PESH Overview

PESH

- The Public Employee Safety and Health Act
- Article 2, Section 27a, NYS Labor Law
- Effective January 1, 1980

The Public Employee Safety and Health Bureau

- Enforces the provisions of the PESH Act and the safety and health standards promulgated under the Act
- Provides consultation services to Public Employers
- Provides educational and consultation services to Employee Organizations
The PESH Bureau

- 51 Inspectors and Hygienists
- 9 District Offices

Program Management

- Norm Labbe  Program Manager
- Darren Mrak  Assistant Program Manager (upstate)
- Len Schwartz Assistant Program Manager (downstate)
- Ray Caines  Assistant Program Manager

District Offices—Downstate

- New York City  212-775-3548
- Garden City  516-228-3970
- White Plains  914-997-9514
District Offices – Upstate

- Albany  518-457-5508
- Utica    315-793-2258
- Binghamton 607-721-8211
- Syracuse 315-479-3212
- Rochester 585-258-4570
- Buffalo  716-847-7133

Supervising Inspectors

- Joseph Fuller  Albany/Utica
- Rick Dugan   Binghamton/Syracuse
- Darren Mrak  Rochester/Buffalo
- Matt Setteducati Garden City/White Plains
- Alex Hippolyte NYC

The PESH Act Definitions

- Employer: The state, any political subdivision of the state; a public authority or any other governmental agency or instrumentality thereof.
Definitions

› Employees;
  › Any person permitted to work by an employer

Definitions

› Authorized Employee Representative;
  › An employee authorized by the employees or the designated representative of an employee organization recognized or certified to represent employees pursuant to Article 14 of the Civil Service Law

What does PESH cover?
Safety & Health Standards

- PESH must adopt all federal OSHA standards, or
- Develop own which are at least as effective (stringent)
- [www.osha.gov](http://www.osha.gov)
- [https://www.labor.ny.gov/workerprotection/safetyhealth/DOSH_PESH.shtml](https://www.labor.ny.gov/workerprotection/safetyhealth/DOSH_PESH.shtml)

Code Rules & Regulations

- Part 801: Recording and Reporting Public Employees' Occupational Injuries and Illnesses
- Part 802: Inspection of Places Of Public Employment
- Part 803: Variance Regulations
- Part 804: Petition For Modification Of Abatement Date (PMA)
- Part 805: Petition for Employee Contest Of Abatement Period

Inspection Procedures

- The Act and Part 802 call for a structured inspection:
  - No Advanced Notice
  - Opening Conference
  - Union/Employee Participation
  - Walk Around Inspection
  - Closing Conference
Imminent Danger

- A condition which is likely to cause death or serious physical injury or illness
  - Advance notice given to employer
  - Inspection commenced immediately
  - PESH has authority to stop the work under Section 200 Of the Labor Law

Accident Investigations

- Any incident which is fatal to one employee or results in hospitalization of two or more employees
  - Employer must report incident to PESH within 8 hours
  - PESH may inspect incidents which injures only one employee if assets are available

Complaints

- Must be in writing and must be signed
  - Complainant may request their name be withheld
- Must allege a hazard
- PESH investigates every complaint
- Employer is provided with a copy of the complaint at the opening conference
Complaints

- Complaints are reviewed and prioritized based upon the hazard to employees
- The higher the hazard the higher the priority
- Complainant may be asked to provide additional information prior to inspection

Referrals

- Hazards identified in the news media
- Referrals from another agency
- Referrals from another discipline

Programmed Inspections

- Conducted with the least burden to the employer BUT the employer does have to facilitate (assist) the inspection
- Comprehensive in scope
Follow Up Inspections

- Conducted to verify compliance after all abatement dates have passed
- Penalties are issued for uncorrected violations
- Generally limited in scope

Required Postings

- [Image showing workplace posters]

Recording and Reporting Occupational Injuries and Illnesses

- PESH Form SH–900 – Log of Work–Related Injuries and Illnesses
- PESH Form SH–900.2 – Injury and Illness Incident Report
- PESH Form SH–900.1 – Summary of Work–Related Injuries and Illnesses
Workplace Violence Prevention Program (WVPP)

