

Public Employee Occupational Safety and Health:

380:40-1-7. Posting of notice

(a) Each employer shall post and keep posted a notice or notices, to be furnished by the PEOSH **Unit Division** of the Oklahoma Department of Labor, informing employees of the protections and obligations provided for in the 40 O.S. § 401 et seq. and that for assistance and information, including copies of specific safety and health standards, employees should contact the **PEOSH Division of the** Oklahoma Department of Labor. Such notice or notices shall be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to insure that such notices are not altered, defaced, or covered by other material.

(b) Reproductions or facsimiles of such State posters shall constitute compliance with the posting requirements where such reproductions or facsimiles of such State posters shall constitute compliance with the posting requirements where such reproductions or facsimiles are at least 8 ½ inches by 11 inches, and the printing size is at least 10 pt. Whenever the size of the poster increases, the size of the print shall also increase accordingly. The caption or heading on the poster shall be in large type, not less than 32 pt.

(c) "Establishment" means a single physical location where agency business is conducted or where services or operations are performed. Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate physical establishment, and a separate notice or notices shall be posted in each such establishment. Where employer are engaged in activities which are physically dispersed, such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, the notice or notices required by this section shall be posted at the location to which employees report each day. Where employees do not usually work at, or report to, a single establishment, such as technicians, engineers, etc., notices shall be posted at the location from which the employees operate to carry out their activities. In all cases, such notice or notices shall be posted in accordance with the requirements of paragraph (a) of this section.

(d) Any employer failing to ~~employ~~ **comply** with the provisions of this section shall be subject to citation in accordance with the provisions of 40 O.S. § 410(D).

380:40-1-9. Objection to inspection

(a) Upon a refusal to permit the PEOSH Inspector, in exercise of this official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employer,

operator, agent, or employee, in accordance with 380:40-1-8 or to permit a representative of employees to accompany the PEOSH Inspector during the physical inspection of any workplace in accordance with 380:40-1-12(a), the PEOSH Inspector shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The PEOSH Inspector shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the Director, **OSHA PEOSH** Division, hereafter referred to as "Director." If in the Director's opinion, such refusal is without good cause, the same shall be considered a violation of the Act and these Rules, and may subject the employer to citation. The Director shall consult with the Legal Division, who shall take appropriate action, including obtaining an emergency Order from the Commissioner, pursuant to 40 O.S. § 410(F), if necessary.

(b) A subpoena or Order of the Commissioner, may be obtained in advance of an attempted inspection or investigation if, in the judgment of the Director and the Legal Division, circumstances exist which make such pre-inspection process necessary. Some examples of circumstances in which it may be necessary to seek such an Order in advance of an attempted to inspect or investigate include (but are not limited to):

(1) When the employer's past practice either implicitly or explicitly puts the Oklahoma Department of Labor on notice that an inspection will not be allowed, absent specific Order of the Commissioner;

(2) When an inspection is scheduled far from the local office and procuring a subpoena or other Order of the Commissioner prior to leaving to conduct the inspection would avoid, in case of refusal of entry, the expenditure of significant time and resources to return to the office, obtain an Order, and return to the work site;

(3) When an inspection includes the use of special equipment or when the presence of an expert or experts is needed in order to properly conduct the inspection, and procuring an Order prior to an attempt to inspect would alleviate the difficulties or costs encountered in coordinating the availability of such equipment or expert.

(c) For purposes of this section, the term "Order of the Commissioner" shall mean the institution of any appropriate action, including subpoena or "ex parte" application for an Emergency Order or its equivalent.

(d) Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action, citation, or penalty under the Act. PEOSH Inspectors are not authorized to grant any such waiver.

380:40-1-12. Representatives of employers and employees

(a) PEOSH Inspectors shall be in charge of inspections and questioning of persons. A representative of the employer and an authorized employee representative shall be given an opportunity to accompany the PEOSH Inspector during the physical inspection at any workplace for the purpose of aiding such inspection. Different employer and employee representatives may accompany the PEOSH Inspector during each different phase of an inspection provided that it does not interfere with the conduct of the inspection.

(b) The representative(s) authorized by employees shall be an employee(s) of the employer. However, if in the judgment of the PEOSH Inspector, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany **the them** during the inspection.

(c) PEOSH Inspectors **may consult** are authorized to deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection.

380:40-1-17. Request for extensions of abatement date(s)

(a) An employer may file a request for extension of abatement date(s) when a good faith effort to comply with the abatement requirements of a citation has been attempted, but such abatement has not been completed because of factors beyond the employer's reasonable control.

(b) A request for extension of abatement date(s) shall be in writing and shall include the following information:

(1) All steps taken by the employer, and the dates of such action, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) available interim steps are being taken to safeguard the employees against the cited hazard during the abatement period.

