



State of Oregon
Department of Consumer and Business Services
Oregon Occupational Safety and Health Division

Consultative Services Reference Guide

November 2011

The information presented in this reference guide is designed to describe the framework of service delivery and philosophy of the Consultative Services Section of the Oregon Occupational Safety and Health Division (Oregon OSHA). This guide also presents material which is established by Oregon statute (law) or administrative rule.

TABLE OF CONTENTS

A. MISSION AND GOAL	4
B. STATE-FUNDED vs. FEDERAL-FUNDED CONSULTANTS	4
C. SERVICES BY TYPE: COMPREHENSIVE vs. SPECIFIC	5
D. SAFETY AND HEALTH MANAGEMENT SYSTEM ASSESSMENT	7
E. SAFETY AND HEALTH ACHIEVEMENT RECOGNITION PROGRAM (SHARP)	8
F. REQUESTS AND SCHEDULING OF ON-SITE CONSULTATIONS	8
G. CONDUCT OF A VISIT	12
H. RELATIONSHIP TO ENFORCEMENT ACTIVITY	17

A. MISSION AND GOAL

MISSION

The Oregon OSHA consultation program mission is to provide comprehensive safety and health solutions for Oregon employers. Our consultants are highly trained and qualified to provide safety and health recommendations to Oregon employers. Consultants will assist employers in identifying potential health and safety problems in their facilities and provide suggestions, general approaches, and options for solving those problems. The program is designed to help employers identify potential hazards at their worksites and improve their occupational safety and health management system.

GOAL

The overall goal of the consultation program is to assist Oregon employers in implementing and maintaining an effective safety and health management system and to ultimately become self-sufficient in managing their system. The Oregon consultation program will strive to provide employers assistance in the following areas:

1. Help identify, mitigate, and control hazards or work practices that could cause injuries or health problems.
2. Evaluate and assist employers in reviewing/developing required written safety and health programs.
3. Lead a review of incident/accident investigations and help determine trends, prevention, and accountability.
4. Provide guidance on employee involvement, training, and best practices to improve the overall safety and health effort.

The consultation program will focus our resources on small, high hazard employers based on the established prioritization backlog system. For additional information please refer to the Priority System.

The value of the service the consultation program provides; our impact on the health and safety of Oregon workers is in part defined by the number of consultations we provide. The consultation program services expectation for Safety consultants is to conduct an average of 7 consultations per month. Health and Ergo consultants are expected to conduct an average of 5 consultations per month. These averages may vary based on the complexity of the individual consultation services provided.

B. STATE-FUNDED vs. FEDERAL-FUNDED CONSULTANTS

STATE-FUNDED CONSULTANTS

The majority of Oregon OSHA consultants are 100% funded by the State of Oregon. This guide is intended to provide state-funded consultants with the information necessary to conduct and administer consultations.

FEDERAL-FUNDED CONSULTANTS (21(d))

Oregon OSHA has four consultation positions funded through a federal 21(d) grant. These consultants must follow federal guidelines for conducting consultations. In addition to the procedures presented in this guide, 21(d) consultants should refer to the Consultation Policies and Procedures Manual (CPPM) and the current federal directives for further requirements.

C. SERVICES BY TYPE: COMPREHENSIVE vs. SPECIFIC

Oregon OSHA offers customers a variety of consultation services. These services include consultations focusing on safety, health, ergonomic, safety and health management system evaluation, SHARP and VPP evaluations, process safety management, and others. Some consultations are comprehensive in scope and some are limited to a specific request by the employer.

COMPREHENSIVE CONSULTATIONS

A **comprehensive consultation** is defined in OAR 437-001-0015 as “a consultation to cover the entire establishment and entails a physical hazard assessment evaluation, review of records, written programs and the employer’s illness and injury prevention plan. Comprehensive consultations include a written report by the provider including findings, recommendations, and the guidance necessary to resolve the problems noted in the report.”

Comprehensive consultations are the preferred method of delivering service to employers who have not requested consultative services within the past year. They include a detailed review of the entire establishment plus a review of the employer’s injury and illness records, written programs, safety committee/meetings operations, an assessment of all workplace hazards, and a review and discussion of the employer’s safety and health management system. Consultants should keep their manager informed of any complex comprehensive consultations. There may be a need to send a team of consultants to evaluate such a site.

