



Public Employee Safety and Health Program (PESH) FACTSHEET



August 2006

The Public Employee Safety and Health Program (PESH) was created in 1980 through the PESHAct, to extend federal occupational safety and health protection to public employees at the state and local levels in New York. PESH enforces all of the standards of the federal Occupational Safety and Health Administration (OSHA).

The PESHAct requires that an employer furnish employees with a job and a workplace free from recognized hazards, "provide reasonable and adequate protection to the lives, safety and health of its employees", and comply with all Health and Safety Standards promulgated by the NYS Department of Labor's Division of Safety and Health.

Workplace Safety and Health Standards

Standards are legally enforceable health and safety regulations that govern work conditions, practices, and operations. They cover bloodborne pathogens, emergency action plans, exit routes, machine guarding, toxic chemicals, noise, walking and working surfaces, sanitation, fire prevention, and other types of hazards.

Many workplace hazards are not covered by standards; these include workplace violence, tuberculosis, temperature extremes, indoor air quality, stress, and ergonomics. Nevertheless, these hazards can result in serious injuries or illnesses and are among the most common hazards faced by PEF members.

However, PESH can investigate hazards even when there is no specific standard under the "General Duty Clause" in cases that meet the following criteria: 1) the hazard is capable of causing death or serious harm, 2) the hazard exists, 3) there is an industry guideline or standard that within the employer's industry that is not being met or the employer had knowledge of the hazard, and 4) there are reasonable and adequate ways of correcting the hazard.

When applicable, standards can be referenced when working with management to correct unsafe or unhealthful work conditions. Keep in mind, however, that they offer minimum protections and cannot be relied upon to solve all problems. In cases where management refuses to comply with standards, strongly consider filing a complaint with PESH.

The PESHAct stipulates that all standards promulgated under Federal OSHA law shall be adopted by the NYS DOL PESH Program unless PESH promulgates a standard that is at least equally effective. Copies of the standards currently enforced by PESH Safety and Health Inspectors are available in the PEF Regional Field Offices and the Health & Safety Department at PEF Headquarters.

Complaints

A complaint can be filed by any employee or union representative. Complaint forms are available at the Regional PEF Offices, the Health & Safety Department, or on the PEF website. The complaint must contain enough detail to allow the inspector to properly investigate. The form must be signed and dated. Signing the form provides the worker(s) with protection against discriminatory actions by his/her agency in relation to the subject complaint. It is always a good idea to contact your Field Representative and the PEF Health & Safety Department prior to filing a complaint to make sure that this is the most effective way of solving the problem.

Get To Know Your PESH Inspector

It is always a good idea to call or meet with PESH inspectors prior to filing a complaint. They have a wealth of knowledge and can let you know if the hazard of concern is covered under OSHA standards or if the general duty clause can be applied.

Discrimination

The PESHAct guarantees protection from discriminatory actions such as transfer, discharge or discipline, when you engage in protected activities such as filing a complaint or participating in an inspection. NOTE: Discrimination complaints MUST be filed within 30 days of when the adverse action was taken against the affected worker. IMMEDIATELY contact the PEF Health and Safety Department at 1-800-342-4306 ext. 254 if you are considering filing a discrimination complaint.

PESH Enforcement Division

A PESH enforcement inspection results from a written complaint by a worker or union representative. The inspection has three parts.

1. **OPENING CONFERENCE:** The inspector arrives at the affected worksite, introduces himself to the appropriate management representative, presents his credentials, and asks for the highest level of union representation or designee available. Union representatives are selected by PEF leaders and not by management. At this time, the inspector explains the nature, scope, and purpose of the inspection. PEF representatives should take notes and get the name and phone numbers of inspectors.

