



## Executive's and Manager's Safety Compliance Guide

Handbook EL-802

April 2002  
Transmittal Letter 2

- A. Explanation.** This issue of Handbook EL-802 is a revision that primarily updates resources. Excerpts from the *Employee and Labor Relations Manual* (ELM) are made current, the descriptions of the *Safety and Health Program Evaluation Guide* (PEG) and the Safety Toolkit are changed, and the text is generally updated.
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- C. Comments.** Comments and questions about the content of this document can be submitted in writing to:
- SAFETY PERFORMANCE MANAGEMENT  
US POSTAL SERVICE  
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- D. Effective Date.** This handbook is effective upon publication.

A handwritten signature in black ink, appearing to read "DeWitt O. Harris".

DeWitt O. Harris  
Vice President  
Employee Resource Management

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# 1 Introduction

This handbook has been prepared by Employee Resource Management at Headquarters for postal executives and managers responsible for postal employee safety and health. It is intended to help management make a commitment to safety as part of good business practices, get involved in promoting safety programs, recognize and correct unsafe working conditions and practices, and conduct program evaluations that ensure accountability for effective programs in districts, plants, and all of our facilities. Also included is information on management responsibilities under the Occupational Safety and Health (OSH) Act and guidance on conducting safety and health program evaluations and on dealing with OSHA.

## Content Summary

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**Tab 2 of this handbook provides you with an overview of the USPS position under the Occupational Safety and Health (OSH) Act** and postal safety policies and procedures so that you understand your legal and postal-assigned responsibilities as a manager.

**Tab 3 provides you with tools and information** you will use in becoming involved in safety as good business. It includes an executive planner and a guide to executive and manager observations, as well as information on the Safety Specialist's Toolkit.

**Tab 4 contains a Postal Service Safety and Health Program Evaluation Guide.** Comprehensive safety evaluations are part of the process management cycle and are critical in setting goals and correcting deficiencies. *Employee and Labor Relations Manual (ELM) 823* requires annual safety and health program evaluations, and the guide will be used for such evaluations. The Program Evaluation Guide is also contained in the Safety Specialist's Toolkit.

Managers must ensure that evaluations are undertaken conscientiously, that programmatic deficiencies are addressed, and that follow-up is ongoing. ELM 819, Accountability for Safety and Health Performance, Compliance and Evaluations, states that safety performance must be considered in all performance evaluations of managers, supervisors, and employees. Results of program evaluations, performance against national or local safety goals, and OSHA compliance activity must be taken into consideration within existing personnel policies.

**Tab 5 provides you with information on working with OSHA.** It contains a guide to dealing with compliance activity, including developing abatement schedules; preparing for OSHA inspections; responding to employee complaints, citations, penalties, and reports of discrimination under the OSH Act; contesting OSHA citations; and making appeals.

**Tab 6 is the appendix.** It contains a driver observation form and OSHA citation forms.

## **2 Management Responsibilities Under the OSH Act**

This section provides an overview of the Postal Service's status as an employer subject to the OSH Act and includes excerpts from the ELM emphasizing management responsibilities for safety and health programs.

## Postal Status As an Employer Under the OSH Act

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In 1998, the Postal Employees' Safety Enhancement Act (PESEA) changed the status of the Postal Service as an employer under the Occupational Safety and Health Act of 1970. Previously, the Postal Service, as a federal agency, had been exempt from the private sector provisions of the OSH Act. (Federal agencies are covered under Section 19 of the Act and Executive Order 12196.) Although the Postal Service had implemented a comprehensive safety and health program under the provisions of the OSH Act and had complied with OSHA regulations (found at 29 CFR 1960), it had not been considered an "employer" that was subject to citations, fines, and penalties under the Act.

When PESEA became effective, the Postal Service, like any other nonfederal or nonstate government employer in the United States, became fully subject to the OSH Act. This means that OSHA has jurisdiction over the Postal Service in matters relating to employee safety and health. The Postal Service may be cited, fined, and referred for criminal prosecution by OSHA.

As an employer under the OSH Act, the Postal Service, through its managers and supervisors, must ensure compliance with all provisions of the Act. Ensuring compliance with existing postal policies on safety and health, in large measure, also ensures compliance with federal safety and health regulations. Nevertheless, managers and support staff need to become conversant with OSHA regulations and procedures for compliance, including dealing with investigations, inspections, and resultant citations and penalties.

### **PESEA Summary**

The Postal Employees' Safety Enhancement Act (PESEA) amends the Occupational Safety and Health Act of 1970 (OSHA) to apply it to the United States Postal Service (USPS) as an employer.

It also amends federal law to prohibit USPS from: (1) considering compliance with OSHA in determining whether to close or consolidate a post office; or (2) restricting, eliminating, or adversely affecting any service it provides as a result of paying a penalty imposed under OSHA.

It prohibits the Postal Rate Commission from considering compliance with OSHA in determining whether to increase rates, and provides that OSHA compliance shall not otherwise affect the service of the USPS.

## **Excerpts from PESEA and the ELM**

The following is the actual Postal Employees' Safety Enhancement Act as passed by the House on September 14, 1998, and signed by the President on September 28, 1998.

Following the PESEA excerpt are excerpts from the ELM relevant to the Postal Service as an employer under the OSH Act.

### **From the Postal Employees' Safety Enhancement Act**

#### SEC. 1. SHORT TITLE.

This Act may be cited as the 'Postal Employees' Safety Enhancement Act.

#### SEC. 2. APPLICATION OF ACT.

- (a) **Definition:** Section 3(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5)) is amended by inserting after 'the United States' the following: '(not including the United States Postal Service)'.
- (b) **Federal Programs:**
  - (1) **Occupational safety and health:** Section 19(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668(a)) is amended by inserting after 'each Federal Agency' the following: '(not including the United States Postal Service)'.
  - (2) **Other safety programs:** Section 7902(a)(2) of title 5, United States Code, is amended by inserting after 'Government of the United States' the following: '(not including the United States Postal Service)'.

#### SEC. 3. CLOSING OR CONSOLIDATION OF OFFICES NOT BASED ON OSHA COMPLIANCE.

Section 404(b)(2) of title 39, United States Code, is amended to read as follows:

- (2) The Postal Service, in making a determination whether or not to close or consolidate a post office--
  - (A) shall consider--
    - (i) the effect of such closing or consolidation on the community served by such post office;
    - (ii) the effect of such closing or consolidation on employees of the Postal Service employed at such office;
    - (iii) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;
    - (iv) the economic savings to the Postal Service resulting from such closing or consolidation; and
    - (v) such other factors as the Postal Service determines are necessary; and
  - (B) may not consider compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).



SEC. 4. PROHIBITION ON RESTRICTION OR ELIMINATION OF SERVICES.

- (a) **In General:** Chapter 4 of title 39, United States Code, is amended by adding after section 414 the following:

**415. Prohibition on restriction or elimination of services**

The Postal Service may not restrict, eliminate, or adversely affect any service provided by the Postal Service as a result of the payment of any penalty imposed under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.)

- (b) **Technical and Conforming Amendment:** The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end the following:

**415. Prohibition on restriction or elimination of services.**

SEC. 5. LIMITATIONS ON RAISE IN RATES.

Section 3622 of title 39, United States Code, is amended by adding at the end the following:

- (c) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.

## **From the Employee and Labor Relations Manual**

### **811 General**

#### **811.1 Authority**

The Postal Service is subject to Public Law No. 91-596, the Occupational Safety and Health (OSH) Act of 1970, pursuant to the Postal Employee's Safety Enhancement Act (PESEA) of 1998. The OSH Act provides for citations, penalties, and criminal referrals for those employers who fail to comply. The Occupational Safety and Health Administration (OSHA) is responsible for promulgating and enforcing standards and regulations under the OSH Act.

#### **811.2 Principles**

##### **811.21 Management Commitment, Involvement, and Accountability**

Managers must demonstrate commitment to providing safe and healthful working conditions in all postal-owned and postal-leased installations, become involved in day-to-day safety performance, and be held accountable for safety performance and compliance with OSHA standards and regulations (see Handbook EL-802, *Executive's and Manager's Safety Compliance Guide*).

##### **811.22 Vision Statement**

The Postal Service will become a leader in occupational safety and health for the federal government and private sector by demonstrating a commitment to integrating working safely into all our services.

##### **811.23 Guiding Principles**

*People* — Employees are our most valued resource. Our employees must be provided a safe and healthful workplace.

*Customers* — When our employees work safer, our performance is improved.

*Excellence* — We can demonstrate that management and employee attention to working safely is good business.

*Integrity* — As a leader in occupational safety and health, we enhance our integrity with our customers, business partners, and the Congress.

*Community Responsibilities* — When our employees work safely, our customers are safer and we lead other employers by example.

##### **811.24 Safety Philosophy**

It is the position of the Postal Service that:

- a. Any occupational injury or illness can be prevented. This goal is realistic, not just theoretical. Supervisors or managers have primary responsibility for the well-being of employees and must fully accept this principle.
- b. Management, which includes all levels including the first-line supervisor, is responsible and accountable for the prevention of accidents and control

of resultant losses. Just as the line organization is responsible for attaining production levels, ensuring quality of performance, maintaining good employee relations, and operating within cost and budget guidelines, supervisors and managers must likewise accept their share of responsibility for the safety and health of employees.

- c. It is possible to safeguard against all operating exposures that can result in accidents and injuries and illnesses. It is preferable to eliminate the sources of danger. However, where this is not practical, management must use protective measures such as machine guards, safety devices, administrative actions, and personal protective equipment.
- d. All employees must be trained in proper work procedures and must be educated to work safely and to understand that they are responsible for doing so. Management is responsible for the adequate safety training and education of employees. However, all employees are responsible for working safely, and in being so, they benefit not only their organization but also themselves in a very real way.
- e. It is good business from the standpoint of both efficiency and economy to prevent personal injuries on and off the job. In addition to humanitarian considerations, injuries drain resources and reduce efficiency.

### **811.3 Offsite Safety**

The Postal Service Safety and Health Program and OSHA standards and regulations cover postal employees who perform postal duties in establishments of private employers and during delivery and other activities off postal property. Safe and healthful working conditions must be provided through engineering or administrative controls, personal protective equipment, enforcement of safe work practices, withdrawal of the employees from the private sector facility, or curtailment of mail, if necessary, to ensure that they are protected.

\* \* \*

### **818 Safety and Health Program Budgeting**

All organizational levels must plan budgets and provide funds that support an effective and comprehensive safety and health program. Such budgeted items must include, but are not limited to:

- a. Sufficient personnel and support to properly implement and administer the program at all levels, including necessary administrative costs such as those for training, computers, travel, communication, and personal protective equipment.
- b. Hazard analysis, including industrial hygiene evaluations, sampling, testing, diagnostic and analytical tools and equipment, and laboratory analyses, as deemed appropriate.
- c. Any necessary contracts to identify, analyze, or evaluate unsafe or unhealthful working conditions and operations, as deemed appropriate.

- d. Development and delivery of safety awareness and promotional programs.
- e. Technical information documents, software, books, standards, codes, periodicals, and publications.

### **819 Accountability for Safety and Health Performance, Compliance, and Evaluations**

In any evaluation of individual performance or potential, provisions must be made to include the achievement or failure of managers, supervisors, and/or employees in the performance of their safety and health responsibilities, including OSHA compliance. Evaluations must not be based solely on the number and seriousness of accidents, injuries, and illnesses experienced but also on how effectively the safety and health program has been implemented and supported.

# 3 Commitment, Involvement, and Accountability

This section provides guidelines on commitment, involvement, and accountability. It includes information on:

- Demonstration of commitment to safety efforts through formal statements and performance reviews.
- Involvement through field visits and observations.
- A safety planner.
- The Safety Toolkit.

## Demonstrating Personal Commitment

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### Policy Statement

Executives and managers at the area, district, and plant levels should ensure that a current safety policy is in effect. This policy should stress that safety is a line management responsibility *supported* by safety and health professionals and senior management officials.

### Periodic Personal Communications

Periodic memorandums, articles, etc., from executives and managers should be transmitted to targeted audiences highlighting major safety initiatives, success stories, exceptional safety performance, and other safety-related activities. Communications should stress commitment, involvement, and accountability to managers and supervisors. Also publicize information on OSHA compliance activities and safety and health program evaluations.

### Budget Reviews

During annual budget reviews, consideration must be given to adequate local funding for the safety and health program, as noted in ELM 818.

### Personal Reviews of Safety Performance

Review safety performance against mutually agreed targets and national EVA goals. Review any OSHA compliance activity and subsequent responses. Additionally, an informal accident analysis and periodic close review of Safety and Health Action Plans can identify weak areas.

Accident data can be accessed in the HRIS safety subsystem. Look for the following headings:

- Injury type.
- Unsafe conditions and practices.
- By craft.
- Operations.
- Accident repeaters.
- Task design.
- Causes.
- Hazardous situations.

When reviewing Safety and Health Action Plans:

- Check accident analysis processes.
- Review whether activities identified correlate with accident and injury trends.
- Identify functional responsibility and accountability.
- Note establishment of target and completion dates.

### **Attend Joint Labor Management Safety and Health Committee Meetings**

- Discuss the Safety and Health program and your personal commitment.
- Discuss the committee's function and responsibility and your expectations and support.
- Review local initiatives.
- Review the successes and failures.
- Ask about:
  - Agenda and minutes.
  - Recurring items.
  - Review of Form 1767, *Report of Hazard, Unsafe Condition, or Practice*, and complaints.
  - Review of accident data.
  - Training for committee members.

### **Attend Executive and Management Safety and Health Committee Meetings**

ELM 815 details responsibilities of these committees.

## Executive and Management Involvement in Safety

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### Field Visits

Field visits present excellent opportunities for executives and managers to demonstrate their commitment and direct support for doing business safely. *Try to make visits solely for the purpose of demonstrating commitment and involvement in the safety process.* Suggested activities for these visits include:

- **Talk with Employees and Supervisors.** Discuss local accident experience and employee concerns over safety hazards. Review procedures for reporting hazards and defective equipment. Talk with Joint Labor Management Safety and Health Committee members. Ask for success stories to share with others.
- **Meet with Safety, Injury Compensation, Medical, and Employee Intervention Workplace Analysts (EIWAs).** Discuss your support for the safety function and solicit comments on the effectiveness of the local program. Review interaction between safety and injury compensation functions.
- **Attend Safety and Health Awards Ceremonies.** Opportunities include the National Safety Council's Safe Driver Million Mile Awards, Golden Belt Awards, and local acknowledgment of safety performance ceremonies.
- **Visit Employee Orientation, Craft Safety Training, Initial Level Supervisor, Associate, or Supervisor Refresher Training.** This is an excellent opportunity to discuss safety as good business, the safety and health process, line management responsibility *and* accountability, and employee rights and responsibilities.

### Inspect and Observe

Management at all levels must periodically spot check and observe for unsafe conditions and work practices. Use Form 4584, *Observation of Driving Practices*, included in the reference section where appropriate or duplicate and carry into the field the checklist following this page.



## Executive's and Manager's Safety Observation Checklist

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### When in a facility check for:

- Housekeeping.
- Blocked or unmarked exits.\*
- Suspect electrical or wiring conditions.\*
- Guarding and condition of mechanization.\*
- Condition of mail transportation equipment.
- Condition of lobbies and customer service areas.

### Check vehicles for:

- Notice 76.
- Accident reporting kits.
- Unrepaired and/or unreported damage.
- Parking procedures.

### Observe work practices in facilities and on the street for:

- Handling and lifting.
- Pushing and pulling.
- Footwear.
- Lockout/tagout procedures.\*
- Driving.
- Contractor safety performance.\*
- Employee postures/hand mechanics.

### Check paperwork and records for:

- Required training is delivered and documented.\*
- Form 1767, *Report of Hazard, Unsafe Condition, or Practice*, is handled promptly.\*
- OSHA Log and postal accident log are maintained and the OSHA Log is posted and retained for 5 years.\*
- Written OSHA programs such as Lockout/Tagout, Hazcomm, Asbestos Operations and Maintenance are current.\*
- OSHA Poster 2203, *Job Safety and Health Protection*, or OSHA Poster 3165, *You Have a Right to a Safe and Healthful Workplace*, is posted.\*

\*Indicates an OSHA-critical item.



## Postal Executive's Safety and Health Planner

Safety Principle	Activity	AP 1	AP 2	AP 3	AP 4	AP 5	AP 6	AP 7	AP 8	AP 9	AP 10	AP 11	AP 12	AP 13
<b>Demonstrating Personal Commitment</b>	Current Policy Statement													
	Memos to Targeted Employee Groups													
	Prepare Articles													
	Budget Review													
	Personal Reviews													
	Accident Data													
	S&H Action Plans													
	Attend S&H Committee Meetings													
<b>Involvement in Safety</b>	Field Visits													
	Meet with Craft/Supr.													
	Meet with Safety, Inj. Comp.													
	Attend Ceremonies													
	Visit Orientation/Training													
	Inspect and Observe													
	Facilities													
	Vehicles													
	Driving													
	Work Practices/Behaviors													
	Check Paperwork/Records													
<b>Accountability</b>	Review District Prgm. Evals.													
	Review Safety Targets													
	Review Plant Prgm. Evals.													
	Review OSHA Citations/Abatements													
	Personnel Evaluations Include													
	Safety Performance													

## Safety Specialist's Toolkit Information

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Please ensure that all safety professionals receive training and resources necessary to use the Safety Toolkit effectively.

### The Safety Toolkit, Version 1.3

The Safety Toolkit is designed to assist Postal Service safety personnel and others responsible for safety in the collection and analysis of safety inspection data at postal facilities.

The application works in conjunction with a Web browser to access HTML and PDF documents via the World Wide Web. The Safety Toolkit is designed to run either with an Internet connection (Internet Mode) or as a stand-alone application on a desktop or laptop PC (Local Mode).

The Safety Toolkit Version 1.3 is composed of five modules:

- a. Checklists — to identify potential hazards in the workplace.
- b. Inspections — to enter inspection data and report results.
- c. References — to search and view safety and health references.
- d. Hazard Log — to report employee safety and health concerns and track management responses.
- e. Resources — to view resources on the Web to assist in managing safety and health programs.

You may also access the resources from the Safety and Health homepage:  
*[http://safetytoolkit.usps.gov/hr\\_dev/tk1\\_3/Home\\_Pg/safety\\_and\\_health.htm](http://safetytoolkit.usps.gov/hr_dev/tk1_3/Home_Pg/safety_and_health.htm)*

The Safety Toolkit is a Gold Tape application. Local Postal Service Information Technology (IT) performs all installations and upgrades.

The Safety Toolkit is a network application. Data entered into the Safety Toolkit is available to other Toolkit users on the same network. It has an import and export ability that allows users on different networks to exchange data.

Access to the Safety Toolkit is determined by the local manager of Safety and Health. Encourage access to Maintenance, Operations, and Collateral Duty Safety Personnel (CDSP).

# 4 Safety and Health Program Evaluation Guide

This section contains information about the Postal Service-specific Program Evaluation Guide (PEG). The PEG was developed using:

- The original OSHA Program Evaluation Profile.
- OSHA's draft proposed safety and health program rule.
- Postal policies and procedures.

The PEG has been refined through extensive field use. The current version of the PEG must be used to evaluate performance cluster and plant safety and health programs in accordance with ELM 813 and 823. There are actually two PEGs — the “full” PEG and a Small Facility Peg (SF PEG). They are similar in content and purpose, but the SF PEG is suitable for offices with 50 to 99 employees and is tailored for use by collateral duty facility safety coordinators (CDFSCs). The full PEG is described in this section.

Obtain the current version of the PEG and its supporting materials, such as automated evaluation score sheet and the latest frequently asked questions, from the Safety Toolkit or Safety Toolkit Resources page at:

*[http://safetytoolkit.usps.gov/hr\\_dev/tk1\\_3/Home\\_Pg/safety\\_and\\_health.htm](http://safetytoolkit.usps.gov/hr_dev/tk1_3/Home_Pg/safety_and_health.htm)*

Area, district, and plant safety personnel, as well as maintenance managers and others, have access to the Safety Toolkit.

## Introduction

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### Purpose

The Safety and Health Program Evaluation Guide (PEG) provides the current procedures for evaluating Postal Service Safety and Health Programs as required by *Employee Labor Relations Manual* (ELM) 813 and 823. All facilities with 50 or more workyears (WY) of employment must be evaluated. Evaluations for facilities with 50-99 WY are conducted by CDFSCs using the SFPEG. Evaluations in facilities with 100 WY or more are conducted by district and plant safety and health staff using the full PEG.

### Background

Focusing internal program evaluations on the program elements identified by the Postal Service and OSHA as essential to the operation of a good safety and health program enhances the safety and health of Postal Service employees as well as Postal Service compliance with OSHA standards.

OSHA has always viewed program evaluation as a critical element of comprehensive safety and health programs and includes the assessment of programmatic elements in their inspection process. OSHA's essential program elements are described in OSHA's Program Evaluation Profile, Draft Proposed Safety and Health Program Rule, and Safety and Health Program Management Guidelines (1989).

Although the PEG is modeled after OSHA's Program Evaluation Profile (PEP), it is tailored to postal operations and policies. For example, it includes a motor vehicle category that recognizes the importance of fleet and powered industrial truck safety to our overall Safety and Health Program.

## Program Evaluation Guide

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### Postal Service Policy Issues

The PEG cites applicable Postal Service policies that support each of the criteria within the seven major program categories. Nothing in the PEG should be construed to modify or supercede existing policies or labor-management agreements.

### Organization and Structure

The PEG is organized into seven major program categories consisting of related subcategories. Each subcategory has five scoring levels of standards, tests, and measurement criteria that are used to classify that subcategory as:

- Scoring Level 1 — No Program
- Scoring Level 2 — Developmental Program
- Scoring Level 3 — Basic Program

- Scoring Level 4 — Superior Program
- Scoring Level 5 — Outstanding Program

## Program Categories

Each of the program categories receives an evaluation and score using the standards, tests, and measurement criteria in the current PEG available from the Safety Toolkit. The seven major program categories of the PEG and their associated subcategories include:

- I. Management Leadership and Employee Participation
  - a. Management Leadership
  - b. Employee Involvement
  - c. Implementation
  - d. Contractor Safety
- II. Workplace Analysis
  - a. Survey and Hazard Analysis
  - b. Inspection
  - c. Hazard Reporting
- III. Accident and Record Analysis
  - a. Accident Investigation and Prevention
  - b. Data Analysis
- IV. Hazard Prevention and Control
  - a. Hazard Controls
  - b. Required Written Safety and Health Programs
  - c. Operations and Maintenance
  - d. Medical and Occupational Health Programs
- V. Emergency Response
  - a. Emergency Preparedness
  - b. First Aid
- VI. Safety and Health Training
- VII. Motor Vehicles
  - a. Motor Vehicle Safety
  - b. Powered Industrial Truck Safety

## Evaluations

A thorough evaluation of the safety and health program at facilities with 100 WY or more requires a site visit that should include worksite assessments and reviews of program documentation, recordkeeping and reporting procedures, employee work practices, workforce safety and health training, and attitudes regarding safety.

Evaluations are most useful when they are used to track program scores over time to monitor the effectiveness of program improvement efforts. Consider targeting program categories and subcategories with the lower scores for improvement.

Facility managers may also find the evaluation guide useful for their personal assessment of facility programs. Although program scoring requires some professional interpretation, the criteria are not so technically complex that they preclude an experienced manager from using the guide to assess the facility safety and health program.

## Calculating the Overall Safety and Health Program Score

**Program Scoring Principle:** A facility safety and health program score is based on a thorough evaluation of each of the eighteen PEG subcategories.

**Subcategory Scores:** Each subcategory receives a numerical score that corresponds to a PEG standard level of performance. The scoring system permits entry only of whole numbers (i.e., 1 through 5) for each subcategory; with 5 being the best score. No partial credit can be given.

- a. The PEG standards and criteria for each subcategory are designed such that each PEG standard level builds on the previous level. To attain a higher score level, a program must meet all the criteria from the new level as well as every level below it. For example, a subcategory scored "3" must meet all of the criteria in level "3," "2," and "1."
- b. Evaluators must assign only whole numbers to subcategory scores. A program either meets all of the criteria for that level, and all the ones below it, or not. Partial decimal scores (e.g., .1 or .25) cannot be used.

**Category Scores:** The subcategories are grouped as related program elements into one of the seven categories. Averaged category scores are rounded to the nearest 1/100th of a point.

- a. In Category I (Management Leadership and Employee Participation), the lowest value of subcategory Ia, Ib, and the average of all four subcategories determines the Category I score.
- b. In Category IV (Hazard Prevention and Control), the lowest value of subcategory IVb and the average of all four subcategories determines the Category IV score.
- c. Category VI (Safety and Health Training) has no subcategories. It has a single set of category evaluation standards. Its single whole number evaluation score of 1 through 5 is the Category VI score.
- d. In Category VII (Motor Vehicles), it may be possible that a facility will not have a requirement for either the Motor Vehicle Safety subcategory or the Powered Industrial Truck Safety subcategory (e.g., a Post Office may not have any powered industrial trucks). In that case, that particular subcategory is N/A and its subcategory score is left blank.

- e. In the remaining categories, the average of their subcategories is the category score.

**Overall Program Score:** The seven category scores are averaged to produce the overall program score. The program score is also rounded to the nearest 1/100th of a point.

## **Program Score Sheets**

Download the latest version of the automated PEG score sheet from the Safety Toolkit or the Safety Toolkit Resources page. Blank nonautomated versions are also available from the Safety Toolkit.

## **Interpretation of the Overall Program Score**

The overall score indicates the status of the Safety and Health Program.

5 = Outstanding Program

4 = Superior Program

3 = Basic Program

2 = Developmental Program

1 = Ineffective Program or No Program



# 5 Dealing With OSHA: Employee Complaints and Citation Management

This section contains information about working with OSHA.

- Part one deals with employee complaints or reports of hazards.
- Part two deals with the responsibilities for citation management that must be assumed by managers and functional organization representatives and the use of the OSHA Citation Management Tool (OCMT). ELM 825, *OSHA Inspections*, and excerpts from two OSHA publications are included.

# Employee Safety and Health Complaints Investigations

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## Complaints and Inspections

Many investigations and inspections are the result of employee complaints. The most effective method to reduce valid employee complaints to OSHA is to ensure that Forms 1767, *Report of Hazard, Unsafe Condition, or Practice*, are handled expeditiously and that any hazards abated in accordance with existing postal policy are published in the ELM. If, for whatever reason, an employee or employee representative still complains to OSHA, there may still be an opportunity to avoid an inspection by OSHA.

OSHA procedures allow for contacting the employer to advise management of the complaint and to request an investigation and correction of hazards by the employer. By responding in 5 working days and correcting any hazards, posting the information, and notifying employees, managers may avoid an inspection. Managers may also request additional time and dispute complaints with detailed evidence of the conditions. Any facts obtained from management are shared with the complainants, but OSHA has wide latitude to not conduct an inspection if OSHA personnel do not believe a hazard exists, or believe it has been abated.

## Steps to Take

The following steps ensure the expeditious handling of employee safety complaints:

- Ensure that Forms 1767 are properly tracked, responded to, and recorded on Form 1773, *Report of Hazard Log*, in accordance with ELM 824.6.
- Hold supervisors responsible for timely response to Forms 1767.
- Place highest priority on responding to requests by OSHA for investigation of employee complaints and respond within 5 working days. Upon receipt of such a request, notify the installation head and make sure the response to OSHA, signed by the installation head, is transmitted on time.

# OSHA Citation Management

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## Responsibilities

### Management

**Executives and managers** are responsible for achieving compliance with OSHA standards as part of their overall safety and health responsibilities. Executives and managers must lead the OSHA compliance effort. Active involvement in the Safety and Health Program is essential to demonstrate commitment effectively to management subordinates and employees.

**Installation heads** are responsible for compliance with OSHA standards within the facilities under their control. Installation heads must lead their facility safety and health program. Active involvement in safety and health inspections, safety talks, training, and promotion of safe work practices clearly demonstrates the installation head's commitment to safety and to OSHA compliance.

