

Audit Committee Agenda

March 27, 2008

OCOSH

Room B

4:00 pm – 6:00 pm

Call to Order

Kenneth Haffey, Chairman

Roll Call

Jill Whitworth, Scribe

Approve Minutes of Feb. 28, 2008 meeting

Kenneth Haffey

New Business/Action Items

1. Possible Rule Review
 - a. Review and make recommendation for five-year rule review for the Public Employment Risk Reduction Program (amending 15 rules).
 - b. Review and make recommendation for five-year rule review for Chapter 4123:1-3: Construction Safety (amending approximately 25 rules).

Discussion Items*

1. Privacy at BWC
Tom Stevens, Data Security Supervisor, IT Division
2. Office of Budget and Management, Office of Internal Audit – Update
Joe Bell, Chief of Internal Audit
3. Open Discussion with Internal Auditor
4. Litigation update – *Possible Executive Session*
James Barnes, Chief Legal Officer

Adjourn

Ken Haffey

* Not all discussion items have materials included.

Next Meeting: April 24, 2008 12:00 pm – 2:00 pm

BWC Board of Directors
Audit Committee
Thurs., Feb. 28, 2008, 4:00 P.M.

William Green Building
The Neil Schultz Conference Center
30 West Sprint Street, 2nd Floor (Mezzanine)
Columbus, OH 43215

Members Present: Kenneth Haffey, Chair
Philip Fulton
William Lhota

Members Absent: None

Other Board Directors in attendance were Robert Smith, Alison Falls and Larry Price.

Call to order

Mr. Haffey called the meeting to order at 4:07 PM and the roll call was taken.

Minutes of Jan 24, 2008

The minutes were approved on a motion by Mr. Haffey, seconded by Mr. Fulton with two amendments to subpart 2(b), paragraph 3 suggested by Mr. Fulton. The words “and attorneys” to be inserted after “medical professionals”, and an amendment from “Mr. Sico clarified” to “Mr. Sico stated”.

New business / Action items

1. Rule Review

Tom Sico, Assistant Legal Counsel, presented changes to eight rules in Chapter 4123-17 resulting from the passage of House Bill 100. The rules are amended to change references from the “Workers’ Compensation Oversight Commission” to the “Bureau of Workers’ Compensation Board of Directors”. Additionally, Rule 4123-17-03(F)(3) is stricken, Rule 4123-17-40 reference to paragraph (M) is replaced by paragraph (L), and correct misspelling of “advice” in two rules. These changes do not require JCARR or public hearing. Mr. Lhota moved to recommend approval of the proposed changes to the Board of Directors, seconded by Mr. Fulton. The motion was approved by unanimous roll call vote.

Discussion items

1. BWC Surplus Fund

In response to discussion at the January meeting with respect to a management letter comment from Auditor Schneider Downs, Tracy Valentino, Chief Fiscal and Planning Officer, presented an

Executive Summary concerning the Surplus Fund. ORC §4123.34(B) established the Surplus Fund in 1913. In 1980, the Attorney General opined that the Surplus Fund is not a separate and distinct fund, but is a statutorily defined account within the State Insurance Fund. There must therefore be a separate accounting for Surplus Fund credits and charges.

ORC §4123.34(B) provides as follows:

“Ten per cent of the money paid into the state insurance fund shall be set aside for the creation of a surplus until the surplus amounts to the sum of one hundred thousand dollars, after which time, whenever necessary in the judgment of the administrator to guarantee a solvent state insurance fund, a sum not exceeding five per cent of all the money paid into the state insurance fund shall be credited to the surplus fund. A revision of basic rates shall be made annually on the first day of July.”

Ms. Valentino explained that historically, BWC has interpreted “money paid into” the State Insurance Fund as premiums only. Pursuant to an inquiry from Mr. Price, Ms. Valentino stated that the annual July revision of rates referenced in 4123.34(B) is incorporated into the rate-making process. Charges to the Surplus Fund are defined by other sections of the Revised Code, such as handicap reimbursement and bankrupt employer claims. These are not charged to individual employer experience, but spread over all employers in the applicable manual class. While the funding mechanism created by 4123.34(B) is limited, the charges to the Surplus Fund are constantly changing and far exceed the statutory set-aside.

Mr. Fulton noted on several occasions that ORC §4123.34(B) is subject to multiple interpretations because the terms therein are not defined, and therefore disagreed with the various assumptions put forth by Ms. Valentino. Chief Legal Counsel James Barnes opined that the statute must be given plain meaning, that BWC is in compliance with the statute, and that any corrections must be instituted by the legislature. Counsel for the Board, Assistant Attorney General, John Williams agreed with Mr. Barnes’ opinion.

Discussion was had concerning an action plan for dealing with this issue. Ms. Valentino stated that an attempt in the last budget bill to provide statutory clarification was not accepted by the legislature. She also emphasized that the State Insurance Fund is not at risk and numerous options are being reviewed. Both BWC Legal and the Attorney General’s Office will assist in determining any appropriate statutory changes or clarification.

Administrator Ryan stated any proposed changes would more likely be brought in conjunction with the next budget bill rather than as a stand-alone proposal. Mr. Haffey closed by noting that Schneider Downs has said this item is “not a deal-breaker” and understands BWC is moving forward with its review.

2. FY 08 2nd Quarter Executive Summary

Joe Bell, Chief Internal Auditor, reviewed three subject areas of the summary: FY 08 2nd Quarter Comments issued, Outstanding Comments and updates to the Annual Audit Plan.

New areas of review/comment from FY 08 2nd Quarter initially focused on the Manager Selection and Funding Process. The objectives of the audit were met, controls were reasonable designed and placed in operation, and three minor recommendations were noted.

An audit of an MCO identified eight comments with the identification of a material weakness related to financial difficulties. Mr. Bell emphasized no degradation in service was found, but ongoing monitoring by BWC management is necessary.

An audit of Permanent Total disability (PTD) claims produced 11 comments, all of which were rated as significant. As this report is very recent, significant issues are ongoing and being addressed with management. These include policy/training/supporting documentation, IT fixes, and completion of a previous PTD clean up project. In response to a question from Mr. Fulton, Tina Kielmeyer, Chief of Customer Services, explained that the PTD cleanup took place from 2002 to 2005 and involved claims with PTD awards prior to 2002. Ms. Kielmeyer explained that in 1996 BWC began converting PTD payments to the V3 claim payment system and that prior to 1999 PTD rates were established by the Industrial Commission. At the time of system conversion BWC detected errors in some PTD rate calculations that had previously gone undetected. Hence BWC initiated the PTD cleanup project. BWC has already reviewed 29,000 claims and adjusted approximately 2000. Mr. Fulton asked how many and what types of claims were left to review and Ms. Kielmeyer stated that there are approximately 4,000 split PTD and active self insured claims remaining. Ms. Kielmeyer also stated that the Administrator has asked for a quality assurance review of previously reviewed claims from the cleanup. Mr. Fulton also asked how BWC will handle any resulting overpayments from this review of PTD claims, noting the financial difficulty that a PTD recipient would have in repaying an overpayment. Mr. Lhota recognized this concern, but pointed out that BWC will have to take into consideration its fiduciary obligation to the State Insurance Fund as it develops its course of action. Ms. Ryan noted that all these considerations will be factored in as BWC completes this project.

An audit of the Employer Payroll Reporting Process Audit found that objectives of the audit were met, controls are reasonably designed and placed in operation, and three minor recommendations were noted

Mr. Bell then reviewed outstanding comments, noting that 2003-2005 comments reflecting management's progress that decreased from 34 to 6 comments outstanding. Of the total 115 comments outstanding, 13% of outstanding comments are long-term (9 months or longer until implementation), but may have an actuarial or IT component which contributes to longevity. Mr. Bell also inquired of the Committee for feedback on what information is useful to the Board. Mr. Haffey and Mr. Lhota responded positively regarding both the level and quality of internal audit information, and its presentation. Mr. Bell noted the internal audit plan for FY 09 will be looked at in the next 6 weeks, and Audit Committee input is desired. Some internal audit process changes are being put on hold until the State of Ohio's outside review of internal audit is completed.

3. Office of Budget and Management, Internal Audit Update

Mr. Bell reviewed a handout regarding the “Office of Internal Auditing Transformation Project.” The State of Ohio Audit Committee is anticipated to be named in mid-March, with the future goal of presenting a statewide internal audit framework to the Controlling Board for approval. Auditors from Deloitte Consulting will meet with BWC management on March 12.

Mr. Bell also reviewed a handout from the Institute of Internal Auditors regarding “The Role of Auditing in Public Sector Governance.” This is a global document which points out some “best practices” for government audit activities and audit committees. Mr. Haffey noted that Mr. Bell was a Principal Author of this report.

4. Other Business

Mr. Haffey moved for recess to executive session, seconded by Mr. Lhota. The motion was approved by unanimous roll call vote. The Committee recessed to executive session at 5:40 for presentation of the Litigation Update by Mr. Barnes.

At 6:05, Mr. Haffey moved to conclude the executive session, seconded by Mr. Lhota. The motion was approved by unanimous roll call vote.

Adjournment

The next Audit Committee meeting is March 27, 2008 at 4:00 PM, to be held at OCOSH.

Mr. Haffey moved to adjourn the meeting at 6:05 PM, seconded by Mr. Lhota.