- Part 800.6
- Requires workplace violence prevention policy
- Assessment of previous records
- Assessment of administrative controls
- Assessment of workplace hazards (with union reps)
- Written Program (20 or more full time employees, developed with the authorized employee rep)
- Reporting system
- Training
- Annual evaluation of reported incidents (with union reps)

Enforcement of 800.6

- As part of all Programmed inspections
- Complaints (not the same as in the PESH act)
  - Employees must first provide written notice to a supervisor
  - Then allow reasonable time for correction
  - The issue must be a serious violation of the program.
  - The employer did not:
    - Develop and Implement a program (and/or)

Walk around of the facility
Including but not limited to:

- Exits
- Sanitation
- Electrical Hazards
- Tools and Machine Guarding
- Lockout/Tagout (LOTO)
- Personal Protective Equipment (PPE)
- Chemical Hazards (HazCom/RTK)
- Laboratories
- Confined Spaces
Closing Conference

- Types of Violations
- Notice of Violation – Posting
- Informal Conference (20 Working Days)
- Formal Appeal (60 Days)
- Petition to Modify Abatement Date
- Variances
- Penalties

 Discrimination

- The employer may take no adverse (hostile) action against an employee because he or she:
  - Filed a complaint
  - Participated in the inspection
  - Gave statements to the inspector
  - Exercised any other right provided for in the Act

 Consultation

- Consultation is provided free of charge and confidentially to employer who would like to voluntarily come into compliance
- Limited or full service consultation services are available
- Service is provided upon the employer's request
Consultation

› The consultation is conducted in the same structured format as an inspection
› Employee representative participation is strongly encouraged, but not required

Consultation

› The employer must agree to correct any serious hazards identified by the consultant by an agreed upon date.
› The Employer must certify to PESH that the serious hazards have been removed

Consultation Services

• Hazard Surveys
  • IAQ, Mold, Air Monitoring, Water Sampling...
• Correction Assistance
• Program Assistance
• Training Assistance
• Outreach
  • Speakers
  • Seminars/Conferences (Example – Safe Patient Handling)
  • Lending library
Available Air Monitoring Services from PESH

<table>
<thead>
<tr>
<th>Substance</th>
<th>Operation/Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acid Gases (HCl, HNO3)</td>
<td>Labs</td>
</tr>
<tr>
<td>Acetone, Methylene Chloride</td>
<td>Nail Salons (BOCES)</td>
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<tr>
<td>Arsenic</td>
<td>Taxidermy/Museums</td>
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<tr>
<td>Asbestos</td>
<td>Building Materials</td>
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<tr>
<td>BTEX</td>
<td>Weights &amp; Measures</td>
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<tr>
<td>Carbon Disulfide</td>
<td>Forensic Labs</td>
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<tr>
<td>Carbon Monoxide</td>
<td>Vehicle/Equipment Exhaust</td>
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<tr>
<td>Chlorine</td>
<td>Water and Waste Water Treatment</td>
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<tr>
<td>Formaldehyde</td>
<td>Fish Hatcheries, Mortuary Science, Furnishings</td>
</tr>
<tr>
<td>Hexavalent Chromium</td>
<td>Welding/Cutting Stainless, Hard Facing</td>
</tr>
<tr>
<td>Lead</td>
<td>Auto Body, Bridge Work, Restoration</td>
</tr>
<tr>
<td>Respirable/Total Dust</td>
<td>Sanding, Grinding, Cutting</td>
</tr>
<tr>
<td>Silica</td>
<td>Concrete, Pavement, Masonry Work</td>
</tr>
<tr>
<td>Various Volatile Organics</td>
<td>Painting</td>
</tr>
<tr>
<td>Welding, Metals, Fume</td>
<td>Welding, Cutting</td>
</tr>
</tbody>
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Albany PESH District Contacts
(518) 457-5508

- John Usher – Industrial Hygiene Consultant
  - usher.john@nysl.gov
- Joseph Cook Jr. – Safety Consultant
  - cook.joseph@nysl.gov

For fee paid assistance, contact your local Public Employee Safety & Health (PESH) Bureau.