to be disqualified from SHARP when using the three-year rate calculation described above, DART and TRC rates may be calculated using the best three out of the most recent four full calendar years injury and illness data preceding the on-site evaluation. In determining whether an employer qualifies for the best three out of four year calculation method, SCATS must do the following:
  - i. Using the most recent employment statistics (hours worked at the site in the most recent calendar year, including overtime hours), calculate hypothetical TRC and DART rates for the employer assuming that the employer had two cases during the year;
  - ii. Compare the hypothetical rate to the three most recently published years of BLS combined injury/illness rates for the industry; and
  - iii. If the hypothetical rate (based on two cases) is equal to, higher or slightly lower than the BLS average for the employer's industry for any of the most current BLS published rates, the employer qualifies for the best three out of four years calculation method.
4. The Chief Administrative Officer may approve SHARP status in those rare instances where an applicant has rates equal to or slightly greater than the industry average after using the calculations above at D(3)(b). In determining whether to grant an employer approval, the Chief Administrative Officer must consider the following factors:
  - a. Employer is currently a SHARP participant; and

- b. Employer has a score of at least "2" on all 50 basic attributes of the Form 33, and the employer's score on all "stretch items;" and
  - c. Employer qualifies for the rate calculation at D(3)(b) above, but fails to meet either the DART or TRC rate requirements; and
  - d. The employer's history with the On-site Consultation Program.
5. Employers who meet all of the SHARP requirements, with the exception of the rate requirements, may be recommended for Pre-SHARP status.
- E. **Employer Incentive Programs.** OSHA's goal is the use of safe work practices all day, every day. This is also a goal for the companies that have worked very hard to get into SHARP and to stay there. SHARP sites have the opportunity to lead the way by example and to inspire positive and creative change throughout their industries. By working cooperatively, OSHA, SCATS, and SHARP participants can demonstrate that incentive programs, which emphasize positive worker involvement in safety and health activities and conscientious hazard reporting and correction, can be one element in an effective injury and illness prevention program.
- 1. Workplace incentives that promote safety awareness, injury and illness reporting, and worker involvement are an acceptable part of a SHARP injury and illness prevention program. A positive incentive program encourages or rewards workers for reporting injuries, illnesses, near-misses, or hazards and for involvement in injury and illness prevention programs. Examples of positive incentives include providing tee shirts to workers serving on safety and health committees, offering modest rewards for suggesting ways to strengthen safety and health, or throwing a recognition party at the successful completion of a company-wide safety and health training.
  - 2. Incentives that discourage injury and illness reporting and worker involvement are not acceptable. Companies with incentive programs that have the potential to discourage reporting of workplace injuries and hazards do not meet the injury and illness

prevention program requirements to qualify as a SHARP participant. An incentive program that focuses on injury and illness numbers often has the effect of discouraging workers from reporting an injury or illness. When an incentive program discourages workers reporting injuries or hazards or (in particularly extreme cases) disciplines workers for reporting injuries or hazards, problems remain concealed, investigations do not take place, nothing is learned or corrected, and workers remain exposed to harm. Disincentives to reporting may range from awarding paid time off or other benefits and forms of recognition to a unit that has the greatest reduction in incidence rates to rewarding workers with a pizza party for achieving an injury/rate reduction goal or maintaining an injury and illness free worksite for a period of time.

3. Incentives that may discourage workers from reporting injuries and illnesses include corporate bonuses. Note that executive level bonuses based on injury and illness rates or reductions are outside the scope of this manual and are not a basis for excluding a site from participating in SHARP. The primary area of concern involves bonuses for front line workers. For this group, incentives based on injury and illness rates or reductions would be considered unacceptable. Bonuses for lower level management that are based on injury and illness rates or reductions would be evaluated on a site-by-site basis.

#### **F. Consultant Responsibilities.**

1. **Verification of Employer's Eligibility.** The Consultants will ensure that the employer satisfies all SHARP participation criteria and that all elements of an effective safety and health management system are fully operational. If hazards are found during the on-site evaluation, which reflect significant deficiencies resulting in a rating of 0-1 on the Form 33 evaluation of the employer's safety and health management system, the site cannot be recommended for SHARP approval. Consultants may not recommend SHARP approval until the deficiencies have been corrected and the Consultant is confident that a worksite's safety and health management system will operate effectively.
2. **Emerging Hazards and Areas of Emphasis.** It is important for Consultants to work with Pre-SHARP and SHARP employers to

address emerging hazards and areas of emphasis. These efforts may include SCATS following up with an on-site verification visit.