Prepared by Jill Whitworth, BWC Staff Counsel
March 3, 2008

**BWC Board of Directors
Executive Summary**

**Public Employment Risk Reduction Program
Rules of Chapter 4167 of the Administrative Code**

Background History

Effective April 20, 1993, H.B. 308 created the Public Employment Risk Reduction Program (PERRP). The purpose of the program is to ensure that Ohio public employees are provided with a safe and healthful working environment. Prior to PERRP, only state agencies, under an executive order first enacted in 1973 and updated in 1982, were held responsible for the occupational safety and health of their respective employees. H.B. 308 extended safety and health coverage to all public employers with the exemption of peace officers, fire fighters, and correctional officers.

Under prior law, PERRP was administered and enforced by the Division of Labor and Worker Safety in the Department of Commerce. Under prior law, the Public Employment Risk Reduction Advisory Commission adopted employment risk reduction standards that all public employers had to observe with respect to public employment. The program also provides on-site safety inspection, safety training, and hazard recognition at the employer's request for all public employees.

Legislative Changes

The BWC Budget Bill, Am. H.B. 67, effective June 21, 2005, transferred the operation and administration of the Public Employment Risk Reduction Program from the Department of Commerce to BWC. The bill also abolished the Public Employment Risk Reduction Advisory Commission and transfers its duties to the Workers' Compensation Oversight Commission (now the Bureau of Workers' Compensation Board of Directors). These duties involve giving advice and consent for adopting rules. Additionally, the act abolishes the Public Employment Risk Reduction Fund. The Administrator of BWC instead of the Director of Commerce must inspect public workplaces and seek injunctive relief for violations of the standards. The Administrator rather than the Director also must develop and maintain an effective program of collection, compilation, and analysis of employment risk reduction statistics.

Five-Year Rule Review

Pursuant to H.B. 473 and Section 119.032 of the Revised Code, 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. These rules are due for five year rule review in February 2008.

Rule Changes

Division (3) of Section 4 of Am. H.B. 67 states:

“All of the rules, orders, and determinations enacted or adopted by the Department of Commerce, Division of Labor and Worker Safety, that relate to the transfer of functions required by this section shall continue in effect as rules, orders, and determinations of the Bureau of Workers' Compensation until modified or rescinded by the Bureau of Workers' Compensation. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules of the

Department of Commerce, Division of Labor and Worker Safety, enacted or adopted pursuant to Chapter 4167. of the Revised Code to reflect their transfer to the Bureau of Workers' Compensation.”

BWC contacted the Director of the Legislative Service Commission (LSC) to determine the proper rule numbers for the rules of Chapter 4167. The Director of LSC determined to retain the current rule numbers.

The amendments to the rules are chiefly updates required by the transfer of PERRP from the Department of Commerce to BWC. For example, the rules strike references to the Director of the Department of Commerce and replace the language with the Administrator; strike references to the superintendent of the division of labor and safety and replace the language with the superintendent of the division of safety and hygiene; and delete all rules and references to the public employment risk reduction advisory commission (PERRAC).

In addition, the rule changes include the following:

4167-1-02 Official address.

This rule changes the address for all correspondence pertaining to the program from the Department of Commerce to the Bureau of Workers Compensation, Division of Safety and Hygiene, 13430 Yarmouth Drive, Pickerington, Ohio 43147.

4167-1-03 to 4167-1-15

These rules are deleted due to the abolishment of the PERRAC.

4167-3-05 Ohio specific safety standards.

This rule deletes the existing Ohio department of transportation manual of traffic control for construction and maintenance operations.

CHAPTER 4167 OF THE ADMINISTRATIVE CODE

4167-1-01 Definitions.

The following definitions shall apply in all ~~agency level 4167~~ rules of this chapter of the Administrative Code:

(A) “Act” means the Public Employment Risk Reduction Act promulgated under House Bill 308 on December 17, 1992, and as amended thereafter.

(B) ~~Director~~ “Administrator” means ~~director of the department of commerce~~ the administrator of workers’ compensation.

(C) “~~Commission~~” means ~~the public employment risk reduction advisory commission (PERRAC) as created by division (B) of section 4167.02 of the Revised Code~~.

~~(D)~~ “Employment Risk Reduction Standard” means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment and places of employment.

~~(E)~~ (D) “Establishment” means a single physical location where business is conducted or where services or industrial operations are performed.

~~(F)~~ (E) “Imminent danger” means a condition or practice in any place of employment, where such a danger exists, which reasonably can be expected to cause death or serious physical harm, immediately or before the danger's imminence can be eliminated through the inspection procedures provided by section 4167.10 of the Revised Code.

~~(G)~~ (F) “Ohio employment risk reduction standard” means any risk reduction standard adopted or issued under ~~agency level 4167~~ this chapter of the Administrative Code.

(H) (G) “Public employee” as defined in section 4167.01 of the Revised Code means any individual who engages to furnish services subject to the direction and control of a public employer, including those individuals working for a private employer who has contracted with a public employer and who the national labor relations board has declined jurisdiction. “Public employee” does not mean a fire fighter or a peace officer employed by a public employer or any person employed as a correctional officer in a county or municipal corporation correctional institution whether the county or municipal corporation solely or in conjunction with each other operates the institution.

~~(I)~~ (H) “Public employee representative” means an employee organization certified or recognized by the state employment relations board under section 4117.05 of the Revised Code as the exclusive representative of the public employees in a bargaining unit.

~~(J)~~ (I) “Public employer” as defined in section 4167.01 of the Revised Code means any of the following:

(1) The state; and its instrumentalities;

(2) Any political subdivisions and their instrumentalities, including any county, county or state hospital, municipal corporation, city, village, township, park district, school district, state institution of higher learning, public or special district, state agency, authority, commission, or board;

(3) Any branch of public employment not mentioned in paragraph (J)(1) or (J)(2) of this rule.

~~(K)~~ (J) “Undue hardship” means any requirement imposed under this chapter or a rule or order issued thereunder that would require a public employer to take an action with significant difficulty or expense.

~~(L)~~ (K) “Peace officer” is hereby defined by section 109.71 of the Revised Code as a deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, member of a police force employed by a metropolitan housing authority, township constable, policemen appointed by a railroad company, employees of the department of taxation engaged in enforcement, undercover drug agents, liquor control investigators, an employee of the department of natural resources who is a park officer, forest officer, game protector, state watercraft officer, an employee of a park district or of a conservancy district, a policeman employed by a hospital who is appointed pursuant to sections 4973.17 and 4973.22 of the Revised Code, state university law enforcement officers appointed under section 3345.04 of the Revised Code, and the superintendent and the patrolmen of the state highway patrol.

~~(M)~~ (L) “Abatement date” means:

(1) The date set forth in a citation for the abatement of a violation when the citation item has not been contested;

(2) When a citation item has been contested and a final order has been issued, the date is computed by adding to the final order date either the amount of time allowed for abatement in the original citation or, if the order modifies the abatement period, the newly specified period;

(3) The date for abatement expressly set forth in a final order;

(4) The date for abatement expressly set forth in a petition for modification of abatement date final order; or

(5) The date for abatement expressly set forth in a settlement agreement.

~~(N)~~ (M) “Abatement plan” is a written, detailed plan outlining a schedule for the implementation of measures to achieve abatement.

~~(O)~~ (N) “Abatement verification” includes a final abatement report, an abatement plan, and progress reports.

~~(P)~~ (O) “Citation item” is a separately designated portion of a citation containing one or more instances of violation.

~~(Q)~~ (P) “Equipment” is a machine or device, powered or unpowered, used to do work.

~~(R)~~ (Q) “Final order date” is:

(1) Where the citation item has not been contested, the fourteenth day after the employer's receipt of the citation;

(2) The fourteenth day after the date on which a decision of a hearing officer is made, including an order approving a settlement or a withdrawal of a notice of contest;

(3) Where review has been directed by the superintendent of the division of ~~labor and worker~~ safety and hygiene, the thirtieth day after the date on which the

Superintendent issues the decision, including but not limited to an order approving a settlement or a withdrawal of a notice of contest, or an order severing citation items from a case; or

(4) The date on which a court of common pleas issues a decision where the superintendent's order has been stayed.

~~(S)~~ (R) "Petition for modification of the abatement date (PMA) final order" means

(1) The superintendent approval of an uncontested (PMA);

(2) An order of a hearing officer granting a (PMA), in whole or in part, unless the hearing officer's decision is directed for review within thirty days of the decision of the superintendent;

(3) An order of a court of common pleas granting a PMA, in whole or in part.

~~(T)~~ (S) "Progress report" is a written report explaining what measures have been taken, if any, in the process of achieving abatement of a violative condition in a citation item, other than measures ultimately achieving abatement; and the dates on which those measures have been taken.

~~(U)~~ (T) "Hospitalization" means an individual must be admitted to a hospital or equivalent facility; it does not mean treated and released.

~~(V)~~ (U) "Division" means division of ~~labor and worker safety~~ and hygiene .

~~(W)~~ (V) "Superintendent" means superintendent of the division of ~~labor and worker safety~~ and hygiene.

4167-1-02 Official address.

