

**RULES
OF
THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

**CHAPTER 0800-01-11
OCCUPATIONAL SAFETY AND HEALTH
GENERAL INSPECTION EXEMPTION PROGRAMS**

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0800-01-11-.01 PURPOSE AND SCOPE.

- (1) Purpose. The purpose of this chapter is to provide a description of the programs providing employers with an exemption from general schedule inspections conducted pursuant to the Act, and to set forth procedures to obtain, maintain, and revoke the exemption.
- (2) Scope. The provisions of this chapter apply to all private sector employers in the state of Tennessee subject to the provisions of the Act and the standards, rules and regulations promulgated pursuant thereto. The exemption program shall not apply to public sector employers as Tennessee Department of Labor and Workforce Development Rule 0800-01-05-.08(3)(a) specifically requires them to be inspected biennially.

Authority: T.C.A. §§50-3-102(b), 50-3-201, and 50-3-904. **Administrative History:** Original rule filed March 15, 1996; effective July 29, 1996. Repeal and new rule filed April 26, 2006; effective August 28, 2006.

0800-01-11-.02 DEFINITIONS.

- (1) "Accident inspection" means an inspection of a worksite conducted in response to information received by TOSHA that a fatality or catastrophe has occurred at that worksite. It is an unprogrammed inspection that shall be conducted in accordance with the guidelines in the TOSHA Field Operations Manual.
- (2) "Catastrophe" means the hospitalization of three or more employees resulting from a work-related incident or exposure; in general, from an accident or an illness caused by a workplace hazard. See also Tennessee Department of Labor and Workforce Development Rule 0800-01-03-.05.
- (3) "Complaint inspection" means an inspection of a worksite conducted in response to the receipt of a complaint about working conditions submitted in accordance with T.C.A. §50-3-304. It is an unprogrammed inspection that shall be conducted in accordance with the guidelines in the TOSHA Field Operations Manual.
- (4) "General schedule inspection" means an inspection of a worksite wherein the worksite was selected in advance using neutral criteria such as the industry ranking high on a list of recognized hazards or the number of occupational injuries and/or illnesses. It is a programmed inspection that shall be conducted in accordance with the guidelines in the TOSHA Field Operations Manual.

(Rule 0800-01-11-.02, continued)

- (5) Except as set forth in paragraphs (1) through (4) of this rule or unless the context clearly calls for a different meaning, all words and terms used in this chapter shall have the meaning set forth in T.C.A. §50-3-103 and Tennessee Department of Labor and Workforce Development Rule 0800-01-01-.02.

Authority: T.C.A. §§50-3-103, 50-3-201, 50-3-304, and 50-3-904. **Administrative History:** Original rule filed March 15, 1996; effective July 19, 1996. Repeal and new rule filed April 26, 2006; effective August 28, 2006.

0800-01-11-.03 EXEMPTION PROGRAM ADMINISTRATION.

- (1) TOSHA shall be responsible for receiving and processing applications for participation in exemption programs, maintaining required records pertinent to exemptions, and conducting inspections of worksites in order to determine eligibility for and/or continued participation in exemption programs.
- (2) General schedule inspections required under Tennessee Department of Labor and Workforce Development Rule 0800-01-04-.22 shall not be conducted at the worksites exempted under the programs set forth in this chapter.
- (3) Inspections required under Tennessee Department of Labor and Workforce Development Rule 0800-01-03-.05 shall be conducted whenever a fatality or catastrophe occurs at the worksites exempted under the programs set forth in this chapter.
- (4) A complaint inspection shall be conducted when an employee files a complaint about working conditions in accordance with T.C.A. §50-3-304.

Authority: T.C.A. §§50-3-102, 50-3-201, 50-3-301, 50-3-304, and 50-3-904. **Administrative History:** Original rule filed March 15, 1996; effective July 29, 1996.

0800-01-11-.04 SAFETY THROUGH ACCOUNTABILITY AND RECOGNITION PROGRAM.