3. Review of Employer's Incentive Program

- a. Applicant for SHARP participation. Consultants must ensure that a SHARP applicant's incentive program does not contain provisions that could discourage injury and illness reporting, worker participation, or both. Consultants must advise the applicant of OSHA's position and SHARP policy. The applicant may choose to make an immediate change to its incentive program that will bring the program in line with SHARP policy. If the applicant needs 90 days or less to eliminate the disincentive, to revise its program, or both, the Consultant should reappraise the site once the change to the applicant's incentive program takes place. If an applicant for SHARP status refuses to make the needed change, the Consultant will inform the site that they are not currently eligible for SHARP participation.
- b. Current SHARP participant. If a site has already been awarded SHARP status, the Consultant must advise the participant of OSHA's position and SHARP policy and confirm that the existing incentive program complies with Agency policy. To confirm that an incentive program does not contain provisions that could discourage injury and illness reporting, incorporate this element into the review criterion when participants submit interim year self-evaluations, enter the reapplication processes, and provide other reports. If disincentives are found, the Consultant will assist the SHARP participant in reaching compliance with OSHA's position and SHARP policy.
  - i. The participant may choose to make an immediate change to its incentive program that will bring the program in line with the SHARP policy. If the participant needs time to eliminate the disincentive, revise its program, or both, designate this needed improvement as an item on the Action Plan. The participant will be given the opportunity to bring its incentive program in line with OSHA policy consistent

- with a 90-day item. Following the 90-days, the Consultant will assess progress in completing this action item. Extensions beyond 90 days require approval from the Chief Administrative Officer. The Consultants will monitor SHARP participants' progress and report the status to the Consultation Supervisor as indicated in the extension.
- ii. Refusal to make the recommended improvement to an incentive program is grounds to terminate a participant from the SHARP. Failure to demonstrate effective implementation of incentive program changes during agreed upon time frames (90-day action item, Chief Administrative Officer approved extensions, or both) is also grounds to terminate a SHARP participant. The established termination procedures will apply, including the Chief Administrative Officers written notice of intent to terminate and the participant's right to appeal in writing to the Chief Administrative Officer.
4. Submission of SHARP Requests for Approval. Consultants may not recommend SHARP approval until deficiencies have been corrected, and the Consultant is confident that a worksite's safety and health management system will operate effectively. After ensuring that the employer has met all of the requirements, the Consultant must confirm the employer's interest in SHARP participation. Then the Consultant submits the request for SHARP approval to the Consultation Supervisor using OIS. Requests will include the following items:
- a. The Consultant's recommendation for SHARP approval;
  - b. The site's DART and TRC rates, and the BLS national averages for that industry;
  - c. The date and type of each consultation visit conducted during the time the employer was working toward SHARP approval or renewal;

- d. A copy of the completed Form 33, Safety and Health Program Assessment Worksheet, for the worksite's Full-service safety and health visit;
  - e. A copy of a mutually agreed upon Action Plan, where applicable, which will provide an outline for the continuous improvement of the employer's safety and health management system;
  - f. Employer verification of the of number employees at the worksite and corporate-wide; and
  - g. Verification of the employer's request for SHARP participation (SHARP Commitment Letter).
5. Notification of Approval. If the SHARP request is approved, the Chief Administrative Officer must inform the employer of the duration of the deferral period.
6. Referrals Related to SHARP Sites. Referrals received by OSHA related to sites that are working toward or have achieved SHARP status will be transferred to SCATS for response. Such visits should be treated by SCATS as a high priority.
- H. **Program Coordinator Responsibilities.** Upon receipt of a completed SHARP application, containing verification that the employer has met all of the SHARP program requirements, the Program Coordinator will:
- 1. Provide the SHARP certificate to the employer. The certificate will include the company's name, location, and period of deferral from OSHA's Programmed Inspection Schedule;
  - 2. Notify NV OSHA of the worksite's status and facilitate the removal of the worksite from OSHA's Programmed Inspection Schedule for the approved deferral period; and
  - 3. Provide a copy of the certificate and the transmittal letter to the Consultant for the case file.

**I. Duration of SHARP Status.**

1. All initial approvals of SHARP status will be for a period of up to two (2) years, commencing from the date the DIR Administrator approves an employer's SHARP application. After the initial approval, all SHARP renewals will be for a period of up to three (3) years.
2. The period of deferral from NV OSHA's Programmed Inspection Schedule will begin on the date that the DIR Administrator approves the employer's participation in SHARP.
3. February 15<sup>th</sup> of each year, participating employers must submit the following to SCATS program coordinator:
  - a. A copy of the worksite's OSHA 300 log,
  - b. A copy of the worksite's Injury and Illness incident reports, and
  - c. The SHARP interim year self-evaluation form.

**J. Renewal Requirements.**

1. The Program Coordinator will inform employers seeking a SHARP site renewal that they must request a renewal visit within 180 days of expiration of the recognition and exemption program status. The SHARP renewal process will begin if the following steps have been taken:
  - a. SCATS has provided a full service safety and health visit and conducted a comprehensive program assessment to ensure that the safety and health management system has been effectively maintained or improved,
  - b. SCATS has verified that the employer continues to meet all eligibility and program requirements, and
  - c. SCATS has received the employer's interim-year self-evaluation and OSHA 300 log data. The employer's interim-year self-evaluation is required as verification of the employer's continued eligibility, during renewal years.