All correspondence pertaining to the program ~~or the commission~~ shall be mailed to the official address at the "Public Employment Risk Reduction Program, Ohio ~~Department of Commerce, Division of Labor and Worker Safety, 50 west broad Street, 29TH floor, Columbus Bureau of Workers Compensation, Division of Safety and Hygiene, 13430 Yarmouth Drive, Pickerington, Ohio 43215-5916~~ 43147."

4167-1-03 Commission membership.

~~(A) The commission is a continuing body established under division (E) of section 4167.02 of the Revised Code to adopt rules and do all things necessary and appropriate for the administration and enforcement of this chapter. It shall be composed of sixteen members appointed by the director. Eight members of the commission shall be representatives of public employers, and eight members shall be representatives of public employees, all of whom shall have expertise in the area of occupational safety and health and who represent jurisdiction and public employees subject to section 4167.02 of the Revised Code.~~

~~(B) In making the public employers' appointments the director shall select the following members:~~

~~(1) Two members from a list of six names submitted by the Ohio municipal league, one of whom shall represent a larger municipal corporation, and one of whom shall represent a smaller municipal corporation.~~

~~(2) Two members from a list of six names submitted by the Ohio township association, one of whom shall represent a larger township and one of whom shall represent a smaller township.~~

~~(3) Two members from a list of six names, submitted by the county commissioners' association of Ohio, one of whom shall represent a larger county and one of whom shall represent a smaller county.~~

~~(4) One member from a list of three names submitted by the inter-university council of Ohio.~~

~~(5) One member from a list of three names submitted by the Ohio school board association.~~

~~(C) No more than eight members, at any one time, may be of the same political party.~~

4167-1-04 Commission term limits.

~~(A) Except as provided in the remaining paragraphs of this rule, each member shall serve a term of five years ending on the fifth anniversary of the appointment date.~~

~~(B) Each member shall serve subsequent to the expiration of his or her term until a successor is appointed or until sixty days has elapsed, whichever occurs first.~~

~~(C) The director shall fill all vacancies in the manner prescribed under division (B) of section 4167.02 of the Revised Code except that each public employer representative vacancy shall be filled from a list of six names, but such appointments are limited to the unexpired terms.~~

~~(D) Members are eligible for reappointment to the commission.~~

4167-1-05 Officers of the commission and their duties.

~~—(A) There shall be co-chairpersons, one representing public employees and one representing public employers, who shall alternatively preside over the meetings of the commission. The public employee co-chairperson will be elected by those members representing public employees and the public employer co-chairperson will be elected by those members representing public employers. The commission shall elect the co-chairpersons from among its respective members on an annual basis at its first meeting of the new fiscal year.~~

~~(B) There shall be a commission member elected by the commission who will take the minutes of all commission meetings.~~

~~(C) There shall be other officers as the commission considers appropriate to carry out all of the duties and responsibilities of the commission.~~

4167-1-06 Oath of office.

~~Before entering upon the discharge of their duties, the members of the commission shall take and file with the secretary of state the oath of office required by section 7 of Article XV, Ohio Constitution.~~

4167-1-07 Not a public office.

~~—Membership on the commission does not constitute the holding of a public office or employment within the meaning of any section of the Revised Code, or an interest, either direct or indirect, in a contract of expenditure of money by the state or any municipal corporation, township, special district, school district, county, or other political subdivision. No member or officer of the commission is disqualified from holding~~

~~any public office or employment nor shall the officer or member forfeit any office or employment by reason of his or her position as a member of the commission.~~

4167-1-08 Removal of commission members.

~~Reserved.~~

4167-1-09 Expenses.

~~—Each member of the commission shall receive all actual necessary expenses incurred in the discharge of his or her duties.~~

4167-1-10 Quorum and rules of order.

~~—(A) A majority of the appointed members of the commission constitutes a quorum to transact business, and any vacancy shall not impair the right of the remaining members to exercise all of the powers of the commission so long as a majority remains.~~

~~-(B) “Robert's Rules of Order” shall govern the procedures of the commission except as otherwise provided by the Revised Code.~~

4167-1-11 Meetings.

~~—The commission will meet at its official office each month, or at such other time and place as necessary at the call of the chairman or co-chairman, or upon written request of at least seven members of the commission.~~

4167-1-12 Notice of regular and special meetings.

~~—(A) The superintendent shall maintain a record of each meeting of the commission which shall state the time and place of each regular and special meeting of the commission. Any person may determine or obtain such information at the office of the superintendent in Columbus, Ohio, or by writing to the superintendent at the official address of the, division as provided in rule 4167-1-02 of the Administrative Code.~~

~~-(B) Any person may obtain reasonable advance written notification in the form of a copy of the agenda of all meetings by requesting to be placed on a general mailing list and paying a nominal fee established by the commission or by providing the secretary of the commission with self-addressed stamped envelopes suitable for such purpose.~~

~~-(C) The superintendent shall maintain a list of news media which have requested notification. Such media shall be given a minimum of twenty-four hours advance notification of each special meeting of the commission, except in the event of an emergency requiring immediate official action. In the event of such an emergency, the superintendent shall notify the news media that have requested notification as soon as possible of the time, place, and purpose of the meeting.~~

4167-1-13 Calendar.

~~—The superintendent shall cause to be prepared an agenda of the proceedings to be heard at the office of the commission or elsewhere. The meeting to hear this agenda shall be held at a time and place as prescribed by~~

~~the commission. Only those matters specifically scheduled on said agenda established by the commission can be voted upon.~~

4167-1-14 Notice of public hearings.

~~— Reasonable public notice of the commission to consider the adoption, amendment, or rescission of a rule, as required by section 119.03 of the Revised Code, shall be as follows:~~

~~-(A) The division shall give public notice a minimum of thirty days prior to the date set for the public hearing. It shall do so by publishing such notice, at least once, in the English language, in one newspaper of general circulation in each of the cities of Akron, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown, Ohio or in such other method as is authorized by law. Such notice shall include:~~

~~-(1) A statement of the commission's intention to consider the adoption, amendment, or rescission of a standard or rule;~~

~~-(2) A synopsis of the proposed standard or rule, amendment, or standard or rule to be rescinded or a general statement of the subject matter to which the proposed standard or rule, amendment, or rescission relates;~~

~~-(3) A statement of the reason or purpose for adopting, amending, or rescinding the standard or rule; and~~

~~-(4) The date, time, and place of the hearing on the proposed action.~~

~~-(B) The commission may give additional notice of such public hearing as it deems necessary. The giving of such additional notice, however, is not mandatory and the failure to give notice by any means other than as specified in paragraph (A) of this rule shall not in any way invalidate any action which may be taken by the commission.~~

4167-1-15 Public records.

~~— (A) Public records, as defined in section 149.43 of the Revised Code, maintained by the commission, are available for inspection at the commission office in Columbus, Ohio between the hours of eight a.m. and four thirty p.m. Monday through Friday of each week, state holidays excluded.~~

~~-(B) Copies of public records will be made available at cost pursuant to the following conditions:~~

~~-(1) A written request shall be submitted to the commission specifying which records are to be copied, the number of copies, and the date such copies are needed.~~

~~-(2) Upon receipt of the written request, the commission shall determine the cost and the amount of time necessary to provide such copies. The copies will be furnished only upon remittance of the cost.~~

4167-1-16 Filing of documents.

Each notice of appeal, application, or other document to be filed with the ~~commission~~ administrator shall be filed at the official office of the ~~commission~~ administrator. Such filing means the actual delivery to the office of said notice of appeal, application, or other document.

4167-1-17 Continuances.

Continuances and adjournments of meetings may be ordered by the ~~commission~~ administrator on ~~it's~~ the administrator's own motion, or may be granted by it on motion or application of any party filed in writing and showing good and sufficient cause therefor. Any such motion must be directed to the ~~commission~~ administrator and may be acted upon by the ~~commission or co-chair of the~~ commission administrator or the administrator's designee.

4167-1-18 Stipulations.

The parties may, by stipulations filed in writing with the ~~commission~~ administrator or orally presented at the hearing, agree on any facts involved in the proceedings, but the ~~commission~~ administrator may thereafter require development of any fact necessary to a proper determination of a controversy.

4167-1-19 Exhibits.

The parties may present any exhibits deemed necessary as part of their testimony.

4167-2-01 Refusal to work procedures.

(A) In accordance with division (A) of section 4167.06 of the Revised Code, a public employee acting in good faith has the right to refuse work under conditions that the public employee reasonably believes present an imminent danger of death or serious harm to the public employee, provided that the condition is not as normally exists or reasonably might be expected to occur in the normal and regular duties of the public employee.

(B) In accordance with division (A) of section 4167.06 of the Revised Code, a public employee may refuse in good faith to perform assigned task(s) after all of the following conditions are met prior to the refusal of performing the assigned task(s):

(1) There is insufficient time to eliminate the danger through the inspection and enforcement procedures provided by section 4167.10 of the Revised Code.

(2) The danger is one that a reasonable person under the circumstances would conclude an imminent danger exists.

(3) Request their immediate supervisor or other supervisory representative of the employer to have the hazardous condition corrected.

(4) The public employer's representative declines to correct the hazardous condition, or disputes that the condition is of such a nature as to pose an imminent danger of death or serious harm.

