Title 09
MARYLAND DEPARTMENT OF LABOR

Subtitle 12 DIVISION OF LABOR AND INDUSTRY

Chapter 24 MOSH Consultation Education and Training Program

Authority: Labor and Employment Article, §§2-106(b)(4), 5-312, and 5-328, Annotated Code of Maryland

.01 Purpose.

A. This chapter provides for the conduct of Maryland's Occupational Safety and Health (MOSH) Consultation Program in accordance with federal law, regulations, and procedures.

B. This chapter establishes the conditions under which an employer may be granted an exemption from certain MOSH inspections.

.02 Establishment.

A. There is in the Occupational Safety and Health unit of the Division of Labor and Industry a MOSH Consultation Program.

B. Service of the Program is available only upon request by the employer.

.03 Scope of Request.

A. Availability of Services.

(1) The MOSH Consultation Program shall provide on-site and off-site consultation services in accordance with this chapter.

(2) Consultation services are available from the Division of Labor and Industry only through the MOSH Consultation Program.

B. Prioritization. In allocating resources, the Division shall assign priority as follows:

(1) To businesses with fewer than 250 employees on site and fewer than 500 corporate-wide; and

(2) In accordance with 29 CFR §1908.5(c).

.04 Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference.

B. Documents Incorporated.

(1) The following sections of Consultation Agreements, 29 CFR 1908 (October 26, 2000):

(a) 29 CFR §1908.2;

(b) 29 CFR §1908.4;

(c) 29 CFR §1908.5, except in (b)(2), the last sentence, change the word "insight" to "initial";

(d) 29 CFR §1908.6; and

(e) 29 CFR §1908.7, except:

(i) In paragraph(a)(1), substitute the following for the existing text, "Consultative activity shall be conducted independently of any MOSH enforcement activity";

(ii) In paragraph (b)(2), after (iv), insert: "Accident investigations"; and "(v)".

(iii) In paragraph (b)(4), after the word "employers" insert "at fixed worksites";

(iv) In paragraph (b)(4)(i)(B), substitute the words "Commissioner of Labor and Industry" for "Regional Office"; and

(v) In paragraph (b)(4)(ii), add the following criteria:

"(D) Accident;

(E) Referral from a MOSH safety compliance officer to a MOSH health compliance officer, or from a MOSH health compliance officer to a MOSH safety compliance officer; and

(F) Follow-up on a previously cited violation."

(2) The following amendments apply to the documents incorporated by reference in §B(1) of this regulation, except 29 CFR §1908.2:

(a) Wherever the words "Assistant Secretary" appear, substitute "Commissioner of Labor and Industry", except in 29 CFR §1908.6(g)(1);

(b) Wherever the words "RA" or "Area Director" appear, substitute "Assistant Commissioner";

(c) Wherever the words "compliance officer" or "OSHA compliance officer" appear, substitute "MOSH compliance officer";

(d) Wherever the word "employee" appears, it means an employee as defined in §5-101(c) of the MOSH Act;

(e) Wherever the word "employer" appears, it means employer as defined in §5-101(d) of the MOSH Act;

(f) Wherever the words "Section 5(a)(1) of the OSHA Act" appear, it means §5-104 of the MOSH Act; and

(g) Substitute "Assistant Commissioner" for:

(i) "appropriate OSHA enforcement authority" in 29 CFR §1908.6(f)(1); and

(ii) "OSHA enforcement authority" in 29 CFR §1908.6(f)(4).

(3) Safety and Health Program Management Guidelines, 54 FR 3904—3916 (1989); and

(4) Safety and Health Program Assessment Worksheet (OSHA Form 33) (Revised October 2000).

.05 Recognition and Exemption.

A. The recognition and exemption program shall be known as the Safety and Health Achievement Recognition Program (SHARP).

