



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: IPC 01-00-006

EFFECTIVE DATE: 9/25/07

SUBJECT: Safety and Health Compliance Assistance Products

ABSTRACT

Purpose: This Instruction establishes a procedure for obtaining approval to develop OSHA Safety and Health Compliance Assistance products. It also establishes procedures for developing, clearing, distributing, and maintaining approved Compliance Assistance products.

Scope: OSHA-wide.

References: (1) OSHA Instruction ADM 03-00-004 (ADM 8-0.4) Non-Policy Issuances, December 11, 2000; (2) DOL Guidelines for Ensuring and Maximizing the Quality, Objectivity, and Integrity of Information; (3) DOL Procedures for Developing and Issuing Guidance Documents; (4) OSHA Instruction CPL 02-00-065 (CPL 2.65A) - Safety and Health Information Bulletins, August 27, 2003; (5) OSHA Instruction ADM 02-01-001 Update to the OSHA Mission and Function Statements, March 4, 2003.

Cancellations: None.

State Impact: State adoption is not required. See paragraph VII.

Action Offices: National Office Directorates and Regional Offices.

Originating Office: Directorate of Standards and Guidance.

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By and Under the Authority of

Edwin G. Foulke, Jr.
Assistant Secretary

Executive Summary

As required by ADM 03-00-004, this Instruction establishes a uniform procedure for Directorates/Offices/Regions who develop OSHA Compliance Assistance products. It establishes the method for obtaining approval of the Assistant Secretary before the actual development of the Compliance Assistance product and it sets the procedure for clearing, distributing, and maintaining OSHA Safety and Health Compliance Assistance products. For purposes of this Instruction, the term "Compliance Assistance products" includes many types of non-policy issuances (see part B of the Background section), some of which provide "guidance" to employers and employees. Compliance Assistance products may also be subject to the Department of Labor's Guidelines for Ensuring and Maximizing the Quality, Objectivity, and Integrity of Information (Data Quality Guidelines) and the Department of Labor's Procedures for Developing and Issuing Guidance Documents (Good Guidance Practices Memorandum) and, therefore, may require more extensive clearance by the Directorate of Standards and Guidance.

Compliance Assistance products may be used to address safety and health issues where the Agency believes that the dissemination of information and advice would be beneficial. The Instruction applies to all OSHA-developed non-policy Compliance Assistance products except those listed in part D of the Background section. In general, the following types of Compliance Assistance products are not covered by this Instruction: letters of interpretation, directives, training materials prepared for or by the OSHA Training Institute, press releases, media fact sheets or materials intended primarily for use by the media, and Compliance Assistance products prepared for use in response to emergencies, such as hurricanes where compliance with the procedures contained in this Instruction might prevent the timely development and distribution of emergency Compliance Assistance products. Additionally, this Instruction does not apply to the reissuance of Compliance Assistance products prepared exclusively for local or regional use as described in the Background section of this Instruction, provided those materials do not contain any "new" information. Updated materials are considered "new" and subject to the procedures outlined in this Instruction.

Significant Changes

This Instruction establishes a new procedure that prescribes the process to be followed by all OSHA National and Regional Offices to ensure a consistent policy for Safety and Health Compliance Assistance products. This Instruction requires Directorates/ Offices/ Regions to obtain approval from the Assistant Secretary of OSHA before development of any Compliance Assistance product covered by this Instruction. It also establishes a mechanism for National and Regional Offices to seek approval via the Compliance Assistance Coordinating Group (CACG). Finally, this Instruction establishes a procedure for effective coordination among the Directorates/Offices/Regions to ensure that all OSHA-developed Compliance Assistance products are of the highest quality, technically accurate, receive the widest distribution, and maintained current.

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- I. Purpose. This Instruction establishes a procedure for obtaining approval to develop OSHA Safety and Health Compliance Assistance products. It also establishes a review process and provides procedures for developing, clearing, distributing, and maintaining approved Compliance Assistance products. The need for the procedure is discussed in the Background section.
- II. Scope. This Instruction applies OSHA-wide.
- III. References.
 - A. ADM 03-00-004 (ADM 8-0.4) - Non-Policy Issuances, dated December 11, 2000.
 - B. DOL Guidelines for Ensuring and Maximizing the Quality, Objectivity, and Integrity of Information.
 - C. DOL Procedures for Developing and Issuing Guidance Documents.
 - D. OSHA Instruction CPL 02-00-065 (CPL 2.65A) - Safety and Health Information Bulletins, August 27, 2003.
 - E. OSHA Instruction ADM 02-01-001 Update to the OSHA Mission and Function Statements, March 4, 2003
- IV. Cancellations. None.
- V. State Impact. State adoption is not required. See paragraph VII.
- VI. Action Offices. National Office Directors and Regional Administrators shall ensure that the procedures established in this Instruction are followed in order to advance safety and health awareness and to effectively distribute accurate information to interested parties.

