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October 20, 2017

New Mexico Occupational Health and Safety Bureau (OHSB) Directive 17-09

Subject: OHSB Safety and Health Achievement Recognition Program (SHARP) Policy

A. Purpose

This instruction provides guidance for the implementation of a SHARP Pilot program for use with the construction industry.

B. Scope

This notice applies to the State of New Mexico OHSB.

C. References

1. CSP 02-00-002 Consultation Policies and Procedure Manual (CPPM), Chapter 8
2. New Mexico Field Operations Manual (FOM)

D. Cancellation

This notice cancels OHSB Directive 12-10, published February 4, 2013

E. Significant Changes

This pilot program differs from the SHARP program defined in CSP 02-00-002 in the following ways:

1. Worksite Definition

A worksite will be defined as a contiguous geographic zone in which an employer in the construction industry will be employed. The SHARP designation will apply only while the employer is working at the pre-defined geographic area. The geographic area would normally coincide with a specific jobsite; however, OHSB needs to specifically control and define the geographic area to ensure that the topography is similar across the area and that the general scope, size of the building structures, and construction operations will be similar throughout the zone.

2. Requirement for Sub-contractors

Employers who wish to be enrolled in the program are required to have sub-contractors engaged in specific high-hazard industries request a consultation visit.

3. Evaluation of Historical Injury/illness Rates

If the employer has been engaged at this worksite for more than one year and has maintained OSHA 300 logs for that site, the injury and illness rates will be calculated from this local data.

Due to the transitory nature of the worksite location, the evaluation of the employer's injury /illness rates may involve data from other worksites.

4. Duration of the Program

An employer's enrollment in the program will be for up to two years, or less if the work at the jobsite is completed.

F. Goals and Objectives

The goal of this pilot program is to affect reductions in occupational illnesses and injuries within the construction industry in New Mexico. The underlying plan will be to first enroll the dominant general contractors in this SHARP Pilot. The purpose of creating this pilot program is to use these general contractors to improve the safety and health programs of the sub-contractors they employ at their worksites.

To be recognized as a SHARP participant, the general contractors will be required to have their high-hazard sub-contractors request a full-service consultation visit and to correct all hazards identified at the worksite. This will allow OHSB to cooperatively interact with numerous employers engaged in the construction process. We will encourage these sub-contractors to also participate in the SHARP Pilot.

OHSB believes there will be a significant carry-over effect of engaging these sub-contractors in this manner. By working cooperatively with our consultants, we believe we can change their perception of OSHA and improve their general safety culture. It is believed that these employers will utilize the safety and health management systems developed at the SHARP sites at other construction projects.

OHSB is a firm supporter of SHARP and this pilot will allow us to engage a significant high hazard industry in this worthwhile recognition and exemption program.

G. Definition of the SHARP Pilot for Construction

This SHARP Pilot program is designed to provide incentives and support to construction employers that implement and continuously improve effective safety and health management systems at their worksite. Participants in this pilot program are exempted from OSHA programmed inspections. (See 29 CFR 1908.7(b)(4)). The requirements for this SHARP Pilot program are defined in this document and are

modeled after the OSHA approved SHARP program as defined in the Consultation Policies and Procedures Manual, Chapter 8.

H. Employer Eligibility.

1. Employers who request a consultation visit may be considered for participation in this SHARP Pilot for Construction. Priority participation will be given to employers with 250 or less employees onsite and with less than 500 employees controlled by the corporation. To begin this process, Consultation Projects must inform employers that they must:
 - a. Request a consultation visit for themselves that involves a full-service safety and health hazard identification survey, including a comprehensive assessment of the worksite's safety and health management system; and
 - b. Have plans to operate at this worksite (defined in Section E.1 above) for a period of at least one year; and
 - c. Require that all high hazard industry sub-contractors at this jobsite request a full-service safety and health hazard identification survey, including a comprehensive assessment of the worksite's safety and health management system. The sub-contractor must agree to provide a copy of the visit findings to the general contractor.

2. For this pilot program, high hazard industries are defined as those involved in the construction industry with national BLS Total Recordable Rates at least 10% higher than the national average for all industries. National data is used rather than state data because state reporting historically lacks sufficient specificity. The industries may change each year as BLS reports the data; currently the industries of interest are:
 - a. 23811 Poured concrete foundation and structure contractors
 - b. 23813 Framing contractors
 - c. 23814 Masonry contractors
 - d. 23815 Glass and glazing contractors
 - e. 23816 Roofing contractors
 - f. 23817 Siding contractors
 - g. 23822 Plumbing, heating, and air conditioning contractors
 - h. 23831 Drywall and insulation contractors

I. Program Requirements.

To be approved for participation in this SHARP pilot program and to receive the associated benefits, the employer must meet all the following criteria:

1. Provide proof of correction of all hazards identified during the consultation survey and assessment.
2. Receive a score of at least "2" on all applicable attributes of the Form 33.
3. Agree to notify the Consultation Program Manager (CPM) and request a subsequent on-site consultation visit when changes in working conditions or work processes occur that may introduce new hazards into the workplace.
4. Provide the CPM a copy of injury and illness logs for all high hazard sub-contractors that they hire to work at the worksite.
5. Submit a request for SHARP participation to the CPM.
6. Develop a mutually agreed upon Achievement Plan which will provide an outline for the continuous improvement of the employer's safety and health management system.
7. Have no final order willful or repeat citations at worksites controlled by the employer within the last 24 months from the date of the SHARP opening conference.
8. If the employer is in a position of controlling other employers at the worksite, their written safety and health plan must address its controlling employer responsibilities and functions.
9. Require all high hazard sub-contractors at the worksite to request a consultation visit.
10. Require sub-contractors to provide a copy of the findings of the consultation visit described in item 9 above.