SPECIFIC CONSULTATIONS

Specific consultations generally deal with a specific part of an operation, machine or process. Specific consultations include a written report but are typically not as detailed as comprehensive reports. The report should include a review of the employer’s injury and illness records, safety committee/meetings and operation, an assessment of the specific hazards the consultation was requested for, and a general discussion of applicable safety and health management system elements. The following are examples of specific consultations:

Informational Consultation: These are contacts with an employer where the consultant spends one hour or more providing guidance on safety and health program improvements. This includes an informal meeting or conversation during which the consultant helps the employer plan, implement, and follow through on initiatives that impact the employer’s safety and health program. Merely providing code information does not constitute an informational consultation.

Training Consultation: Training consultations are those in which specific training is provided to an employer or group of employers based on their needs. Requests for training courses currently provided by Oregon OSHA should be directed to the Public Education Section's online courses. On Site Training requests (OST) should be conducted after consultative services have been provided. Attending training does not constitute a consultation.

SHARP Action Planning Consultation: After a comprehensive SHARP evaluation is complete, the lead consultant follows up with a specific consultation to guide the employer with their action planning for the upcoming year.

Pre-Job Assistance: This service is primarily requested by employers on mobile job sites, such as logging and construction, although it is not limited to these industries. We may review plans and programs ahead of a particular project and discuss strengths and deficiencies of the site specific plan. Fixed-site employers should also be encouraged to use this particular method of prevention when appropriate.

Safety Committee/Meetings Evaluations: A safety committee or safety meetings evaluation is considered a specific consultation when it is not part of a comprehensive consultation.

Agricultural Labor Housing (ALH) Consultations: ALH operators typically request a consultation for one of five reasons. The operator may 1) want a normal hazard assessment, 2) have received Farm Worker Housing Tax Credits and be required to have a pre-occupancy consultation, 3) be registering housing for the first time, (must be conducted by a state-funded consultant only), 4) be applying to the state Employment Department for workers (H2A), 5) or may be fulfilling requirements of the Migrant Seasonal Worker Protection Act (MSWPA). The person taking the request for an ALH pre-occupancy inspection should document the reason for the request in the additional information field in the database. (See special instructions for agriculture labor housing consultations in Section G.)

Program Review: This type of consultation may follow a comprehensive consultation where programs were found to be deficient and additional assistance is needed.

Follow-Up Consultations: This type of specific consultation is conducted when the employer requests Oregon OSHA follow-up on recommendations made on a previous visit.

Process Safety Management: Consultations conducted to address any one of the thirteen process safety management subparts are considered specific.

Speaking Engagements: Employer requests for speaking engagements are considered specific consultations and generally go through Public Education for assignment and tracking.

Presenting at Conferences or Association Meetings: Delivering a presentation for a conference or an association meeting is considered a specific consultation. Participating as an attendee is not a consultation.

Voluntary Protection Program (VPP): All VPP consultations are to be coordinated by the SHARP/VPP Program Manager. VPP application reviews and on-site assistance do not include a written report, but are considered a specific consultation. VPP on-site reviews are considered a specific consultation and do include a written report that is co-authored by the on-site review team.

Existing VPP sites requesting for consultations will be evaluated by managers on a case-by-case basis, looking at the reasons for the request, what the site has done to address the issues and the resources of the site to address the issue themselves. Oregon OSHA's expectation of a VPP site is that they are able to address safety and health issues and do not depend on Oregon OSHA consultation as the first line of defense.

D. SAFETY AND HEALTH MANAGEMENT SYSTEM ASSESSMENT

A safety and health management system review can be conducted during a specific consultation or as part of a comprehensive consultation. To stay consistent with the SHARP process of evaluating an employer's safety and health management system, use the seven sections of evaluation listed in the Safety and Health Management System Assessment Worksheet (SHMSAW):

- 1) Hazard Anticipation and Detection
- 2) Hazard prevention and Control
- 3) Planning and Evaluation
- 4) Administration and Supervision
- 5) Safety and Health Training
- 6) Management Leadership
- 7) Employee Participation

These key elements form the basis of the consultant's evaluation and recommendations for change.

