

7. OSHA/NJPEOSH Inspections

OSHA enforces health and safety standards in private sector and federal workplaces.

NJPEOSH does the same in New Jersey state, county, and municipal government and in public and charter schools.

OSHA/NJPEOSH schedule some inspections based on their priorities. Most inspections, however, result from worker complaints about hazardous job conditions. If an inspector finds that a workplace does not comply with standards, the employer can be issued citations and fines and given deadlines (abatement dates) by which to comply.



BEFORE FILING A COMPLAINT

If a worker believes that their job is not safe, they should talk to their union representative first, if they have one. If not, they should talk to their supervisor about the problem. It is essential they do this with other workers. If the supervisor does not solve the problem, or if for some reason the worker does not want to talk to their supervisor, they can make a complaint to OSHA/NJPEOSH about the problem. If there is a union, work with them to prepare and file the complaint.

WHAT'S REGULATED AND WHAT'S NOT?

OSHA/NJPEOSH standards do not cover every hazard. Before contacting them, become familiar with what is regulated and what is not. OSHA/NJPEOSH inspections will be most useful if there is a clear violation of specific standards.

There are no standards on extreme temperatures, lifting, ergonomics, stress, or workplace violence. OSHA has no standard on indoor air quality; however, NJPEOSH does. Complaining about hazards without standards may not be enough to trigger an inspection or to get the employer to make changes even though an inspection takes place. It could even result in a "clean bill of health" that sets back workers' efforts.

Even though the OSHA/NJPEOSH “General Duty Clauses” legally require employers to maintain safe and healthful workplaces “free of recognized hazards,” the agencies only rarely enforce this provision of the law.

CHEMICAL EXPOSURE LIMITS ARE WEAK

OSHA and NJPEOSH have exposure limits on air contamination for about 600 chemicals. This leaves thousands of other toxic substances unregulated. Even worse, most chemical limits are not protective enough because:

- They were set to prevent immediate disease or injury rather than long-term risks like cancer and lung disease.
- They are often not based on the best available scientific information.
- They consider economic and technical feasibility as well as health effects.

HELPFUL HINT



Consult PART THREE, Section 2 for more information on the OSHA/NJPEOSH standards that cover various hazards.

HOW TO FILE A COMPLAINT

If it is decided to request an on-site inspection, put the complaint in writing and sign the complaint form. If a complaint is not signed, OSHA/NJPEOSH will most likely send a letter to the employer rather than conducting an inspection. OSHA and NJPEOSH will not reveal the complainant’s name to the employer unless the complainant checks the box saying it is okay. Provide details of each hazard, including the number of exposed workers, their job titles and any symptoms they are experiencing. Note exact locations of hazards by building, floor, and department.

HELPFUL HINT



When filing an OSHA/NJPEOSH complaint, use a cover letter to designate representatives to participate in the inspection. Sample cover letters are found in PART THREE, Section 4, Letters 13 (OSHA) and 16 (NJPEOSH).

FILING A COMPLAINT ON THE WEB

A complaint can be filed using the OSHA Worker’s Page, www.osha.gov/as/opa/worker/index.html. However, most complaints filed this way will not result in an actual on-site inspection, but will be handled by OSHA by contacting the employer via phone/fax/letter.

WHAT ARE PHONE/FAX/LETTER INVESTIGATIONS?

OSHA/NJPEOSH's phone/fax/letter investigation method enables the agencies to respond to hazards when the criteria for an on-site inspection are not met or where the employee or employee representative requests it. OSHA/NJPEOSH telephones the employer, describes the alleged hazards and then follows up with a fax or a letter. The employer must respond within five days, identifying in writing any problems found and noting corrective actions taken or planned. If the response is adequate, OSHA/NJPEOSH generally will not conduct an inspection. The employee who filed the original complaint will receive a copy of the employer's response. If still not satisfied, the complainant may then request an on-site inspection.

WORKER PARTICIPATION IN OSHA/NJPEOSH INSPECTIONS

If there is a union, it has the right to choose representatives to participate in the inspection. This includes the opening and closing conferences and walking around with the inspector to point out problems. If there is no union, then workers or the inspector choose a representative. Management cannot choose this person. Whether or not there is a union, workers have the right to talk privately with the inspector about any concerns.

The complainant also has the independent right to participate in the inspection during NJPEOSH but not OSHA inspections.

Inspectors must determine as soon as possible after arrival on site whether workers are represented by a union. Inspectors also ensure that employee representatives have the opportunity to participate in all phases of the inspection.

The term "employee representative" refers to (1) a representative of the certified or recognized bargaining agent, or, if none, (2) an employee member of a safety and health committee who has been chosen by the employees (employee committee members or employees at large) as their OSHA/NJPEOSH representative, or (3) an individual employee who has been selected as the walk-around representative by the employees of the establishment.

Where none of these exists, the inspector must determine if any other employees would suitably represent the interests of employees on the walk-around. If selection of such an employee is impractical, the inspector must consult with a reasonable number of employees during the inspection.

CAN WORKERS AND UNIONS PARTICIPATE IN ENVIRONMENTAL INSPECTIONS?

Workers and union representatives in a facility with large quantities of hazardous chemicals regulated under the Toxic Catastrophe Prevention Act or the Discharge of Petroleum and Hazardous Substances rules also have a right to participate in inspections conducted by the New Jersey Department of Environmental Protection. For more information about these rights, contact the New Jersey Work Environment Council.

WHERE TO FILE AN OSHA/NJPEOSH COMPLAINT

Private Sector Enforcement –File with the OSHA Office in New Jersey that covers the county where the workplace is located, using the OSHA complaint form, www.osha.gov/oshforms/osha7.pdf.

OSHA, Avenel Area Office

Phone: 732-750-3270

Serves Hunterdon, Middlesex, Somerset, Union, and Warren Counties.

OSHA, Marlton Area Office

Phone: 856-396-2594

Serves Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties.

OSHA, Parsippany Area Office

Phone: 973-263-1003

Serves Essex, Hudson, Morris, and Sussex Counties.

OSHA, Hasbrouck Heights Area Office

Phone: 201-288-1700

Serves Bergen and Passaic Counties

Public Sector Enforcement – File with the agency that covers the complaint issues. The NJPEOSH complaint form is at

www.state.nj.us/labor/lasse/forms/peoshcomp.pdf

NJDHSS NJPEOSH Program – Health hazards

Phone: 609-984-1863.

NJDLWD Office of Public Employee Safety – Safety hazards,
Recordkeeping and Discrimination Complaints
Phone: 609-633-3896, 609-292-7036, 800-624-1644

WEBSITES WITH MORE INFORMATION



OSHA Field Inspections Reference Manual (FIRM)
www.osha.gov/Firm_osa_toc/Firm_toc_by_sect.html

NJPEOSH Field Inspections Reference Manual (FIRM)
www.state.nj.us/labor/lasse/peoshfirm.pdf

PUBLICATIONS WITH MORE INFORMATION



All About OSHA, OSHA Publication 3302, 2004
Phone: 202-693-1888, OSHA Publications Office
www.osha.gov/pls/publications/pubindex.list

COSH Network pamphlets on using OSHA

- *When to Call OSHA*
- *How to File a Complaint with OSHA*
- *The OSHA Inspection*
- *After the OSHA Inspection: How to Follow-up on an OSHA Inspection*

Phone: 609-695-7100, New Jersey Work Environment Council
www.coshnetwork.org/english_resources.htm