### Functional Organizations

#### Safety Performance Management:

- Oversees the citation management process for Headquarters.
- Coordinates response to citations for violations with the General Counsel and affected Headquarters organizations.
- Provides quality control oversight of the citation information entered in the OCMT.
- Resolves discrepancies in the information with the responsible safety specialist.
- Performs analysis of the citation information.
- Reports the results of the analysis to key Postal Service personnel.
- Identifies national opportunities to prevent further citations and improve safety and health programs based on the analysis of the citation data.
- Provides onsite assistance in the resolution of citation issues as required.

#### General Counsel:

- Oversees the legal aspects of the citation management process nationally at Headquarters.
- Approves all citation-related correspondence sent to OSHA.
- Prepares all notices of contest and mails them to OSHA.
- Prepares all protective notices and mails them to OSHA.
- Prepares and distributes additional correspondence to OSHA on selected citations as determined on a citation-by-citation basis.
- Provides consultative assistance to Safety Performance Management.
- Provides onsite assistance in the resolution of citation issues as needed.

- Accomplishes all required litigation with the Occupational Safety and Health Review Commission (OSHRC) and federal courts.
- Resolves discrepancies in the information with the responsible counsel.

**Managing counsels in field offices:**

- Maintain close coordination with the General Counsel.
- Oversee the legal aspects of the citation management process in the field.
- Approve all citation-related correspondence sent to OSHA.
- Prepare all notices of contest and mail them to OSHA.
- Prepare all protective notices and mail them to OSHA.
- Prepare and distribute additional correspondence to OSHA on selected citations as determined on a citation-by-citation basis.
- Provide consultative assistance to performance cluster and area safety personnel.
- Provide onsite assistance in the resolution of citation issues as needed.

**Maintenance Policy and Programs and area Maintenance managers:**

- Oversee the abatement of hazards resulting in violations in their area of responsibility.
- Support district and plant managers in the abatement of hazards.
- Assist in the implementation of programs to abate systemic maintenance related hazards.
- Distribute OSHA citation information to their personnel.

**Environmental Management Policy:**

- Stays abreast of citation information that may impact the environmental program.
- Identifies additional information needs for the environmental program and coordinates with Safety Performance Management to obtain the needed information.
- Distributes OSHA citation information to Environmental Management Policy personnel.

**Safety Specialists and Analysts**

**Performance cluster and plant safety specialists**, assigned by the managers of Safety and Health within each performance cluster, enter OSHA inspection and citation data into the OSHA Citation Management Tool (OCMT). To perform this task, they must:

- Enter citation information for facilities in their area of responsibility (including Headquarters field units) as soon as they are received but, *no later than by COB on the day the citation is received* from OSHA.

- *Fax or e-mail copies* of the citation to Safety Performance Management and the General Counsel at Headquarters and to the area human resources safety analyst, preceding the faxes with a call.
- Keep the citation information current and accurate as hazards are abated and citation management activities progress. This information is to be entered as soon as these activities are accomplished, but no later than COB that day.
- Enter abatement actions as soon as they are accomplished, but no later than COB that day.
- Keep the area safety analyst informed.
- Keep the responsible manager informed.
- Facilitate (with responsible managers) abatement actions.

These safety specialists coordinate all citation-related correspondence to OSHA with Safety Performance Management and the General Counsel at Headquarters and with managing counsels, field offices, and area human resources safety analysts before transmittal.

**Area human resources safety analysts:**

- Oversee the citation management process within their area.
- Identify facilities, program areas, and procedures within their areas that require improvement and notify management.
- Assist in the implementation of nationally targeted efforts to improve program areas and procedures.

These analysts coordinate all citation-related correspondence to OSHA with Safety Performance Management and the General Counsel at Headquarters and with their area legal staff representative before transmittal.

## **The OSHA Citation Management Tool (Web-based)**

The OSHA Citation Management Tool (OCMT) is a real-time, Web-based computer application that safety specialists use to record OSHA inspection and citation information. Once safety specialists enter the key information from OSHA citations, the information is available in a series of views, reports, and charts. OCMT users can then view the data or print the presentation quality reports and charts. The views, reports, and charts present the inspection information in logical, easy-to-understand formats that simplify the analysis of the data.

The goal of implementation of the OCMT is to provide quick and reliable access to OSHA inspection information so that:

- Managers address citation settlement promptly.
- Managers ensure prompt abatement of hazards.
- Managers see the types of citations their facilities or like facilities receive and take appropriate preventive and/or corrective action at their facilities.
- Managers can identify trends in the OSHA citations and develop action plans to prevent similar citations at like facilities.

- The Postal Service maintains an accurate electronic record of OSHA citations.

Users access the OCMT using Internet Explorer by going to the OCMT Web site. The site is password protected. Passwords are available from Safety Performance Management. The opening screen is the main view of the inspection data. This opening view provides a list of inspections by area and access to the full text of each inspection report via hyperlinks. The opening view also serves as the gateway to following modules of the tool:

- **Help** — provides access to the online user's manual and the toll-free help line.
- **Suggestions** — provides a quick way for user's to send messages to the webmaster suggesting improvements to the tool.
- **OSHA's Inspection Web site** — provides a link to OSHA's Web site that lists all OSHA inspections, violations, and citations issued to Postal Service facilities.
- **Search Engine** — provides the capability to search the database by key words.
- **New Inspection Data Entry Forms** — provides the data entry forms for entry of new inspection data.
- **Views** — provides six different views of the inspection data for quick analysis.
- **Reports** — provides access to 16 different reports that present the inspection data for easy review and analysis.
- **Charts** — provides access to 16 different charts that display the inspection data in presentation quality charts.

## **From the Employee and Labor Relations Manual**

### **825 OSHA Inspections**

#### **825.1 Purpose**

The purpose of part 825 is to provide general guidance when compliance safety and health officers (CSHOs) or compliance safety and health officers industrial hygienists (CSHO-IHs) from OSHA conduct announced or unannounced inspections or investigations of postal facilities. All such inspectors are referred to as CSHOs in part 825.

#### **825.2 Scope**

These procedures apply to all facilities in which postal employees work. In postal-owned or -leased facilities, it is the responsibility of the Postal Service to ensure compliance with OSHA requirements. In leased facilities this responsibility continues to exist regardless of lease arrangements.

#### **825.3 Authority**

It is Postal Service policy to maintain safe and healthful working conditions and to cooperate fully with OSHA inspectors. Also, as an employer subject to private sector enforcement, it is also Postal Service policy to ensure that inspections are conducted in a reasonable manner.

#### **825.4 Procedures**

##### **825.41 Arrival of Inspectors and Verification of Credentials**

OSHA may conduct its inspections without prior notice. CSHOs generally conduct inspections during normal working hours, but may arrive on any tour. On arrival at a postal facility, the CSHO should ask to meet with the ranking postal official. The senior postal official must meet promptly with the CSHO.

The senior postal official, or designee, is to review all CSHOs' credentials and may request verification from the OSHA area office.

Once the CSHO has presented appropriate credentials, the senior postal official is to immediately notify, via telephone or in person, the district manager and area Human Resources manager (or their designees) of OSHA's presence and the scope of the inspection and request that a safety professional come to the facility immediately for the inspection.

##### **825.42 Consent to Entry and Cooperation**

The CSHO must be informed that he or she will be permitted to enter any postal facility for inspection or investigation purposes without delay once a safety representative reaches the site or area, or once the area Human Resources manager or designee agrees that the inspection may proceed without such attendance.

The CSHO should be informed that a request for such a representative has been made, that the Postal Service position is not intended to delay or interfere with the inspection, but rather to ensure that the Postal Service participates in a professional manner, and that the presence of the representative ultimately will expedite the completion of the inspection. Postal officials are to cooperate fully with OSHA CSHOs.

If, during an inspection, the postal official determines that the CSHO may believe that a violation exists because the CSHO does not have complete information about a particular condition, subject to the advice of the safety professional, the postal official should attempt to make the CSHO aware of all relevant additional information.

### **825.43 Opening Conference**

#### **825.431 Initiation**

The CSHO holds an opening conference to inform the Postal Service of the purpose, scope, and conduct of the inspection. If the CSHO does not offer to conduct the conference, one should be requested.

#### **825.432 Attendance**

The opening conference must be attended by a safety professional unless the district Human Resources manager or designee says to proceed. The senior postal official attends the opening conference and may invite other postal officials from the facility, as appropriate. Employee representatives also should attend the opening conference; union representatives from the local safety and health committee should participate in accordance with 825.3 and 824.3.

#### **825.433 Provision of Materials**

The CSHO may provide copies of laws, standards, regulations, and promotional materials. The CSHO is required to furnish to the installation head any copy of an employee's report(s) of unsafe or unhealthful conditions that generated the inspection. If a complainant has asked to remain anonymous, OSHA is bound by regulations to respect that request. In such instances, the CSHO must still provide a list of the unsafe conditions alleged.

#### **825.434 Outline of Scope**

The CSHO can be expected to outline the proposed general scope of the inspection, including employee interviews, physical inspection of the workplace, records review, and the taking of photographs or samples.

#### **825.435 Plan of Route Sequence**

The CSHO should be questioned during the opening conference so that the walk-around inspection can be planned as to route sequence, notifications to production supervisors, technical support, etc. Planning of a route sequence should be considered a guideline only, as the CSHO may investigate any other apparent hazards observed in plain view en route to a particular area.



## **825.44 Records Review**

### **825.441 Safety Records**

It is the policy of the Postal Service to require that the CSHO present all requests for documents in writing to the person designated by the Postal Service as the one at the facility to receive such requests during the inspection. It is also postal policy to respond as quickly as possible to such requests. The CSHO is authorized to review all records that are required to be maintained under the OSH Act. Examples of the types of records that can be reviewed include the OSHA log and summary and Form 1769, *Accident Report*, when it is used to record injuries and illnesses.

### **825.442 Medical Records**

In certain instances, the CSHO may ask to review the medical records of some employees in order to verify compliance with the medical surveillance record-keeping requirement of an OSH standard. Access to medical records must be coordinated through the senior area medical director.

If the CSHO wishes to record or copy any medical records, a written access order in the form set forth in the OSHA *Field Information Reference Manual* (FIRM) must be provided.

## **825.45 Participation**

### **825.451 Management Participation During Inspections**

The safety professional, or designee, must accompany the CSHO during the walk-around portion of the inspection. Collateral duty safety personnel should also participate in the inspection. Representatives of Operations, In-Plant Support, and Maintenance are to be with the CSHO, whenever possible.

Management representatives, including managers and supervisors, must not sign any statements, affidavits, or notes.

### **825.452 Interviews of Management and Supervisory Personnel**

It is the policy of the Postal Service:

- a. To cooperate with requests the CSHO may make for interviews with representatives of management, including supervisors and staff. Management should work with the CSHO to schedule such interviews so as not to interfere with mail processing. Subject to this consideration, management employees should be made available for interviews as soon as reasonably possible.
- b. To have a representative of the Postal Service present for the entire interview. The representative may be an employee from Human Resources or Safety, a counsel, or a senior official or his or her designee.
- c. Not to consent to the audio or video taping or other recording of interviews with representatives of management. The only exception is if OSHA issues an investigatory subpoena requiring a witness to appear for a formal, sworn, recorded interview. In such cases, the representative of management must be represented by counsel.

- d. Not to allow representatives of management to sign statements, affidavits, notes, or other documents prepared by OSHA during interviews.

**825.453 Employee Participation During Inspections**

Union representatives from the local safety and health committee must be given the opportunity, in accordance with 824.3, to accompany CSHOs during inspections.

CSHOs also may consult with other nonsupervisory employees who are not part of the inspection team and may request to interview them in private or with their union representatives during the walk-around. The CSHO may be permitted to talk with employees at their workstations for no more than 5 minutes. If further conversation is desired, the Postal Service walk-around representative should offer to make the employee available for a scheduled interview by the CSHO. Management should work with the CSHO to schedule such interviews so as not to interfere with production. Subject to this consideration, employees should be made available for interviews as soon as reasonably possible.

Employee representatives are on the clock whenever the inspection is conducted during the employee's regular work schedule. Employees are not compensated for time spent accompanying CSHOs outside of their work schedule.

**825.46 Methods**

**825.461 Walk-Around Inspection**

There are several types of inspections (See Handbook EL-802) that may involve detailed inspection of all areas and a thorough records review.

Normally, in an inspection triggered by a complaint, the CSHO limits the inspection to the items listed in the employee's report. The scope of the inspection may, however, extend to other areas of the postal installation. During the walk-around inspection, the CSHO examines each item mentioned in the employee's report.

The CSHO may take photographs of or videotape any conditions observed. The Postal Service must duplicate as closely as possible each photograph or videotape taken by the CSHO and should specify in the detailed notes what each photograph shows. If necessary, as a less preferred but acceptable alternative, before the inspection begins, a written agreement may be reached with the CSHO that at the conclusion of the inspection, OSHA will promptly provide the Postal Service with copies of all the photos or videotapes that it has taken of the observed conditions.

The CSHO may use measuring devices or instruments to determine compliance with the OSH Act. The safety professional or designee must record the type of instrument used and the readings obtained, and take duplicate measurements using Postal Service instruments.

The CSHO can dismiss from the inspection team, at any time, anyone interfering with the orderly conduct of the inspection. If a management representative is dismissed, the occurrence must be thoroughly documented.

Another management representative must be immediately named to complete the inspection.

**825.462 Health Sampling**

In order to determine whether a violation of health standards exists, the CSHO may collect samples, including full-shift (8-hour tour) sampling. Such sampling may require the wearing of sampling devices by employees. Postal officials are to cooperate with the CSHO and are to encourage cooperation by employees.

If the CSHO desires to conduct such monitoring, the Postal Service representative must request a delay until the Postal Service brings to the site an industrial hygienist or other person qualified to perform parallel monitoring. When such requests are made, the senior postal official must immediately notify the district manager, area human resources analyst, and district Safety and Health manager by phone. Every effort is to be made for the Postal Service hygienist to reach the site as soon as possible.

When OSHA conducts health sampling, the Postal Service is to take duplicate samples and send the samples to an accredited laboratory for analysis. Proper chain-of-custody procedures established by the laboratory must be followed. Sample results must be retained locally and transmitted to the district Safety and area Human Resources managers.