B. The authority to approve an employer for SHARP rests with the Commissioner of Labor and Industry.

C. To be eligible for consideration for participation in SHARP, an employer shall:

(1) Be a single, fixed worksite;

(2) Have at least 1 year of operating history, in order to have established a days away from work, days of restricted work activity, or job transfer (DART) Rate and a Total Recordable Case (TRC) Rate using the calculation formulas in Regulations .08 and .09 of this chapter;

(3) Have reduced the DART Rate and TRC Rate at the worksite to below the industry average using the method permitted in §D of this regulation and the calculation formulas in Regulations .08 and .09 of this chapter;

(4) Request, in writing, a complete safety and health hazard assessment of all working conditions, equipment, and processes at the worksite and correct all hazards, including serious and other-than-serious hazards, identified by the MOSH consultant;

(5) Have implemented and maintained a safety and health management system, preferably in writing, that addresses, at a minimum, the major elements of the 1989 Safety and Health Program Management Guidelines;

(6) Score at least two on all 50 basic attributes of the Safety and Health Program Assessment Worksheet;

(7) Agree to notify the consultation project manager and request a subsequent on-site consultation visit when making any changes in working conditions or work processes that might introduce new hazards into the workplace;

(8) At the time the employer requests the complete safety and health hazard assessment, post a notice that it intends to participate in SHARP;

(9) Keep the notice required under §C(8) of this regulation posted until all hazards have been corrected; and

(10) Mutually agree with the consultation project manager on an achievement plan, which provides an outline for the continuous improvement of the employer's safety and health management system.

D. Injury and Illness Rates.

(1) Annual Rate Formula.

(a) The DART and TRC Rate calculations shall be based on the Occupational Safety and Health Act (OSHA) Form 300 information for the last full calendar year preceding the on-site evaluation using the annual rate formula in Regulations .08 and .09 of this chapter.

(b) The calculated DART and TRC Rates shall be compared against the most recently published Bureau of Labor Statistics (BLS) average rates for the industry.

(c) To qualify for SHARP, the employer's DART and TRC Rates shall be below the published BLS industry average rates.

(2) Three-Year Rate Formula.

(a) Employers not qualifying using the annual rate formula may qualify if:

(i) The employer has at least 3 years of operating history; and

(ii) The calculated average DART Rate, based on the OSHA Form 300 information for the most recent 3 full calendar years preceding the on-site evaluation, and the calculated average TRC Rate based on the OSHA Form 300 information for the most recent 3 full calendar years preceding the on-site evaluation are below the most recently published BLS national average rates for that industry.

(b) The calculations shall be made in accordance with the 3-year rate formula in Regulations .08 and .09 of this chapter.

(3) Best 3 Out of 4 Years Rate Calculation.

(a) Employers not qualifying with rates calculated in accordance with the annual rate formula or the 3-year rate formula are eligible to use the best 3 out of 4 years calculation method if:

(i) A hypothetical TRC Rate is calculated assuming two recordable injuries and using the hours worked at the site in the most recent calendar year; and

(ii) The hypothetical TRC Rate is equal to or higher than the BLS average rate for any of the 3 most recently published years for the employer's industry.

(b) Employers meeting the criteria under §D(3)(a)(i) and (ii) of this regulation may use the 3-year rate formula and the best DART and TRC Rates from 3 of the 4 years preceding the on-site evaluation.

(c) The calculation shall be made in accordance with the best 3 out of 4 years rate calculation method in Regulations .08 and .09 of this chapter.

(4) The Commissioner of Labor and Industry may approve SHARP status if an employer has rates equal to or slightly greater than the industry average after using the calculation methods set forth in §D(1), (2), and (3) of this regulation if:

(a) The employer is currently a SHARP participant;

(b) The employer has a score of at least two on all 50 basic attributes of the Form 33; and

(c) The employer qualifies for the rate calculation under §D(3)(a)(ii) of this regulation, but fails to meet either the DART or TRC Rate requirements.

E. To maintain participation in SHARP, an employer shall continue to meet the requirements described in §C of this regulation.

F. Employer sites meeting all of the SHARP criteria described in §C of this regulation may be approved for SHARP by the Commissioner of Labor and Industry.