(C) A public employee who exercises his right to refuse work in accordance with paragraph (B) of this rule must notify the superintendent or superintendent's designee in a written statement, as soon as practical, of the condition that presents or presented an imminent danger of death or serious harm to the public employee. If, from the description provided, there is a reason to believe a hazardous

condition exists that poses an imminent danger, a representative of the division of ~~labor and worker~~ safety and hygiene shall attempt to contact the public employer and discuss the situation and means of correction.

4167-2-02 Employee rights.

(A) In accordance with division (A) of section 4167.06 of the Revised Code, a public employee who has refused in good faith to perform assigned task(s) which he believes to pose an imminent hazard shall continue to receive full compensation for the tasks that would have been performed or the public employer reassigns the public employee, the public employer shall pay him his full compensation as if he were not reassigned when the employee has met all of the following conditions prior to the refusal of performing the assigned task(s) so long as the employee has followed the requirements of paragraph (B) of rule 4167-2-01 of the Administrative Code.

(B) A public employer will not discriminate against an employee in any manner for a good faith refusal to work.

4167-2-03 Employer rights.

A public employee who refuses to perform assigned tasks under which he believes to pose an imminent hazard and who fails to meet all of the requirements in paragraph (B) of rule 4167-2-01 of the Administrative Code, is subject to any disciplinary action provided by law or agreement between the public employee for a refusal to work, including, but not limited to suspension, nonpayment of wages for the duration of the refusal of work, or discharge.

4167-2-04 Inspection and enforcement procedure.

(A) A public employee who has exercised his right to refuse work shall notify the superintendent in writing, signed by the employee, and shall detail the nature of the condition that presents an imminent danger. The notice must be sent as soon as practical after exercising the right to refuse work.

(B) Upon receipt of the notice, the superintendent or superintendent's designee shall immediately contact the public employer and inform the employer of the notification. The superintendent shall also inform the employer that a representative of the division will immediately inspect the premises of the public employer.

(1) If, upon inspection the superintendent or superintendent's designee finds that a hazardous condition exists, the superintendent, or the superintendent's designee shall issue an order after consultation and upon recommendation of the superintendent, 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.

(2) To extend such an order, the superintendent or superintendent's designee shall petition the court of common pleas to extend the order and to require corrective action by the employer.

(3) Any party may appeal to a court of common pleas any final order of the superintendent within thirty days of the issuance of the final order.

(4) If, upon inspection, the superintendent or the superintendent's designee determines that there are no reasonable grounds to believe an imminent danger does or did exist, the superintendent shall inform the public employee or public employee representative in writing of the determination. The public employee may be subject to any disciplinary action provided by law or agreement. A copy of the determination shall also be sent to the public employer.

4167-3-01 Incorporation by reference.

(A) In accordance with division (A)(1) of section 4167.07 of the Revised Code, the public employment risk reduction advisory commission has adopted occupational safety and health standards by the United States secretary of labor pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.C.S.A. 651 as amended.

(B) The public employment risk reduction advisory commission has hereby adopted from the Code of Federal Regulations, Title 29, Subtitle b, Chapter XVII, Part 1910 occupational safety and health standards Subpart C to and including Subpart T and Subpart Z. In addition, the standards of Part 1926, Subpart C to and including Subpart X are incorporated in the Revised Code as Ohio public risk reduction standards with the exclusion of standards 29 CFR 1910.96, 1910.97, 1926.53, and 1926.54.

4167-3-02 Adoption of standards.

In accordance with division (A)(2)(A) of section 4167.07 of the Revised Code, the public employment risk reduction advisory commission has adopted the Code of Federal Regulations, Title 29, Subtitle B, Chapter XVII, Part 1910 occupational safety and health standards 1910.132, 1910.133, 1910.135, 1910.136, and 1910.138 as Ohio employment risk reduction standards.

4167-3-03 Adoption of standards.

In accordance with division (A)(2)(a) of section 4167.07 of the Revised Code, the public employment risk reduction advisory commission has adopted the Code of Federal Regulations, Title 29, Subtitle B, Chapter XVII, Part 1928 occupational safety and health standards as Ohio employment risk reduction standards.

4167-3-05 Ohio specific safety standards.

(A) Radiation standards

(1) 1910.96 Ionizing radiation

Any utilization of ionizing radiation is to comply with 10 CFR 20, the exposure limits recently updated by the nuclear regulatory commission (NRC). For purposes of this section, radiation includes alpha particles, beta particles, gamma rays, x-rays, neutrons, high speed electrons, high speed protons, and other atomic particles, but such term does not include sound or radio waves, visible light, infrared or ultraviolet light.

(2) 1910.97 Nonionizing radiation

Any utilization of nonionizing radiation, specifically electromagnetic radiation, is to comply with the recommended standards of the American conference of governmental industrial hygienists (ACGIH).

(3) 1926.53 Ionizing radiation

(a) In construction and related activities involving the use of sources of ionizing radiation, regulations of the nuclear regulatory commission (NRC) incorporated in 10 CFR 20 shall apply.

(b) Any activity which involves the use of regulated radioactive materials or radiation producing devices, shall be performed by competent persons trained in the proper and safe operation of such equipment.

(4) 1926.54 Nonionizing radiation

(a) Any construction and related activities involving the use of nonionizing radiation, is to comply with the recommended standards of the American conference of governmental industrial hygienists (ACGIH).

~~(B) Ohio department of transportation manual of traffic control for construction and maintenance operations~~

~~The Ohio department of transportation manual of traffic control for construction and maintenance operations, revision 19, shall be used in operations involving the maintenance operations, road or street construction, and public utility work.~~

4167-3-06 Safe needle standards.

(A) Definitions

(1) "Public health care worker" means a person who is employed by a public employer to provide health services or other services that carry with them the potential for exposure incidents to bloodborne pathogens, including a person employed by a public hospital or other public health care facility, a person employed by a public employer to provide home health care, and a person employed by a public employer as a firefighter, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic.

(2) “Public health care worker” does not include a person who is employed by a public employer to provide dental services, treatment, or training or a dental student who is receiving training from a public employer.

(B) Needlestick records

In addition to records which may be required under the public employment risk reduction program identified under section 4167.11 of the Revised Code, the employer of any public employee is required to maintain and submit accurate records of public health care worker exposure incidents of needlesticks or sharps to the public employment risk reduction program. These records shall be submitted in a manner prescribed by the ~~public employment risk reduction advisory commission~~ administrator. The records shall contain, at a minimum, the following information:

- (1) The date and time of the incident;
- (2) The type and brand of sharp involved;
- (3) The job classification of each worker involved;
- (4) The department or work area where the incident occurred;
- (5) The procedure the worker was performing at the time of the incident;
- (6) How the incident occurred;
- (7) The body part involved;
- (8) If the sharp involved in the incident was manufactured with engineered sharps injury protection, a specification of whether the incident occurred before, during, or after activation of the protective mechanism;
- (9) If the sharp involved in the incident was not manufactured with engineered sharps injury protection, an assessment of whether and how the incident could have been prevented by a sharp with protection, and the basis for the assessment;
- (10) Any other relevant description of the exposure incident.

4167-4-01 Notification to employees.

(A) On the effective date of this rule, each employer shall post and keep posted a notice or notices, to be furnished by the division, informing employees of the protections and obligations provided under the provisions of section 4167.11 of the Revised Code (see appendix to this rule).

(B) 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.

(C) Where distinctly separate activities are performed at a single physical location (such as but not limited to multiple agencies residing in the same building), each activity shall be treated as a separate physical establishment, and a separate notice or notices shall be posted in each such establishment.

(D) Where employers are engaged in activities that are physically dispersed (such as but not limited to transportation and sanitary services), the required notice or notices shall be posted at the location to which employees report each day.

(E) Where employees do not usually work at, or report to, a single establishment (such as but not limited to field inspectors), such notice or notices shall be made available to each employee by other means (such as but not limited to providing a copy at least annually in a pay check) or providing a copy in an employee handbook.

(F) On the effective date of this rule, the employer may in lieu of paragraphs (A), (B), (C), and (D) of this rule elect to inform employees of their rights by other appropriate means (such as but not limited to providing a copy of the notice in an employee handbook). Under the conditions of this paragraph, the employer shall inform employees at the time of initial hire and at least annually thereafter of the protections and obligations under the provisions of section 4167.11 of the Revised Code (See appendix to this rule).

Appendix A

Appendix to Rule 4167-4-01

Ohio public employment risk reduction program

Safety and health protection

On the job

The public employment risk reduction act was enacted to provide safe and healthful working conditions for Ohio's public employees.

Employer duties: Each public employer shall provide a place of employment free from recognized hazards.

Employee duties: Each employee shall comply with all safety and health standards, rules, and regulations.

Enforcement: The division of ~~labor and worker~~ safety and hygiene will:

1. Inspect job sites for unsafe and unhealthful conditions following a request to do so by a public employee, public employee representative, or public employer.

2. Issue citations requiring public employers to correct safety and health violations.

Refusal to work: Any public employee acting in good faith may refuse work under conditions reasonably believed to present an imminent danger of death or serious physical harm, provided that the condition is not such as normally exists or reasonably might be expected to occur in the normal and regular duties of the public employee. In the case of a refusal to work, the public employee must follow these three steps: and if all of the conditions in this rule are not met the public employee may be subject to disciplinary action pursuant to law or agreement.

