

ARTICLE 8. SAFETY EDUCATION AND TRAINING

Rule 1. Definitions

610 IAC 8-1-1 Scope

Authority: IC 22-1-1-8
Affected: IC 22-8-1.1

Sec. 1. The definitions in this rule apply throughout this article. (*Department of Labor; 610 IAC 8-1-1; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

610 IAC 8-1-2 "Bureau" defined

Authority: IC 22-1-1-2
Affected: IC 22-8-1.1-40

Sec. 2. "Bureau" means the bureau of safety education and training established by IC 22-8-1.1-40. (*Department of Labor; 610 IAC 8-1-2; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

610 IAC 8-1-3 "Consultant" defined

Authority: IC 22-1-1-8
Affected: IC 22-8-1.1

Sec. 3. "Consultant" means an employee of the bureau providing consultative services to an employer under this article. (*Department of Labor; 610 IAC 8-1-3; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

610 IAC 8-1-4 "IOSHA" defined

Authority: IC 22-1-1-2
Affected: IC 22-8-1.1

Sec. 4. "IOSHA" means the Indiana Occupational Safety and Health Act (IC 22-8-1.1). (*Department of Labor; 610 IAC 8-1-4; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

Rule 2. Bureau of Safety Education and Training

610 IAC 8-2-1 Doing business as INSafe

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-41

Sec. 1. The bureau:

- (1) shall be known as and conduct business under the name "INSafe"; and
- (2) may create and adopt logos and other identifying marks in service of its mission and efforts.

(*Department of Labor; 610 IAC 8-2-1; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

Rule 3. On-Site Consultation Services

610 IAC 8-3-1 On-site consultation services; personnel

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-41

Sec. 1. On-site consultation services related to workplace safety and health issues will be provided to requesting employers, by personnel from the bureau. The personnel providing the consultation will be qualified employees by reason of:

- (1) training;
- (2) experience; or

(3) professional attainment.

(Department of Labor; 610 IAC 8-3-1; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)

610 IAC 8-3-2 Request from employer

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 2. The request from the employer shall be written and dated and, insofar as possible, specifically describe the particular condition, situation, or equipment about which advice is sought. This degree of specificity will allow the consultant, who will be assigned to meet the request, to prepare himself or herself in terms of the following:

(1) Applicable, up-to-date standards.

(2) The need for expert assistance of an industrial hygienist under section 4 of this rule.

(Department of Labor; 610 IAC 8-3-2; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)

610 IAC 8-3-3 Prior arrangements with employer; participation of employees

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 3. (a) Before the consultative visit, arrangements will be made with the requesting employer to ensure that qualified members of management or employees will be available at the time of the actual consultation in order to explain the problems or conditions that exist.

(b) The consultant shall retain the right to confer with individual employees during the course of the visit in order to identify and judge the nature and extent of particular hazards.

(c) Employees, their representatives, and members of a workplace joint safety and health committee may participate in the on-site consultative visit to the extent desired by the employer. *(Department of Labor; 610 IAC 8-3-3; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)*

610 IAC 8-3-4 Indiana state department of health expert

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 4. If, in the judgment of the consultant from the bureau, a specific condition described by the requesting employer is one which may require expert opinion or judgment from another department or agency of the state of Indiana, the consultant may request assistance and consultation from the other department or agency, and request that an appropriate professional of the other department or agency be present during the consultation. *(Department of Labor; 610 IAC 8-3-4; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)*

610 IAC 8-3-5 Consultation free to employers

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 5. There will be no charges, fees, or expenses chargeable to the employer for the consultation. *(Department of Labor; 610 IAC 8-3-5; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)*

610 IAC 8-3-6 Representative to indicate purpose and extent of visit

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 6. Upon arrival at the site of the consultation, the bureau consultant will indicate the following:

(1) The purpose and extent of the consultant's visit.

(2) That the consultant is:

(A) there in response to an inquiry relative to specific areas as they relate to Indiana occupational safety and health standards; and

(B) not empowered to make a complete inspection of the facilities unless it is requested by the employer.

(Department of Labor; 610 IAC 8-3-6; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)

610 IAC 8-3-7 Alleged violations recorded; abatement dates binding

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 7. (a) The consultant shall:

- (1) record all safety related issues observed during the consultation;
- (2) work with the business to create an abatement plan; and
- (3) set reasonable abatement deadlines for each safety related issue observed.

(b) Abatement deadlines are binding on the employer, and a follow-up visit will be made to ensure the abatement of all serious safety related issues are observed.

(c) If an employer fails to abate any alleged serious violations within a reasonable time, the matter may be referred to the department for appropriate IOSHA enforcement action. *(Department of Labor; 610 IAC 8-3-7; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)*

610 IAC 8-3-8 "Imminent danger" defined; procedure

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 8. (a) In the event the consultant observes a condition creating an imminent danger, the consultant will:

- (1) immediately call the employer's attention to the condition;
- (2) immediately notify the affected employees of the alleged imminent danger;
- (3) request that action be taken immediately to abate the alleged imminent danger;
- (4) secure an agreement from the employer that employees will not be exposed to the imminent danger; and
- (5) notify the director of the bureau of the alleged imminent danger.

