

### **4167-8-03 Citations.**

- (A) The superintendent shall, with reasonable promptness, issue a citation to any public employer that, upon inspection or investigation, the superintendent finds has violated any of the following:
- (1) An Ohio employment risk reduction standard;
  - (2) An order issued upon a finding of imminent danger pursuant to rule 4167-8-02 of the Administrative Code;
  - (3) An order to abate a violation issued pursuant to this rule.
- (B) The superintendent may, upon inspection or investigation, issue a notice of violation to any public employer that the superintendent believes has violated rules of this chapter that have no direct effect or immediate relationship to safety or health.
- (C) Citations issued under this rule shall:
- (1) Be issued in writing;
  - (2) 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;
  - (3) State that the issuance of a citation does not constitute a finding that a violation of the act has occurred unless there is a failure to contest as provided for in the act, or if contested, unless the citation is affirmed;
  - (4) Be issued within six months following the date of the final occurrence of the alleged violation;
  - (5) Fix a time for the abatement of the alleged violation pursuant to rule 4167-5-01 of the Administrative Code;
  - (6) Be sent to the public employer by certified mail, return receipt requested.
- (D) Upon receipt of any citation issued under this rule, the public employer shall immediately post the citation, or a clearly legible copy thereof, at or near each place an alleged violation referred to in the citation occurred.
- (1) Citations shall be posted in areas accessible to public employees and/or public employee representatives, but need not be posted in areas accessible to the public.
  - (2) A public employer shall seek the approval of the superintendent to post citations in locations other than those at the site of a violation.
- (E) At the request of an affected employer, employee, representative of employees, or upon the superintendent's own motion, the superintendent will hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, or notice of intention to contest.
- (1) If the conference is requested by the employer, an affected employee or his representative may be afforded an opportunity to participate, at the discretion of the superintendent.
  - (2) When the complainant is an employee and/or an employee representative, the complainant may be given the opportunity to participate in the conference.
  - (3) Any party may be represented by counsel at such conference.

(4) No such conference or request for such conference shall operate as a stay of any fourteen calendar day period for filing a notice of intention to contest as prescribed in rule 4167-14-01 of the Administrative Code.

(F) A citation shall be deemed a final order fourteen days after the employer's receipt of the citation, unless the employer elects to contest the citation pursuant to rules 4167-14-01 through 4167-14-03 of the Administrative Code. If the employer contests the citation, the order shall become final when either:

(1) The employer chooses not to appeal an adverse decision within the timeframe the employer is permitted to do so under rules 4167-14-01 and 4167-14-02 of the Administrative Code; or

(2) The employer has exhausted all administrative remedies and a final decision is issued by the court of common pleas.

Effective: 1/1/14