G. Duration of SHARP Status and Exemption Period.

(1) The initial approval period and all renewals of SHARP status shall be for a period of up to 2 years, beginning from the date of approval by the Commissioner of Labor and Industry.

(2) SHARP employers are exempt from MOSH programmed inspections. The exemption period shall begin on the date that the Commissioner of Labor and Industry approves the employer's participation in SHARP.

(3) If the initial or renewal period is for 2 years, participating employers shall submit the following to the consultation project manager during the interim year:

(a) A copy of requested worksite OSHA 300 Logs;

(b) A copy of the worksite's injury and illness incident reports; and

(c) Information regarding the completion of items set forth in the achievement plan described in §C(10) of this regulation.

.06 Pre-SHARP Status.

A. Employers that do not meet the SHARP requirements, but that exhibit a reasonable promise of achieving agreed upon milestones and time frames for SHARP participation, may be granted pre-SHARP status by the Commissioner of Labor and Industry.

B. Pre-SHARP status may be granted to an employer that:

(1) Meets the eligibility requirements of Regulation .05C(1) and (2) of this chapter;

(2) Requests, in writing, a safety and health management system assessment, and a complete safety and health hazard assessment of all working conditions, equipment, and processes at the worksite;

(3) Shows reasonable promise of achieving milestones and time frames agreed upon with the consultation project manager;

(4) Posts the list of hazards identified by the consultant;

(5) Provides information on all serious hazards identified by the consultant to employees;

(6) Corrects all serious and other-than-serious hazards identified by the consultant;

(7) Informs employees when hazards are corrected;

(8) Shows evidence of having the foundation of a safety and health management system;

(9) Implements the action plan developed by the consultant outlining the necessary achievement and time frames required for the employer to achieve SHARP status;

(10) Provides progress reports on implementation of the action plan referred to in §B(9) of this regulation to the consultation project manager;

(11) Posts a letter from the Commissioner of Labor and Industry approving pre-SHARP status;

(12) Involves employees in the safety and health management system, including implementation of the action plan referred to in §B(9) of this regulation;

(13) At sites having a recognized employee representative:

(a) Notifies the recognized employee representative of the employer's intention to participate in SHARP and pre-SHARP; and

(b) Involves the recognized employee representative in the process;

(14) Agrees to a complete safety and health hazard assessment of all working conditions, equipment, and processes at the worksite at the end of the pre-SHARP period;

(15) Notifies the Commissioner of Labor and Industry before making any changes in working conditions or work processes that might introduce new hazards into the workplace; and

(16) Demonstrates the capability of reducing the site's DART Rate and TRC Rate to below the industry national average within the pre-SHARP period using the calculation formulas in Regulations .08 and .09 of this chapter.

C. An employer meeting the requirements of §B(1)—(16) of this regulation may be granted a deferral from MOSH programmed inspections by the Commissioner of Labor and Industry while working to achieve SHARP status. The period of deferral, including extensions, may not exceed a total of 18 months from the expiration of the correction due date or due dates, including extensions.

.07 Participation in SHARP and Pre-SHARP.

A. Relocation and Change in Ownership.

(1) Eligibility for participation in SHARP and pre-SHARP may be affected by relocation and change in ownership.

(2) Employers planning to relocate their facilities within the State shall notify the consultation project manager in writing 60 days before the move and permit a MOSH consultation visit within 30 days after the move.

(3) If the requirements of §A(2) of this regulation are not met, the consultation project manager shall ask the employer to withdraw from SHARP or pre-SHARP.

(4) Employers undergoing ownership or other major organizational changes that may impact the safety and health management system shall discuss these changes with the consultation project manager who may schedule an on-site visit.

B. Inspection of SHARP or Pre-SHARP sites by MOSH may be triggered by:

(1) Imminent danger;

(2) Fatality or catastrophe;

(3) Formal complaints;

(4) Follow-up on a previously cited violation;

(5) Accident; or

(6) Referral from a MOSH safety compliance officer to a MOSH health compliance officer, or from a MOSH health compliance officer to a MOSH safety compliance officer.