2. **INSPECTION:** A PEF representative has the right to accompany the inspector during the inspection. This role may be filled by a Council Leader, steward, Executive Board Representative, or Health and Safety Committee member. It is important to share all relevant information with the inspector. Keep notes of what goes on during this phase of the inspection process. If you have any questions or do not understand what the inspector is doing, this is your opportunity to find out. Do not be shy about asking questions. The inspection is also an educational tool; it serves to enhance and sharpen your skills and knowledge. If you use this chance fully, it will help establish your credibility further amongst your members as you will be better able to answer their questions and report back progress.
3. **CLOSING CONFERENCE.** Again both union and management representatives are present. The inspector will share preliminary findings and may identify what violations have been observed. Discussion also covers the time necessary for abatement (correcting the hazard).

After The Inspection

PESH will issue a "**Notice of Violation and Order to Comply**" (also called a citation) when a violation of a PESH standard is identified. The union representative is entitled to a copy of the citation as well as the "investigative narrative" and should ask for them during the closing conference. The PEF Health and Safety Department receives copies of all citations issued. These are forwarded to the relevant PEF Field Representative and Council Leader who are asked to determine if corrective actions have been initiated. Follow up is very important. If after a citation has been issued and the corrective action(s) have not been taken in the allotted time (the abatement date), contact the PEF Field Representative immediately so he/she can institute the next steps. This typically includes requesting a follow-up inspection. PESH always conducts follow-up inspections after the final abatement date has passed.

IMPORTANT NOTE: If management appeals the abatement date or the validity of the inspection it is important to contact the PEF Health & Safety Department for guidance as soon as possible.

PESH Consultation Division

A PESH consultation survey is conducted at the request of the *employer*. The consultation survey is limited to the hazard concerns identified by the employer. A written report with hazards identified and recommendations for correction of each hazard is provided to the employer.

A PESH consultation survey can be a useful tool for the union also when the union is able to collaborate with management to make the request. Unlike a PESH compliance inspection, which limits the inspection to the requirements of the standard(s), a consultation survey may allow more leeway in that non-mandatory recommendations can be included in the written narrative.

Sources of Information

NYS Public Employees Federation: www.pef.org

Occupational Safety and Health Administration: www.osha.gov

New York State Department of Labor: www.labor.state.ny.us

PESH Offices

Albany District Office

Tel. 518-457-5508 Fax 518-485-1150

Counties Served: Albany; Clinton; Columbia; Dutchess; Essex; Greene; Rensselaer; Saratoga; Schenectady; Schoharie; Ulster; Warren; Washington.

Binghamton District Office

Tel. 607-721-8211 FAX 607-721-8207

Counties Served: Allegany; Broome; Chemung; Chenango; Delaware; Otsego; Schuyler; Steuben; Sullivan; Tioga; Tompkins.

Buffalo District Office

Tel. 716-847-7133 FAX 716-847-7108

Counties Served: Cattaraugus; Chautauqua; Erie; Niagara

Garden City District Office

Tel. 516-228-3970 FAX 516-794-7714

Counties Served: Nassau; Suffolk

New York City District Office

Tel. 212-352-6116 FAX 212-352-6138

Counties Served: Bronx; Kings; New York; Queens; Richmond.

Rochester District Office

Tel 585-258-4570 FAX 585-258-4593

Counties Served: Genesee; Livingston; Monroe; Ontario; Orleans; Wayne; Wyoming; Yates

Syracuse District Office

Tel. 315-479-3212 FAX 315-479-3451

Counties Served: Cayuga; Cortland; Jefferson; Onondaga; Oswego; Seneca.

Utica District Office

Tel. 315-793-2258 FAX 315-793-2303

Counties Served: Franklin; Fulton; Hamilton; Herkimer; St. Lawrence; Lewis; Madison; Montgomery; Oneida.

White Plains District Office

Tel. 914-997-9514 FAX 914-997-9528

Counties Served: Orange; Putnam; Rockland; Westchester.

Upon request, the PEF Health & Safety Department will provide factsheets, standards, regulations and other resources. Contact us at 518-785-1900, ext. 254 or 1-800-342-4306, ext. 254. Also, visit our webpage at www.pef.org.

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Kenneth Brynien, President

Arlea Igoe, Secretary-Treasurer

PEF Health and Safety Department: (800) 342-4306 x 254 or (518) 785-1900 x 254