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Complete Health Environmental and Safety Services

The Other Halves of OSHA

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The first time you have a hazardous waste inspection, the inspector may leave you a long list of all the things you need to change, but he won't leave you a bill. The first time you have an OSHA inspection, the inspector will be just as nice as the hazardous waste inspector, leave you a shorter list, but also leave a steep bill, the penalties for having citations. Seems unfair? How can you expect to know what OSHA requires?

OSHA Enforcement won't catch every problem in your shop. But the inspectors are required to write up the problems they find. And they're required to issue penalties for those problems. It's the way the original OSH Act, signed by Richard Nixon back in 1970, was structured. That same Act realized that people often needed help with workplace safety. So the Act provided that help in two different ways, through OSHA Consultation and through NIOSH.

OSHA Consultation is the non-enforcement arm of OSHA. In Minnesota, it is housed in the same agency, the Department of Labor and Industry, as Enforcement. But it operates completely independently of Enforcement.

If you've ever received a Minnesota OSHA grant, you've benefited from OSHA Consultation. That's a minor part of what they do. A more major part: Consultation will, upon request, come into your worksite and do a safety and health review. It could be a wall to wall, top to bottom review of your safety program. Or, if you're having problems in one specific area, you could ask for help with only that area.

Consultation won't come in until you ask them (if you receive an OSHA grant, you've invited them in to verify the grant and to help you with any other safety issues). Once you ask them in, the OSHA consultant will set up a time to visit. On site, the OSHA Consultant will first explain the role and scope of the visit, and review your safety programs and injury rates. He or she will then walk through the facility, and finish with a closing conference (which is a similar procedure as Enforcement). You'll get a detailed report. If the walkthrough was comprehensive, Consultation will use its Form 33 to evaluate just how good your safety program is, based not just on compliance with OSHA regs, but also on good safety and health practices.

If any serious problems are found, you must correct them. You won't be fined – but if you don't make the corrections, Consultation will make a referral to the enforcement folks. That could result in fines. That would be the only time Enforcement finds out the results of the inspection. Note, though: Enforcement won't do a routine inspection while you're working with Consultation.

NIOSH doesn't do any enforcement. The National Institute for Occupational Safety and Health was set up to provide the information and resources that OSHA needs to develop standards and that employers need to keep workers safe. It does research on safety and health hazards, develops guidelines, trains safety and health personnel, and does health hazard evaluations. A health hazard evaluation (HHE) is a study of a workplace, to find out if workers are exposed to hazardous materials or harmful conditions. HHEs are done at no charge to the employers, and can be requested by the employer, employees, or union representatives. These are different from OSHA Consultation – the HHE is an investigation into a specific health problem, and is usually done by a team of industrial hygienists, occupational health physicians, and other safety and health personnel. It may take a number of days and is likely to include air sampling. An OSHA Consultation visit is typically only a few hours in length, with one OSHA consultant.

Why doesn't everyone take advantage of these services, especially OSHA Consultation? There's some fear of having the enforcers in, even if you're given a chance to correct problems. Correcting problems can cost money. And honestly, we've found some OSHA consultants to be over-thorough, taking up hours of the owner's time, and overzealous, interpreting standards very narrowly.

OSHA really does want you to know what's required. The enforcement folks, by law, can't give you a warning before citing you. But through their website and through Consultation, the agency does try to give you the chance to find out what's wrong.

If you have questions about OSHA Consultation, the services OSHA and NIOSH provide, or other safety issues, contact CHESS at 651-481-9787; toll free at 877-482-4377, or carkey@chess-safety.com.

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