



MINNESOTA DEPARTMENT OF
LABOR & INDUSTRY

Construction

MNSHARP and PRE-MNSHARP



Construction Pilot Program

Minnesota Department of Labor and Industry
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TABLE OF CONTENTS

I. Workplace Safety Consultation Program	1
II. Minnesota Safety and Health Achievement Recognition Program (MNSHARP).....	1
A. Employer Eligibility	1
B. Program Requirements	1
C. 1989 Safety and Health Program Management Guidelines and Minnesota AWAIR.....	2
D. Injury/Illness Rates.....	2
E. Workplace Safety and Health Assessment Team Responsibilities	3
F. Workplace Safety Consultation Director	4
G. Duration of MNSHARP Status	4
H. Renewal Requirements.....	4
I. Renewal Approval	5
J. MNOSHA Inspection(s) at MNSHARP Worksites	5
III. Pre-MNSHARP Status	6
A. Employer Eligibility	6
B. Pre-MNSHARP Requirements	6
C. Deferral Time Frame	7
D. Workplace Safety and Health Assessment Team Responsibilities	7
E. Workplace Safety Consultation Director	8
F. MNOSHA Inspection(s) at Pre-MNSHARP Worksites	8
IV. Major Construction Employer and Workplace Safety Consultation Obligations.....	9
A. Fatalities or Catastrophes at a MNSHARP or Pre-MNSHARP Sites	9
B. Changes that may Affect a MNSHARP or Pre-MNSHARP Employer's Eligibility	10
C. Failure to Maintain MNSHARP or Pre-MNSHARP Requirements	10
V. Appendix	
A. Rate Calculations	11
B. Sample Calculations.....	12

- I. Workplace Safety Consultation Program. The Workplace Safety Consultation Program provides a free and confidential consultation service largely funded by Federal OSHA. The program is delivered by The Department of Labor and Industry using highly qualified occupational safety and health professionals to help employers detect potential hazards at their worksites and to establish and maintain safe and healthful workplaces. MNSHARP is an employer exemption and recognition program administered by the Workplace Safety Consultation Program. Pre-MNSHARP is a deferral program granted to employers actively progressing toward the achievement of MNSHARP status and is also administered by the Workplace Consultation Program.
- II. Minnesota Safety and Health Achievement Recognition Program (MNSHARP). MNSHARP is designed to provide incentives and support to those employers that implement and continuously improve effective safety and health management system(s) at major construction employer specific worksites. MNSHARP participants are exempted from MNOSHA programmed inspections. 29 CFR 1908.7(b)(4).
 - A. Employer Eligibility. Major construction employers who request an onsite consultation visit may be considered for participation in MNSHARP. Priority for MNSHARP and Pre-MNSHARP participation will be given to major construction employers. In order to begin this process, Workplace Safety and Health Assessment Team shall inform employers that they must:
 1. Request a consultation visit that involves a full service safety and health hazard identification survey, including a comprehensive assessment of the worksite's safety and health management system.
 2. Provide one year of documented history at a previous major construction worksite.
 - B. Program Requirements. The Workplace Safety and Health Assessment Team shall inform employers seeking MNSHARP approval that their worksites must:
 1. Receive a full service safety and health consultation visit, and a comprehensive assessment of their safety and health management system. In addition, all hazards found by the Workplace Safety and Health Assessment Team shall be corrected within the mutually agreed upon time frame(s);
 - Full service visit is an onsite consultation visit that provides a complete safety and health hazard assessment of all working conditions, equipment, and processes at the work site.
 2. Receive a score of at least "two" on all fifty basic attributes of the Form 33. Additionally, all "stretch items" of the Form 33 shall be scored. "Stretch items"

are those safety and health attributes above the basic attributes of a foundational safety and health management system, such as employee participation in hazard prevention and control activities within the worksite;

3. Agree to notify the Workplace Safety Consultation Director and request additional on-site consultation visits when changes in working conditions or work processes may introduce new hazards into the workplace. The employer shall also agree to a schedule of onsite consultations over the duration of the project which may be modified.
4. Have an injury/illness rate for the preceding year that meets the requirements outlined in Appendix A; and
5. Submit a written request to the Workplace Safety Consultation Director to participate in MNSHARP.