- (1) Establishment. There is established, within TOSHA, the Safety Through Accountability and Recognition Program herein called the Volunteer STAR Program.
- (2) Objective. The Volunteer STAR is a program for the recognition and promotion of outstanding employer-provided, employee-participant, site specific occupational safety and health systems.
- (3) Participation. The program is established on the basis of voluntary participation by employers. Qualified participants will be placed on a list of recognized employers and shall be exempt from programmed (general schedule) inspections contingent upon maintaining the requirements for participation and continued, favorable periodic evaluations.
- (4) Qualifications for participation. Minimum requirements for participation in the Volunteer STAR Program are contained in the TOSHA Voluntary Protection Programs (VPP): Policies and Procedures Manual.
- (5) Application. Application for participation in the Volunteer STAR Program shall be made to TOSHA. TOSHA will verify, evaluate, and recommend approval of the application to the Commissioner of Labor and Workforce Development.

(Rule 0800-01-11-.04, continued)

- (6) Access to Records. All records of applications and evaluations made pursuant to the Volunteer STAR Program are public records accessible under the provisions of the Tennessee Open Records Law.
- (7) Withdrawal/Termination of Volunteer STAR Program Participation.
 - (a) Any participant may choose to withdraw from the Volunteer STAR Program at any time following approval.
 - (b) TOSHA must request that a site withdraw from the Volunteer STAR Program if any of the circumstances for withdrawal exist that are described in the TOSHA Voluntary Protection Programs (VPP) Policies and Procedures Manual.
 - (c) TOSHA may terminate a site from the Volunteer STAR Program for failure to maintain the requirements of the program or for any of the conditions as described in the TOSHA Voluntary Protection Programs (VPP) Policies and Procedures Manual.
- (8) Reinstatement following withdrawal or termination.
 - (a) Reinstatement requires reapplication.
 - (b) A description of the timeframes and conditions for reinstatement are described in the TOSHA Voluntary Protection Programs (VPP) Policies and Procedures Manual.

Authority: T.C.A. §50-3-201, 50-3-301, 50-3-304, and 50-3-904. **Administration History:** Original rule filed March 15, 1996; effective July 29, 1996. Repeal and new rule filed April 26, 2006; effective August 28, 2006. Amendments filed March 9, 2009; effective July 29, 2009.

0800-01-11-.05 SAFETY AND HEALTH ACHIEVEMENT AND RECOGNITION PROGRAM.

- (1) Establishment. There is established, within TOSHA, the Safety and Health Achievement Recognition Program herein called the Tennessee SHARP or SHARP.
- (2) Objective. SHARP is a recognition program which provides incentives and support to small, high-hazard employers to work with their employees to develop, implement and continuously improve the effectiveness of the workplace safety and health programs.
- (3) Recognition. To promote effective safety and health program management and to provide model programs for others to follow, SHARP recognizes employers who operate at their worksites exemplary safety and health programs that result in the immediate and long term prevention of job-related injuries and illnesses. This is achieved by:
 - (a) Encouraging employers to use TOSHA Consultative Services and to involve their employees in establishing fully effective safety and health programs.
 - (b) Providing for public recognition of employers and employees who have worked together successfully to establish exemplary safety and health programs when they have met specified conditions.
- (4) General schedule inspections required under Tennessee Department of Labor and Workforce Development Rule 0800-01-04-.22 shall not be conducted at the worksites exempted under the programs set forth in this chapter.

(Rule 0800-01-11-.05, continued)

- (5) Inspections required under Tennessee Department of Labor and Workforce Development Rule 0800-01-03-.05 shall be conducted whenever a fatality or catastrophe occurs at the worksites exempted under the programs set forth in this chapter.
- (6) A complaint inspection shall be conducted when an employee files a complaint about working conditions in accordance with T.C.A. §50-3-304.
- (7) Program Eligibility. In order for an employer to be considered for participation in SHARP the employer shall be required to meet the criteria described in the most recent OSHA Consultation Policy and Procedures Manual (CPPM).
- (8) Program Requirements. The CPPM contains a detailed description of the program requirements including employer obligations and rights, the management of consultation requests and visit related requirements.
- (9) Termination of SHARP Participation. Termination of an employer's participation in the SHARP may occur for various reasons in accordance with the CPPM.
- (10) Reinstatement/Reapplication. Reinstatement following termination may occur in accordance with the provisions set forth in the CPPM.

Authority: T.C.A. §50-3-201, 50-3-301, 50-3-304, and 50-3-904. **Administrative History:** Original rule filed March 15, 1996; effective July 29, 1996. Repeal and new rule filed April 26, 2006; effective August 28, 2006. Amendment filed March 9, 2009; effective July 29, 2009.