1. Notify his or her immediate supervisor of the imminent danger condition.

2. Submit a written statement of the imminent danger to the superintendent as soon as practical.

Complaints: Any public employee or employee representative may file a complaint with the division of ~~labor and worker~~ safety and hygiene of any unsafe or unhealthful condition or practice by letter, or by fax. Employees should initially attempt to have unsafe or unhealthful conditions corrected through their own procedures by contacting their immediate supervisor.

Inspections: The inspector will question privately a representative number of employees and management personnel concerning safety and health conditions in the workplace.

Citations: Following an inspection by the division of ~~labor and worker~~ safety and hygiene, notice of violations issued to the public employer must be prominently posted at or near the place where the hazard was found.

Protection: Employees cannot be discharged or otherwise discriminated against in any manner for filing a complaint in accordance with the act or by instituting or causing to be instituted any provision of the Act. Discrimination complaints must be filed with the State Personnel Board of Review within sixty days of the discriminatory act or be pursued through provisions under a collective bargaining agreement.

Fatality/multiple hospitalization reporting: within eight (8) hours after a death of any employee from a work related incident, or the in-patient hospitalization of three or more employees, the employer is required to contact the division of ~~labor and worker~~ safety and hygiene.

For additional information contact:

Ohio ~~department of commerece~~ bureau of workers' compensation

Division of ~~labor and worker~~ safety and hygiene

Public employment risk reduction program ~~50 West broad street, 29th floor Columbus, Ohio 43215-5916~~ 13430 Yarmouth Drive, Pickerington, Ohio 43147

Phone: (614) 644-2246(800) 671-6858

Fax: (614) 644-3133

Refusal To Work Phone: (614) 731-4380

Fatality/multiple hospitalization reporting phone: (614) 731-4380

Under provision of Rule 4167-4-01 of the Ohio Administrative Code, public employers must post this notice (or facsimile) in a conspicuous place where notices to employees are customarily posted. Minimum reproduction size of this notice is 8 1/2 by 14 inches. Alternatively, a copy of this notice can be given to each employee provided each employee is informed of the provisions of this notice at the time of initial hire and at least annually thereafter.

4167-5-01 Abatement dates.

(A) The abatement period shall be the shortest interval within which the employer can reasonably be expected to correct the violation, and abatement date shall be set forth in the citation as a specific date, not a number of days.

(B) In establishing the time limits in which a public employer must abate a violation under this section, the superintendent shall consider the following:

- (1) The costs to the public employer;
- (2) The size and financial resources of the public employer;
- (2) The severity of the violation;
- (4) The technological feasibility of the public employer's ability to comply with requirements of the citation;
- (5) 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
- (6) Such other factors as the superintendent determines appropriate.

(C) After considering the factors in paragraph (B) of this rule, the superintendent may give the employer up to two years to comply with a violation and may extend that period an additional one year if determined appropriate.

4167-5-02 Undue hardship.

(A) In the event that a rule or order issued by the superintendent would cause undue hardship upon a public employer, the employer may request an exclusion from such a rule or order unless an action is required to prevent imminent danger of death or serious harm to a public employee.

(B) An exclusion request on the basis of an undue hardship may not be made on behalf of a group of public employers.

(C) An exclusion request on the basis of an undue hardship may be granted by the superintendent when there is not an imminent danger of death or serious harm to a public employee and any requirement imposed under the provisions of section 4167.01 of the Revised Code or a rule or order issued thereunder would require a public employer to take action with significant difficulty or expense when considered in light of, but not limited to, all of the following factors:

(1) The nature and cost of the action required by a rule or an order issued under this chapter;

(2) The overall financial resources of the public employer;

(3) The number of persons employed by the public employer at the particular location where the action may be required;

(4) The effect on expenses and resources or the impact otherwise of the action required upon the operations of the public employer at the location where the action may be required;

(5) The overall size of the public employer with respect to the number of its public employees;

(6) The number, type, and location of the public employer's operations, including the composition, structure, and functions of the work force of the public employer;

(7) The geographic separateness, administrative, or fiscal relationship of the public employer's operations to the whole public employer.

(D) A public employer's request for an exclusion on the basis of undue hardship must be in writing and include the following information:

(1) The name and address of the public employer and the name, title, and telephone number of a contact person for the employer in regard to the exclusion request;

(2) The address of the place or places of employment involved;

(3) A clear and specific statement as to the order, standard or regulation for which an exclusion is requested;

(4) A statement that the exclusion does not involve an order, regulation or action which is required to prevent imminent danger or death or serious harm to a public employee;

(5) A statement by the public employer supported by statements from qualified persons with firsthand knowledge of facts represented, that the public employer is unable to comply with the order, standard, or regulation due to an undue hardship for the factors outlined in paragraph (C) of this rule;

(6) A statement of the steps the public employer has taken and will take (with specific dates) to protect its public employees or others who may be affected;

(7) A certification that the public employer has informed its employees of the exclusion request by taking one or more of the following steps:

(a) Giving a copy of the exclusion request to the public employee representatives, if any;

(b) Posting at a location or locations where public notices to employees are normally posted, a summary of the exclusion request, such a summary shall include the means by which a complete copy of the exclusion request may be examined;

(8) The certification of notice to the employees must contain a description of how the employees have been informed.

(E) Upon receipt and review of a request for an exclusion on the basis of an undue hardship, the public employer must provide the superintendent any additional information requested to make a decision on the request.

(F) An undue hardship exclusion will be granted only if the requirements of paragraph (C) of this rule are met and only after the employer could not abate the violation within the time limits set in paragraph (C) of rule 4167-5-01 of the Administrative Code. If one or more of the factors have changed that resulted in the initial granting of the exclusion, these factors will be reviewed to determine if the exclusion shall remain in effect.

4167-5-03 Petition for a modification of abatement date.

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

(B) A petition for modification of abatement date 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) All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.

(5) A verification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, in accordance with paragraph (C)(1) of this rule and a verification of the date upon which such posting and service was made.

(C) A petition for modification of abatement date shall be filed with the superintendent 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.

(1) A copy of such petition shall be posted in a conspicuous place where all affected employees shall have notice thereof or near such location where the violation occurred. The petition shall remain posted for a period of fourteen calendar days. Where affected, employees are represented by an authorized representative, said representative shall be served with a copy of such petition.

(2) Affected employees or their representatives may file an objection in writing to such petition with the superintendent. Failure to file such objection within fourteen calendar days of the date of posting of such petition or of service upon an authorized representative shall constitute a waiver of any further right to object to said petition.

(3) The superintendent or superintendent's designee shall have the authority to approve any petition for modification of abatement date filed pursuant to the rule.

(4) The superintendent or superintendent's designee shall not exercise approval power until the expiration of fourteen calendar days from the date the petition was posted or served pursuant to paragraphs (C)(1) and (C)(2) of this rule by the employer.

(D) When any petition is objected to by the superintendent or affected employees, the petition, citation, and any objections shall be forwarded to a hearing officer within three working days after the expiration of the fourteen calendar day period set out in paragraph (C)(4) of this rule.

(E) Hearings and appeals will be in accordance with rule 4167-14-02 of the administrative code.

4167-6-01 Recording and reporting occupational injuries and illnesses.

Records shall be established on a calendar basis.

4167-6-02 Log and summary of ~~recordable occupational~~ work-related injuries and illnesses.

(A) Each employer shall, except as provided in paragraph (E) of this rule, maintain for each establishment a log and summary of all ~~recordable occupational~~ work-related injuries and illnesses for that establishment.

(B) For the purposes of this rule, the log and summary shall be the ~~OSHA PERRP~~ form no. ~~300/300A~~ 300P/300AP or equivalent. To be accepted as an acceptable alternative, the records must contain at least the same information contained on ~~OSHA PERRP~~ form no. ~~300/300A~~ 300P/300AP and be as readable and comprehensible to a person not familiar with ~~OSHA PERRP~~ form no. ~~300/300A~~ 300P/300AP.

(C) The log and summary shall be completed in the detail provided in the forms and instructions on ~~OSHA PERRP~~ form no. ~~300/300A~~ 300P/300AP or equivalent, and shall meet the recording guidelines and instructions issued by the U.S. department of labor's bureau of labor statistics. For purposes of this rule, the exemptions referred to in the instructions issued by the U.S. department of labor's bureau of labor statistics do not apply to public employers defined in 4167-1-01 of the Administrative Code. The effective date for the ~~OSHA PERRP~~ log and summary form ~~300/300A~~ 300P/300AP shall begin no later than January 1, 2005.

(D) Each recordable injury and illness must be entered on the log and summary as early as practicable but no later than six working days after receiving information that a recordable injury or illness has occurred.

(E) A public employer may maintain the log of ~~occupational~~ work-related injuries and illnesses at a place other than the establishment or by means of data processing equipment, or both when:

(1) There is available at the place where the log is maintained sufficient information to complete the log within six working days after receiving information that a recordable case has occurred, as required by paragraph (D) of this rule.

(2) At each of the employer's establishments, there is available a copy of the log which reflects separately the injury and illness experience of that establishment which is kept complete and current on a quarterly basis.

4167-6-03 Supplementary record.

(A) In addition to the log and summary of ~~occupational~~ work-related injuries and illnesses ~~OSHA PERRP~~ form no. ~~300/300A~~ 300P/300AP or equivalent, each public employer shall have available for inspection at each establishment within six working days after receiving information that a recordable accident case has occurred, a supplementary record for each occupational injury or illness for that establishment.

