



DISCIPLINARY ACTION CRITERIA
SSPC QP 5
Coating and Lining Inspection Companies

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QP 5 DISCIPLINARY ACTION CRITERIA COATING INSPECTION FIRM CERTIFICATION PROGRAM

I. Introduction

- A. The QP 5 Disciplinary Action Criteria and administrative procedures are intended to strengthen the reputation of the QP 5 Certification Program and thus make certification more valuable. Coating Inspection Firms who maintain certification standards benefit from the increased recognition and opportunities that come with being part of a program with high standards.

The QP 5 Disciplinary Action Criteria and administrative procedures establish procedures and rules for: issuing warnings to certified inspection firms; putting firms on probation; conducting special audits; suspending, revoking, or denying certification of inspection firms about whom critical faults in safety, environmental compliance, quality/service, or ethical practice have been reported and verified.

The QP-5 DAC went into effect June 15, 2006. Confirmed critical faults attributed to QP-5 firms occurring on or after June 15 will subject the QP-5 firm to disciplinary action under this program.

B. Scope and Use

This procedure defines the process for disciplining inspection firms for critical faults incurred. This procedure is used by SSPC when a critical fault is suspected. It is also used by inspection firms to respond to and appeal disciplinary actions assessed by SSPC.

The procedure includes the following topics:

- Definitions of critical faults and disciplinary actions
- Steps in the process
- Enforcement
- Notes

II. Definitions of Critical Faults

General

Critical faults are actions associated with inspection firm activities, which violate the requirements of the QP 5 DAC. Critical faults are classified as serious, very serious, severe, and very severe.

A. Types of Critical Faults

1. Serious - A serious fault can result from the following events:

a Safety

Workers Compensation Experience Modification Rate (EMR) (Interstate or Intrastate) exceeding 1.10 averaged over a 3 year period, or a single change in EMR (Interstate or Intrastate) exceeding 1.25 during the same three year period.

Note: An inspection firm can request an exemption from disciplinary action due to a change in EMR per [e.] above if the firm can document that:

- (1) the change in EMR is due to a non job operation "loss," such as an off site accident involving a company vehicle or
- (2) the loss is not related to coating work or
- (3) the firm experienced no losses, or
- (4) the firm can document that the change in EMR is not an indicator of a change in the firm's overall safety performance

b Quality of Work/Service

Failure to meet overall project inspection requirements as defined in the QP-5 firm's scope of services in the absence of mitigating circumstances, as proven through the presentation of objective evidence by the facility owner or its official representative

2. Very Serious -A very serious fault can result from the following events:

a Quality of Work/Service

Poor quality coating and lining inspection work, as documented by facility owner or its official, representative

b Inspector Felony Conviction

Criminal felony conviction of one (1) inspector or supervisor employed by or under the direction of the inspection firm for illegal practices including but not limited to acceptance of gifts and bribes, falsification of inspection tests, results and documentation occurring while the firm is QP 5 certified.

3. Severe - A severe fault can result from the following events:

a Safety (Pattern of OSHA Violations)

A pattern of OSHA violations for serious, repeat or willful violations. A "pattern" is defined in this instance as affirmed serious, repeat, or willful violations as a result of three separate, unrelated (see note below) OSHA inspections over an 18 consecutive month period; or any two affirmed repeat or willful violations during an 18 consecutive month period.

Note 1: With the exception of events described in Note 2 below, when a firm is cited for serious, repeat or willful violations on the same project, violations are considered (by SSPC) to be "unrelated" if the initial site visit that reveals such violations was conducted on the same job site at least two months after the firm received written notification of the results from the previous inspection. Affirmed violations at other job sites are also considered to be "unrelated." Further, to qualify for a pattern, any affirmed, serious or repeat violations must be \geq \$10,000 (USD) in fines paid per inspection.

Note 2 - Exceptions to Note 1:

Any OSHA or other regulatory body or governmental agency inspection triggered by one or more of the following, as defined by US OSHA;

- a. "Imminent danger situation;"
- b. "Fatalities and catastrophes;"

- b Quality of Work/Service
Deliberate violations of specification or contract requirements, as documented by the facility owner or its official representative that are not satisfactorily addressed by the QP-5 firm as attested by the facility owner or its representative in a timely manner. Documentation may include but is not limited to official correspondence; third party reports; photographs or video; independent audit reports; inspection reports; performance evaluations; non-conformance reports; and judgments.
- c A pattern of substantiated, reliable reports (e.g., failure analysis reports) of quality/service violations. A pattern is defined, in this instance, as three separate occurrences in an 18-month period in which management did not take appropriate action to address the problem in a manner satisfactory to the client.
Criminal felony conviction of two (2) or more inspectors or one or more supervisors employed by or under the direction of the inspection firm for illegal practices including but not limited to acceptance of gifts and bribes, falsification of inspection, tests, and results and documentation, negligence, and illegal activities at the job site, occurring within a 48-month period, while the firm is QP 5 certified.

4. Very Severe - A very severe fault can result from the following events

- a Ethical Practice
Criminal conviction of the owner, officers, directors or managing agents of the inspection firm or affiliated corporation, company or entity for any felony in connection with operation of the firm or in connection with coating inspection operations, whether the conviction arises by a finding of guilty by a judge or jury, plea of guilty or plea of nolo contendere.
- b Criminal conviction of the inspection firm or corporation or affiliated corporation, company or entity in connection with coating inspection operations, whether the conviction arises by a finding of guilty by a judge or jury, a plea of guilty, or a plea of nolo contendere.
- c Illegal business practices of the inspection firm or corporation or affiliated corporation, company or entity, such as, but not limited to, systematic violation of labor or tax laws, altering of inspection and related reports and other documentation.
- d Any instance of substantiated, reliable, unsolicited reports of ethical practice violations by any representative of the firms management on a project (e.g., company officer, project manager, resident engineer).
- e Altering or falsifying in any way any reports, documents, or test results on a project, as documented by facility owner or representative or SSPC
- f Misrepresentation, falsification or non-disclosure of information required to apply for, renew and maintain certification, as documented by SSPC
- g Criminal felony conviction of two (2) or more inspectors or one or more supervisors employed by or under the direction of the inspection firm for illegal practices including but not limited to acceptance of gifts and bribes, falsification of inspection tests, and results and documentation, negligence defined as failure to exercise the care toward others which a reasonable or prudent person would do in the circumstances, or taking action which such a reasonable person would not, and illegal activities at the job site, occurring within a 24-month period, while the firm is QP 5 certified.

Note: For purposes of this document, affiliated company is defined as: Business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly: (1) either one controls or has the power to control the other, or (2) a third party controls or has the power to control both. (Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees), (3) Is a business entity organized following the revocation, suspension, or proposed for same of a contractor which has the same or similar management, ownership, or principal employees as the contractor that was subject to revocation or debarred, suspended, or proposed for such.

- h Other
Two severe faults in a one-year period.

III. **Definitions of Disciplinary Actions**

A disciplinary action is one taken as a result of confirmation of critical faults under the process described in V. below. The four types of disciplinary action are Warning, Probation, Suspension, and Revocation. They are described below.

Warning - The inspection firm is notified that critical faults have been reported and have been verified and that additional reports will trigger further disciplinary action. An inspection firm issued a warning may be subject to one or more audits at any time after the warning has been made. The first audit will be done at the inspection firm's expense. Subsequent audits during the warning period will be done solely at SSPC's expense. Refusal to submit to an audit or refusal to cooperate with an auditor during any audit, or refusal to pay expenses, will result in a six-month suspension from the program. If SSPC chooses to conduct an audit, and the audit is passed, a warning may be removed. Otherwise, a warning remains in effect for one year, unless probation, suspension, or revocation of certification supersedes.

Probation - The inspection firm is notified that multiple critical faults have been reported and have been verified. An inspection firm put on probation is subject to a mandatory audit, in addition to the required annual audit, done at the inspection firm's expense. If SSPC chooses to audit more than one site, SSPC will bear the cost of additional site audits. Probation ends when the inspection firm passes the audit(s). If an inspection firm is on Probation and fails the audit, the inspection firm will immediately be suspended until it can pass a QP 5 audit with no major deficiencies or less than four (4) minor CARs. The inspection firm cannot appeal the audit. If the suspension lasts six months, the inspection firm will have to follow the procedures for reinstatement in "Suspension" below.

NOTE: "Audits" for inspection firms under "warning" or "probation" are not necessarily limited to audits to certification evaluation checklists items. A mandatory disciplinary-related audit can also be in the form of a "special" audit to review business practices or other activities not related directly to the certification audit criteria. Audits are typically announced but can be announced on short notice — i.e., 15 minutes before the audit takes place.

Suspension - The inspection firm is notified that, based on the SSPC administrator's verification of reported critical faults, its certification will be suspended for a minimum of six months to two years. To be reinstated, the inspection firm will have to submit a maintenance application and successfully complete an audit at the inspection firm's expense, as well as pay a reinstatement fee equivalent to an initial application administrative fee. If the inspection firm's certification term runs out during the suspension period, the inspection firm must reapply for initial certification after the end of the suspension period, pay the required initial application and audit fees as well as reinstatement fee, and submit to an audit during the initial evaluation.

Revocation - The inspection firm is notified that, based on the SSPC administrator's verification of reported critical faults, its certification will be revoked for a minimum of two years. To be reinstated, the inspection firm will have to submit an initial application, pass an audit at the inspection firm's expense, and pay a reinstatement fee equivalent to the annual administrative fee in addition to the regular initial application fee. The inspection firm may submit the initial application 45 days prior to the end of the revocation period. Once reinstated, the inspection firm will be issued certification with the stipulation that the firm will have to pass a follow-up audit, at the inspection firm's expense, within the first year of reinstatement, but prior to any planned audit to retain certification status.

IV. **Triggers for Disciplinary Actions**

Critical faults in safety, environmental compliance, quality/service, or ethical practice will trigger disciplinary action. "Very severe," critical faults will, in general, trigger the harshest disciplinary actions, whereas "serious," faults will trigger milder disciplinary actions. However, the impact of reported critical faults is cumulative, i.e., if many "serious" faults are reported, this will also trigger harsh disciplinary action. And if more than one mild disciplinary action is issued in a given time period (e.g., a year), this will trigger harsher disciplinary actions.