Distribution: National and Regional Offices
Area Offices
- VII. Federal Program Change. This Instruction is not a Federal program change. However, States are encouraged to advise OSHA when they become aware of factors or topics appropriate for discussion in a Compliance Assistance product, to identify Compliance Assistance products that are outdated, and to utilize Compliance Assistance products in their State programs, as appropriate. States are also encouraged to provide copies of any Compliance Assistance products that they develop to the appropriate Regional Office.
- VIII. Background.
 - A. Need for an Instruction. OSHA Instruction ADM 03-00-004 Non-Policy Issuances requires that written procedures be developed that specify the procedure for reviewing and clearing each class of issuances. The procedures must include standard clearance time frames, a process for resolution of comments, and when

necessary, re-clearance of materials, as well as formatting requirements. (See ADM 03-00-004 (ADM 8-0.4), Executive Summary and Section X). As stated above, Compliance Assistance products are a class of non-policy issuances.

This Instruction is also intended to ensure that Compliance Assistance products issued by the Agency are "...reliable and accurate reflections of Agency positions, complete and up-to-date; easy to read and understand, and easy to locate and reference" (ADM 03-00-004 (ADM 8-0.4), Section I). Additionally, this Instruction ensures that Compliance Assistance products meet the requirements of DOL's Data Quality Guidelines and Good Guidance Practices developed to implement OMB Bulletins on the topics. In issuing the "Good Guidance Practices" Bulletin, OMB noted that "Concern about whether agencies are properly observing the notice-and-comment requirements of the Administrative Procedure Act has received significant attention" and that "More general concerns also have been raised that agency guidance practices should be better informed and more transparent, fair and accountable." (Pg. 3, OMB Bulletin No. 07-02). OMB also said the following:

This Bulletin is issued under statutory authority, Executive Order, and OMB's general authorities to oversee and coordinate the rulemaking process. In what is commonly known as the Information Quality Act, Congress directed OMB to issue guidelines to "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, utility, objectivity and integrity of information disseminated by Federal agencies."

The concerns expressed by OMB as well as the Agency's desire to ensure that all Compliance Assistance products meet high standards require that a process be instituted to (1) obtain Assistant Secretary approval before Compliance Assistance products are developed; and (2) ensure an efficient, uniform review and clearance process for the products. This Instruction establishes those processes and prescribes a set of procedures for distributing and maintaining all OSHA Safety and Health Compliance Assistance products. Except as necessary to develop the initial recommendation, no Agency resources shall be committed to developing Compliance Assistance products until the Directorate/Office/Region has received Assistant Secretary approval to proceed.

B. Compliance Assistance Products--Definition.

This Instruction is applicable to nearly all types of Compliance Assistance products. Compliance Assistance products do not establish new OSHA policies. They are documents developed to be shared with the public and provide information to guide employers, to help them understand their obligations, and to provide protective solutions to safety and health hazards with the goal of preventing injuries, illnesses and deaths. Compliance Assistance products also include easy-to-read and easy-to-understand information offering suggestions for

good, safe work practices that will aid employers and employees in accident prevention. All of these types of Compliance Assistance products are covered by this Instruction.

C. Compliance Assistance products or materials are prepared by various Directorates and Offices within OSHA and may include, but are not limited to the following:

1. Posters.
2. Videos/DVDs/CDs.
3. Pamphlets.
4. Booklets.
5. Fact Sheets (except those primarily intended for the media).
6. Quick Cards.
7. Safety and Health Information Bulletins (SHIBs).
8. Safety and Health Guides or Guidelines.
9. Safety and Health Injury Prevention Sheets.
10. Safety and Health Topics Pages.
11. eTools.

D. Compliance Assistance products that are not covered by this Instruction (but may be covered by OSHA Instruction ADM 03-00-004 (ADM 8-0.4) Non-Policy Issuances, December 11, 2000) include the following:

1. Non-policy letters of interpretation.
2. Directives.
3. Training materials developed for or by the OSHA Training Institute.
4. PowerPoint presentations, slide presentations, overhead transparencies, and similar type informational resources that are based on existing approved materials.
5. The reissuance of *existing* Compliance Assistance materials which had been developed for local or regional use only. For clarification, the reuse of Compliance Assistance products that have already been released is permitted. However, if any of the previously released Compliance Assistance material is updated, it is to be treated as "new" and thus,

subject to this Instruction. Editorial revision of already released material is permitted and is not subject to this Instruction.