It is not necessary to fill out the SHMSAW when conducting a non-SHARP evaluation, but may be useful to do so. It is not necessary to address every sub-element of the SHMSAW, unless the evaluation leads you there. The SHMSAW and the other SHARP assessment tools on the SHARP web page are useful for conducting safety and health management system assessments, and help us provide a uniform message on safety and health management. They are readily accessible to the employer as well.

During a consultation, emphasis will be on enabling the organization to complete future prevention efforts independent of the consultant. For employers with multiple locations, the consultant should encourage the employer to include managers from other locations to attend a consultation at another location. Visits may be made to multiple locations or establishments; however the employer should demonstrate a willingness to apply the knowledge gained during any consultation at other locations where appropriate.

E. SAFETY AND HEALTH ACHIEVEMENT RECOGNITION PROGRAM (SHARP)

OVERVIEW

SHARP is a recognition program which provides an incentive and road map for employers to work with their employees to find and correct hazards, to develop and implement effective safety and health management systems, and to become self-sufficient in managing occupational safety and health. The overall goal of SHARP is to recognize employers for their achievements in workplace safety and health management and in reducing injuries and illnesses. A SHARP employer is one who has successfully incorporated safety and health management principles into their workplace.

Participation in the Oregon OSHA SHARP program does not diminish existing employer and employee rights and responsibilities under the Oregon Safe Employment Act.

The process of becoming certified as a SHARP company requires a thorough assessment of the employer's safety and health management system. Details of the SHARP program are outlined in Appendix M.

SHARP & SCHEDULED INSPECTION DEFERRALS

An employer who has reached second and subsequent year SHARP approval may be deferred from scheduled Oregon OSHA inspections. Inspection deferral is an acknowledgment by the agency that enforcement resources would be better utilized at work sites where employees may be at higher risk of injury and/or illness. SHARP deferrals are forwarded to the Manager of Enforcement from the Manager of Consultation and Outreach. Deferrals are made on an annual basis for second through fourth year SHARP employers, and for SHARP graduates, a three year deferral may be granted. Deferrals do not include the following categories of enforcement inspections: imminent danger, fatality/catastrophe, accidents, complaints, and referrals.

F. REQUESTS AND SCHEDULING OF ON-SITE CONSULTATIONS

INTAKE

On-site consultative services are to be provided only at the request of the employer or the employer's authorized representative. The person receiving the request should inform the employer that a comprehensive consultation will typically include a review of the establishment's injury and illness records, employee interviews, written programs, safety

committee functions and operation, workplace hazards, and an informal review of the employer's safety and health management system.

If comprehensive safety and health management system assistance is requested, the employer will be advised of the time commitment to complete a comprehensive consultation.

If an indoor air quality consultation is requested, an industrial hygienist consultant will complete the intake (see Program Directive A-252 for additional information regarding assessing requests for assistance with indoor air quality issues).

If an agriculture labor housing consultation is requested, it must be determined upon intake if it is for the purpose of registering the facility with enforcement or H2A qualifications. If so, the consultation must be done by a state-funded consultant.

If unassigned consultation requests in the system are older than six weeks at the time a request is taken, the employer should be advised that this backlog will delay scheduling the visit. The person taking the request should provide, in the interim, any necessary health and safety code material and/or self-inspection checklists which the employer may need to speed compliance.

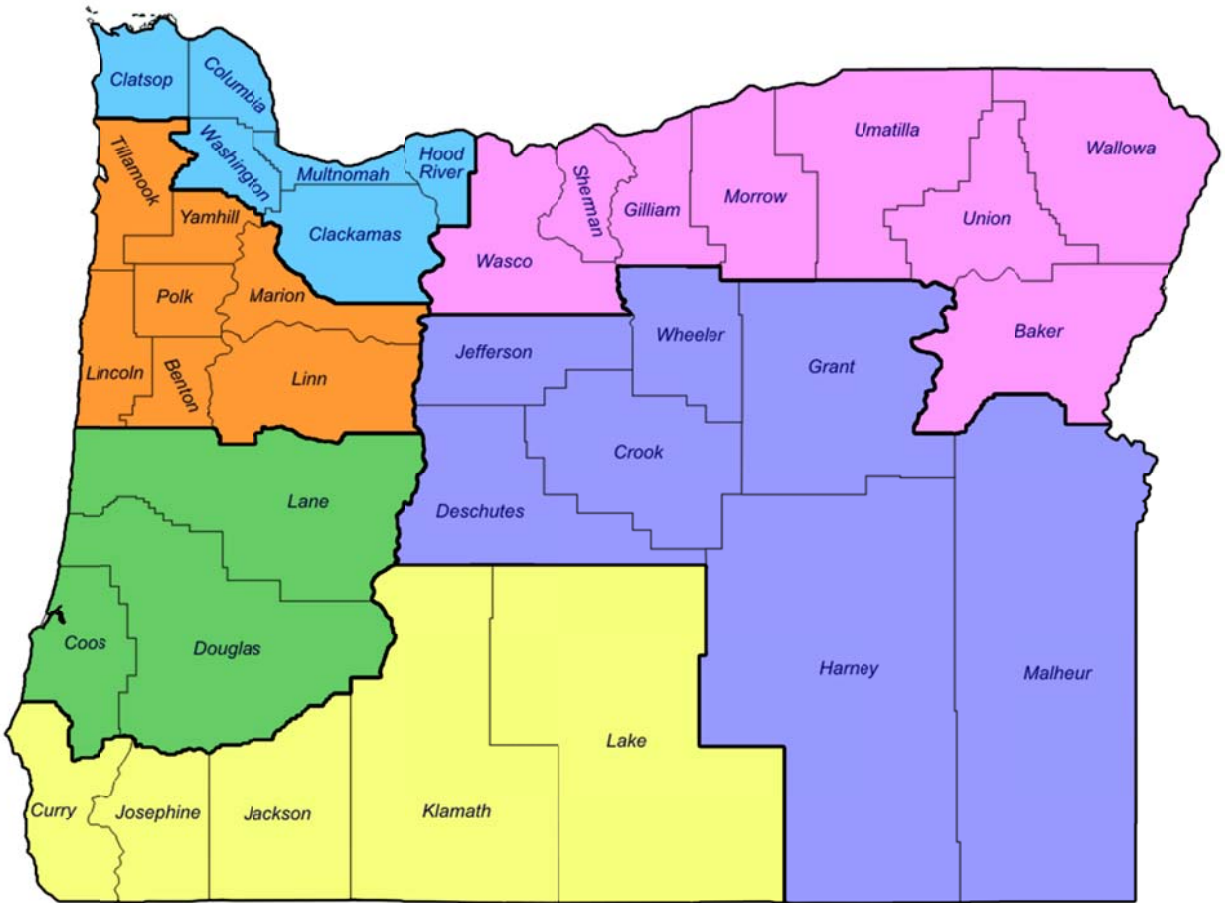
The person recording the consultation request should ask if the employer is actively under Enforcement. If under Enforcement, or if the Appeal process is pending, the person taking the request should tell the requestor that their request will be placed on the backlog, but OR-OSHA consultation cannot assist them until all enforcement issues are settled as defined in section H.

REQUEST & SCHEDULING PROCEDURE

An intake form (see Appendix A) must be completed for every consultation request and reviewed by a field manager prior to any visit from OR-OSHA.

1. The following criteria must be used for self-assignments from the backlog/unassigned:
 - a. Assignments must be within the consultant's area of expertise (safety, health, ergonomics, or PSM).
 - b. Assignments must be taken from within the geographic area of the consultant's field office unless otherwise directed by the Field Manager.
 - c. Requests must be taken based on the priority system which usually is oldest first.
 - d. Assignments can be made during discipline team meetings.
2. Prior to contacting an employer to schedule a visit, the consultant must self-assign the intake in the database by entering their identification number in the consultant identification field.
3. Generally, consultations should be scheduled within one month of self-assigning.