**825.47 Immediate Correction of Imminent Dangers or Other Violations**

During an inspection, a CSHO may point out conditions that may be considered to be imminent dangers under the OSH Act. Immediate efforts are to be made to evaluate the condition. If it appears that such a danger is present, the corrections are to be made immediately, if possible, or the exposed employees removed from the zone of danger. Whenever feasible, also correct other potential violations or hazards pointed out by the CSHO during the visit.

**825.48 Closing Conference**

After completing the review of records, employee interviews (if necessary), and the walk-around inspection, the CSHO ordinarily will conduct an exit conference with the senior postal official and other team members. If the CSHO does not offer to conduct the conference, one should be requested. If the postal installation has a full-time safety professional, that person must also attend this closing conference. If any safety professionals have been called in from a plant or district, they must also attend the closing conference along with any collateral duty safety personnel. Employee representatives from the walk-around inspection must also attend.

During this conference, all conditions or practices that the CSHO believes may constitute a safety or health violation(s) should be reviewed. Efforts should be made to have the CSHO explain in as much detail as possible what violations he or she believes have been observed, and what citations, if any, he or she intends to recommend for issuance to the area director.

**825.49 Post Conference Internal Communications**

Following the closing conference, the senior postal official must immediately notify the area vice president that the inspection has been completed.

It is policy and direction of the General Counsel that following the closing conference the installation head must prepare a memorandum for and directed to the General Counsel summarizing OSHA's findings and any other pertinent information concerning the inspection. This report is to be considered privileged and confidential as attorney-client communications and attorney-work product. The report is to be prepared and transmitted to the servicing area General Counsel within 48 hours of the closing conference. Copies of the report are to be sent only to the area Human Resources manager and the manager of Safety Performance Management at Headquarters. No other copies are to be distributed.

## **825.5 Citations**

### **825.51 Issuance and Posting**

Following an inspection, if violations have been observed, OSHA may issue citations alleging violations and stating a proposed penalty and proposed abatement date (OSHA Form 2).

Upon receipt of a citation, notify area and the Headquarters General Counsel and Safety Performance Management. A copy is to be faxed immediately to Safety Performance Management, Headquarters, and the vice president of Area Operations. The citations must be forwarded to the district Safety and Health manager immediately (COB that day) and entered into the national citation management tracking system by area-designated persons, who will update each entry promptly until the citation is resolved and closed.

In accord with the instructions that accompany the citations, copies of the citations are to be posted in the affected facility at the locations where important announcements are customarily posted for employees. The citations are to remain posted until they are finally resolved.

### **825.52 Abatement**

A citation includes a proposed date by which each alleged violative condition is to be corrected. The length of the period allowed varies based on the type of hazard involved, the severity of the risk to employees, and OSHA's assessment of the difficulty of correcting the hazard.

It is the policy of the Postal Service to abate violative conditions promptly. Whether a condition constitutes a violation, and whether a proposed penalty, abatement date, and means of abatement are reasonable, however, are matters to be resolved with OSHA once the citation has been reviewed by Headquarters Safety Performance Management and the Headquarters General Counsel.

### **825.53 Informal Conference**

To assist in determining whether to contest or resolve a citation, the installation head (in concert with the Headquarters, area, and district safety representatives) must request an informal conference with the OSHA area director who issued the citation. Informal conferences are managed by area or Headquarters Safety Performance Management, and attended by field legal

counsel or Headquarters legal counsel as deemed appropriate by Headquarters.

#### **825.54 Citation Management**

Citations must be managed in accordance with instructions from the Headquarters General Counsel and Safety Performance Management, and according to procedures published in Handbook EL-802. (See Handbook EL-802 and OSHA publications therein concerning citations and required actions.)

#### **825.6 Performance Cluster File of OSHA Inspections**

The performance cluster file of OSHA inspections is the official record of OSHA compliance activity. However, the citation management tracking system must be kept current both to assist in tracking and management of citations, and provide a database of OSHA compliance activity nationally.

The district Human Resources manager, or designee, is to maintain a file on each OSHA inspection. The file is to include the following:

- a. A copy of any employee complaint letter or list of complaint items if the complainant wished to remain anonymous.
- b. Any citations (OSHA 2) and accompanying materials.
- c. The names of all CSHOs, management officials, and employees' representatives participating in the inspection.
- d. Notes and other documentation, such as photographs, made by local management.
- e. All correspondence relative to correction of hazards, abatement plans, and procedures, and documentation submitted to OSHA.
- f. Document log, if documents were provided to the CSHO.

## **Additional and Detailed Information**

The following information is excerpted from OSHA Publication 2098, *OSHA Inspections*, and from OSHA Publication 3000, *Employer Rights and Responsibilities Following an OSHA Inspection*. Additionally, a copy of the *Citation and Notification of Penalty* form (OSHA-2) is enclosed for information in the reference section. These excerpts will assist you in understanding OSHA's policies and procedures regarding inspections and subsequent actions.

## **From OSHA Publication 2098, OSHA Inspections**

*Material in brackets is amplifying or Postal Service-specific information not contained in the original.*

### **OSHA Inspections**

#### **[Background]**

Under the *Occupational Safety and Health Act* of 1970 (the Act), the Occupational Safety and Health Administration (OSHA) is authorized to conduct workplace inspections to determine whether employers are complying with standards issued by the agency for safe and healthful workplaces. OSHA also enforces Section 5(a)(1) of the Act, known as the "General Duty Clause," which requires that every working man and woman must be provided with a safe and healthful workplace.

Workplace inspections are performed by OSHA compliance safety and health officers who are knowledgeable and experienced in the occupational safety and health field and who are trained in OSHA standards and in the recognition of safety and health hazards. Similarly, states with their own occupational safety and health programs conduct inspection using qualified state compliance safety and health officers.

States administering their own occupational safety and health program through plans approved under section 18(b) of the Act must adopt standards and enforce requirements which are at least as effective as federal requirements. There are currently 25 state plan states: 23 covering private and public (state and local government) sectors and 2 covering the public sector only. Plan states must adopt standards comparable to the federal within 6 months of a federal standard's promulgation. Although most states adopt standards identical to the federal and have similar inspection procedures—including citations and penalties, employer and employee rights and responsibilities—the state plan agency should be contacted directly to determine if there are any different or additional state occupational safety and health requirements.

*[Comment: The U.S. Department of Labor, Occupational Safety and Health Administration, coordinates with state agencies to determine which, if any, will elect to include the Postal Service in their respective state plans. At this printing, no states have opted to include the Postal Service. Check with Safety Performance Management to determine state authority.]*

Inspections are usually conducted without advance notice. In fact, alerting an employer without proper authorization in advance of an OSHA inspection can bring a fine of up to \$1,000 and/or a 6-month jail term. This is true for federal OSHA compliance officers as well as state inspectors. There are, however, special circumstances under which OSHA may give notice to the employer, but such a notice will normally be less than 24 hours. These circumstances include the following:

- Imminent danger situations that require correction as soon as possible;

- Inspections that must take place after regular business hours or that require special preparation;
- Cases where notice is required to ensure that the employer and employee representative or other personnel will be present;
- Cases where an inspection must be delayed for more than 5 working days when there is good cause;
- Situations in which the OSHA area director determines that advance notice would produce a more thorough or effective inspection.

Employers who receive advance notice of an inspection must inform their employees' representative or arrange for OSHA to do so.

If an employer refuses to admit an OSHA compliance officer or if an employer attempts to interfere with the inspection, the Act permits appropriate legal action, such as obtaining a warrant to inspect.

Based on a 1978 Supreme Court ruling, *Marshall v. Barlow's Inc.*, OSHA usually may not conduct warrantless inspections without valid consent. The agency, however, may inspect after acquiring a judicially authorized search warrant based on administrative probable cause or upon evidence of a violation.

\* \* \*

### **[Inspection Priorities]**

Not all 6.2 million workplaces covered by the Act can be inspected immediately. The worst situations need attention first. OSHA, therefore, has established a system of inspection priorities.

#### **Imminent Danger**

Imminent danger situations are given top priority. An imminent danger is any condition where there is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm immediately or before the danger can be eliminated through normal enforcement procedures. If an imminent danger situation is found, the compliance officer will ask the employer to voluntarily abate the hazard and to remove endangered employees from exposure.

Should the employer fail to do this, OSHA, through the regional solicitor, may apply to the Federal District Court for an injunction prohibiting further work as long as unsafe conditions exist.

#### **Catastrophes and Fatal Accidents**

Second priority is given to investigation of fatalities and accidents resulting in hospitalization of three or more employees. Such catastrophes must be reported to OSHA by the employer within 8 hours. OSHA investigates to determine the cause of such accidents and whether existing OSHA standards were violated.



### **Complaints and Referrals**

Third priority is given to formal employee complaints of alleged violations or standards or of unsafe or unhealthful working conditions and to referrals from other government authorities about specific workplace hazards.

The Act gives each employee the right to request an OSHA inspection when the employee believes he or she is in imminent danger from a hazard or when he or she thinks that there is a violation of an OSHA standard that threatens physical harm. OSHA will maintain confidentiality if requested, will inform the employee of any action it takes regarding complaints, and, if requested, will hold an informal review of any decision not to inspect.

### **Programmed Inspections**

Next in priority are programmed inspections aimed at specific high-hazard industries, workplaces, occupations, or health substances, or other industries identified in OSHA's current inspection procedures. Industries are selected for inspection on the basis of factors such as the injury incidence rates, previous citation history, employee exposure to toxic substances, or random selection. Special emphasis programs also may be developed and may be regional or national in scope, depending on the distribution of the workplaces involved. Comprehensive safety inspections in manufacturing will be conducted normally in those establishments with lost-workday injury rates at or above the Bureau of Labor Statistics' (BLS) national rate for manufacturing currently in use by OSHA. States with their own occupational safety and health programs may use some-what different systems to identify industries for inspection.

### **Followup Inspections**

A followup inspection determines if previously cited violations have been corrected. If an employer has failed to abate a violation, the compliance officer informs the employer that he or she is subject to "Failure to Abate" alleged violations and proposed additional daily penalties while such failure to abate or violation continues.

\* \* \*

### **[Preparing for the Inspection]**

A compliance officer represents the agency and is expected to demonstrate his or her knowledge and expertise in the safety and health field in a courteous and professional manner. Prior to the inspection, the compliance officer will become familiar with as many relevant facts as possible about the workplace, such as the inspection history of the establishment, the nature of the business, and the particular standards that might apply. This preparation provides the compliance officer with a knowledge of the potential hazards and industrial processes that may be encountered and aids in selecting appropriate personal protective equipment for use against these hazards during the inspection.

### **Inspector's Credentials**

When the OSHA compliance officer arrives at the establishment, he or she displays official credentials and asks to meet an appropriate employer

representative. Employers should always ask to see the compliance officer's credentials.

OSHA federal or state compliance officer credentials can be verified by calling the nearest federal or state OSHA office. Compliance officers may not collect a penalty at the time of inspection or promote the sale of a product or service at any time; anyone who attempts to do so is impersonating a government inspector and the FBI or local law enforcement officials should be contacted *immediately*.

### **Opening Conference**

In the opening conference, the compliance officer explains how the establishment was selected and what the likely scope of the inspection will be. The compliance officer also will ascertain whether an OSHA-funded consultation visit is in progress or whether the facility is pursuing or has received an inspection exemption through the consultation program; if so, the inspection may be terminated.

The compliance officer explains the purpose of the visit, the scope of the inspection, and the standards that apply. The employer will be given information on how to obtain a copy of applicable safety and health standards as well as a copy of any employee complaint that may be involved (with the employee's name deleted, if the employee has requested anonymity).

The employer is asked to select an employer representative to accompany the compliance officer during the inspection. An authorized employee representative also is given the opportunity to attend the opening conference and to accompany the compliance officer during the inspection. If the employees are represented by a recognized bargaining agent, the agent ordinarily will designate the employee representative to accompany the compliance officer. Similarly, if there is a plant safety committee, the employee members of that committee will designate the employee representative (in the absence of a recognized bargaining agent). Where neither employee group exists, the employee representative may be selected by the employees themselves, or the compliance officer may determine if any employee suitably represents the interest of other employees. Under no circumstances may the employer select the employee representative for the walkaround.

The Act does not require that there be an employee representative for each inspection. Where there is no authorized employee representative, however, the compliance officer must consult with a reasonable number of employees concerning safety and health matters in the workplace.

\* \* \*

### **[The Inspection Process]**

After the opening conference, the compliance officer and accompanying representatives proceed through the establishment to inspect work areas for safety and health hazards.

The compliance officer determines the route and duration of the inspection. While talking with employees, the compliance officer makes every effort to

minimize any work interruptions. The compliance officer observes safety and health conditions and practices; consults with employees privately, if necessary; takes photos and instrument readings; examines records, collects air samples, measures noise levels, and surveys existing engineering controls; and monitors employee exposure to toxic fumes, gases, and dusts. An inspection tour may cover part or all of an establishment, even if the inspection resulted from a specific complaint, fatality, or catastrophe.

Trade secrets observed by the compliance officer will be kept confidential. An inspector who releases confidential information without authorization is subject to a \$1,000 fine and/or 1 year in jail. The employer may require that the employee representative have confidential clearance for any area in question. Employees are consulted during the inspection tour. The compliance officer may stop and question workers, in private, about safety and health conditions and practices in their workplaces. Each employee is protected under the Act from discrimination by the employer for exercising his or her safety and health rights. OSHA places special importance on posting and recordkeeping requirements. The compliance officer will inspect records of deaths, injuries, and illnesses that the employer is required to keep. He or she will check to see that a copy of the totals from the last page of OSHA Form No. 200 have been posted and that the OSHA work-place poster (OSHA 2203), which explains employees' safety and health rights, is prominently displayed. Where records of employee exposure to toxic substances and harmful physical agents have been required, they also are examined for compliance with the recordkeeping requirements.

The compliance officer also explains the requirements of the Hazard Communication Standard. Under that rule, employers must establish a written, comprehensive communication program that includes provisions for container labeling, material safety data sheets, and an employee training program. The program must contain a list of the hazardous chemicals in each work area and the means the employer will use to inform employees of the hazards of non-routine tasks.

During the course of the inspection, the compliance officer will point out to the employer any unsafe or unhealthful working conditions observed. At the same time, the compliance officer will discuss possible corrective action if the employer so desires. Some apparent violations detected by the compliance officer can be corrected immediately. When they are corrected on the spot, the compliance officer records such corrections to help in judging the employer's good faith in compliance. Although corrected, the apparent violations may still serve as the basis for a citation and, if appropriate, a notice of proposed penalty. The penalties for some types of violations may be reduced if they are corrected immediately.