- K. Renewal Approval.** Renewal for SHARP participation must be approved by SCATS prior to the expiration of SHARP status to assure continued eligibility for deferral from OSHA's Programmed Inspection Schedule. If a SHARP site fails to request a renewal visit within 180 days of expiration of the deferral status, they can still receive a renewal at the Chief Administrative Officer's discretion.
- L. NV OSHA Inspection(s) at SHARP Worksites.** As noted above, employers that meet all the requirements for SHARP status will have the names of their establishments deleted/deferred from NV OSHA's Programmed Inspection schedule. However, pursuant to 29 CFR 1908.7(b)(4)(ii), the following types of incidents can trigger an NV OSHA enforcement inspection at SHARP sites:
1. Imminent danger,
  2. Fatality/Catastrophe, or
  3. Formal complaints.
  4. Note: Referrals received by NV OSHA related to sites that have achieved or are working towards SHARP recognition will be transferred to SCATS for response and treated as a high priority visit.

## **II. Pre-SHARP Status.**

Those employers who do not meet the SHARP requirements, but who exhibit a reasonable promise of achieving agreed-upon milestones and time frames for SHARP participation, may be granted Pre-SHARP status. Upon achieving Pre-SHARP status, employers may be granted a deferral from NV OSHA Programmed Inspections.

- A. Employer Eligibility.** Employers who request a consultation visit may be considered for participation in Pre-SHARP. In order to begin this process, Consultants must inform employers that they must:
1. Request and receive a full-service both visit that provides a complete safety and health hazard survey of all working conditions, equipment, processes and OSHA-mandated safety and health

programs at the worksite, including a comprehensive assessment of the worksite's safety and health management system;

2. Have at least one (1) year of operating history at the particular worksite for which the employer is seeking Pre-SHARP participation.

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

1. Initial Requirements.
  - a. Receive a full-service both visit that provides a complete safety and health hazard survey of all working conditions, equipment, processes and OSHA-mandated safety and health programs at the worksite. including a comprehensive assessment of the worksite's safety and health management system;
  - b. Post the List of Hazards identified by the consultant(s);
  - c. Provide information regarding all hazards identified by the consultant(s) to employees;
  - d. Correct all hazards identified by the consultant(s);
  - e. Submit hazard correction verification to the Consultation Supervisor;
  - f. Inform employees of hazard correction(s); and
  - g. Provide evidence of having the foundation of a safety and health management system.
2. Post Pre-SHARP Status Requirements.
  - a. Implement the Action Plan developed with the consultant outlining the necessary achievements and time frames required for the employer to achieve SHARP status. The employer must provide timely progress reports to the Consultation Supervisor;

- b. Upon receipt of an approval letter from the DIR Administrator granting Pre-SHARP status, the employer must post the letter in a conspicuous area. At sites having recognized employee representative(s), the employer must notify the employee representative(s) of the employer's intention to participate in Pre-SHARP and involve the recognized employee representative in the process;
  - c. Involve employees in the safety and health management system, including the implementation of the Action Plan;
  - d. Agree to notify the consultants prior to making any changes in working conditions or work processes that might introduce new hazards into the workplace; and
  - e. Agree to a full service, comprehensive consultation visit for safety and health at the end of the Pre-SHARP deferral period, which initiates the SHARP application process.
- C. Deferral Time Frame.** The deferral time frame recommended by the Consultation Supervisor must not exceed a total of 18 months from the expiration of the latest hazard correction due date(s), including extensions.
- D. SCATS Responsibilities.** SCATS personnel must:
- 1. Assure verification of hazard correction of all hazards and compliance with requirements to post the List of Hazards and other employee information;
  - 2. Assist the employer in the development of 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 the 50 basic attributes of the Form 33 that received a score of less than "two;"
  - 3. Determine if the employer is capable of meeting all SHARP requirements within the deferral period, including DART rate and TRC requirements;
  - 4. Provide a commitment letter to participate in Pre-SHARP, to be posted by the employer;

5. Provide to the Program Coordinator with a completed "consultant proposal for SHARP Employer Certification & Exemption" SCATS Form 004 certifying that the employer exhibits reasonable promise of achieving the agreed-upon milestones within the deferral period;
6. Provide to the Program Coordinator a copy of the employer's Form 33 evaluation, including an Action Plan (when applicable);
7. Recommend a deferral period (not exceeding a total of 18 months, including extensions, from the end of the latest hazard correction due date) to the DIR Administrator; and
8. Request that the Chief Administrative Officer terminate the employer's Pre-SHARP status if the employer fails to maintain Pre-SHARP requirements or fails to meet SHARP requirements within the established time frame.

**E. Divisional Responsibilities.** The DIR Administrator may grant a deferral from NV OSHA programmed inspections for the period recommended by the Chief Administrative Officer and the Program Coordinator will notify NV OSHA of the deferral. Prior to recommending a deferral, the Chief Administrative Officer must concur that:

1. The worksite has met or is likely to meet the applicable DART and TRC rate requirements;
2. The employer has in place the foundation of a safety and health management system; and
3. The Action Plan adequately outlines the goal, recommended method of correction, and an expected completion date for each attribute of the Form 33 that received a score of less than "two."

**F. OSHA Inspection(s) at Pre-SHARP Worksites:** As noted above, employers that meet all the requirements for Pre-SHARP status may be granted a deferral from NV OSHA programmed inspections; however, the following types of incidents can trigger an OSHA enforcement inspection at Pre-SHARP sites:

1. Imminent danger,
2. Fatality/Catastrophe, or

3. Formal complaints.
4. Note: Referrals received by NV OSHA related to sites that have achieved or are working towards SHARP recognition will be transferred to SCATS for response and treated as a high priority visit.

### III. General Employer and SCATS Obligations.

- A. Fatalities or Catastrophes at SHARP or Pre-SHARP sites.** Consultants should advise employers that in the case of a fatality or catastrophe at a SHARP/Pre-SHARP site, the employer must notify NV OSHA Office within eight (8) hours of the incident as required in 29 CFR 1904.39. Consultants must also inform employers that they must notify SCATS as soon as possible after notification of the incident. Until all citations have been issued, Consultation personnel are not permitted to discuss with the employer any issues related to the fatality or catastrophe or an NV OSHA enforcement inspection. After the enforcement investigation is concluded and/or all citations have been issued, SCATS must evaluate the SHARP/Pre-SHARP status of the worksite using the following criteria:
1. If no citation is issued, an on-site visit must be conducted to ensure that all elements of the safety and health management system continue to be effective.
  2. If a serious or repeat citation is issued, a consultant must conduct an on-site visit to ensure that the alleged hazardous condition(s), which amounted to violation(s), have been corrected and that the safety and health management system is operating effectively.
    - a. If SCATS believes that a serious or repeat citation is connected to a diminution in the effectiveness of the company's safety and health management system, SCATS will recommend the employer's withdrawal from SHARP/Pre-SHARP.
    - b. If SCATS believes that there is no connection between the serious or repeat citation and the effectiveness of the employer's safety and health management system, the employer must be counseled on how to prevent a recurrence.

3. If a willful citation becomes final order or there is evidence that the site's application or interim self-evaluation is inaccurate, the employer will 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 re-apply to the program 12 months after withdrawal or termination.

**B. Changes that May Affect a SHARP or Pre-SHARP Employer's Eligibility.**

1. Relocation. Consultants must inform employers planning to relocate their facilities that they must notify SCATS sixty (60) days in advance of the move. Consultants must also visit the new site within thirty (30) days after the new site becomes operational to ensure that an effective safety and health management system is in place and that the employer still meets all the requirements for participating in a recognition program and/or deferral from programmed inspections. If this is not the case, SCATS must ask the employer to withdraw from the SHARP or Pre-SHARP.
2. Change in Ownership and Organizational Changes. Whenever ownership or major organizational changes occur that may impact the effectiveness of the company's safety and health management system, the employer or employer representative must notify SCATS, who must then discuss the changes with the employer and schedule an on-site visit, if necessary.

**C. Failure to Maintain SHARP or Pre-SHARP Requirements.** If an employer fails to maintain the participation criteria outlined in this Chapter, SCATS will give the employer the opportunity to voluntarily withdraw from the program.

1. **Voluntary Withdrawal from the Program.** Any approved SHARP/Pre-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 employer or SCATS. To withdraw, the employer must send a letter explaining the withdrawal and/or return the SHARP certificate to SCATS. The withdrawal is effective immediately upon receipt of the letter. SCATS will notify the NV OSHA of the employer's withdrawal from SHARP/Pre-SHARP. Withdrawal from the Program will result in all

program benefits, including deferral from NV OSHA's programmed inspection schedule, being withdrawn.

2. **Termination of Deletion or Deferral.** If an employer fails to maintain the participation criteria outlined in this Chapter and refuses the opportunity to voluntarily withdraw from the program, SCATS must request that the NV SCATS CAO can terminate the employer's participation in Pre-SHARP and/or SHARP. The employer must be notified in writing when Pre-SHARP and/or SHARP participation is terminated. The written notice to the employer must contain the reason(s) for the termination and outline the requirements for re-entry into the program.

## V. **Safe Partner Award.**

The Safe Partner Award is a recognition only award program designed to increase both employer and employee knowledge of the value of safety in the workplace. Recipients of the award receive a certificate and are featured in multimedia publicity efforts.

### A. **Eligibility Criteria.** Nevada employers can become eligible for the Safe Partner Award through meeting four of the ten following activities:

1. Voluntarily request SCATS conduct at least 2 full service Consultation surveys.
2. Management implemented improved training activities of all employees.
3. Management implemented improved inspection activities for all employees.
4. Use of the lending library and/or technical assistance.
5. Safety Representative or Management Official currently enrolled in/or graduated of Safety and Health Practitioner Program
6. Make changes in policies and procedures that improve safety activities for all company locations.
7. Communicate to all company locations the changes recommended by SCATS.

8. Voluntarily request SCATS host an onsite class to train employees on pertinent regulations for their industry.
9. Voluntarily request SCATS host an onsite class open to the public at your facility.
10. Employees with safety responsibilities have attended 3 or more training classes.

