WEST VIRGINIA CODE: §21-3B-4

§21-3B-4. Procedures.

(a) Any employer within the state may request the commissioner of labor in writing to provide advice and assistance in identifying and eliminating environmental hazards in compliance with applicable state, federal and local law. The employer may specify a limited scope for consultation by indicating hazards or situations on which consultation will be focused. No consultation services may be provided when an agency charged with enforcing federal, state or local environmental or hazardous waste regulations has issued a citation or ordered that a condition be abated or corrected.

(b) The commissioner shall provide on-site consultation services in identifying and eliminating environmental hazards. However, since employee contact by a consultant is needed for proper identification of environmental hazards in the workplace, employers must agree to such contact before a consultation may proceed. Employers must agree to correct all hazards noted by the consultant as a condition of the providing of consultation services. Employers are encouraged to permit employees to participate in the walk-around portion of a consultation visit.

(c) Prior to visiting a worksite, the consultant may request specific information concerning the worksite. Requested information must be provided before a consultation may proceed.

(d) If, in the course of an inspection, the consultant observes environmental hazards violating federal, state or local law which are outside the scope of a consultation request, the consultant shall treat such hazards as if they were within the scope of the consultation request.

(e) During the on-site consultation, the consultant shall point out hazards and violations observed, suggest approaches or options for corrective action, and provide additional information related to complying with applicable laws. The consultant shall prepare a written report, which shall be furnished to the employer, of all hazards observed and methods of abatement and may suggest where additional assistance may be secured. The consultant may follow through after the on-site consultation to assist in implementing recommendations and to assure that required corrective action is taken.

(f) Information obtained by a consultant related to environmental hazards and violations may not be disclosed to enforcement officials, except when an employer fails or refuses to take corrective action to eliminate imminent danger or serious hazards.

(g) No fees, penalties or costs may be assessed against the employer.

(h) The use of the consultation services contemplated by this article by any employer shall raise no presumption, inference, or defense to any action, order, citation, charge, rule to

WV Legislature

show cause, or any other enforcement effort brought against such employer by any agency of the State of West Virginia.

WV Legislature