

4167-8-01

**Inspection and investigation procedures.**(A) Authority for inspections and investigations.

(1) The superintendent shall conduct inspections and investigations under the following circumstances:

(a) A request ~~to do so~~ from a public employee or public employee representative pursuant to ~~rule 4167-2-02 of the Administrative Code~~ division (B)(1) of section 4167.10 of the Revised Code;

(b) A refusal to work notification pursuant to ~~rule 4167-2-01 of the Administrative Code~~ section 4167.06 of the Revised Code;

(c) A request ~~to do so~~ from a public employer pursuant to division (B)(2) of section 4167.10 of the Revised Code;

(d) A report of a work-related fatality, hospitalization, amputation, or loss of eye;

~~(d)~~ (e) A scheduled inspection upon the superintendent's own initiative, pursuant to section 4167.10 of the Revised Code.

(f) A request from a public employer for a compliance assistance employment risk reduction inspection.

(2) The superintendent shall conduct all requested or required inspections within a reasonable amount of time following receipt of the request or the notification.

(B) The superintendent shall determine which Ohio employment risk reduction standards apply ~~in~~ when conducting inspections and investigations.

## (C) Conduct of inspections and investigations.

(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, and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein.

Delay of inspections includes, but is not limited to, harassment, intimidation, interference of access to premises or records, and refusal to admit the superintendent or his authorized representative upon presentation of official department identification, for the purpose of inspecting or investigating.

- (2) Inspections shall take place at such times and in such places as the superintendent may direct.
- (a) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.
  - (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; explain the nature and purpose of the inspection; and indicate the scope of the inspection and the records they wish to review as required under rule 4167-6-08 of the Administrative Code and other documents and records relevant to the inspection or investigation.
  - (c) Compliance officers designated by the superintendent shall have the authority to:
    - (i) Take environmental samples, take or obtain photographs related to the purpose of the inspection, and conduct tests and other studies reasonably calculated to serve the purposes of the inspection or investigation.
      - (a) As used in this rule, "take environmental samples" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees ~~in order~~ to measure their exposures.
      - (b) In taking photographs and samples, compliance officers shall take reasonable precautions to ~~insure~~ ensure that such actions with flash, spark-producing, or other equipment would not be hazardous. Compliance officers shall comply with all employer safety and health rules and practices at the establishment being inspected, and they shall wear and use appropriate protective clothing and equipment.
    - (ii) Provide public employee representatives the opportunity to accompany an inspection and to consult with the compliance officer regarding workplace safety, to interview employees and public employee representatives in private, and to provide employees and public employee representatives participation in a closing conference.

(iii) ~~Administer~~ Question privately any public employer, administrator, department head, operator, agent, or public employee, and; administer oaths and require, by subpoena, the attendance and testimony of witnesses and the production of evidence under oath.

(a) Witnesses shall receive the same fees and mileage provided for witnesses in civil cases in the court of common pleas.

(b) In the case of contumacy, failure, or refusal of any person to comply with an order or any subpoena lawfully issued, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, a judge of the court of common pleas of any county in this state, on the application of the superintendent, shall issue an order requiring the person to appear and to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question. The court may punish any failure to obey the order of the court as a contempt thereof.

(d) At the conclusion of ~~an any inspection or investigation~~, the compliance officer shall confer with the employer or the employer's representative, informally advising of any apparent safety or health violations disclosed by the inspection or investigation. During such conference, the employer shall be afforded an opportunity to bring to the attention of the compliance officer any pertinent information regarding conditions in the workplace.

(e) All information obtained by the superintendent in connection with any inspection or investigation that is confidential or a trade secret may not be disclosed in violation of rule 4167-10-01 of the Administrative Code.

(3) Fatality, hospitalization, amputation, and loss of eye investigations.

In addition to following the requirements in paragraphs (C)(1) and (C)(2) of this rule, the superintendent shall develop and implement policies and procedures to conduct investigations to obtain detailed information about fatalities, in-patient hospitalizations, amputations, and loss of an eye, within ten days of the incident or when reported to the employer or agent of the employer. The investigation information shall include, but is not limited to:

(a) Causes or factors;

(b) Test results;

- (c) Measurements;
- (d) Witness statements;
- (e) Follow-up actions; and
- (f) Evaluations of work processes.

(4) Compliance assistance and employment risk reduction inspections.

- (a) Any public employer may request the superintendent to provide compliance assistance and a voluntary employment risk reduction inspection of the public employer's place of employment.
- (b) If hazards exist, an inspection report shall be sent to the employer that includes a corrective action report and employers shall provide a response to the report by the assigned target date that verifies corrective action progress.
- (c) To demonstrate necessary corrective action, employers may be required to submit periodic reports, permit a follow-up visit, or take similar action that ensures progress is verified.
- (d) All necessary corrective action must be completed within an agreed upon time frame not to exceed three years.
- (e) Neither the superintendent nor any other person may use any information obtained from the inspection for a period not to exceed three years in any proceeding for a violation of this chapter or any rule or order issued thereunder nor in any other action in any court in this state.

Effective:

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Certification

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Date

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