In addition, at the discretion of the Chief Administrative Officer, employers who have furthered the goals of SCATS may be nominated.

- B. Nominations.** SCATS consultants and trainers may recommend clients who meet the designated criteria to the CAO for consideration for the Safe Partner Award.
- C. Selection.** The SCATS CAO will select the recipient of the Safe Partner Award after a review of available information provided by the consultation supervisor.
- D. Award Presentation.** The SCATS CAO will arrange to present the Safe Partner Award to the employer at an appropriate time/place.
- E. Multi-Media Promotion.** Employers who qualify for the Safe Partner Award will be presented with a certificate and their accomplishments will receive appropriate media attention. Media efforts will be focused on recognition of the employer's efforts and making Nevada's employers aware of the benefits of establishing a relationship with SCATS consultants and trainers.

## **VI. Voluntary Protection Program**

The Voluntary Protection Programs are designed to recognize and promote effective, systematic safety and health management. A hallmark of VPP is the principle that management, labor, and OSHA work together in a spirit of cooperation and trust in pursuit of a safe and healthful workplace. VPP participants are worksites that have successfully designed and implemented outstanding safety and health management systems. SCATS approves qualified sites for the VPP Star program. In the State of Nevada VPP is administered by SCATS. For program details see the Nevada VPP policy and procedures manual:

DIR Instruction CSP 02-00-003  
Safety Consultation and Training Section  
October 1, 2017

<http://4safenv.state.nv.us/sites/default/files/assets/docs/1.%20FINAL%20NV-VPP%20Manual%20-%20Oct%202017.pdf>

## **Chapter 9**

### **Monitoring of Consultation Projects**

#### **I. Purpose.**

Regions should submit individual Regional Annual Consultation Evaluation Reports (RACER) monitoring and evaluating the 21(d) On-site Consultation Programs in all states, federal or state-plan, which receive 21(d) private sector On-site Consultation Program funding. Public sector consultation and the private sector consultation programs in three jurisdictions (Kentucky, Washington and Puerto Rico) should be evaluated through the Federal Annual Monitoring and Evaluation (FAME) Reports. All RACERs must be completed by the Regions according to the guidelines outlined in this Manual and submitted to the Directorate of Cooperative and State Programs no later than April 30 of each year. The purposes of monitoring and evaluating Consultation Projects are as follows:

- A. Ensure and demonstrate the continued effectiveness of consultation services provided to employers,
- B. Ensure Consultation Projects' compliance with the requirements of the OSH Act, 29 CFR 1908, CPPM, and other policy issuances,
- C. Discover improvement areas, track progress in addressing previously identified opportunities for continuous improvements, and highlight best practices, and
- D. Provide evidence-based findings for future policy development.

#### **II. Evaluation Parameters.**

The process is based on the following principles:

- A. The focus of monitoring and evaluation is measuring 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 (see Chapter 10).

- B. Completion of Consultation visits including all required documentation in accordance with appropriate standards.
- C. Project performance parameters captured by Mandated Activity Report for Consultation (MARC) standards.
- D. Effectiveness of a Project's Internal Quality Assurance Program.
- E. 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 different sets of monitoring requirements.

### III. Framework of the Monitoring/Evaluation Process.

The monitoring and evaluation of a Consultation Project's performance will be assessed through the following means:

- 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 (discussed further in Chapter 10) and the MARC, and address any issues or problems that arise. The Region must document the issues discussed and any commitments made during the quarterly discussions.
  - 1. Purpose. Quarterly discussions provide an opportunity to assess Project performance on an ongoing 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. It also identifies successful strategies that could be shared with other Projects.

2. **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; however, communication should not be 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.
  
3. **Focus of the Quarterly Discussions.**

<b>Quarterly Meeting</b>	<b>Timing</b>	<b>Agenda Items</b>
First	October- November	<p>Discuss end-of-year data for the previous fiscal year, if available</p> <p>Review the details of and make any necessary adjustments to the Project's CAPP</p> <p>Review the Project's Internal Quality Assurance Program</p> <p>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</p> <p>Coordinate the annual evaluation process and begin discussing evaluation reports for the previous fiscal year</p>
Second	January- February	<p>Review first quarter performance and mandated activities data to assess the Project's year-to-date progress toward its annual performance targets</p> <p>Discuss any new or previously unresolved issues/concerns</p>

		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 new or previously unresolved issues/concerns  Begin planning 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 next fiscal year's CAPP  Discuss any new or previously unresolved issues/concerns

4. Quarterly Discussion Topics. Examples of discussion topics include:
- a. Progress in meeting annual performance targets. (Special attention should be paid to activities supporting the agency's mission through special emphasis programs (i.e., NEPs, LEPs, or targeted industries).
  - b. Status of federal and state strategic or annual performance plans.
  - c. Review of mandated activity reports.
  - d. Results of an on-site review or follow-up on issues arising from an on-site review.
  - e. Project's Internal Quality Assurance Program.
  - f. Issues that may relate to the Project's assurances or quality assurance program.

