

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4167-8-01

Rule Type: Amendment

Rule Title/Tagline: Inspection and investigation procedures.

Agency Name: Public Employment Risk Reduction Program

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 11/29/2023
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 4121.12, 4121.121, 4167.02, 4167.07
5. **What statute(s) does the rule implement or amplify?** 4167.10
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

Pursuant to R.C. 119.032, state agencies are required to review all agency rules every five years to determine whether to amend the rules, rescind the rules, or continue the rules without change. Due to such review, the bureau concluded to amend the rule.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule authorizes the superintendent to conduct inspections and investigations under certain circumstances.

Propose wording in Par. (C)(3) to clarify the ten-day period in which the superintendent is to conduct an investigation.

9. **Does the rule incorporate material by reference? No**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not Applicable.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? No
18. Does this rule have an adverse impact on business? No
 - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
 - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
 - C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
 - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
 - A. How many new regulatory restrictions do you propose adding to this rule? 0
 - B. How many existing regulatory restrictions do you propose removing from this rule? 16

4167-8-01(A)(1) "The superintendent shall conduct inspections and investigations under the following circumstances"

4167-8-01(A)(2) "The superintendent shall conduct all requested or required inspections within a reasonable amount of time"

4167-8-01(B) "The superintendent shall determine which Ohio employment risk reduction standards apply when conducting inspections and investigations"

4167-8-01(C)(1) "The superintendent shall enter without delay to inspect and investigate any plant, facility, establishment, construction site, area, workplace, or environment where work is being performed by a public employee of a public employer"

4167-8-01(C)(2) "Inspections shall take place at such times and in such places as the superintendent may direct"

4167-8-01(C)(2)(a) "The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment"

4167-8-01(C)(2)(b) "At the beginning of an inspection, compliance officers shall present their credentials to the employer or the employer's agent in charge at the establishment"

4167-8-01(C)(2)(c) "Compliance officers designated by the superintendent shall have the authority to"

4167-8-01(C)(2)(c)(i)(b) "In taking photographs and samples, compliance officers shall take reasonable precautions"

4167-8-01(C)(2)(c)(i)(b) "Compliance officers shall comply with all employer safety and health rules and practices at the establishment being inspected"

4167-8-01(C)(2)(c)(i)(b) "and they shall wear and use appropriate protective clothing and equipment"

4167-8-01(C)(2)(c)(iii)(a) "Witnesses shall receive the same fees and mileage provided for witnesses in civil cases in the court of common pleas"

4167-8-01(C)(2)(d) "At the conclusion of any inspection or investigation, the compliance officer

shall confer with the employer or the employer's representative"

4167-8-01(C)(3) "the superintendent shall develop and implement policies and procedures to conduct investigations to obtain detailed information"

4167-8-01(C)(3) "The investigation information shall include, but is not limited to"

4167-8-01(C)(4)(b) "If hazards exist, an inspection report shall be sent to the employer that includes a corrective action report"

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable