



Ohio Revised Code

Section 4167.10 Inspection and investigation of workplaces.

Effective: July 1, 2009

Legislation: House Bill 525 - 127th General Assembly

(A) In order to carry out the purposes of this chapter, the administrator of workers' compensation or the administrator's designee shall, as provided in this section, inspect and investigate any plant, facility, establishment, construction site, or any other area, workplace, or environment where work is being performed by a public employee of a public employer, and any place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any public employer, administrator, department head, operator, agent, or public employee. The authority to inspect and investigate includes the taking of environmental samples, the taking and obtaining of photographs related to the purposes of the inspection or investigation, the examination of records required to be kept under section 4167.11 of the Revised Code and other documents and records relevant to the inspection and investigation, the issuance of subpoenas, and the conducting of tests and other studies reasonably calculated to serve the purposes of implementing and enforcing this chapter. Except as provided in this section, the administrator or the administrator's designee shall conduct inspections and investigations only pursuant to a request to do so by a public employee or public employee representative, or the notification the administrator receives pursuant to division (B) of section 4167.06 of the Revised Code and only if the administrator or the administrator's designee complies with this section. The administrator or the administrator's designee shall conduct all requested or required inspections within a reasonable amount of time following receipt of the request or notification.

(B)(1) Any public employee or public employee representative who believes that a violation of an Ohio employment risk reduction standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving written notice to the administrator or the administrator's designee of the violation or danger. The notice shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the public employee or public employee representative. The names of individual public employees making the notice or referred to therein shall not appear in the copy provided to the public employer pursuant to division (B)(2) of this section and shall be kept confidential.



(2) If, upon receipt of a notification pursuant to division (B)(1) of this section, the administrator determines that there are no reasonable grounds to believe that a violation or danger exists, the administrator shall inform the public employee or public employee representative in writing of the determination. If, upon receipt of a notification, the administrator determines that there are reasonable grounds to believe that a violation or danger exists, the administrator shall, within one week, excluding Saturdays, Sundays, and any legal holiday as defined in section 1.14 of the Revised Code, after receipt of the notification, notify the public employer, by certified mail, return receipt requested, of the alleged violation or danger. The notice provided to the public employer or the public employer's agent shall contain a copy of the notice provided to the administrator by the public employee or the public employee representative under division (B)(1) of this section and shall inform the public employer of the alleged violation or danger and that the administrator or the administrator's designee will investigate and inspect the public employer's workplace as provided in this section. The public employer must respond to the administrator, in a method determined by the administrator, concerning the alleged violation or danger, within thirty days after receipt of the notice. If the public employer does not correct the violation or danger within the thirty-day period or if the public employer fails to respond within that time period, the administrator or the administrator's designee shall investigate and inspect the public employer's workplace as provided in this section. The administrator or the administrator's designee shall not conduct any inspection prior to the end of the thirty-day period unless requested or permitted by the public employer. The administrator may, at any time upon the request of the public employer, inspect and investigate any violation or danger alleged to exist at the public employer's place of employment.

(3) The authority of the administrator or the administrator's designee to investigate and inspect a premises pursuant to a public employee or public employee representative notification is not limited to the alleged violation or danger contained in the notification. The administrator or the administrator's designee may investigate and inspect any other area of the premises where there is reason to believe that a violation or danger exists. In addition, if the administrator or the administrator's designee detects any obvious or apparent violation at any temporary place of employment while en route to the premises to be inspected or investigated, and that violation presents a substantial probability that the condition or practice could result in death or serious physical harm, the administrator or the administrator's designee may use any of the enforcement mechanisms provided in this section to correct or remove the condition or practice.



(4) If, during an inspection or investigation, the administrator or the administrator's designee finds any condition or practice in any place of employment that presents a substantial probability that the condition or practice could result in death or serious physical harm, after notifying the employer of the administrator's intent to issue an order, the administrator shall issue an order, or the administrator's designee shall issue an order after consultation either by telephone or in person with the administrator and upon the recommendation of the administrator, which prohibits the employment of any public employee or any continuing operation or process under such condition or practice until necessary steps are taken to correct or remove the condition or practice. The order shall not be effective for more than fifteen days, unless a court of competent jurisdiction otherwise orders as provided in section 4167.14 of the Revised Code.

(C) In making any inspections or investigations under this chapter, the administrator or the administrator's designee may administer oaths and require, by subpoena, the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall receive the fees and mileage provided for under section 119.094 of the Revised Code. 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 the witness may lawfully be interrogated, a judge of the court of common pleas of any county in this state, on the application of the administrator or the administrator's designee, 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) If, upon inspection or investigation, the administrator or the administrator's designee believes that a public employer has violated any requirement of this chapter or any rule, Ohio employment risk reduction standard, or order adopted or issued pursuant thereto, the administrator or the administrator's designee shall, with reasonable promptness, issue a citation to the public employer. The citation shall be in writing and describe with particularity the nature of the alleged violation, including a reference to the provision of law, Ohio employment risk reduction standard, rule, or order alleged to have been violated. In addition, the citation shall fix a time for the abatement of the violation, as provided in division (H) of this section. The administrator may prescribe procedures for the issuance of a notice with respect to minor violations and for enforcement of minor violations that have no direct or immediate relationship to safety or health.



(E) Upon receipt of any citation under this section, the public employer shall immediately post the citation, or a copy thereof, at or near each place an alleged violation referred to in the citation occurred.

(F) The administrator may not issue a citation under this section after the expiration of six months following the final occurrence of any violation.

(G) If the administrator issues a citation pursuant to this section, the administrator shall mail the citation to the public employer by certified mail, return receipt requested. The public employer has fourteen days after receipt of the citation within which to notify the administrator that the employer wishes to contest the citation. If the employer notifies the administrator within the fourteen days that the employer wishes to contest the citation, or if within fourteen days after the issuance of a citation a public employee or public employee representative files notice that the time period fixed in the citation for the abatement of the violation is unreasonable, the administrator shall hold an adjudication hearing in accordance with Chapter 119. of the Revised Code.

(H) In establishing the time limits in which a public employer must abate a violation under this section, the administrator shall consider the costs to the public employer, the size and financial resources of the public employer, the severity of the violation, the technological feasibility of the public employer's ability to comply with requirements of the citation, the possible present and future detriment to the health and safety of any public employee for failure of the public employer to comply with requirements of the citation, and such other factors as the administrator determines appropriate. The administrator may, after considering the above factors, permit the public employer to comply with the citation over a period of up to two years and may extend that period an additional one year, as the administrator determines appropriate.

(I) Any public employer may request the administrator to conduct an employment risk reduction inspection of the public employer's place of employment. The administrator or the administrator's designee shall conduct the inspection within a reasonable amount of time following the request. Neither the administrator 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.