OSHA Consultation – Quick Tips



On December 29, 1970, President Richard M. Nixon signed into law the Williams-Steiger Occupational Safety and Health (OSH) Act. As a result, the Occupational Safety and Health Administration (OSHA) was established in April, 1971.

This Act requires that "every employer covered under the Act furnish to his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees" (29 CFR 1903.1). This is commonly known as the General Duty Clause. Failure to comply with this Clause or any of the standards set forth by OSHA may result in a citation.

To avoid citations, employers need to comply with the governing OSHA standards. Compliance can be achieved in a variety of ways by using internal safety staff or through the use of outside consultants. Both of these options may cause financial hardships for small businesses. Fortunately, there is an alternative.

The OSH Act makes confidential OSHA consultation services available to small businesses at no cost (29 CFR 1908.1). Consultants work with employers to identify workplace hazards, provide advice on compliance with OSHA standards, and assist in establishing effective injury and illness preventions programs. The service is provided by state agencies or universities and is separate from the standard OSHA inspection efforts.

Eligibility Requirements

Requirements for the employer include:

- No more than 250 employees at one site
- No more than 500 employees total at all sites

Size determination shall be based on the average level of employment during the past 12 months.

If either of these parameters is exceeded, employers may still seek assistance, provided that only specific assistance is requested.

Request for Services

The consultation service is a voluntary activity, therefore employers must

request it. Requests may be done via a telephone call, email message, or through the OSHA Consultation Program website. Requests are prioritized according to the nature of the workplace and the existence of any backlog of requests. A consultant discusses the employer's specific needs and sets a date for a visit that is convenient to both the employer and consultant.

Opening Conference

As scheduled, the consultant arrives at the worksite and conducts an opening conference with the employer and employee representative(s) to explain his/her role and the obligations of the employer. The employer's only obligation is to correct any "serious," unsafe or unhealthy working conditions discovered by the consultant within a reasonable time frame. According to OSHA, a "serious" condition exists when the workplace hazard could cause an accident or illness that would most likely result in death or serious physical harm. As stated earlier, this service is separate from standard OSHA inspections. The consultant will detail the relationship between the two organizations and encourage employee participation during the inspection.

Inspection Process

Together the employer, employee representative(s), and the consultant conduct a walk-through and inspect the conditions in the workplace. The consultant evaluates potential hazards, physical work practices and the employer's safety and health management program. A complete review of the business' safety and health situation is encouraged however employers may limit the visit to specific areas—the scope depends on the facility's original request.

Closing Conference

During this portion of the OSHA consultation, the consultant discusses the detailed findings and the employer learns not only what improvements are needed, but also what is being done right. A detailed written report explaining these findings and confirming any abatement schedules is sent to the employer following the closing conference.

Correcting Hazards

If a "serious" hazard is noted during the walk-through, the consultant will assist the employer with developing a specific plan to correct the hazard within a given time frame.

If a condition is judged to be an "imminent danger," the employee must take immediate action to protect the employees. "Imminent danger" is defined as any conditions or practices which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before they can be eliminated through OSHA enforcement procedures.

Employer Requirements

As part of the agreement, the employer must respond to and correct the violations noted in the findings. If the employer fails to eliminate or control any identified serious or imminent danger hazards according to the plan and within the limits agreed to, the situation is referred from consultation to an OSHA enforcement office. Employers who correct all identified hazards and

institute a comprehensive program may gain an added benefit: a certificate that exempts the employer from OSHA programmed inspections for one year. Inspections prompted by employee complaints or fatalities are not included.

Summary

The OSHA consultation service has many benefits for small businesses. It will:

- Help employers recognize workplace hazards;
- Suggest corrective actions;
- Identify available resources if further assistance is needed;
- Provide a written report summarizing findings;
- Offer training and education; and
- Assist employers in developing or maintaining effective safety and health management programs.

The service will NOT:

- Issue citations or propose penalties;
- Routinely report violations to OSHA; or
- Guarantee that a worksite will pass an OSHA inspection.

SHARP

OSHA has also developed a program for smaller businesses similar to their Voluntary Protection Program (VPP). “The Safety and Health Achievement Recognition Program (SHARP) is designed to provide incentives and support to employers to develop, implement and continuously improve effective safety and health programs at their worksite(s). SHARP provides for recognition of employers who have demonstrated exemplary achievements in workplace safety and health by receiving a comprehensive safety and health consultation visit, correcting all workplace safety and health hazards, adopting and implementing effective safety and health management systems, and agreeing to request further consultative visits if major changes in working conditions or processes occur which may introduce new hazards. Employers who meet these specific SHARP requirements may be exempted from OSHA programmed inspections for a period of not less than one year.”

Commonly Asked Questions

Q: Approximately how many requests do consultants respond to annually?

A: Each year, on-site consultants respond to approximately 30,000 requests from businesses looking to improve worker safety and health.

Q: What is VPP?

A: The Voluntary Protection Program (VPP) is an OSHA cooperative program that promotes effective worksite-based safety and health. All groups covered by OSHA, including federal agencies, are eligible to join the VPP. Each worksite that applies must show a commitment to effective safety and health management systems and work to be an industry leader in occupational safety and health.

Sources

OSHA FactSheet: The OSHA Consultation Program

OSHA On-site Consultation

Safety and Health Achievement Recognition Program

Recommended Practices for Safety and Health Programs

The information contained in this article is intended for general information purposes only and is based on information available as of the initial date of publication. No representation is made that the information or references are complete or remain current. This article is not a substitute for review of current applicable government regulations, industry standards, or other standards specific to your business and/or activities and should not be construed as legal advice or opinion. Readers with specific questions should refer to the applicable standards or consult with an attorney.

Source: Grainger Know How – https://www.grainger.com/know-how