4. When scheduling consultations, consultants should make every attempt to schedule enough time or consecutive days to complete the visit.
5. Delayed consultations: If the employer cannot schedule the consultation within the next 30 days, or the consultation is delayed due to enforcement activity, the consultant should change the Priority field from to **D** (Delayed). Consultants should attempt to set a date or an approximate timeframe for the future on-site visit.
 - a. A note must be made on the additional assignment information screen in the consultation database with the specifics of the delay; including the date or approximate timeframe for scheduling the on-site visit (i.e. wants a new process evaluated/presentation/enforcement, etc. next month).
 - b. The request will remain in the personal backlog of the consultant who first made contact and they will be responsible for following up with the employer to schedule an on-site visit.
 - c. Delayed consultations should be tracked by consultants and managers to ensure prompt service once the forecast time is reached. Consultants should keep their manager informed of delayed requests and the reasons behind the delays to help ensure program consistency. The manager may request the process for withdrawal be initiated for delayed requests that remain unscheduled for a significant amount of time.
6. Situations which do not lend themselves to the above procedures will be evaluated on a case-by-case basis by the consultation services management team. Prior management approval must be obtained if the above procedures cannot be followed.
7. Counties are divided among Consultation field offices as follows:
 - Portland Field Office (1)**
Clackamas, Clatsop, Columbia, Hood River, Multnomah, Washington
 - Salem Field Office (3)**
Benton, Lincoln, Linn, Marion, Polk, Tillamook, Yamhill
 - Eugene Field Office (4)**
Coos, Douglas, Lane
 - Pendleton Field Office (5)**
Baker, Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco
 - Bend Field Office (5)**
Crook, Deschutes, Grant, Harney, Jefferson, Malheur, Wheeler
 - Medford Field Office (6)**
Curry, Jackson, Josephine, Klamath, Lake



- 1. Portland: Clackamas, Clatsop, Columbia, Hood River, Multnomah, Washington
- 3. Salem: Benton, Lincoln, Marion, Linn, Polk, Tillamook, Yamhill
- 4. Eugene: Coos, Douglas, Lane
- 5. Bend: Crook, Deschutes, Grant, Harney, Jefferson, Malheur, Wheeler
- 6. Medford: Curry, Jackson, Josephine, Klamath, Lake
- 5. Pendleton: Baker, Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco

G. CONDUCT OF A VISIT

PREPARATION

Prior to the visit, the consultant will become familiar with as many factors concerning the establishment's operation as possible. Information gathered from the employer upon intake should be reviewed as well as all employer data available in the data base. A review of literature on safety and health factors in similar operations should also be conducted along with a review of all applicable codes and standards.

The consultant should evaluate past injury records, available workers' compensation records, sampling data, any previous compliance or consultative visit reports, and site-specific workers' compensation data available on the query screens provided in the consultation data system and from the Employer Data System (EDS). A claims history report is available to consultants under the reports catalog. This report contains additional information regarding claims. To obtain a claims history report, the business name, employer number, and location will be needed.

The consultant should verify prior to going on site if the employer has any enforcement activities and verify that all activity is completed. Enforcement activities are considered to be ongoing until the entire case is settled and closed. Consultants need to verify the status of any enforcement activity on the EDS system prior to providing consultative services. Determine if the employer is self-insured. If so, self-insured employers must be notified during the opening conference of the requirements specific to them as written in Division 1, 437-001-1060.

Prior to the consultation, the consultant should ensure that all necessary technical and personal protective equipment is available and functioning properly.

TEAM CONSULTATIONS

Each employer who has requested a multi-discipline consultation (health, safety, & ergo) will be a likely candidate for a team consultation. Team consultations should be periodically scheduled to share consultation skills and to evaluate each other's application of these operating procedures.

OPENING

During the opening meeting, explain to employers that Oregon OSHA considers all information gathered during the consultation and in the report to be confidential. For their protection they can sign a statement indicating their desire for the information to remain confidential. It should be explained that while this is no guarantee, it is designed to afford them further protection in the event of a legal challenge for the information. The employer's signature is completely voluntary and for their own protection from disclosure (Appendix D).

Use the checklist to establish the scope of the consultation and to discuss the following:

1. Oregon OSHA, our mission, and the general process of a consultation.

2. The relationship between consultation and enforcement activity including the inspection deferral (see Section H). Employers should be assured that under no circumstances is information gathered by Oregon OSHA Consultation provided to the Oregon OSHA Enforcement section.
3. The importance of a safety and health management system and that a review of the existing system is included in a comprehensive consultation.
4. The employer's obligations to protect employees in the event that hazards are identified. Imminent danger situations could result in either death or serious injury. The consultant must inform the employer that they must take immediate action to eliminate employee exposure to such hazards. If the employer fails to take the necessary action, the consultation will be terminated and the consultant should attempt to notify the affected employees and must immediately notify his/her local Field Consultation Manager. The Field Consultation Manager shall notify the Manager of Consultation and Outreach, who shall then notify the company of their obligation to correct the problem. Appropriate referrals may be made if the employer refuses to take the appropriate immediate action.
5. The importance of employee participation in the consultation process, including employee interviews, participation in the walk-around, and sharing the final report. The consultant should confer with individual employees during the course of the visit to identify and judge the nature and extent of particular hazards, and to evaluate the employer's safety and health management system. (The employer must agree to permit employee interviews before the consultation can proceed.)
6. Employer obligations under the 21(d) program if the consultant is funded under the 21(d) grant.
7. Confidentiality of trade secrets that might be revealed during the visit.
8. PPE required for the consultation.