- g. Effect of state policies and procedures or other impact factors.
  - h. Status of Project responses to prior evaluation reports.
  - i. Appropriate use of resources.
  - j. Upcoming federal or state training courses.
  - k. Follow-up on commitments made during the previous quarterly discussion.
  - l. Any other issues of concern to either party.
5. Documentation. The Regional Consultation Project Officer (RPO) must maintain a written record of each quarterly discussion indicating the date, location, and persons in attendance, a summary of the significant issues discussed, and the conclusions reached. Commitments made by either party, such as to supply information or assistance, should also be documented. The RPO must provide copies of quarterly discussion reports to the Project.

**B. Mandated Activity Report for Consultation (MARC) Report.**

Consultation mandated activities are tracked via the Mandated Activity Report for Consultation (MARC) report. The MARC consists of the performance indicators; the expected performance standard, where applicable; and the Project's performance data.

- 1. Frequency. The MARC report is also available as an OIS report to be run independently at any time by SCATS. For the National Office and Regional Office liaison calls, the MARC report is run quarterly for each Project and includes data for the most recent quarter and fiscal-year-to-date.
- 2. Data Source. Most of the Project Performance data will be obtained from OIS; however, in some instances, SCATS will be required to submit data to the Regions.

3. Measurement Standard or Reference. A Project's performance is compared to criteria established by regulation or policy. These criteria are listed in the "Reference" column in the MARC report.
4. Guidelines for Use. 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.
  - a. Initial Review. Any potential problem or shortfall in performance found during the initial review of the MARC data should be investigated by both federal and Project reviewers to determine its significance, cause, and any necessary corrective actions.
  - b. 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.
  - c. Further Review. Data collection and its review 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.
  - d. Follow-up Action. If remedial action is required, OSHA and the Project should agree upon possible courses of action.

**C. Annual Assurances (OSHA Restrictions and Conditions).**

Maintenance of the fundamental program requirements must be assured through an annual commitment from the state, to be included in the On-site Consultation 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 OIS and other available information. In the

event that an activity or program element assured by the Project is not observed, the Region may conduct appropriate monitoring activities.

- D. On-site Review.** An on-site 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 (1) on-site review every two (2) years. Additional reviews may be conducted when a Project is experiencing program difficulties or for other reasons determined by the Regional Administrator.
1. Problems or potential problems in the general operational system identified during the On-site Review should be discussed during the On-site Review. The Region may interview the Consultation Supervisors and consultants regarding any concerns or apparent problems arising out of the On-site Review.
  2. Review of Operational Elements. The On-site Review should include a review of:
    - a. Training received by consultants,
    - b. On-the-job evaluations,
    - c. Lapse time from request to delivery of service,
    - d. Management reports (i.e., pending written reports, pending hazard corrections, number of requests, and pending visits),
    - e. Hiring and vacancies,
    - f. The Project's budget (i.e., project expenditures - this is not an audit),
    - g. Recent consultation project developments,
    - h. Verification of the monitoring of consultants' performance,
    - i. Promotion of the Project's recognition and exemption program (SHARP),

- j. Marketing initiatives,
  - k. The Project's internal quality assurance programs,
  - l. The appropriate use of the Safety and Health Program Worksheet by consultants,
  - m. The Consultant Function Competency Statements can be another tool utilized to verify the performance, and training received by Consultants, and can be utilized both by the Consultation project for identification purposes, and by Federal OSHA for verification purposes, and
  - n. The selection and use of proper PPE.
3. Case File Review. Files should be selected randomly from all closed cases with closing conference dates in the nine (9) months preceding the current on-site review.
- a. Sample Size. The sample must include a minimum of 3 initial case files per consultant, up to a total of 36. If a Consultation Project has more than one office and/or more than 12 consultants, additional case files can be reviewed as appropriate. The sample should include consultants who have the least experience as well as consultants with seniority on the job. At least two (2) of the three (3) case files selected per consultant must be cases where serious hazards were found. For 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.
  - b. Selecting the Sample. In order to determine the sample, some useful reports include the scan report detail, the consultation report, and the standards frequency report, all of which are available in the OIS reports. Selection should be made as follows: first, determine the total number of recognition-program cases; then:

- i. If the total number of recognition-program case files is more than ten (10), randomly select ten (10) of the recognition-program case files and then randomly select the remainder of the sample from the non-recognition-program case files.
  - ii. If the total number of recognition-program case files is less than ten (10), select them all, and then randomly select the remainder of the sample from the non-recognition-program case files.
  - iii. If the randomly selected non-recognition-program case files do not include at least five (5) training and assistance case files, the sample should be increased by as many randomly selected training files as needed to total five (5).
4. Focus of the Case File Review. The quality of the following services provided by the Consultation Project should be evaluated on the basis of the case files. The Region must review and discuss the findings of the Case File Review with SCATS including:
  - 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. Recognition and achievement program evaluations,
  - g. Written reports to employers, and
  - h. Procedures for extension processing.