C. SHARP Renewal. To renew for SHARP, an employer shall:

(1) Apply to the consultation project manager for SHARP renewal, in writing, within 180 days of expiration of the exemption status;

(2) Post a copy of the renewal request required in §C(1) of this regulation, and keep the notice posted until all hazards identified during the full service safety and health hazard assessment have been corrected;

(3) Establish that the employer has:

(a) Maintained or improved its safety and health management system through a safety and health management system assessment; and

(b) Completed a safety and health hazard assessment of all working conditions, equipment, and processes at the worksite conducted by the consultation project manager, or the consultation project manager's designee; and

(4) Continue to meet all the eligibility and qualifying criteria described in §C of this regulation, including calculating the site's injury and illness data using the appropriate method described in Regulations .05D, .08, and .09 of this chapter.

D. Voluntary Withdrawal from SHARP or Pre-SHARP.

(1) The consultation project manager shall give an employer that fails to maintain the eligibility criteria in Regulation .05C of this chapter the opportunity to voluntarily withdraw from SHARP. The consultation project manager shall give an employer that fails to maintain the eligibility criteria in Regulation .06 of this chapter the opportunity to voluntarily withdraw from pre-SHARP.

(2) An employer may withdraw from SHARP or pre-SHARP at any time.

(3) To withdraw from SHARP or pre-SHARP, the employer shall provide the consultation project manager with:

(a) A written notice of withdrawal; and

(b) The SHARP certificate, if the employer had been granted SHARP status.

(4) Withdrawal from SHARP or pre-SHARP is effective immediately upon the employer's compliance with §D(3) of this regulation.

(5) The consultation project manager shall notify the Commissioner of Labor and Industry of a SHARP or pre-SHARP withdrawal.

E. Termination from SHARP or Pre-SHARP.

(1) The Commissioner of Labor and Industry may terminate from SHARP an employer that fails to maintain the eligibility criteria in Regulation .05C of this chapter and fails to voluntarily withdraw from SHARP.

(2) The Commissioner of Labor and Industry may terminate from pre-SHARP an employer that fails to maintain the eligibility criteria in Regulation .06 of this chapter, and fails to voluntarily withdraw from pre-SHARP.

(3) Notice of termination shall:

(a) Be in writing;

(b) Contain the reasons for termination;

(c) Outline the requirements for reentry into the program; and

(d) Be sent to the employer.

.08 Rate Calculations.

A. Annual Rate Formula.

(1) Annual rates are calculated by the formula (N/EH) × 200,000 where:

(a) N = Sum of the number of recordable injuries and illnesses in the year;

(b) EH = Total number of hours worked by all employees in the year; and

(c) 200,000 = Equivalent of 100 full time employees working 40 hours per week, 50 weeks per year.

(2) For the TRC Rate, in the formula N = H + I + J, use the total number of cases listed on the OSHA 300 Log in columns:

(a) Column H (Days away from work);

(b) Column I (Job transfer or restriction); and

(c) Column J (Other recordable cases).

(3) For the DART Rate, in the formula N = H + I, use the total number of cases resulting in days away from work, restricted work activity, or job transfer, or all of these, listed on the OSHA 300 Log in columns:

(a) Column H (Days away from work); and

(b) Column I (Job transfer or restriction).

B. Alternate Calculation Methods.

(1) Three-Year Rate Formulas.

(a) Three-Year TRC Rate Formula. (Year 1 OSHA 300 Log columns H + I + J) + (Year 2 OSHA 300 Log columns H + I + J) + (Year 3 OSHA 300 Log columns H + I + J) / (Year 1 hours + Year 2 hours + Year 3 hours) × 200,000.