Type of Critical Fault	Disciplinary Action
Serious	Warning
Very Serious	Probation
Severe	Suspension
Very Severe	Revocation

V. PROCESS FOR DISCIPLINE

This section delineates the steps for the discipline process, beginning with first receipt of information by SSPC through resolution. Not every step is required for every inspection firm undergoing the discipline process. The normal sequence of steps is:

A. SSPC receives the initial information or allegation

From public documents, phone calls, written information, or other means of communication, SSPC receives information or allegations that a certified inspection firm is violating or has violated the Disciplinary Action Criteria. This information will be accepted from anonymous sources. The allegation must be supported with enough information in order for SSPC to conduct a preliminary inquiry. Allegations without adequate information will be disregarded.

B. SSPC conducts a preliminary inquiry

SSPC will attempt to confirm the accuracy of the information. If the allegation cannot be substantiated, it will be disregarded.

C. SSPC verifies the accuracy of the information received and confirms the alleged violation

D. SSPC notifies the inspection firm of suspected critical faults and the violation of the DAC

The inspection firm is notified in writing that a critical fault has occurred and that SSPC has issued disciplinary action under the DAC.

E. Right to appeal impending action

Once the inspection firm has been notified, the firm may appeal the decision or action of SSPC. Within 10 working days of written notification of an impending disciplinary action, the contractor may submit evidence (e.g., settlement documentation; affidavits) in writing to SSPC showing that reported critical faults are incorrect. Failure to appeal within the 10-working-day period will result in automatic issuance of the pending disciplinary action.

F. SSPC will evaluate a correctly submitted appeal within 30 days of its receipt.

G. Firm requests informal conference

If SSPC rejects the first written appeal, the firm can continue the appeal process by requesting an informal conference with SSPC at SSPC headquarters within 15 working days of notification of rejection. At the informal conference, the firm may present matters in extenuation and mitigation supporting its appeal.

H. SSPC responds to informal conference

SSPC may find in favor of the inspection firm, deny the firm's appeal, or propose a modified disciplinary action. SSPC will render a decision within 30 calendar days after the informal conference.

I. Arbitration

If the foregoing steps fail to resolve the dispute, a mutually agreed upon arbitration panel, consisting of three persons (one person chosen by the inspection firm, one by SSPC, and one agreed upon by both parties as Chair of the panel) will convene to hear evidence according to "Procedures for Arbitration under the SSPC PCCP DAC Program" and render a final decision. Both parties must agree to selection of panel members within 15 working days after denial of appeal.

If the parties cannot agree on the selection of the panel Chair within the 15-working-day period after SSPC denial, the parties shall select a panel Chair from the list of Alternative Dispute Resolution Neutrals maintained and approved by the United States District Court for the Western District of Pennsylvania. The process for selecting

the panel Chair in this circumstance shall be: SSPC shall choose three individuals from the neutrals list to submit to the inspection firm, who shall select one of these individuals as panel Chair. If the inspection firm fails to choose a panel Chair within the 5-day period, SSPC will make the selection. Both parties share the cost of the Neutral, regardless of the outcome of arbitration.

The arbitration panel must convene to render a decision by simple majority no later than 30 working days after selection, unless an extension of time is granted by SSPC. If the arbitration panel finds for the inspection firm, that is, vacates SSPC's assessed penalty without modification, the cost of all travel and per diem expenses associated with convening of the panel shall be borne by SSPC. If the panel makes a decision that does not find in favor of either side, i.e., a compromise decision or change to the initially assessed penalty, the cost of all travel and per diem expenses associated with convening the arbitration panel will be shared equally by the inspection firm and SSPC. If the panel finds in favor of SSPC, that is, upholds SSPC's initially assessed penalty, the inspection firm shall be responsible for payment, directly to SSPC, of all travel and per diem expenses associated with convening of the panel. If it comes to light that any improprieties occurred prior to or during the arbitration, the arbitration panel results shall be declared null and void and a new panel convened to arbitrate the dispute.

VI. PROCESS FOR ARBITRATION

A. Initiation of Panel

If SSPC and the inspection firm have failed to resolve the dispute through the normal appeals process, SSPC will establish an arbitration panel per DAC Section V.I.

B. Composition of Panel

The panel will consist of three persons who currently or have previously worked in the protective coatings industry for more than 3 years (one person chosen by the inspection firm, one by SSPC, and one agreed upon by both parties to be the Chair of the panel). They will convene to hear evidence and render a final, binding decision. Both parties shall agree to the selection of panel members within 15 working days after denial of appeal. Upon selection, panel members must declare in writing to SSPC, at least 10 days before the hearing, that there are no circumstances likely to affect their impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past relationship with the parties or their representatives that could impact their ability to be fair and impartial. Persons who are employees of either of the parties, family members, personal friends, or under contract directly or indirectly to either of the parties in dispute are ineligible to serve on the panel.

Note 1: persons nominated to serve on the panel are required to provide a current resume (CV) to SSPC and the appellant and declare in writing that there are no circumstances likely to affect their impartiality, including any bias, financial or personal interest in the result of the arbitration. The nominee shall also disclose any past relationship, excluding counsel, with the parties or their representatives.

Note 2: the parties waive the requirement that the panel Chair have experience in the protective coating industry if they cannot agree on a panel chair and must resort to selection of the Chair of the panel per DAC Section V.I.

Note 3: Honoraria of less than \$10,000USD, given for making a speech or making a presentation at an SSPC conference or at a conference or meeting on behalf of SSPC or instructing a training course several times a year, are not considered as establishing a contractual relationship.

C. Cooperation

As is the case in all other aspects of the program, if an inspection firm fails to cooperate with SSPC in this process, its certificates may be immediately revoked. In addition, if the appellant withdraws from the process at any stage prior to its completion, SSPC shall immediately invoke the initially assessed penalty.

D. Date, Time, and Place of Hearing

SSPC, in consultation with the inspection firm, will decide the date and time for the hearing. SSPC will notify all parties at least 10 working days in advance of the hearing confirming the date and time. Only SSPC, after consultation with the inspection firm, can grant a change to the initial date of the hearing. The arbitration panel will convene at the SSPC office in Pittsburgh, PA, unless a change in venue is approved by SSPC. Unless both parties agree to a delay, the arbitration panel shall convene no later than 30 working days after selection. Once a date is determined, neither party may reschedule unless an emergency arises with one of the panel members or

with one of the parties. SSPC will be the final decision authority on all items relating to the date, time, and place of the hearing.

E. Participation

1. Representation

Each party shall designate an official representative authorized to present the party's interest. Counsel or another authorized representative may also represent either party. A party intending to be so represented shall notify the other party of the name and address of the representative/counsel at least fifteen (15) working days prior to the date set for the hearing. When one party decides to have counsel and the other party's counsel is unavailable, this will constitute grounds for postponement of the hearing. Either party may invoke postponement, if other than the appointed representative appears at the hearing without prior approval by SSPC. The party causing the postponement shall bear all costs related to the postponement when the postponement occurs at the time of the hearing.

2. Witnesses

Either party may designate up to two witnesses to present information. The party shall notify the other party at least fifteen (15) working days prior to the hearing date regarding the name, affiliation and purpose of the witness.

Additional witnesses may be submitted by either party for consideration by the panel Chair, who is the ultimate authority as to whether additional witnesses above the two allowed, are permitted to testify. The party requesting the additional witness or witnesses shall provide advance notification (at least 15 working days prior to the hearing date) of its intent to have more than two witnesses at the hearing and shall state in writing the intent of the additional witness(es).

F. Record of Proceedings

SSPC will provide a person, not involved in the hearing, to take notes of the proceedings. If the inspection firm requests a professional stenographic record, the inspection firm shall pay the cost of that service and the production of that record. If the transcript is agreed by the parties to be the official record of the proceeding, it must be produced no later than 30 calendar days after the hearing.

G. Evidence

To expedite the hearing, SSPC, in consultation with the appellant, will send the panel Chair all documents either party believes is relevant to the case. This will be done no later than five (5) working days before the hearing. SSPC will provide the contractor with copies of the material presented to the panel Chair. If a piece of material is determined to be missing, it will be immediately sent to the panel Chair by the most expeditious manner. The panel Chair may request offers of proof and may reject items deemed to be unreliable, unnecessary, or of slight value to the determination of the case. Either party may offer exhibits but they must be presented to both parties and the panel Chair at least 5 working days prior to the hearing for review. Any documents or exhibits submitted after the five working-day deadline shall be considered inadmissible. The panel Chair determines which documents or exhibits submitted are relevant to the case being heard, and therefore admissible to the arbitrators prior to or at the hearing.

H. Order of Proceedings

The person agreed upon by both parties shall be designated to be the Chair of the panel. That person shall facilitate the proceedings with a view toward expediting the resolution of the dispute.

The standard order of the proceedings is: SSPC shall present evidence to support its finding of a violation or violations of the DAC. The inspection shall then present evidence supporting its defense. The arbitration panel may hear witnesses for each party. If there are witnesses, they shall submit to questions or other examination from the panel. The panel has the discretion to vary this procedure but must ensure that each party has been afforded a full and equal opportunity to be heard. In order to expedite the proceedings, the president of the panel may control the order of the proceedings and direct the parties to focus the presentation of their case on the issues at hand.

I. Communication

There shall be no direct communication between the parties and the panel concerning details of the dispute prior to the hearing unless agreed upon in advance by both parties, in writing.

J. Closing

When satisfied that the presentation of both parties is complete, the Chair of the panel shall declare the hearing closed. The panel shall render a binding decision by simple majority as soon as possible, preferably that day, but no later than 10 working days after the hearing. As set forth in the DAC Section XX, "If the arbitration panel finds for the inspection firm, that is, the arbitration panel vacates the initially assessed penalty, the cost of per diem and travel expenses associated with convening the arbitration panel shall be borne by SSPC. If the arbitration panel finds for SSPC, the inspection firm is responsible for payment of all per diem and travel expenses related to convening of the arbitration panel." SSPC and the appellant will share per diem and travel expenses related to convening of the arbitration panel for modified or compromise decisions that change the initially assessed penalty. All other expenses such as staff time, legal counsel, witnesses are borne by the party utilizing the services of these persons.

K. Decisions

All decisions of the panel shall be by majority. The panel’s opinion and ultimate decision shall be reflected in writing by the panel Chair and addressed to SSPC. The panel may find in favor of the contractor; in favor of SSPC; or the panel may decide an alternative action that, in its opinion, maintains the integrity of the program and is fair to all parties. If the panel chooses to modify the initially assessed penalty (i.e., decide an alternative action), the panel must clearly state, in its written decision, the time frame the modified penalty shall be in effect and any actions by the inspection firm that may occur after the decision is made that would revert back to the initially assessed penalty or other alternative. The panel shall not render a disciplinary action that exceeds those published in the DAC.