(B) For the purposes of this rule, the supplementary record shall be the ~~OSHA PERRP~~ form no. ~~301~~ 301P or equivalent. To be accepted as an acceptable alternative, the records must contain at least the same information required on the ~~OSHA PERRP~~ form no. ~~301~~ 301P. The effective date for the supplementary record ~~OSHA PERRP~~ form no. ~~301~~ 301P shall begin no later than January 1, 2005.

(C) The supplementary record shall be completed in the detail prescribed in the instructions accompanying the ~~OSHA PERRP~~ form no. ~~301~~ 301P.

4167-6-04 Annual summary.

(A) Each public employer shall post an annual summary of ~~occupational~~ work-related injuries and illnesses for each establishment. The ~~OSHA PERRP~~ form no. ~~300A~~ 300AP or equivalent shall be used in presenting the summary.

(B) The annual summary shall be completed and thereafter posted by February first for the previous calendar year and shall remain in place until April thirtieth.

(1) A copy of the posted “Annual Summary of ~~Recordable Occupational~~ Work-Related Injuries and Illnesses” shall be submitted to the public employment risk reduction program by each February first for the previous calendar year beginning with the summary for the year 1998 and each year thereafter with the first 2002 annual summary submitted no later than October first 2003. Each annual summary shall include the employer's bureau of worker's compensation policy (risk) number.

(C) The summary shall consist of a copy of the year's totals from the ~~OSHA PERRP~~ form no. ~~300A~~ 300AP or equivalent and the following information from that form:

(1) The calendar year covered;

(2) Public employer's name;

(3) Establishment address;

(4) Certification, signature, title, and date, in accordance with paragraph (D) of this rule.

(5) Bureau of workers' compensation policy (risk) number.

(D) Each employer shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the highest administrator of the public entity, (director, superintendent, mayor, etc.) at the bottom of the last page of the log and summary or by appending a separate statement to the log and summary certifying the summary is true and complete.

(E) Each public employer shall post a copy of the establishment's annual summary at each establishment in the same manner that notices are required to be posted in Chapter 4167-4 of the Administrative Code.

(F) The retention of these records shall be in accordance with rule 4167-6- 07 of the Administrative Code.

4167-6-05 Falsification and failure to keep records or reports.

(A) A failure to post and submit a copy of the establishment's annual summary shall result in the issuance of a citation.

(B) If a false statement, representation, or certification of these records is knowingly given, a willful failure to comply order will be issued.

4167-6-06 Reporting to the Ohio bureau of workers' compensation.

~~—Reserved.~~

4167-6-07 Retention of records.

All records and reports required to be maintained in accordance with rules 4167-6-02, 4167-6-03, 4167-6-04, 4167-6-05, and 4167-6-06 of the Administrative Code shall be retained for five years at the establishment following the end of the year to which they relate.

4167-6-08 Access to records.

(A) Each employer shall provide, upon request, records provided under this rule for inspection and copying by any representative of the superintendent for the purposes of carrying out the provisions of the public employment risk reduction program.

(B) The log and summary of all recordable occupational injuries and illnesses provided for in rule 4167-6-02 of the Administrative Code shall be made available by the employer to any employee, former employee, or employee representatives for examination, and copying in a recordable manner and at reasonable times.

4167-6-09 Records for substances required to be monitored or measured.

(A) Each public employer shall maintain accurate records of public employee exposure to potentially toxic materials, carcinogenic materials, and harmful physical agents that are required to be monitored or measured under any Ohio public employment risk reduction standard.

(B) Each affected public employee or public employee representative shall have the opportunity to observe and/or participate in any monitoring or measuring of such regulated exposures.

(C) An affected public employee or public employee representative may undertake his or her own monitoring or measuring of such regulated exposures.

(D) A public employer who monitors or measures a regulated exposure shall provide access to those records upon request of an affected current or former public employee or a public employee representative regarding the individual employee's exposure. A public employee or public employee representative who monitors or measures a regulated exposure shall also provide access to those records on request of the public employer and/or affected employees.

4167-6-10 Reporting of fatality or multiple hospitalization accidents.

(A) Within eight hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, the employer of any employees so affected shall orally report the fatality/multiple hospitalization by telephone, or in person, to the superintendent. The telephone number to use for reporting a fatality or a multiple hospitalization is the same telephone number as for reporting refusal to work issues, as found in the appendix to rule 4167-4-01 of the Administrative Code

(B) This requirement applies to each such fatality or hospitalization of three or more employees which occurs within thirty days of an incident.

(C) If the employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under paragraphs (A) and (B) of this rule, the employer shall make an initial report within eight hours of the time the incident is reported to any employer or agent of the employer.

(D) Each initial report required by this section shall relate the following information: establishment name, location of the incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.

(E) The superintendent shall develop and implement policies and procedures to obtain detailed information of incidents within ten days of the incident or when reported to the employer or agent of the employer. Such information includes, but is not limited to, the following:

- (1) Causes or factors;
- (2) test results;
- (3) measurements;
- (4) witness statements;
- (5) follow-up actions; and
- (6) evaluations of work processes.

4167-7-01 Variances from Ohio public employment risk reduction standards.

(A) Pre-application process. A pre-application process is available for any public employer or group of public employers who wishes to have the superintendent, or superintendent's designee, review either a temporary or permanent variance proposal to determine if the variance process is the appropriate action to pursue by the public employer.

- (1) The fee for the pre-application review is one hundred dollars.

(2) The pre-application fee will be credited toward the application fee for the variance if, after review, the superintendent determines that the variance process is the appropriate action.

(3) A public employer's pre-application for a variance order must also include:

(a) A certification statement that the public employer has informed the affected employees of the application by taking the following steps:

(i) Giving a copy of the application to the public employees' authorized representative, if any;

(ii) Posting at a location or locations where notices are normally posted a summary statement of the application;

(iii) Specifying at the place or places where notices to employees are normally posted and by other appropriate means where a complete copy may be examined.

(b) A description of how the employees have been informed.

(c) Where employees do not usually work at, or report to, a single establishment (such as but not limited to field inspectors), a summary statement shall be made available to each affected employee by other means (such as but not limited to by mail).

(B) Temporary variances.

(1) Any public employer or group of public employers may apply to the superintendent for a temporary variance from an adopted standard or from any of its separate provisions.

(2) The superintendent shall issue an order providing for a temporary variance if the public employer files an application that meets the following requirements:

(a) That the public employer is unable to comply with a standard or a provision thereof by its effective date because of the unavailability of professional or technical personnel, materials, and/or equipment needed to comply with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date.

(b) That the public employer is taking all available steps to safeguard its employees against the hazards the standard covers.

(c) That the public employer has an effective program for complying with the standard as quickly as practical.

(d) The granting of the variance will not create an imminent danger of death or serious physical harm to its employees or those that may be affected.

(3) A public employer's application for a temporary variance order must include:

- (a) The name and address of the applicant;
 - (b) The address of the place or places of employment involved;
 - (c) A specification of the standard or portion thereof from which the public employer is seeking a temporary variance;
 - (d) A statement by the public employer, supported by statements from qualified persons with firsthand knowledge of facts represented, that the public employer is unable to comply with the standard or portion thereof;
 - (e) A detailed statement of the reasons the public employer is unable to do so;
 - (f) A statement of the steps the public employer has taken and will take (with specific dates) to protect employees or others which may be affected against the hazard the standard covers;
 - (g) A statement of when the public employer expects to be able to comply with the standard and what steps it has taken and will take (with specific dates) to comply with the standard;
 - (h) A certification that the public employer has informed the affected employees of the application by following notification procedures in paragraph (A)(3) of this rule.
 - (i) A statement that employees have been informed of their right to a hearing.
- (4) The superintendent may issue an interim variance order to a public employer if all the application requirements have been met. An interim order will be in effect until a final decision is made on the basis of a hearing.
- (5) Length of temporary variance orders.
- (a) A temporary variance order may not be in effect for longer than the period the public employer needs to achieve compliance with the standard or for one year, whichever is shorter.
 - (b) A temporary variance order may be renewed two times, each time for six months, if;
 - (i) All application requirements have been met; and
 - (ii) The renewal application is filed at least ninety days prior to the order's expiration date.
- (6) An application for a temporary variance order shall contain an application fee of one thousand dollars.
- (7) An application for a renewal of a temporary variance order shall contain an application fee of one hundred dollars.

4167-8-01 Inspection procedures.

(A) Authority for inspections.

The superintendent or the superintendent's designee shall conduct inspections and investigations only if there is compliance with section 4167.10 of the Revised Code and under the following circumstances:

- (1) A request to do so from a public employee or public employee representative;
- (2) A request to do so from a public employer;
- (3) A refusal to work notification as provided under rule 4167-2-01 of the Administrative Code.
- (4) Upon the superintendent's own initiative.

The superintendent or the superintendent's designee shall conduct all requested or required inspections within a reasonable amount of time following receipt of the request or the notification.

(B) Conduct of inspection.

(1) The superintendent or the superintendent's designee shall 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.

(2) Inspections shall take place at such times and in such places of employment as the superintendent or the superintendent's designee may direct. At the beginning of an inspection, inspectors 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.