C. 1989 Safety and Health Program Management Guidelines and Minnesota AWAIR (A Workplace Accident Injury Reduction Act). The Workplace Safety and Health Assessment Team shall review a MNSHARP employer's specific worksite to ensure that the employer implements and actively maintains a safety and health management system. At a minimum, the Workplace Safety and Health Assessment Team shall ensure that the major elements of the 1989 Safety and Health Program Management Guidelines, as measured by the Form 33, have been implemented and are being maintained. A written safety and health management system as described in the 1989 Safety and Health Program Management Guidelines and the Minnesota AWAIR statute shall be recommended by the Workplace Safety and Health Assessment Team, when remediation activities are recommended. Workplace Safety and Health Assessment Team shall ensure that employers who are required by Minnesota Statute 182.653(8) to do so, maintain an AWAIR program that meets the requirements of that standard. An employer covered by AWAIR must establish a written workplace accident and injury reduction program that promotes safe and healthful working conditions and is based on clearly stated goals and objectives for meeting those goals.

D. Injury/Illness Rates. In order to establish the DART and TRC rates at their worksite, MNSHARP employers shall have at least one year of operating history for which MNSHARP approval is requested.

- Days Away Restricted Transfer (DART)
- Total Rate Case rate (TRC)
- For all MNSHARP employers, DART and TRC calculations will be based on the OSHA Form 300 information for the last full calendar year preceding the on-site evaluation. The calculated DART and TRC rates will be compared against the most recently published Bureau of Labor Statistics (BLS) rates for

that industry. To qualify for MNSHARP, the employer's DART and TRC rates shall be below the published BLS industry average.

E. Workplace Safety and Health Assessment Team Responsibilities.

1. Verification of Employer's Eligibility. The Workplace Safety and Health Assessment Team shall ensure that the employer satisfies all MNSHARP participation criteria, and that all elements of an effective safety and health management system are fully operational. If hazards are found during the on-site evaluation, which reflect significant deficiencies resulting in a rating of 0-1 on the Form 33 evaluation of the employer's safety and health management system, the site cannot be recommended for MNSHARP approval. The Workplace Safety and Health Assessment Team will not recommend MNSHARP approval until the deficiencies have been corrected and they are confident that the employer's worksite's safety and health management system will operate effectively.
2. Submission of MNSHARP Requests for Approval. After ensuring that the employer has met all of the requirements, the employer shall express its interest in MNSHARP participation, through a signed letter to the Workplace Safety Consultation Director. The Workplace Safety and Health Assessment Team shall then submit the following to the Workplace Safety Consultation Director:
 - a. The Workplace Safety and Health Assessment Team's recommendation for MNSHARP approval;
 - b. The site's DART and TRC rates, and the BLS national averages for that industry;
 - c. The date and type of each consultation visit conducted during the time the employer was working toward MNSHARP approval or renewal;
 - d. A copy of the completed Form 33 for the worksite's full service safety and health visit; and
 - e. A copy of a mutually agreed-upon Achievement Plan, which will provide an outline for the continuous improvement of the employer's safety and health management system.

F. Workplace Safety Consultation Director. Upon receipt of written verification that the employer has met all of the MNSHARP program requirements, the Workplace Safety Consultation Director will:

1. Notify the employer that MNSHARP status has been granted and specify the duration of the exemption period.

2. Provide the MNSHARP certificate to the employer. The certificate will include the company's name, location, and period of exemption;
3. Notify the MNOSHA Compliance Director of the worksite's status and facilitate the removal of the worksite from MNOSHA's Programmed Inspection Schedule for the approved exemption period;
4. Provide a copy of the certificate and the transmittal letter to the Workplace Safety and Health Assessment Team for the case file; and
5. Submit a monthly update of MNSHARP activities log to the Region V Office to ensure the employer is added or removed from the national database.

G. Duration of MNSHARP Status.

1. All initial approvals and the first initial renewal of MNSHARP status will be for a period of one (1) year, commencing from the date the Workplace Safety Consultation Director conditionally approves an employer's MNSHARP status and recommends the employer for final approval to the Commissioner of Labor and Industry.
2. The exemption period from MNOSHA programmed inspections will begin on the date that the Workplace Safety Consultation Director conditionally approves the employer's participation in MNSHARP;

H. Renewal Requirements. The Workplace Safety Consultation Director shall inform employers at MNSHARP worksites seeking renewal of MNSHARP status that they must request a renewal visit within 180 days of expiration of the exemption status, and the following steps must have been taken:

1. Received a full service safety and health consultation visit, and a comprehensive assessment of their safety and health management system. In addition, all hazards found by the Workplace Safety and Health Assessment Team shall be corrected within the mutually agreed upon time frame(s);
2. The Workplace Safety and Health Assessment Team has verified that the employer continues to meet all eligibility and program requirements.