L. Dispute Resolution

The panel shall be the sole and exclusive decision-maker concerning the existence, nature and extent of its jurisdiction over any issue. SSPC and the inspection firm mutually agree that the procedures set forth herein shall be the sole and exclusive remedies, procedures or due process available for resolving and settling each, any and all claims, between them, including, but not limited to disputes and controversies related in any way to the contractor’s application or continued eligibility for certification with the certifying agency or any of its parents, subsidiaries and/or affiliated companies. The certifying agent and the inspection firm shall use this dispute resolution procedure exclusively for all claims and controversies whether arising under or based on the Constitution, statutes, ordinances, regulations, rules, orders or common law of the United States or any state or any political subdivision relating to certification. SSPC and the inspection firm mutually agree that the decisions reached in accordance with the procedures set forth above shall be final and binding on all parties and that the parties hereby waive any and all rights to the contrary, including any right to trial by jury, judicial appeal, or the right to proceed in any civil court of law and, any such rights are hereby expressly waived. This agreement is specifically intended, understood and admitted and stipulated to irrevocably and completely change and transfer the former place where the parties’ rights will be finally determined. The certifying agency and inspection firm hereby expressly waive any and all rights to proceed in a court of law with respect to any issues subject to the jurisdiction of the panel and expressly waive any right to appeal any decision of the panel in the court of law.

The certifying agency and inspection firm acknowledge that they have had sufficient time to review and consider signing this agreement. It is clearly understood that this is a legal document and that any questions or concerns about it should be referred to appropriate legal counsel. The parties specifically intend that all provisions of this procedure and any decision of the panel shall be binding on the heirs, spouses, representatives, attorneys, successors and assigns of the parties hereto. The certifying agency and the inspection firm expressly agree and understand that the procedures set forth shall be the final decision of the certifying agency with respect to the awarding or continuation of any certification by SSPC, and that SSPC shall make any and all final determinations with respect to any and all issues related to certification by SSPC, subject only to the procedures set forth herein.

VII. Table of Disciplinary Actions

The table below is a guide for Critical Faults and the associated Disciplinary Actions. In this table, the disciplinary actions are listed from left to right in order of increasing severity. The critical faults are listed from top to bottom in order of increasing severity. Please note that, for economy of space, this table contains an abbreviated description of each critical fault. The full description in the text will be used by SSPC for assessment of disciplinary action.

It is recognized that more than one critical fault may be reported at one time, thus the entries in this table show both the number of reports and the total number of critical faults that will trigger each disciplinary action.

It is also recognized that critical faults of different severity may be reported one at a time. If an inspection firm is reported for two or more critical faults, the higher severity fault(s) will take precedence in determining disciplinary action.

DISCIPLINARY ACTION TABLE				
CRITICAL FAULTS (found in section II.A of the DAC)	WARNING (IV.A)	PROBATION (IV.B)	SUSPEND (IV.C)	REVOKE (IV.D)
SERIOUS * EMR exceeding threshold * Failure to meet overall project work schedule	1 Report	2 Reports	3 or more Reports	N/A
VERY SERIOUS * Poor Quality Work * Criminal felony conviction of 1 inspector employed by or under the direction of the inspection firm for illegal practices including but not limited to acceptance of gifts and bribes, falsification of inspection tests, results and documentation	1 Report	2 Reports	3 Reports	4 or more Reports
SEVERE * A pattern of OSHA citations for serious, repeat or willful violations * A pattern of reports of quality/service violations * Criminal felony conviction of 2 or more inspectors or supervisors employed by or under the direction of the inspection firm for illegal practices including but not limited to acceptance of gifts and bribes, falsification of inspection tests, results and documentation occurring within a 48 month period	N/A	N/A	1 Report	2 Reports
VERY SEVERE * Criminal conviction of the inspection firm's owner, officers, directors or managing agent for a felony related to business operations * Criminal conviction of the inspection firm or corp. or affiliated corp., company or entity in connection with business operations, whether the conviction arises by a finding of guilty by a judge or jury, a plea of guilty, * Illegal business practices * A pattern of reports of ethical practice violations * Fraud * Altering or falsifying any reports, documents, or test results on a project * Misrepresentation, falsification or non-disclosure of information required for certification * Criminal felony conviction of 2 or more inspectors or one or more supervisors employed by or under the direction of the inspection firm for illegal practices within a 24 month period	N/A	N/A	N/A	1 Report
MULTIPLE DISCIPLINARY ACTIONS ISSUED		2 WARNINGS in 1 YEAR	2 PROBATIONS in 1 YEAR	3 PROBATIONS in 1 YEAR (or) 2 SUSPENSIONS IN 1 YEAR

NOTE: "Report" = critical faults reported and verified, which have occurred on or in relation to a specific project.

VIII. Enforcement

A. General

The disciplinary action will become effective within two business days of the formal notification to the inspection firm of the resolution.