(b) Three-Year DART Rate Formula. (Year 1 OSHA 300 Log columns H + I) + (Year 2 OSHA 300 Log columns H + I) + (Year 3 OSHA 300 Log columns H + I) / (Year 1 hours + Year 2 hours + Year 3 hours) × 200,000.

(2) Best 3 Out of 4 Years Rate Calculation Method. To determine whether an employer qualifies for the best 3 out of 4 years calculation method, do the following:

(a) Using the hours worked at the site in the most recent calendar year, including overtime hours, calculate a hypothetical TRC Rate for the employer assuming that the employer had two cases during the year;

(b) Compare that hypothetical rate to the 3 most recently published years of BLS combined injury/illness rates for the industry; and

(c) If the hypothetical rate, based on two cases, is equal to or higher than the national average for the employer's industry for any of the most current BLS published rates, the employer qualifies for the best 3 out of 4 years calculation method. The DART and TRC Rates may be calculated using the best 3 out of the most current 4 full calendar years of OSHA Form 300 data.

C. Rounding Instructions. You must round the rates to the nearest tenth following traditional mathematical rounding rules such as round 5.88 up to 5.9, round 5.82 down to 5.8, and round 5.85 up to 5.9.

D. Comparison to National Averages.

(1) Compare the 3-year TRC and DART Rate to the most recently published BLS national average for the NAICS Code for the industry in which the applicant is classified;

(2) In the multi-year calculations, both the DART and TRC Rates have to be below the BLS rates for the same year;

(3) If BLS rates are not available for both the DART and TRC Rates, use the next smallest NAICS Code such as a six-digit NAICS to a five-digit NAICS; and

(4) If BLS rates are available for either the DART or TRC Rate, use the BLS rate that is available.

.09 Sample Calculations.

A. Scenario.

(1) A safety and health consultant visited a machine shop, NAICS 33271 and SICS 3599, and recorded the following OSHA 300 Log information:

Year	Number of Employees	Hours Worked	Column H	Column I	Column J
2005	5	10,000	0	1	0
2004	7	14,000	0	0	0
2003	6	12,000	0	0	1
2002	8	16,000	0	0	0

(2) This data is used throughout the examples that follow.

B. Calculations.

(1) Annual Rate Formula Calculations (Year 2005).

(a) DART.

(i) DART = [[(COLUMN H) $_{2005}$ + (COLUMN I) $_{2005}$] X [200,000 HOURS]] / [HOURS WORKED$_{2005}$]

(ii) DART = [[(0) +(1)] X [200,000 HOURS]] / [10,000 HOURS]

(iii) DART = [[(1)] X [200,000 HOURS]] / [10,000 HOURS]

(iv) DART = 20.00 = 20.0

(b) TRC.

(i) TRC = [[(COLUMN H) $_{2005}$ + (COLUMN I) $_{2005}$ + (COLUMN J) $_{2005}$] X [200,000 HOURS]] / [HOURS WORKED$_{2005}$]

(ii) TRC = [[(0) +(1) + (0)] X [200,000 HOURS]] / [10,000 HOURS]

(iii) TRC = [[(1)] X [200,000 HOURS]] / [10,000 HOURS]

(iv) TRC = 20.00 = 20.0

(c) Conclusion. The employer's 2005 DART and TRC Rates of 20.0 are above the 2004 BLS DART and TRC data shown as follows:.

YEARS	DART	TRC
2005 Employer's Rates	20.0	20.0
2004 BLS Data	2.9	6.9

(2) Three-Year Rate Formula Calculations (Years 2005, 2004, and 2003).

(a) DART.

(i) DART = [[(COLUMNS H + I) $_{2005}$ + (COLUMNS H + I) $_{2004}$ + (COLUMNS H + I) $_{2003}$] X [200,000 HOURS]] / [(HOURS WORKED) $_{2005}$ + (HOURS WORKED) $_{2004}$ + (HOURS WORKED) $_{2003}$]

(ii) DART = [[(0 + 1) + (0 + 0) + (0 + 0)] X [200,000 HOURS]] / [[(10,000) + (14,000) + (12,000)] HOURS]

(iii) DART = [[(1)] X [200,000 HOURS]] / [36,000 HOURS]

(iv) DART = 5.56 = 5.6

(b) TRC.