(3) The superintendent or the superintendent's designee shall have the authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection or investigation, subpoenas, and conduct tests and other studies reasonably calculated to serve the purposes of the inspection or investigation.

(4) The superintendent or the superintendent's designee shall have the authority to provide employees representatives the opportunity to accompany an inspection and to consult with the inspector regarding workplace safety, to interview employees and employee representatives in private, and to provide employees and employee representatives participation in a closing conference.

(5) As used herein, the term "employ other reasonable investigative techniques" 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.

(6) In taking photographs and samples, inspectors shall take reasonable precautions to insure that such actions with flash, spark-producing, or other equipment would not be hazardous. Inspectors 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.

(7) In making any inspections or investigations under this chapter, the superintendent or the superintendent'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 same fees and mileage provided for witnesses in civil cases in the court of common pleas. 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 or the superintendent'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.

(8) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.

(9) At the conclusion of an inspection, the inspector shall confer with the employer or the employer's representative and informally advise him of any apparent safety or health violations disclosed by the inspection. During such conference, the employer shall be afforded an opportunity to bring to the attention of the inspector any pertinent information regarding conditions in the workplace.

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

(C) Complaints by employees.

(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 superintendent or superintendent'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 and shall be kept confidential. The notice shall include:

(a) A description of the hazard to include, if applicable or possible, the date(s) and time(s), the location, and/or the pieces of equipment involved.

(b) The names of the public employee(s) or duties of the public employee(s) who are affected.

(2) If, upon receipt of a notification pursuant to division (B)(2) of section 4167.10 of the Revised Code, the superintendent determines that there are no reasonable grounds to believe that a violation or danger exists, the superintendent shall inform the public employee or public employee representative in writing of his determination.

(3) The complaining party may request reconsideration of such determination by submitting a written statement of position to the superintendent. The superintendent shall submit a copy of such statement, with confidentiality of the complainant maintained, to the employer. The employer may submit an opposing written statement of position with the superintendent. The superintendent, at his or her discretion, may hold informal conferences in which the complaining party and the employer may orally present their views. After considering all written and oral views presented, the superintendent shall affirm, modify, or reverse the original determination and furnish the complaining party and the employer a written notification of the decisions and the reasons thereof.

(4) If the superintendent determines that an inspection is not warranted because the requirements of division (B)(2) of section 4167.10 of the Revised Code have not been met, the superintendent shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of division (B)(2) of section 4167.10 of the Revised Code.

(5) If, upon receipt of a notification, the superintendent determines that there are reasonable grounds to believe that a violation or danger exists, the superintendent shall, within five business days 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 his agent shall contain a copy of the notice provided to the superintendent by the public employee or the public employee representative under division (B)(1) of section 4167.10 of the Revised Code and shall inform the public employer of the alleged violation or danger and that the superintendent or the superintendent's designee will investigate and inspect the public employer's workplace as provided in this section. The public employer must respond to the superintendent concerning the alleged violation of 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 superintendent or the superintendent's designee shall investigate and inspect the public employer's workplace as provided in this section. The superintendent or the superintendent'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 superintendent may, at any time, upon the request of the public employer, inspect and investigate any violation or danger alleged to exist at his place of employment.

(6) The authority of the superintendent or the superintendent'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 superintendent or the superintendent's designee may investigate and inspect any other area of the premises where they have reason to believe that a violation or danger exists. In addition, if the superintendent or the

superintendent'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 superintendent and the superintendent's designee may use any of the enforcement mechanisms provided in this section to correct or remove the condition or practice.

(D) Imminent danger upon investigation.

If, during an inspection or investigation, the superintendent or the superintendent'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 intent to issue an order, the superintendent or the superintendent's designee shall issue an order after consultation either by telephone or in person with the superintendent and upon recommendation of the superintendent, 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 common pleas otherwise orders.

(E) Citations.

(1) If during an inspection or investigation, the superintendent or the superintendent's designee finds any condition or practice which presents an imminent danger to the safety and health of a public employee, shall issue a "notice of imminent danger."

(2) If, upon inspection or investigation, the superintendent or superintendent'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, 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 section 4167.10 of the Revised Code.

(3) The superintendent may elect to issue a "notice of violation" with respect to minor violations that have no direct effect or immediate relationship to safety or health. An appropriate citation or notice of violation for minor violations may be issued even if the employer immediately abates, or initiates steps to abate, such alleged violation.

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

(5) If a citation or notice of violation is issued for a violation alleged in a request for an inspection under division (B)(2) of section 4167.10 of the Revised Code, a copy of the citation or notice of violation shall also be sent to the employee or representative of employees who made the requests.

(6) After an inspection, if the superintendent determines that a citation is not warranted with respect to the danger or violation alleged to exist in request for an inspection under division (B)(2) of section 4167.10 of the Revised Code the formal review procedures shall be applicable. After considering all views presented, the superintendent shall affirm the original determination, order a reinspection or issue a citation if it discloses a violation. The superintendent shall furnish the complaining party, and the employer with written notification of the determination and the reasons thereof.

(7) Every citation shall 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.

(8) Citations must be sent 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 superintendent that there is such a wish to contest the citation. If the employer notifies the superintendent within the fourteen days that there is a wish 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 superintendent shall hold an adjudication hearing in conformance with 119. of the Revised Code.

(9) The superintendent shall issue citations in writing and describe with particularity the nature of the alleged violation, including:

(a) A reference to the provision of law, Ohio employment risk reduction standard, rule, or order alleged to have been violated, and;

(b) Fix a time for the abatement of the violation.

(10) The establishment of abatement dates for the correction of violations which result in citations will be set in accordance with rule 4167-5-01 of the Administrative Code.

(F) Posting of notices of imminent danger and citations.

Upon receipt of any citation, including a notice of imminent hazard, 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 or non-employees.

(2) A public employer shall seek the approval of the superintendent or the superintendent's designee to post citations in locations other than those at the site of a violation.

4167-9-01 Discrimination.

(A) No public employer shall discharge or in any manner discriminate against any public employee because the employee in good faith has:

- (1) Filed any complaint under or related to the act;
- (2) Instituted or caused to be instituted any proceeding under or related to the act;
- (3) Testified or is about to testify in any proceeding under or related to the act; or
- (4) Exercised on his own behalf or on the behalf of others any right afforded by the act.

(B) Any public employee who believes that he has been discharged or otherwise discriminated against by any public employer in violation of paragraph (A) of this rule and who wishes to file a complaint must elect any one of the remedies provided for in division (B) of section 4167.13 of the Revised Code.

(C) Nothing in this rule limits a public employer's right to take any actions provided in rules 4167-2-01 to 4167-2-04 of the Administrative Code.

(D) Actions taken by the public employer which adversely affect a public employee shall be predicated upon nondiscrimination grounds. The proscriptions of paragraph (A) of this rule apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the act does not automatically render the employee immune from discharge or discipline for legitimate reasons, or from adverse action dictated by non-prohibited considerations.

(E) To establish a violation of paragraph (A) of this rule, the employee's activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, paragraph (A) of this rule has been violated.

(F) Discharge of, or discrimination against, an employee because the employee has filed any complaint under or related to this act is prohibited by this rule. An example of a complaint made under the act would be an employee request pursuant to section 4167.11 of the Revised Code. However, this would not be the only type of complaint protected by this rule. The range of complaints related to the act is commensurate with the broad remedial purposes of the act and the sweeping scope of its application.

(G) Complaints made to other state, local, and federal agencies regarding occupational safety and health would be related to the act. Such complaints, however, must be related to conditions at the workplace, as distinguished from complaints touching only upon general public safety and health.

(H) Discharge of, or discrimination against, any employee because the employee has instituted or caused to be instituted any proceeding under or related to the act is also prohibited by paragraph (A) of this rule. Examples of proceedings which could arise specifically under the act would be inspections as a result of employee requests, employee participation in employer variance requests, employee contests of abatement dates, and employee challenges to an order, rule, Ohio employment

risk reduction standard proposed, adopted, or issued by the superintendent. In determining whether a proceeding is related to the act, paragraphs (F) and (G) of this rule are to be considered.

(I) An employee need not directly institute the proceedings. It is sufficient if the employee sets into motion activities of others which result in proceedings under or related to the act.

(J) Discharge of, or discrimination against, any employee because the employee has testified or is about to testify in proceedings under or related to the act is prohibited by this rule.

(K) Discriminatory protection is not limited to testimony in proceedings instituted or caused to be instituted by the employee, but would extend to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, or adjudicative functions.

(L) This rule protects employees from discrimination as a result of the exercise of any right afforded by the act. Certain rights exist by implication. For example, employees may request information from the public employment risk reduction program. Such requests would constitute the exercise of a right afforded by the act.

(M) Employees interviewed by ~~designees~~ designees of the superintendent in the course of inspections or investigations cannot subsequently be discriminated against because of their cooperation.

(N) There is no right afforded by the act which would entitle employees to refuse to work because of potential unsafe conditions at the workplace unless the provisions of rules 4167-2-01 to 4167-2-04 of the Administrative Code by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards.

(O) Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the act are not exercising any rights afforded by the act. Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations, will not ordinarily be regarded as discriminatory activity prohibited by paragraph (A) of this rule.

(P) A complaint of discrimination under this rule must be filed by the employee or by a representative authorized to so do on the employee's behalf.