B. Notification About Inspection Firms

Listed under each type of disciplinary action are the notifications that SSPC will issue following that disciplinary action:

1. **Warning** - Issued to a certified inspection firm
 - a. Inspection firm
 - b. SSPC Administration
 - c. SSPC Auditors
2. **Probation** - Issued to a certified inspection firm
 - a. Inspection firm
 - b. SSPC Administration
 - c. SSPC Auditors
3. **Suspension** - Issued to a certified inspection firm
 - a. Inspection firm
 - b. SSPC Administration
 - c. SSPC Auditors
 - d. "Active" facility owners, i.e., those known by SSPC to be currently engaged in working with the inspection firm who invoke QP-5
 - e. SSPC BOG
 - f. JPCL and SSPC Online (web site), identifying inspection firm.
4. **Revocation** - Issued to a certified inspection firm
 - a. Inspection firm
 - b. SSPC Administration
 - c. SSPC Auditors
 - d. "Active" facility owners, i.e., those known by SSPC to be currently engaged in working with the inspection firm who invoke QP-5
 - e. SSPC BOG
 - f. JPCL and SSPC Online (web site), identifying inspection firm.

Note: For SSPC to issue disciplinary action, a critical fault attributed to a certified inspection firm must have occurred during the inspection firm's certification term. For initial applicants, critical faults occurring up to 24 months prior to submittal of their application for certification will be considered in determining application status or certification status. SSPC reserves the right to issue disciplinary action for faults that have occurred after certification was granted, but are discovered at a later date. SSPC staff will verify the validity of each reported critical fault.

IX. Special Notes

- A. All fees and expenses due SSPC as a result of a disciplinary action must be paid by the inspection firm within 30 days of notification. SSPC reserves the right to suspend a firm's certification for non-payment of fees and expenses.
- B. In the event the certified inspection firm's business is, in whole or in part, sold, leased, transferred or taken over by sale, transfer, lease, assignment, receivership or bankruptcy proceeding, any disciplinary actions (warning, probation, suspension or revocation) issued will be transferred to the new business. The intent is to prevent an inspection company from changing its name, reorganizing or otherwise changing in any way to avoid consequences of disciplinary actions assessed.
- C. For initial certification applicants, reported and verified critical faults will be used to determine denial of application for certification, or conditions upon which an inspection firm can become certified if all other requirements are met.

- D. Certified inspection firms and applicants are required to submit to SSPC copies of all citations issued to their firm by regulatory agencies for non-compliance with regulations during any stage of a project relating to coating inspection or related business operations. Failure to do so can result in assessment of disciplinary action for “misrepresentation of information, or failure to provide information required for certification.”
- E. Criminal conviction of the owner, officers, directors or managing agents of a certified inspection firm for a felony in connection with business operations being performed under the name of another, as a corporation, a company, partnership or any other business entity, including a joint venture where the owner, officer, director, etc., exercises directly or indirectly any significant degree of ownership, management or control, renders the certified firm subject to disciplinary action under the DAC.
- F. Any representative of the management, including but not limited to an officer, director, superintendent, quality control supervisor, safety director, general manager, or stockholder, or any person who exercises directly or indirectly, including through family members, any degree of ownership, management or control of an inspection firm or affiliated firm disciplined by SSPC under the DAC, who forms or purchases a new company or who exercises any management or control of a new, existing, or purchased company, or who exercises any degree of ownership of a new, existing, or purchased company, renders the new, existing, or purchased company ineligible for certification while any suspension or revocation of the disciplined company the person was associated with, is in effect. The intent is to ensure that management, representatives or individuals associated with the disciplined firm cannot form or purchase a new company, or exercise any control over an existing company (such as through family members) to avoid disciplinary action.

X. Watch List Clause

A. Purpose of the “Watch List” Clause

The “Watch List” allows the SSPC QP 5 certification program administrator (PA) to flag actions of SSPC QP 5 certified firms that could result in eventual disciplinary penalties if such actions are later affirmed as a violation of the DAC. The Watch List is intended to be a precursory step before the initial warning phase of the Disciplinary Action process. The DAC is a more formal procedure. The Watch List is also intended to notify the executive management of the inspection firm of a reported allegation or incident so the inspection firm can take preventive action to get to the root cause of the event and avoid reoccurrence leading to disciplinary action.

If the inspection firm’s executive management fails to respond to the “Watch List” notification within thirty (30) calendar days of the date of the notification, the inspection firm’s certification will be suspended until a satisfactory response is received.

The names of the firms/companies placed on the Watch List is treated as confidential and is for SSPC staff use only. Being placed on the Watch List does not automatically result in any disciplinary action.

B. Criteria for Placement on the Watch List

The following is a list of reported actions that will trigger an SSPC investigation to determine whether an inspection firm reaches the threshold for a “Watch List” notification:

- Violation of safety and health or environmental regulations as alleged in a newspaper article or through other media outlets. Written complaint (not verbal) from a Facility Owner or authorized representative, who has specified QP 5 in its project specifications, documenting substandard work performance or contract violations
- Death or serious injury of an inspector or other person under the certified entity’s direction as a result of an alleged violation of worker safety and health regulations issued by OSHA or equivalent agency
- An established pattern of “alleged” Repeat, Serious or Willful OSHA (or equivalent agency) worker safety and health violations as described in the DAC Section II, Critical Faults

- Arrest of a person in Management; including but not limited to the President, Vice President, CEO, COO, Safety Director, or Quality Control Supervisor, for alleged civil or criminal charges in connection with a work related incident or action
- Allegations of fraud involving an individual in Management or an owner of the entity.
- Allegations of violations of wage, hourly or other regulations regarding payment of lawful wages, benefits, payroll taxes, etc.
- Allegations of tax evasion or avoidance
- Reports of insolvency (e.g., failure to meet payroll or pay payroll taxes; failure to pay material and equipment suppliers)
- Other illegal business practices.
- Arrest of an inspector for alleged civil or criminal charges in connection with any inspection or related activity.