(i) TRC = [[(COLUMNS H + I + J) $_{2005}$ + (COLUMNS H + I + J) $_{2004}$ + (COLUMNS H + I + J) $_{2003}$] X [200,000 HOURS]] / [(HOURS WORKED) $_{2005}$ + (HOURS WORKED) $_{2004}$ + (HOURS WORKED) $_{2003}$]

(ii) TRC = [[(0 + 1 + 0) + (0 + 0 + 0) + (0 + 0 + 1)] X [200,000 HOURS]] / [[(10,000) + (14,000) + (12,000)] HOURS]

(iii) TRC = [[(2)] X [200,000 HOURS]] / [36,000 HOURS]

(iv) TRC = 11.11 = 11.1

(c) Conclusion. Using the 3-year calculation, the employer's DART and TRC Rates of 5.6 and 11.1, respectively, are above the most recently available BLS data shown as follows:

YEARS	DART	TRC
2005, 2004, and 2003 Employer's Rates	5.6	11.1
2004 BLS Data	2.9	6.9

(3) Determining eligibility to use the best 3 out of 4 years rate calculations.

(a) Calculate hypothetical TRC:

(i) TRC Hypothetical = [[(SUM OF (2) FOR COLUMNS H + I + J FOR 2005)] X [200,000 HOURS]] / [HOURS WORKED$_{2005}$]

(ii) TRC Hypothetical = [[(2)] X [200,000 HOURS]] / [10,000 HOURS]

(iii) TRC Hypothetical = 40.00 = 40.0

2004 BLS TRC Rate = 6.9

2003 BLS TRC Rate = 7.5

2002 BLS TRC Rate = 7.5

(b) Employer's hypothetical TRC Rate of 40.0 is equal to or higher than the BLS industry average for at least 1 of the past 3 years published; therefore, the employer would be eligible for the best 3 out of 4 years rate calculations.

(4) Best 3 Out of 4 Years Rate Calculations (Years 2005, 2004, and 2002).

(a) DART.

(i) DART = [[(COLUMNS H + I) $_{2005}$ + (COLUMNS H + I) $_{2004}$ + (COLUMNS H + I) $_{2002}$] X [200,000 HOURS]] / [(HOURS WORKED) $_{2005}$ + (HOURS WORKED) $_{2004}$ + (HOURS WORKED) $_{2002}$]

(ii) DART = [[(0 + 1) + (0 + 0) + (0 + 0)] X [200,000 HOURS]] / [[(10,000) + (14,000) + (16,000)] HOURS]

(iii) DART = [[(1)] X [200,000 HOURS]] / [40,000 HOURS]

(iv) DART = 5.00 = 5.0

(b) TRC.

(i) TRC = [[(COLUMNS H + I + J) $_{2005}$ + (COLUMNS H + I + J) $_{2004}$ + (COLUMNS H + I + J) $_{2002}$] X [200,000 HOURS]] / [(HOURS WORKED) $_{2005}$ + (HOURS WORKED) $_{2004}$ + (HOURS WORKED) $_{2002}$]

(ii) TRC = [[(0 + 1 + 0) + (0 + 0 + 0) + (0 + 0 + 0)] X [200,000 HOURS]] / [[(10,000) + (14,000) + (16,000)] HOURS]

(iii) TRC = [[(1)] X [200,000 HOURS]] / [40,000 HOURS]

(iv) TRC = 5.00 = 5.0

(c) Conclusion. The employer's DART Rate of 5.0 is above the 2004 BLS DART Rate of 2.9. The employer's TRC Rate of 5.0 is below the 2004 BLS TRC Rate of 6.9. Because at least one of the employer's injury and illness rates is above the BLS data, this combination of years would not make the employer eligible for SHARP, as shown as follows:

YEARS	DART	TRC
2005, 2004, and 2002 Employer's Rates	5.0	5.0
2004 BLS Data	2.9	6.9

(5) Best 3 out of 4 years Rate Calculations (Years 2005, 2003, and 2002).