ASSESSING SAFETY AND HEALTH MANAGEMENT SYSTEM EFFECTIVENESS

Assessing the effectiveness of an employer's safety and health management system is accomplished through reviewing records, interviewing employees and supervisors, and examining site conditions.

- Records Review

The on-site records review should include a comprehensive review of safety committee records, incident and accident reports, injury and illness records, written safety and health programs, and policies and procedures. The consultant will also gather the information needed to compute the company's DART rate and compare it to the industry average.

Employee and Supervisor Interviews

Interviewing randomly selected employees and supervisors at all levels of an organization is critical to a comprehensive assessment. These conversations can be a good indication of the effectiveness of the overall system. Discussions should include issues such as how employees are protected from existing hazards, how hazards are reported, how reported hazards are addressed, and where to go in an emergency. Documentation of these interviews is strongly recommended and should be included in the final field office file.

Site Condition Evaluation

An evaluation of the overall condition of the workplace can reveal existing hazards that are indications of the effectiveness of the existing safety and health management system. The root cause of identified hazards should be analyzed to identify the weakness in the system that allowed the hazards to be uncontrolled. The consultant should explain during the consultation, and in the written report when appropriate, how the hazard relates to the absence or deficiency of one or more safety and health management systems elements.

Consultants may evaluate work sites during other shifts (swing, graveyard, etc.) to provide the employer a true perspective of the potential hazards.

The employer should be encouraged to advise affected employees of identified hazards, establish an action plan for correction, and notify employees of correction. Technical assistance on the correction of identified safety and health hazards may be provided to employers during and after the on-site visit. The consultant can also advise employers of other assistance available to them, but should avoid recommending a specific provider. Where possible and within applicable Oregon OSHA standards, rules and regulations, the consultant may provide additional correction strategies.

When a code related hazard or program deficiency is identified in the workplace, the consultant shall indicate to the employer whether the situation would be classified as a "SERIOUS" or "OTHER THAN SERIOUS" item. The determination of "SERIOUS" and "OTHER THAN SERIOUS" items should be made according to OAR 437-01-140.

CLOSING MEETING

The closing meeting will normally be conducted on the last day on-site. The purpose of the closing meeting is to review identified hazards and deficiencies, and to encourage the employer to continue working toward self-sufficiency in safety and health. The importance of integrating a safety and health management into daily business activities shall be stressed, and where appropriate, the results of the Safety and Health management system assessment discussed.

The consultation report will be discussed during the closing meeting. Action planning and its importance shall also be discussed with the employer. Other services provided by Oregon OSHA such as training opportunities, workshops, referrals, etc. can be discussed at this time.

The consultation checklist should be used to ensure that the above items are not overlooked (Appendix D).

Close Date: The close date of the consultation is the date of the closing meeting as described above. When sampling requiring analysis is conducted, the close date of the consultation may be the date the consultant contacts the employer to advise them of the results. Once sampling results are received, consultants are expected to contact employers with the results as soon as possible (generally within five working days). If attempts to contact the employer timely are not successful, report completion should not be delayed.

REPORTS

A report shall be written for each consultation and completed within 10 working days following the close date. The report should follow one of the standard formats (see Appendix F). Consultation reports will not be provided to Enforcement. Consultants should advise their manager if circumstances exist preventing the report from being completed timely.

Consultants are responsible for providing a professionally written, technically accurate report for each consultation. Consultants should review their reports to assure rule and other references are correct, and to check for formatting and grammatical errors. All information must be consistent with section procedures and Oregon OSHA interpretations. Consultants are encouraged to ask one another to critique their reports. Peer review is considered a valuable learning tool in the consultation program.

Unless other arrangements have been made, the local field consultation manager will review all reports before they are mailed to assess overall quality. In the absence of the manager, reports may be e-mailed to other field office managers or an IH4 for review depending on the direction of the local manager.