6. The issuance of *new* regional and local Compliance Assistance products that accurately reflect information contained in previously issued Compliance Assistance products, such as related newsletters and similar informational literature. An example of such a Compliance Assistance product would be a Regional newsletter that summarizes information posted on OSHA's public Website; the newsletter would not be subject to this Instruction.
7. Compliance Assistance products developed solely through the use of information in the preamble to an OSHA Final Rule, IMIS data, or information available on the OSHA public website.
8. Enforcement related assistance material (e.g., abatement assistance materials), provided it does not contain any new policies.
9. Press releases, fact sheets, and other material intended primarily for use by the media.
10. Compliance Assistance products prepared for use in response to emergencies, such as hurricanes where compliance with the procedures contained in this Instruction might prevent the timely development and distribution of emergency Compliance Assistance products.

IX. Review and Approval Responsibilities. The initiating Region/Directorate/Office, working through OSHA's Compliance Assistance Coordinating Group (CACG), must obtain Assistant Secretary approval to proceed with the development of a Compliance Assistance product. CACG will coordinate request for presentation to the Assistant Secretary on a quarterly basis. Where an expedited review has been requested, CACG will present the recommendation in a timely manner.

- A. Regional Offices. Regional Administrators shall review all material and recommendations before submitting a recommendation for approval.
- B. National Offices. National Office Directors shall review all material and recommendations before submitting a recommendation for approval.
- C. The initiating Regional or National Office should enter their proposal information online at the Compliance Assistance Products under Development database, indicating the type of Compliance Assistance Product they wish to develop. A proposal request may be entered at any time of the year; however, at least once a year DCSP will issue a call for proposals. The input into the database will be used by CACG in developing OSHA's Compliance Assistance Plan and to coordinate the Assistant Secretary's approval.

Note: Entering the information will trigger notification to the Administrator of the database who will notify the Compliance Assistance Coordinating Group (CACG) of the pending request. If the request needs an expedited approval, please be sure to convey that information by checking the appropriate box (Expedited Review Requested) and explaining the nature/time frames involved to enable the Administrator of the database to process the request expeditiously.

The initiator of the request will be prompted to indicate the potential economic significance of the Compliance Assistance product by indicating whether the proposed Compliance Assistance product may reasonably be anticipated to lead to an annual effect of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, or the environment.

The initiating Regional or National Office shall forward any additional reports or documentation to support their recommendation to CACG via the Director, Directorate of Cooperative and State Programs. CACG may request additional information to be submitted.

- D. The Compliance Assistance Coordinating Group (CACG). The members of the CACG shall, on a quarterly basis: review all suggestions and supporting documentation; request additional information if needed to support the recommendation for a specific type of Compliance Assistance product; invite the initiator (if not a CACG member) to participate in the CACG review, submit the nomination with CACG's recommendation to the Assistant Secretary; and notify the initiating requestor of the Assistant Secretary's decision (whether or not approval has been granted) including the type of Compliance Assistance product to be developed. *Note: All proposal recommendations will be submitted to the Assistant Secretary.*
- E. Regional and National Offices. Once notification has been given to proceed with development of a Compliance Assistance product, Regional and National Office Directors shall develop Compliance Assistance products following the procedures described below under Section X--Development and Clearance Process for Compliance Assistance Products.
- X. Development and Clearance Process for Compliance Assistance Products. After obtaining approval, the initiating National or Regional Office shall:
 - A. Update the Compliance Assistance project in the Compliance Assistance Products under Development database.
 - B. Develop the approved type of Compliance Assistance product.
 - C. Mark the Compliance Assistance product "**DRAFT--Not for Further Distribution**" on each page until approval for public release has been given.

- D. Fill out an OSHA Form 202 (OSHA Non-Policy Issuance Clearance) to coordinate review of the draft Compliance Assistance product with the following Directorates/Offices/Regions as appropriate (as per OSHA Instruction ADM 03-00-004 Non-Policy Issuances).
1. Office of Communications.
 2. Directorate of Enforcement Programs.
 3. Directorate of Cooperative and State Programs.
 4. Directorate of Training and Education.
 5. Directorate of Science, Technology, and Medicine.
 6. Directorate of Information Technology.
 7. Directorate of Construction.
 8. Directorate of Evaluation and Analysis.
 9. Directorate of Standards and Guidance.
 10. Office of the Solicitor.
 11. Regional Administrators serving on CACG and those affected by the Compliance Assistance product.
 12. Any other appropriate Agency Directorate or Office.
- E. When appropriate, the originating Directorate/Office/Region may seek a review of the draft Compliance Assistance product by entities or individuals outside the Agency (e.g., recognized experts, State or Federal Agencies, professional organizations, OSHA's cooperative program participants). To ensure inclusion of appropriate stakeholders from active Alliances, consultation with the Directorate of Cooperative and State Programs (DCSP) is encouraged. At times, DCSP may suggest to the initiating Directorate/Office/Region that a particular Compliance Assistance product be reviewed by cooperative program participants.
- F. In general, allow at least 20 working days for review of the Compliance Assistance product. Where the complexity of the document dictates, additional time for review shall be permitted. Reviewers needing more time shall appeal to the initiating Office or the appropriate Deputy Assistant Secretary. After incorporating appropriate changes, determine if a second review is needed. Note: Clearance/concurrence from reviewers may not be more than 120 days old; otherwise, a second review is needed. (See paragraph H below.)