(a) DART.

(i) DART = [[(COLUMNS H + I) $_{2005}$ + (COLUMNS H + I) $_{2003}$ + (COLUMNS H + I) $_{2002}$] X [200,000 HOURS]] / [(HOURS WORKED) $_{2005}$ + (HOURS WORKED) $_{2003}$ + (HOURS WORKED) $_{2002}$]

(ii) DART = [[(0 + 1) + (0 + 0) + (0 + 0)] X [200,000 HOURS]] / [[(10,000) + (12,000) + (16,000)] HOURS]

(iii) DART = [[(1)] X [200,000 HOURS]] / [38,000 HOURS]

(iv) DART = 5.26 = 5.3

(b) TRC.

(i) TRC = [[(COLUMNS H + I + J) $_{2005}$ + (COLUMNS H + I + J) $_{2003}$ + (COLUMNS H + I + J) $_{2002}$] X [200,000 HOURS]] / [(HOURS WORKED) $_{2005}$ + (HOURS WORKED) $_{2003}$ + (HOURS WORKED) $_{2002}$]

(ii) TRC = [[(0 + 1 + 0) + (0 + 0 + 1) + (0 + 0 + 0)] X [200,000 HOURS]] / [[(10,000) + (12,000) + (16,000)] HOURS]

(iii) TRC = [[(2)] X [200,000 HOURS]] / [38,000 HOURS]

(iv) TRC = 10.53 = 10.5

(c) Conclusion. The employer's DART and TRC Rates of 5.3 and 10.5, respectively, are both above the most recently available BLS data. Therefore, this combination of years would not make the employer eligible for SHARP, as shown as follows:

YEARS	DART	TRC
2005, 2003, and 2002 Employer's Rates	5.3	10.5
2004 BLS Data	2.9	6.9

(6) Best 3 out of 4 Years Rate Calculations (Years 2004, 2003, and 2002).

(a) DART.

(i) DART = [[(COLUMNS H + I) $_{2004}$ + (COLUMNS H + I) $_{2003}$ + (COLUMNS H + I) $_{2002}$] X [200,000 HOURS]] / [(HOURS WORKED) $_{2004}$ + (HOURS WORKED) $_{2003}$ + (HOURS WORKED) $_{2002}$]

(ii) DART = [[(0 + 0) + (0 + 0) + (0 + 0)] X [200,000 HOURS]] / [[(14,000) + (12,000) + (16,000)] HOURS]

(iii) DART = [[(0)] X [200,000 HOURS]] / [42,000 HOURS]

(iv) DART = 0.00 = 0.0

(b) TRC.

(i) TRC = [[(COLUMNS H + I + J) $_{2004}$ + (COLUMNS H + I + J) $_{2003}$ + (COLUMNS H + I + J) $_{2002}$] X [200,000 HOURS]] / [(HOURS WORKED) $_{2004}$ + (HOURS WORKED) $_{2003}$ + (HOURS WORKED) $_{2002}$]

(ii) TRC = [[(0 + 0 + 0) + (0 + 0 + 1) + (0 + 0 + 0)] X [200,000 HOURS]] / [[(14,000) + (12,000) + (16,000)] HOURS]

(iii) TRC = [[(1)] X [200,000 HOURS]] / [42,000 HOURS]

(iv) TRC = 4.76 = 4.8

(c) Conclusion. The employer's DART and TRC Rates are both below the most recently published BLS data. This combination of years would make the employer eligible for SHARP, as follows:

YEARS	DART	TRC
2004, 2003, and 2002 Employer's Rates	0.0	4.8
2004 BLS Data	2.9	6.9

(7) For purposes of this section, 200,000 Hours = Base for 100 equivalent full-time employees (working 40 hours per week, 50 weeks per year).

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