(b) If the employer refuses to immediately abate the imminent danger, the director of the bureau shall immediately inform the appropriate department personnel for appropriate IOSHA enforcement action.

(c) For purposes of this section, "imminent danger" means any condition in the workplace that, if not immediately corrected, could reasonably be expected to cause death or serious bodily harm. *(Department of Labor; 610 IAC 8-3-8; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)*

610 IAC 8-3-9 Agreement of employer

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 9. The consultant will not proceed with the consultation visit if the employer does not agree to the provisions listed in the following:

- (1) Section 3(b) of this rule.
- (2) Section 7 of this rule.
- (3) Section 8 of this rule.

(Department of Labor; 610 IAC 8-3-9; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)

610 IAC 8-3-10 Consultation services separate from enforcement activities

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 10. (a) The actions of a consultant from the bureau are completely separate, distinct, and apart from the department's

IOSHA enforcement activities.

(b) A consultation does not provide immunity from an IOSHA inspection resulting from any of the following:

- (1) A complaint.
- (2) An alleged safety violation in plain view of an IOSHA inspector.
- (3) A fatality at the worksite or a catastrophe arising at or from the worksite.

(c) An employer who has requested an on-site consultation and has been placed on a waiting list remains subject to inspection resulting from any of the following:

- (1) A complaint.
- (2) An alleged safety violation in plain view of an IOSHA inspector.
- (3) A fatality at the worksite or a catastrophe arising at or from the worksite.

(d) An employer who is receiving consulting services from the bureau will not be subject to an IOSHA enforcement action for those matters addressed by the consultant during:

- (1) the pendency of the consultation; or
- (2) any period of abatement resulting from a consultation made consistent with sections 7 and 8 of this rule.

(e) A consultant shall not make a referral of any safety issue observed during a consultation for IOSHA enforcement unless the provisions contained in sections 7 through 9 of this rule have been pursued and failed. Referral for IOSHA enforcement shall be made only:

- (1) as a last resort; or
- (2) to force the correction of an imminent danger after the employer has refused abatement consistent with the provisions of this article.

(f) As used in this section, "catastrophe" means the hospitalization of three (3) or more employees resulting from:

- (1) a work-related incident or exposure; or
- (2) an accident or an illness caused by a workplace hazard.

(Department of Labor; 610 IAC 8-3-10; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)

610 IAC 8-3-11 Consultation visit after IOSHA inspection; restrictions

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 11. Employers may request on-site consultation to assist in the abatement of hazards cited during an IOSHA enforcement inspection. However, an on-site consultation visit may not take place after an IOSHA inspection until:

- (1) the employer has been notified that no safety order will be issued; or
- (2) if a safety order is issued, those items for which consultation is requested have become final orders.

A request by an employer for an on-site consultation shall not require the deletion or modification of fines or penalties assessed as the result of an IOSHA inspection. *(Department of Labor; 610 IAC 8-3-11; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA)*

610 IAC 8-3-12 Written report

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 12. (a) A written report shall be prepared after a consultation and provided to the employer. The report shall:

- (1) restate the employer's request and describe the working conditions examined by the consultant;
- (2) identify specific safety issues with particularity, including reference to applicable standards or codes;
- (3) identify the seriousness of each safety issue, including suggested means or approaches for abatement;
- (4) identify additional sources of assistance should be indicated, if known, including the possible need to procure specific engineering consultation, medical advice and assistance, and appropriate safety training; and
- (5) include references to the completion dates for abatement described in section 7 of this rule.

(b) The written report shall not be forwarded to the department for use in any IOSHA compliance inspection or scheduling activities except insofar as that may be necessary under sections 7 through 9 of this rule.

(c) The consultant shall preserve the confidentiality of information obtained as the result of an on-site consultative visit insofar

as such confidentiality is not inconsistent with the provisions of sections 7 through 9 of this rule. (*Department of Labor; 610 IAC 8-3-12; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

610 IAC 8-3-13 Procedure for on-site consultation visit

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-41

Sec. 13. (a) The on-site consultation visit will consist of the following:

- (1) An opening conference.
 - (2) An inspection and viewing of any relevant areas of the employer's business that are reasonably related to the subject matter of the consultation.
 - (3) Review and discussion of documents and issues reasonably related to the subject matter of the consultation.
 - (4) Interviews with relevant employees and management of the employer.
 - (5) A closing conference followed by a subsequent written report.
- (b) During the discussion with the employer, the consultant shall:
- (1) review and discuss the employer's overall accident prevention program with the employer and other relevant documentation;
 - (2) explain to the employer which IOSHA standards or rules and regulations apply to his or her particular workplace;
 - (3) explain the technical language and application of the standards when necessary;
 - (4) advise if and how the employer is not in compliance with IOSHA standards or rules and regulations and describe in detail any safety issues observed during the consultant's inspection, document review, and employee interviews; and
 - (5) make recommendations to the employer regarding how any safety issues may be abated, who should be trained, what kinds of training may be necessary, and what documentation if any needs to be amended or created to bring the employer into compliance to abate any safety issues and ensure the safe operation of the business.

(*Department of Labor; 610 IAC 8-3-13; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

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