

## Feds withdraw rule to modify on-site consultation program

By Edwin S. Hopson  
Wyatt, Tarrant & Combs, LLP

On September 3, 2010, the U.S. Occupational Safety and Health Administration issued a notice of proposed rule making (NPRM) which “dealt with the types of high priority federal enforcement inspections that could interrupt an ongoing consultation visit;” and also pertained to “the circumstances under which OSHA may conduct a high priority enforcement visit at a workplace that has either achieved SHARP recognition or is working towards it.”

The NPRM also dealt with “the length of time an employer that has qualified for SHARP may be exempted from OSHA’s Programmed Inspection Schedule.”

Section 21(d) of the OSH Act permits a one-year exemption. However, OSHA has for many years extended the exemption period to two years.

The NPRM would have the effect of reducing the “insulation” of participating in Education and Training programs from programmed Compliance inspections.

OSHA solicited comments from many stakeholders, many of whom expressed concern that the proposed changes would result in fewer employers participating in the OSHA “On-site Consultation program.”

Their view was that OSHA was significantly reducing exemptions, or at the least, removing some of the incentives to participating in the program.

Thus, OSHA declared that effective August 8, 2013, “in light of the magnitude of the concerns expressed.” the September 3, 2010 NPRM was withdrawn. ▲

### More on the consultation program

The On-site Consultation is a federally funded program that offers free and confidential safety and health advice to small- and medium-sized businesses nationwide, with priority given to high-hazard worksites.

It was established to assist employers who may lack the resources to employ safety professionals to help them comply with OSHA’s requirements. Trained safety and health professionals, provided either by state agencies or public universities, work with employers to identify workplace hazards, provide advice on compliance, and assist in setting up safety and health management systems. None of these services result in penalties or citations.

Employers who successfully complete a comprehensive on-site visit — correct all hazards identified during the visit and implement an ongoing safety and health program to identify workplace hazards — may then be accepted into OSHA’s Safety and Health Recognition Program (SHARP), which means they are exempt from OSHA’s programmed inspections during a specified period.

The proposed rule, the one OSHA withdrew, proposed changes in three areas: (1) the types of high priority federal enforcement inspections that could interrupt an ongoing consultation visit; (2) the circumstances under which OSHA may conduct a high priority enforcement visit at a workplace that has either achieved SHARP recognition or is working toward it; and (3) the length of time an employer that has qualified for SHARP may be exempted from programmed inspections.

### Reason for withdrawing

The proposed changes were minor in nature, but too many stakeholders complained that they would have reduced the incentive to participate in the On-site Consultation program. Since changes were minor, they weren’t worth the down side, OSHA said. ▲

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