As soon as the report is completed, the consultant will update and/or verify all applicable information in the database. A customer survey must be included with each mailed report (see Appendix G), except in the case of joint consultations where separate reports are issued.

When laboratory analysis is necessary, an industrial hygienist may elect to send a preliminary report to the employer prior to receiving the laboratory results if a significant number of hazards or serious issues were identified. A report date should not be entered into the database, however, until a final report is issued and the results of all sampling have been received. The close date will be the last contact, whether by telephone or in person, that is made with the employer.

The consultation checklist used during the opening and closing meetings (Appendix D), any field notes, employee interviews, or any other documentation used to evaluate the employers overall safety and health effort, must be filed with each report.

SPECIAL INSTRUCTIONS FOR AGRICULTURE LABOR HOUSING CONSULTATIONS

Agricultural Labor Housing (ALH) requests are identified with an "L" (Labor Camp) in the Industry field. When self assigning work, consultants who conduct ALH consultations should

scan the backlog for these requests and make Pre-Occupancy and H2A priorities for scheduling. Agriculture Labor Housing Consultations being requested for the purpose of registering a facility with Oregon OSHA Enforcement *must be conducted by a state-funded consultant*. All other ALH requests will be conducted following the normal priority system, but may be assigned out of order to make the best use of our resources.

All ALH consultations must use the NAICS code for Migrant Workers Camp, 721310.

Prior to conducting a consultation of ALH, the consultant should review all registration information. If an employer was registered in the previous year, that registration information should be verified during the visit.

There are many core safety and health issues which must be carefully evaluated when conducting a consultation for agricultural labor housing. To effectively evaluate the safety and health conditions, consultants must enter these housing facilities even when they are occupied. An interior walk-through is also necessary to verify the square footage is adequate for the number of occupants. When occupied, consultants should be especially respectful of the occupants and the fact we have been allowed to enter their home.

The agriculture housing checklist is to be used on every ALH consultation (Appendix I). A copy of the completed checklist should be left with the employer at the time of the consultation (through a commitment to Oregon Legal Services). Copies of the completed checklist should also be sent to the employer with the report as well as retained in the consultation file.

ALH consultation reports are to be completed as a priority. The report for consultations conducted to evaluate if the employer is substantially in compliance must address, but are not limited to, the adequacy of the water supply, fire prevention, electrical service, sewage disposal, and sleeping quarters.

ALH Consultations Conducted to Fulfill OR-OSHA Registration Requirements: Along with the standard report, these consultations must also include a letter indicating they are substantially in compliance with ALH regulations (see Appendix H). If applicable, a notification to register (see Appendix H) may also be included.

ALH Consultations Conducted to Fulfill H2A Registration Requirements: Along with the standard report, these consultations must also include a letter indicating they are in compliance with ALH regulations (see Appendix H). If applicable, a notification to register (see Appendix H) may also be included.

ALH Consultations Conducted to Meet Tax Credit Requirements: The Oregon Department of Housing and Community Services offers a tax credit for construction, installation, or rehabilitation of farm worker housing. To meet the requirements of the tax credit program, these housing projects are required by law to be in substantial compliance with all agricultural labor housing regulations of the Oregon Safe Employment Act. Consultations

conducted to meet these requirements shall include a tax credit letter (see Appendix H) when the housing was found to be substantially in compliance with OR-OSHA standards.

Oregon OSHA **does not** conduct safety and health consultations of community-based farm worker housing projects (i.e. multi-unit apartments or duplexes in urban areas). These requests should be forwarded to the Consultation and Outreach Manager. In these cases, copies of occupancy permits issued by the local building authority will be accepted as proof of compliance (see Appendix H).

H. RELATIONSHIP TO ENFORCEMENT ACTIVITY

CONFIDENTIALITY

Consultative activity by Oregon OSHA shall be separately administered and conducted independently of any enforcement activity per Oregon statute. The Consultative Services Section shall not inform the Enforcement Section of the results of any consultation activity.

Oregon OSHA consultants do not have the legal authority to enter an establishment unannounced and stop work activities because of an observed imminent danger situation. Due to this lack of legal authority, consultants are not to stop and address observed imminent danger situations at locations and/or places of business where the employer has not requested consultative services. If a consultant observes an imminent danger situation at a location where Consultation has not been invited, the local Field Consultation Manager should be notified. If a Consultation Manager is not available, the local Field Enforcement Manager should be notified. Once back in the office, the consultant may need to fill out a referral form and submit it to the local enforcement office.