Note: SSPC will only consider documented or otherwise substantiated reports as a trigger for a Watch List investigation.

C. Steps in the Process

1. SSPC receives a report that qualifies for an investigation.
2. SSPC confirms that the report is accurate and that the action or incident is connected to a currently certified SSPC inspection firm or currently certified affiliated entity.
3. SSPC notifies the President/CEO of the Certified inspection firm of the report via written correspondence. The letter will include specifics in regard to the source and content of the report. The letter will also ask the company executive to confirm the credibility of the report and add any factual details or extenuating circumstances not contained in the report. The letter will also ask the executive how the company is addressing concerns described in the report, assuming the report has been confirmed.
4. The President/CEO will have thirty (30) days from notification to respond in writing to the SSPC Program Administrator. If the inspection firm acknowledges that the action cited in the report is accurate, the inspection firm must tell SSPC what corrective actions they are taking to remedy the problem. The corrective action plan must be accepted by SSPC as a factual and appropriate response to the action/problem.
5. If the written response from the inspection firm confirms the report and describes appropriate corrective actions to be taken, SSPC will notify the inspection firm in writing that the response has been received and accepted and that the firm will be on the "Watch List," for one (1) year.*
6. SSPC will place an inspection firm on the Watch List if and only if credible information is received and confirmed that the inspection firm may not be meeting SSPC QP 5 certification standards. No disciplinary action is taken unless allegations are affirmed.

After placing inspection firms on the Watch List, SSPC reserves the right to:

- 1). Further investigate to determine if other similar incidents have been reported and a pattern exists.
- 2). Conduct a special audit at the inspection firm's expense, in addition to any regularly scheduled audit, if the confirmed report is related to an operational matter.

D. Removal from the Watch List

Companies will be removed from the Watch List after one (1) year if:

1. no further reports are received concerning the inspection firm.*
2. the inspection firm is issued formal disciplinary action as a result of affirmation of a DAC critical fault.
3. the inspection firm is cleared of alleged violations (e.g., violations are downgraded; formal charges are dropped; the inspection firm or key management/owners are found not guilty of charges or violations upon completion of any formal due process or other disciplinary arbitration or alternate dispute resolution, etc.).

* *Special Note:* Placement on the Watch List can exceed one year in cases where allegations of wrongdoing are pending legal action or other form of recognized due process such as arbitration or alternate dispute resolution.

SSPC CERTIFIED INSPECTION FIRM PERFORMANCE EVALUATION FORM

Please evaluate the inspection firm for your project only:

Project No. _____ Dates on Site _____ through _____
 Name _____ of _____ Inspection _____ Firm _____
 Inspection Firm Representative(s) on Job _____

I. Safety

<input type="checkbox"/> Inspection firm meets safety requirements of OSHA, other public agencies and the facility owner, and has good safety practices without constant owner reminder.	Yes <input type="checkbox"/>	Unsure <input type="checkbox"/>
	Usually <input type="checkbox"/>	Describe: _____
	Usually Not <input type="checkbox"/>	_____
	No <input type="checkbox"/>	_____
<input type="checkbox"/> Inspection firm has had a single change in EMR exceeding 1.33 or has 3-year average EMR >1.15 (EMR issued by their insurance company)	Yes <input type="checkbox"/>	Unsure <input type="checkbox"/>
	Usually <input type="checkbox"/>	Describe: _____
	Usually Not <input type="checkbox"/>	_____
	No <input type="checkbox"/>	_____
<input type="checkbox"/> Reports have been issued by public agencies on safety violations of the inspection firm. If yes, explain.	Yes <input type="checkbox"/>	Unsure <input type="checkbox"/>
	Usually <input type="checkbox"/>	Describe: _____
	Usually Not <input type="checkbox"/>	_____
	No <input type="checkbox"/>	_____
<input type="checkbox"/> Inspection firm has received a citation for a serious or willful violation from OSHA or from an equivalent authority outside the US as a result of a worksite incident. If yes, explain.	Yes <input type="checkbox"/>	Unsure <input type="checkbox"/>
	Usually <input type="checkbox"/>	Describe: _____
	Usually Not <input type="checkbox"/>	_____
	No <input type="checkbox"/>	_____
<input type="checkbox"/> Inspection firm has to be informed by the owner of potential safety hazards/violations.	Yes <input type="checkbox"/>	Unsure <input type="checkbox"/>
	Usually <input type="checkbox"/>	Describe: _____
	Usually Not <input type="checkbox"/>	_____
	No <input type="checkbox"/>	_____

II. Environmental Compliance

<input type="checkbox"/> Inspection firm meets environmental compliance requirements, follows its lead, health and safety plan, and other such plans designed for its employees and others under its direct control.	Yes <input type="checkbox"/>	Unsure <input type="checkbox"/>
	Usually <input type="checkbox"/>	Describe: _____
	Usually Not <input type="checkbox"/>	_____
	No <input type="checkbox"/>	_____
<input type="checkbox"/> Inspection firm has received a citation from EPA or other environmental regulatory agency. If yes, explain.	Yes <input type="checkbox"/>	Unsure <input type="checkbox"/>
	Usually <input type="checkbox"/>	Describe: _____
	Usually Not <input type="checkbox"/>	_____
	No <input type="checkbox"/>	_____
<input type="checkbox"/> Inspection firm is frequently advised by the owner of potential violations and requests for adjustments in field operations in order to comply with requirements/regulations.	Yes <input type="checkbox"/>	Unsure <input type="checkbox"/>
	Usually <input type="checkbox"/>	Describe: _____
	Usually Not <input type="checkbox"/>	_____
	No <input type="checkbox"/>	_____