\* \* \*

### **[Closing Conference]**

At the conclusion of the inspection, the compliance officer conducts a closing conference with the employer and the employee representative. It is a time for free discussion of problems and needs; a time for frank questions and answers. The compliance officer also will give the employer a copy of *Employer Rights*

*and Responsibilities Following an OSHA Inspection (OSHA 3000)* and will discuss briefly the information in the booklet and answer any questions.

The compliance officer discusses with the employer all unsafe or unhealthful conditions observed during the inspection and indicates all apparent violations for which a citation and a proposed penalty may be issued or recommended. The compliance officer will not indicate any specific proposed penalties; however, the employer is informed of appeal rights.

During the closing conference, the employer may wish to produce records to show compliance efforts and to provide information that can help OSHA determine how much time may be needed to abate an alleged violation.

When appropriate, more than one closing conference may be held. This is usually necessary when health hazards are being evaluated or when laboratory reports are required. The compliance officer explains that OSHA area offices are full service resource centers that inform the public of OSHA activities and programs, such as new or revised standards, including the status of proposed standards, comment periods, or public hearings; provide technical experts and materials, including courses offered at the OSHA training institute; refer callers to other agencies and professional organizations as appropriate; and promote effective safety and health programs through voluntary protection programs and expanded employer abatement assistance efforts.

If an employee representative does not participate in either the opening or the closing conference held with the employer, a separate discussion is held with the employee representative, if requested, to discuss matters of direct interest to employees.

\* \* \*

### **[Inspection Results]**

After the compliance officer reports findings, the area director determines whether citations will be issued and whether penalties will be proposed.

#### **Citations**

Citations inform the employer and employees of the regulations and standards alleged to have been violated and of the proposed length of time set for their abatement. The employer will receive citations and notices of proposed penalties by certified mail. The employer must post a copy of each citation at or near the place a violation occurred, for 3 days or until the violation is abated, whichever is longer.

#### **Penalties**

These are the types of violations that may be cited and the penalties that may be proposed:<sup>1</sup>

- **Other-Than-Serious Violation**—A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. A penalty from \$0 to \$7,000 for each violation may be assessed. A penalty for an other-than-serious violation may be adjusted downward by as much as 95 percent, depending on the employer's good

faith (demonstrated efforts to comply with the Act), history of previous violations, and size of business.<sup>2</sup>

- **Serious Violation**—A violation where there is a substantial probability that death or serious physical harm could result. The penalty for a serious violation is assessed from \$1,500 to a maximum of \$7,000 depending on the gravity of the violation. A penalty for a serious violation may be adjusted downward based on the employer's good faith, history of previous violations, and size of business.
- **Willful Violation**—A violation that the employer intentionally and knowingly commits. The employer is aware that a hazardous condition exists, knows that the condition violates a standard or other obligation of the Act, and makes no reasonable effort to eliminate it. Penalties of up to \$70,000 may be proposed for each willful violation. The minimum willful penalty is \$5,000. An employer who is convicted in a criminal proceeding of a willful violation of a standard that has resulted in the death of an employee may be fined up to \$250,000 (or \$500,000 if the employer is a corporation) or imprisoned up to 6 months, or both. A second conviction doubles the possible term of imprisonment.<sup>3</sup>
- **Repeated Violation**—A violation of any standard, regulation, rule, or order where, upon reinspection, a substantially similar violation is found and the original citation has become a final order. Violations can bring a fine or up to \$70,000 for each such violation. To calculate repeated violations, the initial penalty is adjusted for the size and then multiplied by a factor of 2, 5, or 10 depending on the size of the employer.
- **Failure-to-Abate**—Failure to correct a prior violation may bring a civil penalty of up to \$7,000 for each day that the violation continues beyond the prescribed abatement date.

Additional violations for which citations and proposed penalties may be issued are as follows:

- Falsifying records, reports, or applications can, upon conviction, bring a criminal fine of \$10,000 or up to 6 months in jail, or both.
- Violations of posting requirements bring a civil penalty of \$7,000.
- Assaulting a compliance officer, or otherwise resisting, opposing, intimidating, or interfering with a compliance officer in the performance of his or her duties is a criminal offense and is subject to a fine of not more than \$5,000 and imprisonment for not more than 3 years. Citations and penalty procedures may differ somewhat in states with their own occupational safety and health programs.

<sup>1</sup> For more detailed information, see U.S. Department of Labor *Program Highlights*, Fact Sheet No. OSHA 91-36, "New OSHA Civil Penalties Policy," which is available from the Department of Labor's Office of Information, 200 Constitution Avenue, N.W., Washington, DC 20210, (202) 219-8151.

<sup>2</sup> For a more detailed description of adjustment factors, see U.S. Department of Labor *Program Highlights*, Fact Sheet No. OSHA 91-36 and OSHA's voluntary "Safety and Health Program Management Guidelines." (*Federal Register*, Vol. 54, No. 16, January 26, 1989, Pp. 3904-3916.)

<sup>3</sup> For more information, see *United States Code Annotated, Title 18, Crimes and Criminal Procedures 3331 to 4120*, West Publishing Company, St. Paul, MN, 1991, Pp.53-54.

\* \* \*

## **[Appeals Process]**

### **Appeals by Employees**

If an employee complaint initiates an inspection, the employee or authorized employee representative may request an informal review of any decision not to issue a citation.

Employees may not contest citations, amendments to citations, proposed penalties, or lack of penalties. They may, however, contest the time allowed for abatement of a hazardous condition. They also may contest an employer's "Petition for Modification of Abatement," which requests an extension of the proposed abatement period. Employees must contest the petition within 10 working days of its posting or within 10 working days after an authorized employee representative has received a copy.

Employees may request an informal conference with OSHA to discuss any issues raised by an inspection, citation, notice of proposed penalty, or employer's notice of intention to contest.

### **Appeals by Employers**

Within 15 working days of the employer's receipt of a citation, the employer who wishes to contest must submit a written objection to OSHA. The OSHA area director forwards the objection to the Occupational Safety and Health Review Commission (OSHRC), which operates independently of OSHA.

When issued a citation and notice of proposed penalty, an employer may request an informal meeting with OSHA's area director to discuss the case. OSHA encourages employers to have such informal conferences with the area director if the employer has issues arising from the inspection that he or she wishes to discuss or provide additional information. The area director is authorized to enter into settlement agreements that revise citations and penalties to avoid prolonged legal disputes and that result in speedier hazard abatement (alleged violations contested before OSHRC do not need to be corrected until the contest is ruled upon by OSHRC).

### **Petition for Modification of Abatement**

Upon receiving a citation, the employer must correct the cited hazard by the abatement date unless he or she contests the citation or abatement date. Factors beyond the employer's control, however, may prevent the completion of corrections by that date. In such a situation, the employer who has made a good faith effort to comply may file a petition to modify the abatement date.

The written petition must specify the steps taken to achieve compliance, the additional time needed to comply, the reasons additional time is needed, and interim steps being taken to safeguard employees against the cited hazard

during the intervening period. The employer must certify that a copy of the petition was posted in a conspicuous place at or near each place where a violation occurred and that the employee representative received a copy of the petition.

### **Notice of Contest**

If the employer decides to contest either the citation, the abatement period, or the proposed penalty, he or she has 15 working days from the time the citation and proposed penalty are received to notify the OSHA area director in writing. Failure to do so will result in the citation and proposed penalty becoming a final order of the OSHRC without further appeal. An orally expressed disagreement will not suffice. This written notification is called a "Notice of Contest."

Although there is no specific format for the "Notice of Contest," it must clearly identify the employer's basis for filing—the citation, notice of proposed penalty, abatement period, or notification of failure to correct violations.

A copy of the "Notice of Contest" must be given to the employees' authorized representative. If any affected employees are not represented by a recognized bargaining agent, a copy of the notice must be posted in a prominent location in the workplace or given personally to each unrepresented employee.

### **Review Procedure**

If the written "Notice of Contest" has been filed within the required 15 working days, the OSHA area director forwards the case to OSHRC. The commission is an independent agency not associated with OSHA or the Department of Labor. The commission assigns the case to an administrative law judge. A hearing may be scheduled for a public place near the employer's workplace. The employer and the employee have the right to participate in the hearing; the OSHRC does not require that they be represented by attorneys.

Once the administrative law judge has ruled, any party to the case may request a further review by OSHRC. Any of the three OSHRC commissioners also may, at his or her own motion, bring a case before the commission for review. Commission rulings may be appealed to the appropriate U.S. Court of Appeals.

### **Appeals in State Plan States**

States with their own occupational safety and health programs have a state system for review and appeal of citations, penalties, and abatement periods. The procedures are generally similar to Federal OSHA's, but cases are heard by a state review board or equivalent authority.

## **From OSHA Publication 3000, Employer Rights and Responsibilities Following an OSHA Inspection \***

*Material in brackets is amplifying or Postal Service-specific information not contained in the original.*

### **What Happens After an OSHA Inspection**

\* \* \*

An OSHA compliance safety and health officer (CSHO) conducts an inspection of your workplace....After the inspection, the CSHO reports the findings to the Area Director who evaluates them. If a violation exists, OSHA will issue you a **Citation and Notification of Penalty** detailing the exact nature of the violation(s) and any associated penalties....A citation informs you of the alleged violation, sets a proposed time period within which to correct the violation, and proposes the appropriate dollar penalties.

The information in this booklet can and should be used as a discussion guide during your closing conference with the OSHA compliance officer. For each apparent violation found during the inspection, the compliance officer has discussed or will discuss the following with you:

- Nature of the violation,
- Possible abatement measures you may take to correct the violative condition, and
- Possible abatement dates you may be required to meet.

\* \* \*

To minimize employee exposure to possible hazardous conditions, abatement efforts should always begin as soon as possible.

#### **[State issues]**

**Important Note:** ...Employers and employees in the [approved plan states]...that operate OSHA-approved workplace safety and health plans should check with their state agency. Their state may be enforcing standards and other procedures that, while "at least as effective as" federal standards, are not always identical to the federal requirements. For example:

- Some states have different options and procedures for the employer who...[disagrees with a citation or penalty];
- Although Federal OSHA recommends that employers....establish comprehensive workplace safety and health programs, some states require such programs; and
- In state plan states, an employee who believes he/she has been discriminated against pursuant to Section 11[c] of the OSH Act is entitled to file a complaint alleging discrimination under both state and federal procedures.

*\* [OSHA may make changes to outline or printed versions of their documents at any time.]*



*[Comment: The U.S. Department of Labor, Occupational Safety and Health Administration, coordinates with state agencies to determine which, if any, will elect to include the Postal Service in their respective state plans. At this printing, no states have opted to include the Postal Service. Check with Safety Performance Management to determine state authority.]*

\* \* \*

### **[Types of Violations]**

**Willful:** A willful violation is defined as a violation in which the employer knew that a hazardous condition existed but made no reasonable effort to eliminate it and in which the hazardous condition violated a standard, regulation, or the OSH Act. Penalties range from \$5,000 to \$70,000 per willful violation, with a minimum penalty of \$25,000 for a willful serious violation....

**Serious:** A serious violation exists when the workplace hazard could cause an accident or illness that would most likely result in death or serious physical harm, unless the employer did not know or could not have known of the violation. A mandatory penalty of up to \$7,000 for each violation is proposed.

**Repeated:** An employer may be cited for a repeated violation if that employer has been cited previously for a **substantially similar condition** and the citation has become a final order of the Occupational Safety and Health Review Commission. A citation is viewed as a repeated violation if it occurs within 3 years either from the date that the earlier citation becomes a final order or from the final abatement date, whichever is later. Repeated violations can bring a fine of up to \$70,000 for each such violation.

\* \* \*

**A VIOLATION CAN BE CITED AS REPEATED IF THE EMPLOYER HAS BEEN CITED FOR THE SAME OR SUBSTANTIALLY SIMILAR VIOLATION ANYWHERE IN THE NATION WITHIN THE PAST 3 YEARS.**

**Other:** A violation that has a direct relationship to job safety and health, but is not serious in nature, is classified as "other."

\* \* \*

### **[Posting Requirements]**

When you receive a Citation and Notification of Penalty, you must post the citation (or a copy of it) at or near the place where each violation occurred to make employees aware of the hazards to which they may be exposed. The citation must remain posted for 3 working days or until the violation is corrected, whichever is longer. (Saturdays, Sundays, and Federal holidays are not counted as working days.) **You must comply with these posting requirements even if you contest the citation.**

The abatement certification documents....like citations, must be posted at or near the place where the violations occurred. For moveable equipment found to be in violation and where the posting of the violations would be difficult or impractical, the employer has an option to identify the equipment with a "Warning" tag specified in the Abatement Verification regulation 29 CFR 1903.19.[i].

*[All citations must also be entered into the Citation Management System for tracking purposes.]*

\* \* \*

### **[Employer Options]**

As an employer who has been cited, you may take either of the following courses of action:

1. If you agree to the Citation and Notification of Penalty, you should correct the condition by the date set in the citation and pay the penalty, if one is proposed; [or]
2. If you do not agree, you have 15 working days from the date you receive the citation to contest in writing any or all of the following:
  - Citation,
  - Proposed penalty, and/or
  - Abatement date.

\* \* \*

Before deciding on either of these options, you may request an **Informal Conference** with the OSHA Area Director to discuss any issues related to the Citation and Notification of Penalty.

*[Note: Always request an informal conference in coordination with the Headquarters General Counsel and Safety Performance Management.]*

\* \* \*

### **[How to Comply]**

For violations you do not contest, you must (1) promptly notify the OSHA Area Director by certified letter that you have taken appropriate corrective action within the time set forth in the citation, and (2) pay any penalties itemized therein. [See the OSHA 2 Form, under Notification of Corrective Action in Tab 7.]

\* \* \*

The penalties itemized on the Citation and Notification of Penalty are payable within 15 working days of receipt of the penalty notice. If, however, you contest the citation or penalty in good faith, abatement and payment of penalties for those items contested are suspended until the Occupational Safety and Health Review Commission reviews your case and issues a final order. The Review Commission is an independent agency and is not a part of the U.S. Department of Labor. The final order of the Commission will either uphold, modify, or eliminate the citations and/or penalties. Penalties for items not contested, however, are still due within 15 working days.