- G. As required by Section XV, Use of Disclaimer Statement(s), of ADM 03-00-004, Non-Policy Issuances, a non-policy issuance that provides guidance concerning compliance matters shall include a disclaimer statement that shall be approved by the Assistant Secretary with advice from the Solicitor of Labor. Therefore, nearly all Compliance Assistance products will need a disclaimer. An exception is made when space is not available (e.g., Quick Cards). There are many types of Compliance Assistance disclaimers; therefore, the initiating office shall consult with the Office of the Solicitor for the appropriate disclaimer. In many situations, the following disclaimer will be sufficient:

*This Compliance Assistance product is **not** a standard or regulation, and it creates no new legal obligations. The Compliance Assistance product is advisory in nature, informational in content, and is intended to assist employers in providing a safe and healthful workplace. Pursuant to the Occupational Safety and Health Act, employers must comply with safety and health standards promulgated by OSHA or by a State with an OSHA-approved State Plan. In addition, pursuant to Section 5(a)(1), the General Duty Clause of the Act, employers must provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm. Employers can be cited for violating the General Duty Clause if there is a recognized hazard and they do not take reasonable steps to prevent or to abate the hazard. However, failure to implement these recommendations is not, in itself, a violation of the General Duty Clause. Citations can only be based on standards, regulations, and the General Duty Clause.*

- H. If the Compliance Assistance product contains influential information under the Data Quality Guidelines or is a significant guidance document under the Good Guidance Practices Memorandum, the final product must be forwarded to DSG after all reviews are complete. (See References B and C for additional information or link to <http://www.dol.gov/informationquality.htm>). DSG will be the last sign-off in the review process for these. Otherwise, final products must be forwarded to CACG after all reviews are completed. Include a copy of all sign-off sheets (Form 202). If the concurrence sheets are not timely (within the last 120 days), the Compliance Assistance product will be returned to the originating office so that another review can be conducted. *Note:* Requests for an exception to the 120-day time frame should be submitted to the Deputy Assistant Secretary to whom the initiator reports.
- I. Upon final clearance by DSG or CACG, the product will be returned to the initiator who will forward it to the Assistant Secretary for final approval. The initiator will be notified when approval has been granted to release the product to the public.
- J. In some cases, clearance by the Department's Policy Planning Board (PPB) or OMB may be necessary. Consult with the Executive Assistant to the Assistant Secretary for such a determination. In such cases, in addition to following the

procedures of this Instruction, the originating Office should follow the steps specified for PPB and OMB clearance described in the Good Guidance Practices Memorandum.

- K. To maintain a consistent and familiar appearance, SHIBs will retain their uniform publishing format. Compliance Assistance products other than SHIBs will follow separate, appropriate formats suitable for the type of Compliance Assistance product.
 - L. Coordinate with the Office of Communications on layout, design, and publication of the document.
- XI. Distribution and Maintenance of Compliance Assistance Products. The initiating office shall:
- A. Coordinate with the Office of Communications regarding issuance of a news release and/or any other appropriate public notification regarding the Compliance Assistance product(s);
 - B. Post copies of the Compliance Assistance products on the OSHA Website.
 - C. Maintain Compliance Assistance products on the OSHA Website as long as the information is useful and accurate. Users of the Compliance Assistance products may notify the initiating office when they believe that the information is out of date or that the same or similar Compliance Assistance has been provided in a more formal medium of communication. The initiating office shall, accordingly, decide either to delete or to update the Compliance Assistance product. If the initiating office decides to delete a product, they should notify OSHA executive staff that the product has been or will be deleted.
 - D. Distribute published copies of the Compliance Assistance product to Regional and Area Offices using electronic distribution when possible;
 - E. Distribute published copies of the Compliance Assistance product to State designees and Consultation Project Managers through DCSP; and
 - F. Direct any media inquiries concerning Compliance Assistance products to the Office of Communications.