III. Quality of Work/Service

<input type="checkbox"/> Inspection firm meets quality/service requirements by complying with specs and good painting practices and contract requirements without constant reminder by the owner.	Yes <input type="checkbox"/> Usually <input type="checkbox"/> Usually Not <input type="checkbox"/> No <input type="checkbox"/>	Unsure <input type="checkbox"/> Describe: _____ _____ _____
<input type="checkbox"/> Inspection firm has deliberately violated specification or contract requirements.	Yes <input type="checkbox"/> Usually <input type="checkbox"/> Usually Not <input type="checkbox"/> No <input type="checkbox"/>	Unsure <input type="checkbox"/> Describe: _____ _____ _____
<input type="checkbox"/> Inspection firm demonstrates ability to manage inspectors and communicates with owner when necessary.	Yes <input type="checkbox"/> Usually <input type="checkbox"/> Usually Not <input type="checkbox"/> No <input type="checkbox"/>	Unsure <input type="checkbox"/> Describe: _____ _____ _____
<input type="checkbox"/> Inspection firm meets overall project work schedule and has necessary personnel and equipment to perform the work.	Yes <input type="checkbox"/> Usually <input type="checkbox"/> Usually Not <input type="checkbox"/> No <input type="checkbox"/>	Unsure <input type="checkbox"/> Describe: _____ _____ _____
<input type="checkbox"/> Reports have been issued of quality/service violations by the inspection firm.	Yes <input type="checkbox"/> Usually <input type="checkbox"/> Usually Not <input type="checkbox"/> No <input type="checkbox"/>	Unsure <input type="checkbox"/> Describe: _____ _____ _____
<input type="checkbox"/> Inspection firm has satisfactory quality assurance records.	Yes <input type="checkbox"/> Usually <input type="checkbox"/> Usually Not <input type="checkbox"/> No <input type="checkbox"/>	Unsure <input type="checkbox"/> Describe: _____ _____ _____

IV. Ethical Practice

<input type="checkbox"/> Inspection firm meets ethical practice requirements.	Yes <input type="checkbox"/> Usually <input type="checkbox"/> Usually Not <input type="checkbox"/> No <input type="checkbox"/>	Unsure <input type="checkbox"/> Describe: _____ _____ _____
<input type="checkbox"/> Inspection firm has committed fraud.	Yes <input type="checkbox"/> Usually <input type="checkbox"/> Usually Not <input type="checkbox"/> No <input type="checkbox"/>	Unsure <input type="checkbox"/> Describe: _____ _____ _____
<input type="checkbox"/> Inspection firm or field personnel have altered reports, documents, or test results without authorization.	Yes <input type="checkbox"/> Usually <input type="checkbox"/> Usually Not <input type="checkbox"/> No <input type="checkbox"/>	Unsure <input type="checkbox"/> Describe: _____ _____ _____

<input type="checkbox"/> Inspection firm (owner, officers, etc.) has been convicted for a felony related to operations of its business.	Yes <input type="checkbox"/> Unsure <input type="checkbox"/> Usually <input type="checkbox"/> Describe: _____ Usually Not <input type="checkbox"/> _____ No <input type="checkbox"/> _____
<input type="checkbox"/> Reports have been issued of ethical practice violations by the inspection firm or its personnel.	Yes <input type="checkbox"/> Unsure <input type="checkbox"/> Usually <input type="checkbox"/> Describe: _____ Usually Not <input type="checkbox"/> _____ No <input type="checkbox"/> _____
<input type="checkbox"/> Would you recommend this inspection firm to other owners?	Yes <input type="checkbox"/> Unsure <input type="checkbox"/> Usually <input type="checkbox"/> Describe: _____ Usually Not <input type="checkbox"/> _____ No <input type="checkbox"/> _____
<input type="checkbox"/> Owner's rating of inspection firm at end of season or completion of work.	Excellent <input type="checkbox"/> Good <input type="checkbox"/> Acceptable <input type="checkbox"/> Subpar <input type="checkbox"/>

Comments: _____

Thank you for your cooperation and support. SSPC will follow up on areas found to be deficient.

_____	_____	_____
Print Name	Print Title	Date

Signature		

Dear Facility Owner:

SSPC wishes to congratulate you on selecting an SSPC Certified Inspection Firm for your coatings project. The certification program has been designed to provide the owner with confidence that the inspection firm selected meets SSPC's standards for quality, service, safety, and ethical practice.

In order to maintain the program's high standards, we have established a system to constantly evaluate the performance of SSPC Certified Inspection Firms. As part of this effort, we have attached an evaluation form in which we ask you to assess the inspection firm's performance related to what we consider potential "critical performance criteria." We ask that you be fair and objective when answering each question. SSPC will take the utmost care to treat your response as confidential and will follow up where necessary.

Thank you for your cooperation and interest in the QP 5 Inspection Certification Program. We welcome any comments you have on our program.