*[See the Appendix for an Invoice/Debt Collection Notice.]*

*[Comment: Coordinate all responses to OSHA with the Headquarters General Counsel and Safety Performance Management.]*

\* \* \*

### **[Informal Conference and Settlement]**

Before deciding whether to file a **Notice of Intent of Contest**, you may request an Informal Conference with the OSHA Area Director to discuss the Citation and Notification of Penalty.

You may use this opportunity to do any of the following:

- Obtain a better explanation of the violations cited;
- Obtain a more complete understanding of the specific standards that apply;
- Negotiate and enter into an Informal Settlement Agreement;
- Discuss ways to correct violations;
- Discuss problems concerning the abatement dates;
- Discuss problems concerning employee safety practices;
- Resolve disputed citations and penalties, (thereby eliminating the need for the more formal procedures associated with litigation before the review Commission); and
- Obtain answers to any other questions you may have.

You are encouraged to take advantage of the opportunity to have an Informal Conference if you foresee any difficulties in complying with any part of the citation. **Please note, however, that an Informal Conference must be held within the 15 working day Notice of Intent to Contest period and will neither extend the 15 working day contest period nor take the place of the filing of a written notice if you desire to contest.** Employee representative(s) have the right to participate in any Informal Conference or negotiations between the Regional Administrator or Area Director and the employer.

If you agree that the cited violations do exist, but you have a valid reason for wishing to extend the abatement date(s), you may discuss this with the Area Director in an Informal Conference. He or she may issue an amended citation that changes the abatement date prior to the expiration of the 15 working day period without your filing a Notice of Intent to Contest.

If you do not contest within 15 working days, the citation will become a final order....After this occurs, the OSHA Area Director may continue to provide you with information and assistance on how to abate the hazards cited in your citation, but may not amend or change any citation or penalty which has become a final order. The Area Director may only advise you on abatement methods or extend the time you need to abate the violation. (See **Petition for Modification of Abatement.**)

*[Comment: Coordinate all citations with the Headquarters General Counsel and Safety Performance Management.]*

\* \* \*

### **[How To Contest]**

If you wish to contest any portion of your citation, a Notice of Intent to Contest must be submitted in writing within 15 working days after receipt of the Citation and Notification of Penalty even if you have orally stated your disagreement with a citation, penalty, or abatement date during a telephone conversation or an Informal Conference.

A Notice of Intent to Contest must clearly state what is being contested — the citation, the penalty, the abatement date, or any combination of these factors. In addition, the notice must state whether all the violations on the citation, or just specific violations, are being contested. (For example, "I wish to contest the citation and penalty proposed for items 3 and 4 of the citation issued June 27, 1990.")

Your contest must be made in good faith. A contest filed solely to avoid your responsibilities for abatement of payment of penalties will not be considered a good-faith contest.

A proper contest of any item suspends your legal obligation to abate and pay until the item contested has been administratively resolved. If you contest only the penalty, you must still correct all violations by the dates indicated on the citation. If only some items on the citation are contested, the other items must be corrected by the abatement date and the corresponding penalties paid within 15 days of the notification.

After you file a Notice of Intent to Contest, your case is officially in litigation. If you wish to settle the case, you may contact the OSHA Area Director who will give you the name of the attorney for OSHA handling your case. All settlements of contested cases are negotiated between you and the attorney according to the rules of procedure of the Occupational Safety and Health Review Commission.

*[Notices of Contest will be issued only by the General Counsel.]*

\* \* \*

### **[The Contest Process]**

If the written Notice of Intent to Contest has been filed within the required 15 working days, the OSHA Area Director forwards your case to the Occupational Safety and Health Review Commission. The Commission assigns the case to an administrative law judge who usually will schedule a hearing in a public place close to your workplace. Both employers and employees have the right to participate in this hearing which contains all the elements of a trial, including examination and cross-examination of witnesses. You may choose to represent yourself or be represented by an attorney. [See below.] The administrative law judge may affirm, modify, or eliminate any contested items of the citation or penalty.

As with any other legal procedure, there is an appeals process. Once the administrative law judge has ruled, any party to the case may request a further review by the full Review Commission. In addition, any of the three commissioners may, on his or her own motion, bring the case before the entire Commission for review. The Commission's ruling, in turn, may be appealed to

the U.S. Court of Appeals for the circuit in which the case arose or for the circuit where the employer has his or her principal office.

*[Comment: Postal Service attorneys will be appointed to contest citations.]*

\* \* \*

### **[Petition for Modification of Abatement]**

Abatement dates are assigned on the basis of the best information available at the time the citation is issued. When you are unable to meet an abatement date because of uncontrollable events or other circumstances, and the 15 working day contest period has expired, you may file a **Petition for Modification of Abatement** (PMA) with the OSHA Area Director.

This petition must be in writing and must be submitted as soon as possible, but no later than 1 working day after the abatement date. To show clearly that you have made a good-faith effort to comply, the PMA must include all of the following information before it can be considered:

- Steps you have taken in an effort to achieve compliance, and dates they were taken;
- Additional time you need to comply;
- Why you need additional time;
- Interim steps you are taking to safeguard your employees against the cited hazard(s) until the abatement;
- A certification that the petition has been posted, the date of the posting and, when appropriate, a statement that the petition has been furnished to an authorized representative of the affected employees. The petition must remain posted for 10 working days, during which employees may file an objection.

A PMA may be granted or opposed by the OSHA Area Director. If it is opposed, it automatically becomes a contested case before the Review Commission. If a PMA is granted, a monitoring inspection may be conducted to ensure that conditions are as they have been described and that adequate progress toward abatement has been made. Further information on PMAs may be obtained from the OSHA Area Office.

*[Coordinate all PMA activities with the Headquarters General Counsel and Safety Performance Management.]*

\* \* \*

### **[Employee Courses of Action]**

Employees or their authorized representatives may contest any or all of the abatement dates set for violations if they believe them to be unreasonable. A written notice of Intent to Contest must be filed with the OSHA Area Director within 15 working days after the employer receives the citation.

\* \* \*

### **[Followup Inspection and Failure to Abate]**

If you receive a citation, a followup inspection may be conducted to verify that you have done the following:

- Posted the citation as required,
- Corrected the violations as required in the citation, and/or
- Adequately protected employees and made appropriate progress in correcting hazards during multistep or lengthy abatement periods.

In addition to providing for penalties for failure-to-post citations and failure-to-abate violations, the OSH Act clearly states that you have a **continuing responsibility** to comply with the OSH Act and assure your employees of safe and healthful working conditions. Any new violations discovered during a followup inspection will be cited.

To achieve abatement by the date set forth in the citation, it is important that abatement efforts be promptly initiated.

*[See section on Notification of Corrective Action in the OSHA-2 Form.]*

\* \* \*

### **[Employer Discrimination]**

The *OSH Act* prohibits employers from discharging or otherwise discriminating against an employee who has exercised any right under this law, including the right to make safety and health complaints or to request an OSHA inspection. Complaints from employees who believe they have been discriminated against will be investigated by OSHA. If the investigation discloses probable violations of employee rights, court action may follow.

Employees who believe they have been discriminated against must file their complaints within **30 days** of the alleged act of discrimination. To obtain further information on this matter, employees may contact OSHA and inquire about Section 11[c] procedures.

\* \* \*

### **[Providing False Information]**

All information reported to OSHA by employers and employees must be accurate and truthful. Providing false information on efforts to abate cited conditions or in required records is punishable under the OSHA Act [referred to courts for criminal action].

*[Comment: Coordinate all 11[c] investigations with the Headquarters General Counsel and Safety Performance Management.]*

\* \* \*

## Appendix

# Reference Materials

This section includes various references and forms that support the material found throughout Handbook EL-802. You are encouraged to also include additional safety information here that supports local safety programs and initiatives.

Included here are:

- Form 4584, *Observation of Driving Practices*  
F3Fill
- OSHA-2 (Rev. 6/93), *Citation and Notification of Penalty and Invoice/Debt Collection Notice*  
Copy Provided by OSHA
- OSHA Publication, *Voluntary Protection Program (VPP) — So You Want to Apply to VPP? Here's How to Do It!*  
[www.osha.gov](http://www.osha.gov), Newsroom, Publications
- OSHA Publication, *What to Expect During OSHA's Visit*  
[www.osha.gov](http://www.osha.gov), Newsroom, Publications



# Observation of Driving Practices

## Instructions

This form, when used correctly, can aid in the elimination of driving practices which cause accidents. All driving practices needing improvement and noted below should be discussed with the driver as soon as possible after the observation. Because the primary purpose of conducting observations is to improve driving practices before they result in accidents, discussions with drivers must be positive in nature and include the benefits to be gained from improving driving practices. If a driving observation is deter-

mined to require official action, such action will be in accordance with the terms of the National Agreements. To enforce a high standard of professional driving performance, all drivers must be observed at least twice a year, and at other times when appropriate. For probationary drivers this form must be completed at 30-, 60-, and 80-day intervals (or at other appropriate intervals if the driver's probationary period is not 90 days), and a copy attached to Form 1750, Employee Probationary Period Evaluation Report.

Name of Driver and Employee ID Number	Time of Observation		Date of Observation
	From	To	
Location of Observation	Vehicle Type	Vehicle No.	Sta/Br/Ofc

### A. Professional Driving Practices Demonstrated

- During this observation, the driver exhibited safe and professional driving practices, and is to be commended.

### B. Driving Practices to Be Improved

#### STARTING

- Fasten seat belt and/or close door
- Give proper signal when leaving curb
- Look back to check traffic
- Wait for suitable gap in traffic

#### STEERING AND LANE USAGE

- Keep both hands on wheel
- Keep vehicle in center of lane
- Stay to right of center line
- Stay in one lane as much as possible

#### LANE CHANGING

- Check for vehicles approaching in intended lane
- Signal lane change
- Change lane so as not to be in another driver's blind spot

#### SPEED AND FOLLOWING DISTANCE

- Maintain speed of traffic flow not to exceed posted speed
- Adhere to posted speeds in curves
- Maintain 2-second following distance
- Slow down or change lanes when tailgated

#### RESPONSIVENESS TO WEATHER

- Increase following distance to 3 seconds
- Reduce speed well in advance of intersections
- Reduce speed overall during adverse weather conditions

#### HIGHWAY/FREEWAY

- Enter at speed of traffic flow
- Signal prior to merging
- Select entry gap which minimizes interference with others
- Periodically observe vehicles in adjacent lanes
- Frequently check rear/side mirrors
- Signal exit intentions well in advance
- Exit at posted speed

#### PASSING

- Allow sufficient space in which to pass
- Signal to pull out or back in
- Pass where legal (not on hills, curves, intersections, no passing zones)
- Provide 2 seconds following distance to vehicle being passed before pulling back in

#### STOPPING AND INTERSECTIONS

- Reduce speed at uncontrolled or vision-obstructed intersections
- Observe traffic controls
- Decelerate gradually when stopping
- Check mirror for following traffic
- Tap brake or give hand signal if being followed too closely
- Stop before crosswalk or line
- Look left, right, and left
- Yield to cross traffic

#### TURNING

- Approach in proper lane
- Signal at least 100 feet in advance
- Turn into proper lane

#### PARKING

- Signal intentions
- Curb wheels
- Set parkgear and handbrake
- Turn off ignition
- Lock vehicle

#### BACKING

- Avoid backing whenever possible
- Look behind vehicle
- Physically turn around while backing
- Back slowly

#### ATTENTION TO PEDESTRIANS

- Yield right-of-way at all times
- Reduce speed when pedestrian approaches roadway
- Tap horn to alert bicyclist, occupant in parked vehicle, or pedestrian near roadway
- Reduce speed when children observed near schools, parks, or residential areas

Comments

Title of Observer	Signature
-------------------	-----------

### C. To Be Completed By Driver's Immediate Supervisor

Action Taken	Original 1 — PEDC Manager 2 — To Driver 3 — To Driver's Immediate Supervisor 4 — To Local Safety Manager (If a probationary driver, attach to Form 1750 and forward to the designated postal official instead of the safety manager.)
Signature	



U.S. Department of Labor  
U.S. Department of Labor  
Occupational Safety and Health  
Suite 140  
1099 Winterson Road  
Linthicum, MD 21090  
Phone: (410) 865-2055 FAX: (410) 865-2068



## Citation and Notification of Penalty

**To:**  
Example Citation Inc  
and its successors  
2222 MakeBelieve Lane  
Washington, DC 20002

**Inspection Number:** 301470902  
**Inspection Date(s):**  
**Issuance Date:** 03/04/2002

**Inspection Site:**  
2222 MakeBelieve Lane  
Washington, DC 20002

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 4 Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

**Penalty Payment** - Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For each violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the OSHA office issuing the citation and identified above. The certification must be sent by you within 10 calendar days of the abatement date indicated on the citation. For **Willful and Repeat** violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citations states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

For each citation where you do contest the violation or the abatement date, your obligation to submit abatement certification and any documents is delayed until the contest and the 10-day period after the abatement date have expired. See 29CFR 1903.19 and the OSHA 3000 booklet for more information.

**All abatement verification documents must contain the following information:** 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

**Employer Rights and Responsibilities** - The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**Notice to Employees** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

**Inspection Activity Data** - you should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 7 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [WWW.OSHA.GOV](http://WWW.OSHA.GOV). If you have any dispute with the accuracy of the information displayed, please contact this office.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 03/04/2002. The conference will be held at the OSHA office located at Occupational Safety and Health, Suite 140, 1099 Winterson Road, Linthicum, MD 21090 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

**U.S. Department of Labor**  
Occupational Safety and Health Administration

**Inspection Number:** 301470902  
**Inspection Dates:** -  
**Issuance Date:** 03/04/2002



**Citation and Notification of Penalty**

**Company Name:** Example Citation Inc  
**Inspection Site:** 2222 MakeBelieve Lane, Washington, DC 20002

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**Citation 1 Item 1** Type of Violation: **Serious**

29 CFR 1926.651(d): Employees exposed to public vehicular traffic were not provided with a warning vest or other suitable garments marked with or made of reflectorized or high-visibility material:

Location and identification of specific operation would be entered here.