I. Renewal Approval. Renewal for MNSHARP participation shall be conditionally approved by the Workplace Safety Consultation Director and recommended to the Department of Labor and Industry Commissioner prior to the expiration of MNSHARP status to assure continued eligibility for exempt status. Based on the Directors conditional recommendation, the Commissioner shall grant final approval.

J. MNOSHA Inspection(s) at MNSHARP Worksites. As noted above, employers that meet all the requirements for MNSHARP status shall have the names of the specific projects deleted from MNOSHA's Programmed inspection Schedule. However, pursuant to 29 CFR 1908.7(b)(4)(ii), the following types of incidents can trigger an MNOSHA enforcement inspection at MNSHARP sites:

1. Imminent danger;
2. Fatality/Catastrophe; or
3. Formal complaints.

III. Pre-MNSHARP Status. Those major construction project employers who (1) exhibit a reasonable promise of achieving agreed-upon milestones and time frames after a full service safety and health consultation visit, (2) have had a comprehensive assessment of their safety and health management system, and (3) remediate all hazards identified by The Workplace Safety and Health Assessment Team shall be granted Pre-MNSHARP status. Upon achieving Pre-MNSHARP status, employers shall be granted a deferral from MNOSHA programmed inspections as outlined below.

A. Employer Eligibility. Employers who request a full service consultation visit may be considered for participation in Pre-MNSHARP. In order to begin this process, the Workplace Safety and Health Assessment Team shall inform employers that they must:

1. Request and receive a full service safety and health consultation visit, and a comprehensive assessment of their safety and health management system; and
2. Provide one year of documented history at a previous major construction worksite.

B. Pre-MNSHARP Requirements. The Workplace Safety and Health Assessment Team shall inform employers that the following criteria must be met prior to **and** following the granting of Pre-MNSHARP status.

1. Initial Requirements.

- a. Receive a full service, consultation visit that involves a complete safety and health hazard identification survey, including a comprehensive assessment of the worksite's safety and health management system;
- b. Post the List of Hazards identified by the Workplace Safety and Health Assessment Team;
- c. Provide information regarding all hazards identified by the Workplace Safety and Health Assessment Team to employees;
- d. Correct all hazards identified by the Workplace Safety and Health Assessment Team;
- e. Submit hazard correction verification to the Workplace Safety and Health Assessment Team;
- f. Employers shall show written evidence that the construction project will be at least 18 months in duration;

- g. Show evidence of Workers Compensation Coverage;
 - h. Inform employees of hazard correction(s);
 - i. Provide evidence of having the foundation of a safety and health management system; and
 - j. Comply with all applicable state and federal laws, rules and regulations.
2. Post Pre-MNSHARP Status Requirements.
- a. Implement an Action Plan jointly developed with the Workplace Safety and Health Assessment Team and the employer outlining the necessary achievements and time frames required for the employer to achieve MNSHARP status. The employer shall provide timely progress reports to Workplace Safety and Health Assessment Team;
 - b. Upon receipt of an approval letter from the Workplace Safety Consultation Director granting Pre-MNSHARP status, the employer shall post the letter in a conspicuous area. At sites having recognized employee representative(s), the employer shall notify the employee representative(s) of the employer's intention to participate in Pre-MNSHARP and involve the recognized employee representative in the process;
 - c. Involve employees in the safety and health management system, including the implementation of the Action Plan;
 - d. Agree to a full service, consultation visit for safety and health at the end of the Pre-MNSHARP deferral period, which initiates the MNSHARP request process.
- C. Deferral Time Frame. The deferral time frame recommended by the Workplace Safety Consultation Director shall not exceed a total of 18 months from the expiration of the latest hazard correction due date(s), including extensions.
- D. Workplace Safety and Health Assessment Team Responsibilities. The Workplace Safety and Health Assessment Team shall:
- 1. Instruct the employer to post the List of Hazards.
 - 2. Assure verification of the correction of all hazards.
 - 3. Assist the employer in the development of an Action Plan to be implemented by the employer. The Action Plan shall outline a goal, recommended method of correction, and an expected completion date for the 50 basic attributes of the Form 33 that received a score of less than "two;"

4. Determine if the employer is capable of meeting all Pre-MNSHARP requirements within the deferral period, including DART rate and TRC requirements;
5. Provide a signed notice of intent to participate in Pre-MNSHARP, to be posted by the employer;
6. Provide to the Workplace Safety Consultation Director a letter or e-mail certifying that the employer exhibits reasonable promise of achieving the agreed-upon milestones within the deferral period;
7. Provide to the Workplace Safety Consultation Director a copy of the employer's Form 33 evaluation, including an Action Plan;
8. Recommend a deferral period (not exceeding a total of 18 months, including extensions, from the end of the latest hazard correction due date) to the Workplace Safety Consultation Director; and
9. Request that the Workplace Safety Consultation Director terminate the employer's Pre-MNSHARP status if the employer fails to maintain Pre-MNSHARP requirements.

E. Workplace Safety Consultation Director. The Workplace Safety Consultation Director may grant a deferral from MNOSHA programmed inspections for the period recommended by The Workplace Safety and Health Assessment Team. Prior to granting a deferral, the Workplace Safety Consultation Director shall concur that:

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

If a deferral is granted, the MNOSHA Compliance Director shall also be notified.

F. MNOSHA Inspection(s) at Pre-MNSHARP Worksites: As noted above, employers that meet all the requirements for Pre-MNSHARP status shall be granted a deferral from MNOSHA programmed inspections for the specific worksites; however, the following types of incidents can trigger a MNOSHA enforcement inspection at Pre-MNSHARP sites:

1. Imminent danger;
2. Fatality/Catastrophe; or
3. Formal complaints.

IV. Major Construction Employer and Workplace Safety Consultation Obligations

A. Fatalities or Catastrophes at MNSHARP or Pre-MNSHARP sites. Workplace Safety and Health Assessment Team shall advise employers that in the case of a fatality or catastrophe at a MNSHARP/Pre-MNSHARP site, the employer shall notify MNOSHA Compliance Director within eight (8) hours of the incident as required in 29 CFR 1904.39. Workplace Safety and Health Assessment Team shall also inform employers that they shall notify the Workplace Safety Consultation Director as soon as possible after notification of the incident. Until all citations have been issued, Workplace Safety and Health Assessment Team members are not permitted to discuss with the employer any issues related to the fatality or catastrophe or a MNOSHA enforcement inspection. After the enforcement investigation is concluded and/or all citations have been issued, the Workplace Safety Consultation Director shall evaluate the MNSHARP/Pre-MNSHARP status of the worksite using the following criteria:

1. If no citations are issued, an onsite visit shall be conducted to ensure that all elements of the safety and health management system continue to be effective.
2. If a serious or repeat citation is issued, a Workplace Safety and Health Assessment Team shall conduct an onsite visit to ensure that the alleged hazardous condition(s), which resulted in citations, have been corrected and that the safety and health management system is operating effectively.
 - a. If the Workplace Safety and Health Assessment Team believe that a serious or repeat citation is related to a diminution in the effectiveness of the employer's safety and health management system, the employer will be asked to withdraw from the program. If the employer does not withdraw voluntarily within 5 working days, participation shall be terminated by the Workplace Safety Consultation Director. The employer may re-apply to the program 12 months after withdrawal or termination.
 - b. If the Workplace Safety and Health Assessment Team believe that there is no relation between the serious or repeat citation and the effectiveness of the employer's safety and health management system, the employer shall be counseled on how to prevent a recurrence.
3. If a willful citation is issued or there is evidence that the site's self-evaluation is inaccurate, the Workplace Safety Consultation Director will request the

employer to voluntarily withdraw from the program within 5 working days. If the employer does not withdraw voluntarily within 5 working days, participation shall be terminated within 30 days by the Workplace Safety Consultation Director. The employer may re-apply to the program 12 months after withdrawal or termination.

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

Change in Ownership and/Organizational Changes. Whenever ownership or major organizational changes occur that may impact the effectiveness of the employer's safety and health management system, the employer or employer representative shall notify the Workplace Safety Consultation Director. The Workplace Safety Consultation Director shall discuss the changes with the employer and schedule an onsite visit, if necessary.

C. Failure to Maintain MNSHARP or Pre-MNSHARP Requirements. If an employer fails to maintain the participation criteria, the Workplace Safety Consultation Director shall give the employer the opportunity to voluntarily withdraw from the program within 5 working days.

1. Voluntary Withdrawal from the Program. Any approved MNSHARP/Pre-MNSHARP participant may withdraw at any time. Withdrawal may occur as a result of, economic difficulty, change in management, or at the request of the employer or Workplace Safety Consultation Director. To withdraw, the employer shall send a letter explaining the withdrawal and/or return the MNSHARP certificate to the Workplace Safety Consultation Director. The withdrawal is effective immediately upon receipt of the letter.
2. Termination of Exemption or Deferral. If an employer fails to maintain the participation criteria and/or refuses the opportunity to voluntarily withdraw from the program, the Workplace Safety Consultation Director shall terminate the employer's participation in MNSHARP/Pre-MNSHARP. The employer and the MNOSHA Compliance Director shall be notified in writing when MNSHARP/Pre-MNSHARP participation is terminated. The written notice to the employer shall contain the reason(s) for the termination and outline the requirements for re-entry into the program.



M. Scott Brener
Commissioner

12/20/06
Date

Appendix A Rate Calculations

Rate Calculations

A. Annual Rate Formula.

Annual rates are calculated by the formula $(N/EH) \times 200,000$ where:

N = Sum of the number of recordable injuries and illnesses in the year.

EH = total number of hours worked by all employees in the year.

200,000 = equivalent of 100 full time employees working 40 hours per week, 50 weeks per year.

1. For the TRC, use the total number of cases listed on the OSHA 300 Log in columns:
 - Column H (Days away from work),
 - Column I (Job transfer or restriction), and
 - Column J (Other recordable cases).

$$N = H + I + J$$

2. For the DART, use the total number of cases resulting in days away from work, restricted work activity, and/or job transfer listed on the OSHA 300 Log in columns:
 - Column H (Days away from work) and
 - Column I (Job transfer or restriction).

$$N = H + I$$

- B. Rounding Instructions.** You shall round the rates to the nearest tenth following traditional mathematical rounding rules. For example, round 5.88 up to 5.9; round 5.82 down to 5.8; round 5.85 up to 5.9.

- C. Comparison to National Averages.** Compare the TRC and DART rate to the most recently published Bureau of Labor Statistics (BLS) national average (available online at <http://www.osha.gov/oshstats/work.html>) for the NAICS code for the industry in which the applicant is classified.

These national averages, currently broken down by NAICS code, are found in "Table 1. Incidence rates of non-fatal occupational injuries and illnesses by industry" that BLS publishes each year.

1. In the calculations, both the DART and TRC have to be below the BLS rates for the same year.
2. If BLS rates are not available for both the DART and TRC, then use the next smallest NAICS code (i.e., six digit NAICS to a five digit NAICS).
3. If BLS rates are available for either the DART or TRC, then use the BLS data that is available.

Appendix B Sample Calculations

A safety and health consultant visited XYZ Machine Shop (NAICS – 33271; SIC – 3599) and recorded the following OSHA 300 Log Information:

Year	# Employee	Hours Worked	Column H	Column I	Column J
2005	5	10,000	0	1	0

*****Note: The data above is used for the example that follows.**

1-Year Calculation

DART

$$\text{DART} = \frac{[(\text{Column H}) + (\text{Column I})]}{[\text{Hours-Worked}]} \times [200,000 \text{ Hours}]^*$$

$$\text{DART} = \frac{[(0)+(1)]}{[10,000 \text{ Hours}]} \times [200,000 \text{ Hours}]$$

$$\text{DART} = \frac{[(1)]}{[10,000 \text{ Hours}]} \times [200,000 \text{ Hours}]$$

$$\text{DART} = [20.00]$$

TRC

$$\text{TRC} = \frac{[(\text{Column H}) + (\text{Column I}) + (\text{Column J})]}{[\text{Hours Worked}]} \times [200,000 \text{ Hours}]$$

$$\text{TRC} = \frac{[(0)+(1)+(0)]}{[10,000 \text{ Hours}]} \times [200,000 \text{ Hours}]$$

$$\text{TRC} = \frac{[(1)]}{[10,000 \text{ Hours}]} \times [200,000 \text{ Hours}]$$

$$\text{TRC} = [20.00]$$

Conclusion

The employer's **2005** DART and TRC rates of **20.0** are above the 2004 BLS DART and TRC data shown below.

YEARS	DART	TRC
2005 Employer's Rates	20.00	20.00
2004 BLS DATA	2.9	6.9