5. Review of Recent Consultation Project Developments. The Region must review recent developments, which may include:
  - a. Changes in staffing,
  - b. 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,
  - c. The progress of consultants and the Project in meeting the goals of their annual training plans,
  - d. Whether on-the-job evaluations are being conducted according to the schedule established in the On-site Consultation Cooperative Agreement,
  - e. Budgetary issues, and
  - f. The status of previously discussed, analyzed, or corrected performance issues.
6. Closing Conference. A closing conference must be held with the Chief Administrative Officer, in person or by telephone, to discuss the results of the On-site Review and to reach agreement on actions to be taken by the Project to correct any deficiencies. OSHA must inform the Chief Administrative Officer 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 Chief Administrative Officer at the closing conference.
7. Documentation of the On-site Review. OSHA's documentation of the On-site 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 Chief Administrative Officer.
  - a. Summary Letter/Summary Report. Within 45 calendar days after the On-site Review, OSHA must send the Chief

Administrative Officer a letter or a report documenting any deficiencies, recommendations, and time frames for addressing them. As appropriate, OSHA may send a summary report in order to include all the optional elements listed previously. As a courtesy, a draft of this letter should be sent to the Chief Administrative Officer prior to the official transmission so that the Chief Administrative Officer may have a sufficient period to comment on the draft.

- b. Final Findings. Final findings must be included in the Regional Annual Consultation Evaluation Report.
- c. Follow-up to the On-site Review. Subsequent quarterly discussions with the Project should include appropriate follow-up to any issues raised in the On-site Review. Resultant programmatic changes or improvements to the program should be discussed and documented as part of the quarterly discussion.

**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.

#### **IV. Annual Evaluation Reports.**

Annual evaluation reports, described below, should be submitted via electronic methods (i.e., e-mail, file transfer protocols, etc.).

**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 (CAPP). 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 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. (For further details regarding preparation of the CAPR, refer to the current year's guidance and instructions.)

1. **Due Date.** The Chief Administrative Officer 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 successful and unsuccessful efforts, and the methods with 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:
    - i. 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?
    - ii. Any specific performance measures relating to the Consultation Program or performance measures

developed by the Chief Administrative Officer 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?

- iii. 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:
  - i. Results relating to any state-specific initiatives, if there were any.
  - ii. Any areas where annual Project goals have not been met or other new issues have evolved.
- e. Internal Quality Assurance Program (IQAP). Describe the findings on each element of the internal quality assurance plan and discuss the status of planned and/or completed measures taken or that will be taken to make any needed improvements. See Paragraph IV., above, for the required elements of the IQAP.

**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. For further details regarding preparation of the RACER, the RPO should refer to the current year's guidance on the On-site Consultation Program Limited Access Page.

1. **Due Date.** The Regional Office must submit each Project's RACER to the Directorate of Cooperative and State Programs by April 30 of each year.
2. **Contents.** The RACER must include the following elements:
  - a. **Executive Summary.** This section provides a bullet-point summary of the 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 On-site Review was conducted that year, by the results of the On-site Review.
  - 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.

**V. Dispute Resolution Process.**

Regions and Consultation Projects should 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.

**VI. 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. CAPP details are discussed in Chapter 10.

**VII. 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 outlined in the CAPP. An individual Project's performance should not be compared to the performance of other Projects.
- B. In the absence of outcome-level data, the Region and the Project should jointly review resource information in conjunction with areas likely to provide an impact to determine the effectiveness of the Program.
- C. All Projects are expected to achieve target goals outlined in the CAPP. In certain circumstances, substantial progress toward performance targets may constitute acceptable performance. Where progress has not been to

an acceptable degree, 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.

### **VIII. Required Elements of an Internal Quality Assurance Program (IQAP).**

Consultation Projects must operate internal quality assurance programs to ensure the maintenance of program requirements that are covered by assurances in the Project's On-site Consultation 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,
  - 2. Review of work products,
  - 3. Training requirements established in the current year's On-site Consultation Cooperative Agreement and mentoring for all new hires,
  - 4. Technical links found on the OSHA website, and
  - 5. In addition, the Consultation Function Competency Statements should be adhered to for training and orientation purposes.
  
- B.** Communicating (verbally or in writing) to employers:
  - 1. Employer's obligations;
  - 2. Relationship of Consultation Programs to enforcement; and
  - 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; and
6. Evaluating service delivery using random audits (and other optional evaluative tools, such as surveys, questionnaires, focus groups, or training evaluations) to check for broad, programmatic trends in service delivery.

#### **IX. Evaluation Reports.**

Each year, the 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 and are included in Federal OSHA's annual GPRA performance report to the Congress.

#### **X. Further Analysis.**

Issues identified for further analysis in the course of routine monitoring should be examined in terms of their impact on the effectiveness of a Consultation Project's operations. In addition to MARC, customized OIS reports with limited selection criteria may be useful. Other approaches available to the Regional Administrator or State Designee include:

- A. **Interview.** An 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 On-site Review or as part of day-to-day communication with staff.
- B. **Non-Routine Case File Review.** A non-routine case file review may be conducted to examine the documentation relating to a specific consultation visit. If a case file review is used in conjunction with an interview, it may serve to verify the observed consultation 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.