If an imminent danger situation is observed at a location where the employer has requested OR-OSHA services, the consultant should advise the employer of the hazard and the need to take immediate action to eliminate employee exposure. If the employer fails to take the necessary action, the consultation will be terminated and the local Field Consultation Manager shall be notified. The field manager will inform the Manager of Consultation and Outreach who will notify the company of their obligation to correct the problem.

IN PROGRESS CONSULTATIONS

All consultative visits are considered “in progress” from 7 days prior to the opening meeting through 60 days after the report is issued for fixed sites, 30 days for mobile job sites and agriculture labor housing sites (consultations conducted to verify correction of hazards identified for ALH letters of substantial compliance are not provided any additional time beyond the original 30 days.) A consultation already in progress shall have priority over scheduled compliance inspections. The employer may notify the compliance officer of the consultation in progress and request a delay of the inspection until after the consultation is completed.

In some cases, it may be prudent for enforcement to ask the local field consultation manager if an employer is under consultation prior to driving long distances to open an unannounced

inspection. In these cases, information may be given to enforcement regarding whether a consultation is in progress, but not about the consultation itself.

In progress status on construction and logging sites applies only to the employer that has requested the consultation. Other contractors working on the site must specifically request a consultation before being covered under an “in progress” consultation. If the consultant receives such a request while on-site, the procedures in Section F of this manual should be followed and the new request must be entered into the database when the consultant returns to the office.

In progress status for agriculture labor housing sites is limited to the initial consultative visit. A follow up consultation to verify corrections of hazards originally identified, will not be provided an additional 30 day deferral.

SHARP consultations are considered “in progress” as defined above. Working toward SHARP or working on an action plan to fix problems in the management system is not a consultation “in progress” and does not qualify for deferral from inspection.

IN-PROGRESS COMPLIANCE INSPECTIONS

Consultation activity shall not take place at a site where any compliance inspection is in progress. A compliance inspection is considered to be "in progress" from the time a compliance officer initially seeks entry to the workplace until the closing if no citations are issued, until all citations are paid if issued, or until the appeal is settled and signed. If a referral is made to another compliance officer the inspection is considered in progress until that compliance officer completes his/her inspection.

A compliance inspection will also be considered "in progress" in cases where entry is refused until such time as the inspection is conducted, the Administrator determines that a warrant to obtain entry will not be sought, or the Manager of Enforcement determines that allowing a consultative visit to proceed is in the best interest of employee safety and health.

SERVICES AFTER ENFORCEMENT ACTIVITY

Consultation will not normally provide abatement assistance after a compliance inspection. Exceptions may be made where the Manager of Enforcement and the Manager of Consultation and Outreach have determined it to be in the best interest of worker health and safety. This may occur where unique expertise is needed or in an extended long-term abatement process.

In the rare situation where consultative services do occur when an enforcement action is not a final order, the consultant **will not** discuss, advise or in any way become involved in any process, situation or hazard which is still under citation. This will only occur under special arrangements and will be monitored by the supervisor of the compliance officer and the supervisor of the consultant.

SPECIAL COMPLIANCE INSPECTIONS

The consultant shall normally cease an on-site consultative visit already in progress where one of the following types of compliance inspections is about to take place:

- Imminent danger investigation.
- Fatality, catastrophe or accident investigation.
- Complaint or referral investigation.
- Other critical inspections as determined by the Administrator.

The consultation may be resumed upon completion of the compliance inspection and all related activities.

COMPLAINT LETTERS

Some employee complaints are responded to by an enforcement letter. The letter generally advises the employer to take action and to report the steps taken. This form of complaint resolution may generate a request for a consultation. If a request for a consultation is generated by such a complaint letter, the following steps should be taken:

1. The enforcement supervisor should be informed of the request.
2. The consultant should be aware that complaints can be generated by labor relations problems and, as such, great care should be taken to deal only with safety and health issues.
3. The consultation should focus on working with the employer to quickly resolve the problem. The employer should be strongly encouraged to openly communicate with employees about steps being taken to resolve the hazard(s).