<b>Date By Which Violation Must be Abated:</b>	<b>Corrected During Inspection</b>
<b>Proposed Penalty:</b>	<b>100.00</b>

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Mr. Leonard M. Moore  
Area Director

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See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**U.S. Department of Labor**

U.S. Department of Labor  
Occupational Safety and Health  
Suite 140  
1099 Winterson Road  
Linthicum, MD 21090  
Phone: (410) 865-2055 FAX: (410) 865-2068



**INVOICE/  
DEBT COLLECTION NOTICE**

**Company Name:** Example Citation Inc  
**Inspection Site:** 2222 MakeBelieve Lane  
Washington, DC 20002  
**Issuance Date:** 03/04/2002

**Summary of Penalties for Inspection Number 301470902**

Citation 01, Serious	=	\$100.00
<b>TOTAL PROPOSED PENALTIES</b>	<b>=</b>	<b>\$100.00</b>

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to:  
"DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

**Interest** Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is 5%. Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

**Delinquent Charges** A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

**Administrative Costs** Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.

\_\_\_\_\_  
Mr. Leonard M. Moore  
Area Director

\_\_\_\_\_  
Date

This publication does not itself alter or determine compliance responsibilities, which are set forth in OSHA standards themselves and the *Occupational Safety and Health Act*. Moreover, because interpretations and enforcement policy may change over time, for additional guidance on OSHA compliance requirements, the reader should consult current administrative interpretations and decisions by the Occupational Safety and Health Review Commission and the courts.

Material contained in this publication is in the public domain and may be reproduced, fully or partially, without permission of the Federal Government. Source credit is requested but not required.

This information will be made available to sensory impaired individuals upon request.

Voice phone: (202) 219-7266; Telecommunications Device for the Deaf (TDD) message referral phone: 1-800-326-2577.



# So You Want to Apply to VPP? Here's How to Do It!






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U.S. Department of Labor  
Occupational Safety and Health Administration

1997

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## Introduction

We are delighted you are considering applying to the “New OSHA’s” Voluntary Protection Programs (VPP). This booklet and its companion piece, *What to Expect During OSHA’s Onsite Visit*, have been written to assist you.<sup>1</sup>

The U.S. Department of Labor, OSHA, created the VPP to recognize and encourage excellence in occupational safety and health protection. Requirements for participation are based on comprehensive management systems with employees actively involved in anticipating, recognizing, evaluating, and controlling the potential safety and health hazards at the site.

You may be considering recognition for OSHA’s premier program—*Star*—open to companies with comprehensive, successful safety and health programs, who are in the forefront of employee protection. Or you may qualify for *Merit*, designed for firms with a strong commitment to safety and health that need a stepping stone to achieve *Star* performance. Or perhaps you have an alternate approach to safety and health that does not meet all the requirements for the VPP, but still protects your employees at the *Star* level of excellence. Then you would apply to the *Demonstration* VPP.

In any case, applying for VPP is a major undertaking. Preparation of your application will involve a thorough and detailed review of your worksite safety and health program, first by you, and then by OSHA. As you conduct your own review, you may find there are gaps that need to be filled before you file a formal application with OSHA.

During the formal application process, OSHA expects each company to describe its program in detail, addressing the required elements for a strong safety and health management system. This booklet outlines the elements OSHA looks for when identifying model companies that fit the VPP profile. In your application, the more clearly you describe how you have implemented these elements at your worksite, the more quickly and appropriately OSHA can respond to your application.

We are glad you are seriously considering VPP, and we look forward to receiving your application. OSHA’s VPP is a strong component of the “New OSHA’s” commitment to partnership with companies that want to do the right thing—improve worker safety and health.

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<sup>1</sup>OSHA has other materials on VPP, such as an introductory brochure containing application instructions, which you may obtain from your nearest OSHA regional office listed at the end of this booklet or by calling the national office in Washington, DC (202-219-7266).

## Instructions

Companies that wish to apply to OSHA's VPP must submit a formal application. This guide is for you to use as a workbook in evaluating your current worksite safety and health program. On each page, after a description of the application requirement, there is space for your notes. From these notes, you can develop a comprehensive description of your program that covers all major elements and sub-elements. Most users find that using a team approach to prepare the application works best. If you are taking this approach, you can divide the pages among the team members according to the part of the application each is to complete.

The key elements of an effective safety and health management system—management leadership and employee involvement, worksite analysis, hazard prevention and control, and training—are the focus of this workbook. As you provide the information asked for in the workbook, you will be providing an overview of your company's safety and health activities. This overview will give you a better understanding of your safety and health system's existing strengths and weaknesses and will help you in preparing your application for VPP.

## General Information

Site/Company Name \_\_\_\_\_

Site Address \_\_\_\_\_

Site Manager (Name and Title): \_\_\_\_\_

Site VPP Contact (Name and Title): \_\_\_\_\_

Phone Numbers: \_\_\_\_\_

**Company/Corporate Name (if different from above)** \_\_\_\_\_

Corporate VPP Contact (if applicable — name and title): \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

### **Collective Bargaining Representative (s)**

Union Name and number of Local Chapter: \_\_\_\_\_

Name of Union Contact: \_\_\_\_\_

Union Address: \_\_\_\_\_

Union Phone Number: \_\_\_\_\_

### **Number of Employees**

Site employees: \_\_\_\_\_

Temporary Employees (routinely on the site): \_\_\_\_\_

Contract Employees (routinely on the site): \_\_\_\_\_

**Type of Work Performed and/or Products Produced** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Site's Standard Industrial Code (SIC) – three or four digit number** \_\_\_\_\_

\_\_\_\_\_

## Injury Rates

- For regular site employees, including temporary employees you supervise, provide the data requested in the following charts for each of the last 3 complete calendar years, plus the average for the 3 years combined.
- For contractors whose employees worked 500 or more hours on your site in any calendar quarter, provide one combined set of data on the charts below reflecting the contractor employee hours worked at your site. (Do not include the hours the contractors employees worked at other sites.)

### Injury Incidence Rates

Year	Site Employees			Contract Employees		
	Hours Worked	Recorded Injuries	Rate <sup>1</sup>	Hours Worked	Recorded Injuries	Rate
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
Site 3-year Average <sup>2</sup>			_____			
BLS Industry Average			_____			

### Lost-Workday Case Rates<sup>3</sup>

Year	Site Employees		Contract Employees	
	Recorded Lost & Restricted Workday Injuries	Rate <sup>4</sup>	Recorded Lost & Restricted Workday Injuries	RateRate
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Site 3-year Average <sup>2</sup>		_____		
BLS Industry Average		_____		

<sup>1</sup>Injury Incidence Rates (IIR) are calculated  $(N/EH) \times 200,000$  where:

N = Number of Recordable Injuries in 1 year.

EH = Total Number of Hours Worked by all employees in 1 year.

200,000 = Equivalent to 100 full-time workers working 40 hour weeks 50 weeks per year.

<sup>2</sup>Three-year averages are calculated by totalling the hours worked (EH) and the number of injuries (N) and using these total numbers in the formula.

<sup>3</sup>Includes restricted and lost workday injuries.

<sup>4</sup>Calculations are the same as for IIR except that N = the number of lost and restricted cases.



*Commitment*

- Describe your approach to managing the development of your site's safety and health policy.

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- Describe your system for communicating this policy to all your employees.

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- Describe your system for setting safety and health goals and objectives.

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- Describe how these goals and objectives are communicated to all employees.

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- Describe how top management is visibly involved in the safety and health program.

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- Attach a copy of the site's safety and health policy.
- Attach the current year's safety and health goals and objectives.



### *Organization*

- Describe how the site safety and health functions fit into your overall management organization.  

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- Attach an overall organizational chart explaining the relationship of your site's safety and health personnel to your overall organization.
- For large sites, include a separate organizational chart for the safety and health functions.

### *Responsibility*

- Describe the assignment of line and staff safety and health responsibility.  

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- Attach previously established written material, such as sample job descriptions for managers that include safety and health elements.

### *Accountability*

- Describe the system used for holding line managers and supervisors accountable for safety and health and how that system is documented.  

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- Attach blank performance appraisal forms for managers and supervisors. (Managers must be evaluated on safety and health performance.)
- Indicate how employees are held accountable for safe and healthful actions.  

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### *Resources*

- Provide a narrative summary of personnel, equipment, budget, capital investments (if any), and other resources devoted to your worksite's safety and health management system.

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### *Planning*

- Describe how safety and health are a part of your overall management planning, such as setting production goals, increasing or decreasing the workforce, or introducing a new line.

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### *Program Evaluation*

*All applicants must perform an annual evaluation of the elements required for VPP participation. This evaluation is not the same as a safety audit. It is a review and assessment of the effectiveness of all the program elements: management leadership, employee involvement, worksite analyses, hazard prevention and control, and training*

- Describe how you perform the evaluation. For example, who evaluates the program, at what time of year, how is the evaluation report distributed, and how people are held accountable to ensure the recommendations from the evaluation are accomplished?

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## Management Leadership

- Describe how the recommendations from the annual program evaluation are integrated in to the safety and health objectives for the next year.

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- Attach a copy of the most recent annual evaluation of your entire safety and health program.
- If either the site's or applicable contractor's injury incidence rates and/or the lost-workday case rates are above the national average for the appropriate most recently published SIC, include both long-term and short-term strategies for reducing these rates.\*

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\*Applicable contractors are those who have worked on the site 500 or more hours in any one quarter of the calendar year.



### *Contract Workers*

- Describe how contractors' past performance in safety and health is taken into account in the bidding process.

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- Describe oversight, coordination, and enforcement methods used to ensure that the contractor safety and health program is adequate and is implemented properly. Specify site entry and exit procedures for contractors.

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- Describe the means used to ensure prompt correction and/or control of hazards, however detected, under a contractor's control.

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- Describe the methods used to ensure that all injuries and illnesses occurring during work performed under a contract are recorded and submitted to you.

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- Describe methods, such as monetary penalties and dismissal from the site, used to discourage willful or repeated noncompliance by contractors or their employees.

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***Degree and Manner of Involvement***

- Describe how you involve your employees in your safety and health program.

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- Provide specific information about employee involvement in decisionmaking, such as problem resolution hazard analyses, accident investigations, safety and health training, or evaluation of the safety and health program.

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***Safety and Health Committees***

*Committees are **not** required, but if there is a committee, please provide the following information:*

- Give the date the committee was formed. \_\_\_\_\_
- Describe method of selecting employee members and length of service requirements.

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- Describe committee meeting requirements, such as frequency, quorum rules, and whether or not minutes are kept.

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### *Pre-Use/Pre-Startup Analyses*

- Explain how new or significantly modified equipment, materials, processes, and facilities are analyzed for potential hazards prior to purchase and use.

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- Attach documentation such as project design evaluations, preliminary hazard analyses, process hazard analyses, fault tree analyses, or management of change forms.

### *Comprehensive Surveys*

- Describe the methods used for initial determination of safety and health hazards. Methods may include baseline industrial hygiene surveys, comprehensive safety surveys, radiological surveys/ exposure mapping, and/or project safety reviews at the time of design.

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- Provide evidence that the surveyors were qualified to perform the work.

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### *Self Inspections*

*As a VPP applicant in general industry, you must complete monthly inspections in some areas of the site; the entire site must be inspected quarterly.*

*For the construction industry, management must inspect the entire site weekly, and the joint safety and health committee, or its equivalent must inspect the entire site at least monthly.*

- Describe the system used to conduct routine, general worksite safety and health inspections. Include schedules and types of inspections, the qualifications of those conducting the inspections, and how corrections are tracked to completion.

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- Describe the system for inspecting the entire site quarterly. (For construction, describe the system for inspecting the entire site weekly.)

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***Routine Hazard Analyses***

- State how you review jobs, processes, and/or the interaction among activities to determine safe work procedures at your worksite. Routine procedures, such as job hazard analysis, job safety analysis, and process hazard analysis that result in improved work practices may be used. Describe the frequency of these analyses and provide supporting documentation.

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- Describe phase hazard analyses (construction applicants only).

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- Describe how results from analyses, such as job hazard analyses, are used in training employees to do their jobs safely and in planning and implementing the hazards correction and control program.

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- If process hazards analyses are being conducted, describe how you decide which processes to analyze first.

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### *Employee Reports of Hazards*

- Describe how employees notify management when they observe conditions or practices that may pose safety and health hazards. The reporting system must include protection from reprisal, timely and adequate response, and correction of identified hazards.

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- Describe how “imminent danger” situations are reported by employees and handled by management.

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- Describe how corrections are tracked to completion.

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### *Accident Investigations*

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- Describe the system used to conduct accident and incident investigations.

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## Worksite Analyses

- Describe training and/or guidance given to investigators; provide criteria used for deciding which accidents/incidents will be investigated; and describe how near-miss incidents are handled.

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- Describe the “lessons learned” process being used at the site and demonstrate root cause analyses.

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- Describe the method of tracking recommendations and corrections to completion.

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### *Trend Analyses*

- Describe the system(s) used to conduct trend analyses of all data generated by the safety and health program, including employee reports of hazards, hazard assessment data, and injury and illness experience data.

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- Describe how the results of the trend analyses are disseminated and used by the line organizations.

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***Professional Expertise***

- Provide details concerning the use of certified professionals, such as occupational medicine personnel, industrial hygienists, and safety professionals in identifying, preventing, and controlling recognized hazards.

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- Describe what services are available near or at the site; how these professionals integrate their services with each other; and how communication is maintained.

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***Safety and Health Rules***

- Attach a copy of your site's safety and health rules and describe the disciplinary system used to enforce those rules. Demonstrate that the rules apply to and are communicated to **all** employees.
- Describe any positive reinforcement system you may use.

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***Personal Protective Equipment***

- Describe the requirements for selecting, using, maintaining, and distributing personal protective equipment.

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## Hazard Prevention and Control

- If respirators are used, attach or list the components or elements of your respiratory protection program—e.g., table of contents of written program. The entire program will be reviewed during the onsite visit.

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### *Preventive Maintenance*

- Summarize and briefly describe the procedures you use for preventive maintenance of equipment. Include information on scheduling, and describe how the maintenance timetable is followed.

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### *Emergency Preparedness*

- Describe the company's emergency planning and preparedness program. Include information on emergency and annual evacuation drills.