(c) A request for extension of abatement date(s) shall be filed with the PEOSH **unit Division** of the Oklahoma Department of Labor no later than the close of the next working day following the date on which abatement was originally required. A

later filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

380:40-1-19. Abatement verification

(a) Abatement certification.

(1) Within ~~10 calendar~~ **ten (10) calendar** days after the abatement date, the employer must certify to the Oklahoma Department of Labor-PEOSH ~~unit~~ **Division** that each cited violation has been abated.

(2) The employer's certification that abatement is complete must include, for each cited violation, the date and method of abatement.

(b) Abatement documentation.

(1) The Oklahoma Department of Labor may require along with the information on abatement certification, additional documentation demonstrating that abatement is complete.

(2) Additional documentation may include, but is not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records.

(c) Abatement plans.

(1) The Oklahoma Department of Labor may require an employer to submit an abatement plan for each cited violation when the time permitted for abatement is more than **90 ninety (90)** calendar days. If an abatement plan is required, the citation must so indicate.

(2) The employer must submit an abatement plan for each cited violation within ~~25 calendar~~ **twenty-five (25) calendar** days from the final date when the citation indicates that such a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, where necessary, how employees will be protected from exposure to be the condition in the interim until abatement is complete.

(d) Progress reports.

(1) An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:

(A) That periodic progress reports are required and the citation items for which they are required;

(B) The date on which an initial progress report must be submitted, which may be no sooner than ~~30 calendar~~ **thirty (30) calendar** days after submission of an abatement plan;

(C) Whether additional progress reports are required; and

(2) The date(s) on which additional progress reports must be submitted.

(e) Transmitting abatement documents.

(1) The employer must include, in each submission required by this section, the following information:

- (A) The employer's name and address;
- (B) The citation and item numbers to which the submission relates;
- (C) A statement that the information submitted is accurate; and
- (D) The signature of the employer or the employer's authorized representative.

(2) The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the Agency receives the document is the date of submission.

380:40-1-20. Consultation procedures for public sector

(a) Experiences with OSHA consultation in the private sector have shown that employers who make a management commitment to safety and health and involve employees in the development and implementation of a safety and health program show far greater results toward the long term reduction of accidents, injuries and illnesses in the workplace. The Oklahoma Department of Labor recognizes that voluntary compliance and a pro-active approach to safety and health with emphasis on a holistic safety and health program is more effective than traditional enforcement methods. Therefore, it is the intent of the PEOSH ~~unit~~ **Division** to not only enforce safety standards and regulations, but to assist public employers with voluntarily implementing effective safety and health programs.

(b) PEOSH Inspectors, at the request of the employer, may conduct on-site consultation visits for the purposes of providing information, literature and guidance to the employer on requirement or safety and health standards, implementation of safety and health program elements, record keeping assistance and written program requirements. However, if during a consultation visit, a PEOSH Inspector identifies violation(s) of the referenced federal standards, national consensus standards, or state law, a citation shall be issued in accordance with section 380:40-1-16.

380:40-1-24. Fines

(a) In addition to citations issued under OAC 380:40-1-16, the Commissioner of Labor, or his or her designee, may issue an administrative fine for any and all violations of the Oklahoma Occupational Health and Safety Standards Act. All monies collected for violations of the Oklahoma Occupational Health and Safety Standards Act shall be deposited to the Department of Labor Administrative

Penalty Revolving Fund for transfer to the General Revenue Fund. The following schedule of fines shall apply on a per-violation, per-day basis:

- (1) Serious: **up to** \$1,000.00
- (2) Other than serious: **up to** \$500.00
- (3) Willful: **up to** \$5,000.00
- (4) Repeated: **up to** \$5,000.00
- (5) Regulatory: **up to** \$500.00

(b) Payment for the fines set forth in subsection (a) of this section shall be due within thirty (30) days of issuance of a citation by the Commissioner or designee. Any person wishing to contest any of the aforementioned fines shall, within thirty (30) days of issuance of the fine or fines, petition the Commissioner or designee, in writing, for an administrative hearing. If requested, the hearing shall then be scheduled by the Commissioner or designee as provided in the Administrative Procedures Act.

(c) Employers who voluntarily request an onsite inspection shall not be subject to monetary penalties for hazards identified during the course of the voluntary inspection, provided that such hazards are corrected within the timeframes established during the consultation visit.

(d) Funds collected as payment from a violator for administrative fines imposed for violation of the Oklahoma Occupational Health and Safety Standards Act shall not be retained by the Department of Labor, but shall be deposited to the Department of Labor Administrative Penalty Revolving Fund for transfer to the General Revenue Fund.