#### **XI. 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 the implementation of consultation policies and procedures.

## **Chapter 10**

### **Consultation Annual Project Plan (CAPP)**

#### **I. Purpose.**

This Chapter describes the Consultation Annual Project Plan (CAPP) that must be developed and submitted by a Consultation Project, in coordination with its Regional Offices, along with its annual On-site Consultation Cooperative Agreement Application. The Chapter also discusses a CAPP's required components and the procedures and responsibilities for its development.

#### **II. General Description.**

The CAPP is a narrative that details the methods and specific activities a Consultation Project will implement in support of the OSHA Strategic Management Plan (SMP) and/or State Annual Strategic Performance Plan during the forthcoming year. It also documents the anticipated impact of these activities.

- A. **CAPP.** The CAPP is the benchmark for the evaluation of a Consultation Project. The evaluation of a Project's performance is measured by its fulfillment of projected activities and its achievement of intended impact.
- B. **Development Process/Procedures.** The development of the CAPP requires the cooperation and coordination of SCATS and OSHA Regional and/or Area Office. The process requires extensive coordination and should be started early in the fiscal year to ensure its completion before the National Office due date.

#### **III. Responsibilities.**

Both SCATS and Regional Officials have clear responsibilities during the CAPP development process. They are as follows:

**A. SCATS.**

1. Coordinate with Area or Regional officials to establish an agreed upon schedule for the submission of the CAPP and On-site Consultation Cooperative Agreement Application.
2. Negotiate the elements of the CAPP with the Area or Regional official before its development.
3. Develop the CAPP to include all agreed upon elements with the Area or Regional official.
4. Submit a draft of the upcoming year's CAPP along with the draft On-site Consultation Cooperative Agreement to the Regional Office in the third quarter of each fiscal year.
5. Revise the draft CAPP as necessary after the receipt of comments from the Regional Office.
6. Submit the final CAPP along with the On-site Consultation Cooperative Agreement to the Regional Office on or before the established due date.

**B. Area or Regional Project Officer.**

1. Establish a schedule with the Chief Administrative Officer that permits the timely submission of the On-site Consultation Cooperative Agreement Application to the National Office.
2. Establish consensus on the elements of the CAPP with the Chief Administrative Officer.
3. Review and provide feedback for the draft of the upcoming year's CAPP and On-site Consultation Cooperative Agreement.
4. Review the final CAPP along with the On-site Consultation Cooperative Agreement.

5. Submit the CAPP and complete the On-site Consultation Cooperative Agreement application to the National Office along with a letter of endorsement.

#### **IV. Due Dates.**

Each year, SCATS and their Area or Regional officials must agree upon a schedule that permits sending the On-site Consultation Cooperative Agreement Application to the National Office by the due date.

#### **V. Establishment of Strategy and Activities.**

The Consultation Project's activities are determined by the following:

- A. Projects under Federal jurisdiction, the CAPP must support Federal OSHA's strategic and annual performance plan.
- B. Projects in State Plan states, the CAPP must support the state's strategic and annual performance plan. It may also support Federal OSHA goals not covered by the State plan.

#### **VI. Content and Organization of the CAPP.**

Each CAPP must include the following essential elements. For detailed descriptions and examples, refer to the current year's On-site Consultation Cooperative Agreement.

- A. **Overview of the Consultation Project.** Consultation Projects must submit a narrative of their program that must include the following items:
  1. Organizational Chart. The chart must detail the entire Consultation Project personnel chart.
  2. Staffing Chart. A staff 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 at least four (4) professional, full-time equivalents (FTE)

– two (2) full-time safety specialists and two (2) full-time industrial hygienists or their equivalents – in each Project's personnel plan, in addition to managerial and support personnel. All of the Project's consultants must be employed at least 50 percent of their time in the On-site Consultation Program and must spend at least 50 percent of their time engaged in consultation activity. Any deviation from this minimum must receive prior approval from the Director of DCSP.

3. Change(s) in Project's Status. Discuss 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.

**B. Operational Description by Strategy, Activities, and Impacts.** 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. Impacts. Describe the anticipated impact of performing the activities described.

The tabular format in "Operational Description by Strategy, Activities, and Impacts" contains all of the required information categories. (See the current year's On-site Consultation Cooperative Agreement.)

**C. Projected Program Activities and Visits.** Estimate the total number of consultation activities to be performed during the year covered by the project plan. The total number should detail the number of construction and non-construction visits, identifying whether it will be a health or safety

visit. Additionally, the projected visit estimates should be further subdivided by the emphasis industry and health and safety hazards. An estimate of the new, renewal, and Pre-SHARP sites must also be provided. The tabular format of the "Operating Plan" contains all of the required information categories. For a sample "Operating Plan," refer to the current year's On-site Consultation Cooperative Agreement.

- D. **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.
- E. **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, Section VIII, Required Elements of an Internal Quality Assurance Program.
- B. **State Annual Performance Plan.** If the Consultation Project supports a State annual performance plan, attach a copy of the State's Annual Performance Plan.

## VII. **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.