J. Injury / Illness Rates.

An employer's history of jobsite injuries and illnesses must be evaluated in order to be considered for approval to SHARP. Because the worksite for which they are applying may be newly established, the employer may not have one year of history for that worksite. In such situations, the employer may maintain records that cover worksites for individual company divisions or geographic regions, in accordance with the provisions of 29 CFR 1904. The calculations for DART and TRC rates should be compared to published BLS industry averages. To qualify for SHARP, the employer's DART and TRC rates should be below the national DART and TRC averages for their specific industry.

If a small number of incidents cause the employer's DART and TRC rates to be high (due to the small number of employees), the employer's history with OSHA compliance

and consultation must be evaluated and approved by the Bureau Chief to determine eligibility.

K. Consultation Program Manager's Responsibilities

1. Verification of employer's eligibility.

The CPM must ensure that the employer satisfies all SHARP participation criteria, and that all elements of an effective safety and health management system are fully operational as defined by the CPPM.

2. Submission of SHARP requests for approval.

After ensuring that the employer has met all of the requirements, the CPM must reaffirm the employer's interest in SHARP participation. The CPM must then submit the request to the Bureau Chief for approval.

3. Notification of the Regional Consultation Program Manager

The Bureau Chief will notify the Regional Consultation Program Manager of all membership changes to this SHARP Pilot program.

4. Notification of approval.

After the Bureau Chief has made a decision regarding the request, the CPM will notify the employer of the decision. If the employer is approved, the CPM will:

- a. Ensure the OHSB web page is updated with the member's status; and
- b. Provide the Compliance Program Manager notice of the employer's exemption from programmed inspections in the specific geographic area; and
- c. Provide a SHARP certificate to the employer.

L. Duration of SHARP

All initial SHARP pilot approvals will be for a period of up to two years, commencing from the date the Bureau Chief approves an employer's participation. The enrollment period will be defined by the Bureau Chief at the time the approval is granted.

The deferral period from OHSB programmed inspections will begin on the date that the Bureau Chief approves an employer's SHARP participation. The exemption period will end if all work is completed at the worksite prior to the enrollment expiration.

M. Renewal Requirements

The CPM will notify SHARP members within 90 days of the expiration of their SHARP enrollment to determine if the employer is seeking a renewal. If the employer is seeking a renewal, the CPM may begin to process the employer's request for SHARP renewal specifically examining the following conditions:

1. The Consultation Program has verified that the employer has continued to meet the program requirements defined in Sections H.1 and H.2 above.
2. The Consultation Program has conducted an additional full service safety and health visit, and conducted a comprehensive program assessment to ensure that the employer's safety and health management system has been effectively maintained or improved.

N. Renewal Approval

Renewal for SHARP participation should be approved by the Bureau Chief prior to the expiration date of SHARP status. A renewal for an employer whose status has lapsed can be made at the discretion of the Bureau Chief after examining the reasons for the delay.

O. OHSB Inspections at SHARP Worksites

Employers that meet all the requirements for SHARP status will have the names of their qualified establishments in the specific geographic area removed from OHSB's programmed inspection schedule. However, employers who have achieved SHARP status will be subject to the following rules for receiving un-programmed enforcement inspections:

1. SHARP participants will receive un-programmed inspections only in response to reports of imminent danger, referrals involving serious injury, and complaints. OHSB will use inquiries to handle all referrals other than those alleging a serious injury has occurred. When an inspection of a referral is deemed necessary, a copy of the referral will be provided to the employer's designated representative at the time of enforcement inspection.
2. In accordance with procedures contained in the CPPM and FOM, concurrent compliance and consultation activity should not take place at a worksite. OHSB Consultation activity will therefore be suspended while a worksite is undergoing a compliance inspection.
3. OHSB will not issue citations for other-than-serious violations provided the violations are abated at the time of inspection. All hazards will be documented in the case file with appropriate documentation of the hazard abatement verification in accordance with the FOM.
4. If cited by OHSB for non-willful or non-repeat hazards, SHARP participants will receive appropriate consideration for good faith and history penalty reductions currently available under existing OHSB policy.

P. Evaluation of the SHARP Pilot Program

On an annual basis, the Consultation Program Manager will prepare a written evaluation of the pilot program to determine its effectiveness. Elements that will be included as part of the evaluation will include:

1. The number of members enrolled in the pilot program.
2. A comparison of the BLS injury and illness rates of the jobsites enrolled in the program with overall state and federal rates.
3. A review of any fatalities or serious injuries that occur at the enrolled jobsites.
4. A review of the member's ability to abide by the requirements of the program.

By and Under the Authority of

A handwritten signature in blue ink, appearing to read "R. Genoway", with a long horizontal line extending to the right.

Robert Genoway
Chief, Occupational Health and Safety Bureau