

BRIEFLY...

Highlights of Report Number 05-07-001-10-105, *Consultation Program Does Not Ensure Worker Safety When Serious Hazards Are Not Corrected As Agreed To by Employers*, to the Assistant Secretary for Occupational Safety and Health, dated September 2007.

WHY READ THE REPORT

The Office of Inspector General (OIG) conducted a performance audit of the resolution of serious workplace hazards identified by the Occupational Safety and Health Administration's (OSHA's) Consultation Program. Targeted primarily at small businesses, the Consultation Program is a voluntary, free, and confidential service that allows employers to learn about and correct potential hazards at their worksites without the issuance of citations or penalties. OSHA requires that consultation program officials explain to employers who request to participate in the Program that if a serious hazard is not timely corrected, the Consultation Program Manager will immediately refer the situation for enforcement action.

OSHA administers and provides federal funding to States and territories. OSHA staff monitors the program data on a quarterly basis and conduct on-site visits at the States. Consultants, employed by a State or territory, perform the employer consultations.

The success of the Consultation Program is dependent on several key factors: identifying serious hazards, correcting them timely, ensuring interim protection is in place during the correction period, and referring employers for enforcement action if the serious hazards are not eliminated or controlled during the agreed-upon correction period.

WHY OIG CONDUCTED THE AUDIT

The OIG conducted the audit to determine:

- Did consultation program officials ensure interim protection for employees was in place before granting employers' requests for time extensions to correct serious hazards, and
- When serious hazards identified during consultation visits were not corrected timely, were the employers referred to Federal/State OSHA for enforcement action?

Our scope included serious hazards identified during consultation visits in the States of Minnesota, Pennsylvania, and Virginia, and recorded in OSHA's Integrated Management Information System for the period October 1, 2001, through September 30, 2004.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2007/05-07-001-10-105.pdf>

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WHAT OIG FOUND

While we found that the Consultation Program identified and corrected 28,169 serious hazards in the three States we audited, we found two critical components of the program were not working as intended: 1) consultation program officials seldom ensured that interim protection was in place before granting employers' requests for extensions to correct serious hazards, and 2) employers who did not timely complete corrective actions were seldom referred for enforcement action.

In general, OSHA responded that OIG's report is out of context since the majority of serious hazards were corrected timely without extensions or the need for an enforcement referral. OIG recognizes this; however, notwithstanding how many serious hazards were corrected timely, those not corrected timely left workers at risk. OSHA also asserted that failure to ensure interim protection before extensions were granted relates to a lack of proper documentation. Nevertheless, without documentation, OSHA cannot be assured that interim protection was provided.

As a result of OSHA's response, certain revisions were made to the report, including tables, to clarify our findings and recommendations.

WHAT OIG RECOMMENDED

We recommend that OSHA's Assistant Secretary:

1. enforce the requirement that State consultation program officials grant extensions to correct a serious hazard only when there is documented evidence that correction has not been completed because of factors beyond the employer's reasonable control, and the employer is taking all available interim steps to safeguard the employees against the hazard during the correction period;
2. provide guidance to the States on acceptable types of interim protection;
3. establish a performance measure that benchmarks and reports the percentage of serious hazards corrected by the initial correction due date; and
4. enforce the requirement that State consultation program officials immediately refer employers for enforcement action when serious hazards have not been corrected timely.

HOW THE AGENCY RESPONDED

OSHA agreed with all of our recommendations, except Recommendation 3 because it currently has a performance measure that benchmarks the percent of serious hazards verified corrected in a timely manner. As an alternative, OSHA plans rigorous monitoring and creating specific benchmarks for States that may have problems monitoring employer correction of serious hazards. However, OSHA's current performance measure defines "timely" as corrected within 14 days of the latest correction due date, including all extensions. Our recommendation would provide OSHA with data to assist the consultants in establishing more accurate correction due dates. For this reason, we do not accept OSHA's alternative corrective action for Recommendation 3.