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- Describe how credible scenarios are chosen for emergency drills and their relationship to site specific hazards.

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### *Medical Programs*

- Describe how you integrate the medical program with the safety and health program.

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- Describe the availability of both onsite and offsite medical services or physicians. Indicate the coverage provided by employees trained in first aid, CPR, and other paramedical skills, and indicate what type of training these employees have received. Address coverage for all work shifts.

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- Describe how occupational health professionals are involved in routine hazard analyses, in recognizing and treating injuries and illnesses early on, in limiting severity of harm, and in managing injury and illness cases.

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### *Specific Occupational Safety and Health Programs*

- List the written occupational safety and health programs implemented at your site, such as a respiratory protection program, where applicable, bloodborne pathogen program, hazard communication program, process safety management program, and lockout/tagout program. (Do not include these programs in your application. They will be reviewed during the onsite visit.)

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*Employees*

- Describe formal and informal safety and health training programs for employees. Specifically address how employees are taught to recognize hazards related to their jobs.

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- Describe how often and in what way courses are evaluated and updated.

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- Describe testing you use to ensure that employees understand and retain course information.

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- Describe how and where training records are kept.

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- Describe how frequently training is performed and what prompts repeat training.

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### Supervisors

- Describe formal and informal safety and health training for supervisors.

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### Managers

- Describe how top-level managers are trained in their safety and health responsibilities.

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# OSHA Regional Offices

## Region I

**(CT,\* MA, ME, NH, RI, VT\*)**

JFK Federal Building  
Room E-430  
Boston, MA 02203  
Telephone: (617) 565-9860

## Region II

**(NJ, NY,\* PR,\* VI\*)**

201 Varick Street  
Room 670  
New York, NY 10014  
Telephone: (212) 337-2378

## Region III

**(DC, DE, MD,\* PA, VA,\* WV)**

Gateway Building, Suite 2100  
3535 Market Street  
Philadelphia, PA 19104  
Telephone: (215) 596-1201

## Region IV

**(AL, FL, GA, KY,\* MS, NC, SC,\* TN\*)**

Atlanta Federal Center  
61 Forsyth Street, SW,  
Room 6T50  
Atlanta, GA 30303  
Telephone: (404) 562-2300

## Region V

**(IL, IN,\* MI,\* MN,\* OH, WI)**

230 South Dearborn Street  
Room 3244  
Chicago, IL 60604  
Telephone: (312) 353-2220

## Region VI

**(AR, LA, NM, OK,\* TX)**

525 Griffin Street  
Room 602  
Dallas, TX 75202  
Telephone: (214) 767-4731

## Region VII

**(IA,\* KS, MO, NE)**

City Center Square  
1100 Main Street, Suite 800  
Kansas City, MO 64105  
Telephone: (816) 426-5861

## Region VIII

**(CO, MT, ND, SD, UT,\* WY\*)**

1999 Broadway, Suite 1690  
Denver, CO 80202-5716  
Telephone: (303) 844-1600

## Region IX

**(American Samoa, AZ,\* CA,\* Guam, HI,\* NV,\*  
Trust Territories of the Pacific)**

71 Stevenson Street  
Room 420  
San Francisco, CA 94105  
Telephone: (415) 975-4310

## Region X

**(AK,\* ID, OR,\* WA\*)**

1111 Third Avenue  
Suite 715  
Seattle, WA 98101-3212  
Telephone: (206) 553-5930

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\*These states and territories operate their own OSHA-approved job safety and health programs (Connecticut and New York plans cover public employees only). States with approved programs must have a standard that is identical to, or at least as effective as, the federal standard.

This publication does not itself alter or determine compliance responsibilities, which are set forth in OSHA standards themselves, and the *Occupational Safety and Health Act*. Moreover, because interpretations and enforcement policy may change over time, for additional guidance on OSHA compliance requirements, the reader should consult current administrative interpretations and decisions by the Occupational Safety and Health Review Commission and the courts.

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This information will be made available to sensory impaired individuals upon request. Voice phone: (202) 219-7266 Telecommunications Device for the Deaf (TDD) referral phone: 1-800-326-2577.

# What to Expect During OSHA's Visit



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U.S. Department of Labor  
Occupational Safety and Health Administration

1997

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# Introduction

Applying to participate in OSHA's Voluntary Protection Programs represents a major commitment of your time and resources to showcase your safety and health program. This publication will help prepare you for the second phase of application—the OSHA onsite visit. The companion workbook, *So You Want to Apply for VPP?*, outlines the elements your application should address.

Completing your application and responding to any OSHA questions about your safety and health program serves as an excellent start to getting ready for the onsite evaluation. When OSHA arrives, you'll be asked to demonstrate further your program's readiness for VPP approval.

OSHA uses a team approach for its VPP evaluations. Team members will include as a minimum three members: a *team leader*, a *safety professional*, and an *industrial hygienist*. On larger sites, or sites with more complex processes, the team usually will include a backup team leader and may include additional personnel. The onsite visit begins with an opening conference, continues with review of your documentation, includes a tour of your site, and involves formal and informal interviews with randomly selected managers, supervisors, and employees. OSHA then prepares its findings in a draft report, including the initial recommendation of the team, and presents the findings at a closing conference.

This guide outlines the specific documentation you will need for the visit and the steps OSHA follows in the onsite review. We hope it will make the process clearer.

We look forward to welcoming you into the VPP family.

The VPP is a strong component of the "New OSHA's" commitment to partnership with companies that want to do the right thing—improve worker safety and health.



## The Opening Conference

This initial briefing, beginning soon after the OSHA VPP team arrives at the site, usually is led by the OSHA VPP *team leader*. At some work sites, a plant representative opens the conference by welcoming the OSHA team and introducing the attending site representatives. The OSHA VPP team leader introduces the OSHA team and sets the tone for the team's work by defining the scope of the onsite review, clarifying expectations, and explaining the assistance the OSHA review team will need from the site personnel. Sometimes employee representatives will present an overview of the site to orient the OSHA VPP team members. A quick tour of the site for OSHA VPP team members may follow the opening conference.



## The Onsite Review

### Documentation Review

The team will review the documentation of all aspects of the safety and health program to determine if the program elements adequately address hazards at the site and if they meet the requirements for one of the voluntary programs. Organization and labeling of these documents will facilitate the team's review process. Examples of documents to be reviewed include the following:

- OSHA 200 injury/illness logs for the past 3 full calendar years and year-to-date, with supporting documents such as workers' compensation first reports of injuries, first-aid logs, and employee medical records. In advance of the onsite visit, the team leader will provide the site with a medical access order. The employer must post this order in an obvious place. The team will review site logs and site logs for contractors whose employees have worked on the site at least 500 hours a quarter.

- Baseline surveys for safety and health hazards, including all industrial hygiene sampling records and material safety data sheets (MSDSs).
- Evidence of line accountability, such as performance evaluations and bonus systems.
- Hazard analyses, such as change analyses, process hazard reviews, job hazard analyses, and phase hazard analyses.
- Employee reports of safety and health hazards and suggestions, including documented responses.
- Reports of site inspections and accident investigations, including documented responses.
- Preventive maintenance records.
- Emergency procedures, including critiques of drills and documented responses to recommendations for improvement.
- All specialized programs required for compliance with OSHA regulations, such as lockout/tagout, confined spaces, and bloodborne pathogens, to name a few.
- Safety Committee minutes, if applicable, and/or records of other methods of employee involvement.
- Training records, including types of training given, how curriculum is developed and reviewed, how understanding of training is assessed, and how an individual employee's training is documented.
- The annual evaluation of the site's safety and health program, including documented responses to the evaluation's suggestions for improvement.

Team members may request additional documents and records for review. Requests for documents must be properly and clearly communicated to the applicant.

## Site Tour

The OSHA VPP team will tour the work site to ensure that the safety and health program is implemented as described in the VPP application and in the documents reviewed at the site and that the program is effective for protecting persons working at the site. The site tour often is referred to as the walkthrough.

## Scope

All members of the OSHA VPP review team will tour the site to understand the operations and to observe working conditions. The team must see enough of the site to understand the hazards that exist and to determine that these hazards are being addressed systematically by the site's safety and health program. Any work performed by contract employees, whether supervised by site management or contractor management, should be included in the site tour.

The *safety reviewer* will:

- Follow the entire work process or operations, where possible.
- Note hazard categories—such as walking/ working surfaces, fire safety, hazardous materials storage and handling, storage and handling of general materials, confined space entry, machine guarding, lockout/tagout, electrical equipment, power tools, and welding equipment for appropriate management and any necessary improvements.
- Note needed improvements and suggest revisions to the corresponding safety and health management system, such as the site inspection, preventive maintenance, and employee reports of hazards.
- Discuss with site escort any hazards found, make descriptive notes of the hazard, and seek agreement with site personnel for time period and verification necessary for correction.

The *industrial hygienist* will:

- Follow the entire process/operation flow of the work site, where possible.
- Check known hazard areas, especially those noted through a review of monitoring records and MSDSs, for possible problems in work practices.
- Look for evidence that these hazards are appropriately controlled, and that no other hazards exist.
- Note areas that need improvement.
- Where improvements are needed in work procedures, suggest program revisions to the corresponding safety and health management system element, such as the respiratory protection program, the industrial hygiene survey procedures, or the hazard communications program.

### *Problem Areas*

If repeated hazards have been noted during the document review, or during previous onsite visits, the review team will give special attention to these issues.

### *Informal Interviews*

During the site tour, team members will interview randomly selected employees at their work stations. These interviews should include supervisors, maintenance personnel, safety committee members, contract and temporary workers in all areas of the site. Typical questions will address work procedures, emergency procedures, and personal protective equipment. Interviews will be conducted in a manner that avoids disruption of normal operations and that encourages candid conversation.

Contract employees will be included in the interviews to ensure that equally effective protection is provided to all employees involved in the site's operation.

## Formal Interviews

At some time other than during the site tour, the team leader will randomly select persons to be interviewed from an employee roster, with the goal of interviewing a cross section of employees, including managers and supervisors. These interviews take place in a private setting and usually last about one-half hour each.

### *Management*

Interviews with management will provide team members with information about the site's safety and health program and its management oversight system.

### *Employee*

Employee interviews will help gauge the extent of employee awareness and involvement in the safety and health program.



## Daily Meetings

At the end of each day, the OSHA VPP team will meet to discuss their findings and to plan their work for the next day. Following each meeting, the team will meet with site representatives to discuss the day's work and to coordinate plans for the next day.

## Recommendations

**Prior to the closing conference**, usually on the last full day of the onsite review, the team will meet to decide what their recommendation will be and to write the first draft of the onsite review report. Criteria for their recommendation will be as follows:

- Safety and health conditions at the site, including hazards found, plans to correct those hazards, and program improvements to prevent recurrence of those hazards.

- Information gathered from employee interviews.
- A successfully implemented safety and health program that meets the requirements for one of the Voluntary Protection Programs.

The team will pay particular attention to consistency—how good the match is—between the description of the safety and health program provided in the application, the documentation provided at the site, the conditions of the site, and the employees experience with the site’s safety and health program



The team leader will address, with appropriate site personnel, any unresolved issues noted by the team. The team will then choose among the following alternatives:

### Pre-Approval Review


- The applicant has met all the requirements for one of the Voluntary Protection Programs: Star, Merit, or Demonstration.
- The applicant needs to make the changes noted by the OSHA VPP team to meet the VPP requirements.
- The site is ineligible for VPP. The team will request that the site withdraw its application.

### Evaluation Review

- If a team evaluating a Merit site finds all Merit goals have been met, the team will recommend Star participation.
- If good progress is being made toward meeting Merit goals and time remains in the Merit approval period, the team will recommend continuation in the Merit Program.

- If good progress is being made toward meeting Merit goals, but they have not yet been met completely, and the Merit approval period has expired, the team may recommend an extension of this period when extraordinary circumstances exist, such as a change in management or substantial reorganization. Otherwise, the team will recommend that the site withdraw its participation.
- If the team evaluating a Star site finds that most requirements are being met, but that the safety and health program has weakened, the team may recommend a 1-year conditional period with specified goals for strengthening the program within that 1 year.
- If the team evaluating a Star site finds all VPP requirements continue to be met, the team will recommend continuation in the Star Program.
- If the team evaluating a Demonstration site finds the program elements continue to be strongly implemented, the team will recommend continuation in the Demonstration Program.
- If the team is evaluating a Demonstration site and the term of the Demonstration is completed, the team will either recommend that the demonstration has been successful, that the site should be approved to Star, and that the VPP requirements should be changed to reflect that success; **or** recommend that the demonstration has not been successful, and that the site must withdraw from the VPP.
- If the team finds the site's safety and health program to be grossly deficient, the team will recommend that the site withdraw from the VPP.





## Presentation of Findings and Recommendations

### Closing Conference

Site management and employee representatives will receive a formal briefing, usually called the closing conference, at the conclusion of the onsite review.

### Team Recommendation

During the closing conference, the team's recommendation to the Regional Administrator or to the Assistant Secretary of Labor for Occupational Safety and Health will be presented. Note that the team makes a **recommendation**, not an approval decision.

### Site Review of Findings

Either during the closing conference or shortly thereafter, the site will be given the opportunity to review the team's findings as presented in the draft report. Attached to this draft report may be a list of 90-day items, which are a description of hazards found that must be corrected within 90 days. Interim measures to protect employees have already been taken. The site may correct any misstatement of fact occurring in this report before the report is submitted to the OSHA Regional Administrator.



## After the Onsite Visit

The *team leader* will submit a final draft of the onsite report to the regional *VPP manager*, who will review it, and send it to the Regional Administrator for approval, if the report is an evaluation recommending continuation in the same program.

If the report recommends a new approval or a change in program, such as Merit to Star, the Regional Administrator will add his recommendation for approval and forward the report to the Directorate of Federal-State Operations in Washington, DC.

Then the VPP national office staff will review the report and prepare a letter to the site's Chief Executive Officer (CEO) for the Assistant Secretary of Labor's signature, indicating approval. The Assistant Secretary of Labor also will send an acknowledgment letter to the site CEO when the Regional Administrator has approved continuation in a program. After approval, the regional VPP manager will order the appropriate symbols of approval, such as the certificate, flag, or plaque, and will communicate with the site about the best time for their presentation.