(Q) The complaint must be filed in accordance with the procedures listed in paragraph (B) of this rule.

(R) The sixty day period outlined in section 4167.13 of the Revised Code will be stayed until the employee knows or should have known of extenuating circumstances, including but not limited to, where the employer has concealed or misled the employee regarding the grounds for discharge or other adverse action, or where the discrimination is in the nature of a continuing violation.

4167-10-01 Protection of trade secrets and confidential information.

(A) In accordance with section 4167.12 of the Revised Code, all information reported to or otherwise obtained by the superintendent or the superintendent's designee in connection with any investigation, inspection, or proceeding that reveals a trade secret or confidential information as defined in any specific section of the Revised Code or federal law is confidential under the Ohio public employment risk reduction program.

(B) Information deemed to be a trade secret or confidential information may be disclosed by the superintendent or superintendent's designee to other agents or authorized representatives of the superintendent concerned with fulfilling the requirements of the act, or when relevant, to any proceeding under the act. In any proceeding, the superintendent or the court shall issue orders as appropriate to protect the confidentiality of trade secrets and confidential information.

(C) A public employer shall attempt to identify the existence of a trade secret or confidential information at the commencement of an inspection to the superintendent or superintendent's designee. In the event that the public employer does not identify the existence of a trade secret or confidential information at the commencement of an inspection, the public employer must do so at the earliest opportunity.

(D) A public employer who is claiming confidentiality on the basis of the existence of a trade secret or confidential information shall provide written substantiation to the superintendent of the claim.

(E) Any private sector employer who provides substances or chemicals claimed to be trade secret or confidential information to a public employer may not withhold from the superintendent or superintendent's designee the specific chemical identity or other specific information if needed to fulfill the purposes of the act.

(F) The public employer, or the private sector employer who provides substances or chemicals claimed to be trade secret or confidential information to the public employer, shall provide the specific chemical identity of the substance or chemical to any health professional who submits to the private sector employer a written request and statement of need for the specific chemical identity. The written statement of need shall be a statement of the health professional that there is a reasonable basis to believe that all of the following conditions pertain to the request:

- (1) The information is needed for purposes of diagnosis or treatment of an individual;
- (2) The individual being diagnosed or treated has been exposed to the chemical concerned; and
- (3) Knowledge of the specific chemical identity of the chemical will assist in diagnosis and treatment.

An owner or operator to whom such a written request and statement of need is submitted shall provide the requested information to the health professional promptly after receiving the request and statement of need.

(G) The public employer, or the private sector employer who provides substances or chemicals claimed to be trade secret or confidential information shall provide a copy of a material safety data sheet or emergency and hazardous chemical inventory form that contains the specific chemical identity of a substance or chemical, if the specific chemical identity is known, to any treating physician or nurse who requests that information if the physician or nurse determines that all of the following conditions pertain to the request:

- (1) A medical emergency exists;
- (2) The specific chemical identity of the chemical concerned is necessary for or will assist in emergency or first aid diagnosis or treatment; and
- (3) The individual being diagnosed or treated has been exposed to the chemical concerned.

The private sector employer shall provide the requested information to the physician or nurse immediately upon receiving such a request. The private sector employer shall not require any such treating physician or nurse to provide a written confidentiality agreement or statement of need as a precondition for disclosure of a specific chemical identity under this division; however, the private sector employer may require the treating physician or nurse to provide a written confidentiality agreement under paragraph (J) of this rule and a statement setting forth the conditions listed in paragraph (I) of this rule as soon after the request is made as circumstances permit.

(H) The public employer or the private sector employer who provides substances or chemicals to the public employer, shall provide the specific chemical identity of a substance or hazardous chemical, if the specific chemical identity is known, to any health professional, including, without limitation, a physician, toxicologist, or epidemiologist, who is either employed by or under contract with a political subdivision and who submits to the owner or operator a written request for the information, a written statement of need for the information that meets the requirements of this paragraph, and a written confidentiality agreement under this section. The owner or operator shall promptly after receipt of the written request, statement of need, and confidentiality agreement provide the requested information to the local health professional who requested it.

(I) The written statement of need for a specific chemical identity shall describe with reasonable detail one or more of the following health needs for the information:

- (1) To assess exposure of public employees to the hazard of the chemicals or substances concerned;
- (2) To conduct or assess sampling to determine exposure levels of public employees exposed to the chemicals or substances concerned;
- (3) To conduct periodic medical surveillance of public employees exposed to the chemical or substances concerned;
- (4) To conduct studies to determine the health effects of exposure to the chemical or substances concerned.

(5) To conduct studies to aid in the identification of a chemical that may reasonably be anticipated to cause an observed health effect.

(J) Any person who obtains information under this rule shall, as a precondition for receiving that information, enter into a written confidentiality agreement with the public employer or private sector employer who provides trade secrets or confidential information to the public employer, that the persons will not use the information for any purpose other than the safety and health needs asserted in the statement of need provided, except as otherwise may be authorized by the terms of the agreement or by the person providing the information.

(K) The superintendent shall develop and implement policies and procedures to identify and secure information identified as a trade secret or confidential information to maintain confidentiality.

4167-11-01 Emergency temporary standard.

(A) In the event of an emergency or unusual situation, the superintendent shall issue an emergency temporary Ohio employment risk reduction standard to take effect immediately upon publication in newspapers of general circulation in Cleveland, Columbus, Cincinnati, and Toledo.

(B) An emergency temporary standard shall be issued if the superintendent finds both of the following:

(1) Public employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards; and

(2) The emergency standard is necessary to protect employees from the danger.

(C) An emergency temporary Ohio public employment risk reduction standard shall be in effect no longer than fifteen days, unless the ~~commission~~ administrator approves the standard as issued by the superintendent, in which case the standard shall be in effect no longer than one hundred twenty days after the date the superintendent issues it.

(D) The superintendent may renew an emergency standard approved by the ~~commission~~ administrator for a time period not to exceed one hundred days if the conditions in paragraph (B) of this rule continue to exist.

(E) The ~~commission~~ administrator shall adopt a permanent Ohio public employment risk reduction standard to replace the emergency standard on or before the final expiration date of the temporary emergency standard if the conditions in paragraph (B) of this rule continue to exist.

4167-13-01 Abatement verification.

(A) This rule requires all public employers to verify the abatement of violative conditions set forth in citations, as detailed below.

(B) Abatement verification. Each employer shall submit to the superintendent an abatement report with respect to each citation item, and do so within fourteen calendar days after the abatement date for the citation item.

(1) The abatement verification shall contain the following information:

(a) Each citation item;

(b) A statement noting whether or not abatement has been accomplished with respect to each citation item and instance listed in the citation;

(c) A description of the measures taken to accomplish abatement;

(d) The date abatement was accomplished;

(e) If abatement has not been accomplished, the reason(s) for not abating;

(f) The signature of the employer or the employer's duly authorized representative; and

(g) The date of signature.

(2) If the employer has initially stated that a particular citation item has not been abated, and later the employer abates the condition, the employer shall submit to the superintendent abatement verification within fourteen calendar days after abatement.

(3) Abatement verification for more than one citation item, and progress reports, as provided under paragraph (D) of this rule are permitted to be combined in a single document.

(4) Each abatement verification with respect to a citation item shall be accompanied by documentary evidence that is sufficient to demonstrate clearly that the hazard has been corrected.

(C) Abatement plan.

(1) The superintendent may require in a citation that the employer submit a formal plan for the abatement of safety and health violations in instances where multiple steps or long-term abatement actions are necessary.

(2) When called for in a citation, the employer shall prepare a written, signed, and dated abatement plan with respect to each citation item for which the plan is required.

(3) Abatement plans for more than one citation item may be combined within a single document.

(4) The abatement plan shall be submitted to the administrator issuing the citation within fourteen calendar days after the date of any final order.

(D) Progress reports. The superintendent may require progress reports in a citation where multi-step abatement is deemed appropriate.

(1) The superintendent shall specify the citation item with respect to which the progress reports are required, the measures which the administrator expects to be taken on or before the submission of each progress report, and the date for the submission of each progress report, expressed as the number of calendar days from the date of any final order.

(2) The employer shall submit to the superintendent the requested progress reports with respect to each citation item for which they are required under the abatement plan.

(3) Progress reports for more than one citation item may be combined within a single document.

(E) Document transmittal. When this section requires submission of a document to the superintendent, it must be submitted by first-class mail, postage prepaid, facsimile transmission, or hand delivery, the date of submission is the date when the document is received by the superintendent.

(F) Receipt of an employer's documents by the agency under this regulation does not constitute an agreement that the employer is in compliance.

(G) Accuracy of documentation. The employer shall assure that each statement in a document or accompanying documentation required by this section is accurate.

(H) Posting requirements. A copy of each document required to be submitted to the superintendent shall be posted, at the time of submission, at or near each place the violation(s) described in the citation occurred.

(1) Where, because of an employer's operations, it is not practicable to post a document at or near the location of the violation(s), such document shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees.

(2) Where it is physically impracticable, because of a document's size, magnitude, or other considerations, such as potential destruction, to post abatement plans and progress reports, a notice to affected employees shall be posted indicating the location where the document(s) can be reviewed.

(3) The abatement verification, abatement plan(s), and progress reports shall be provided, upon request for examination and copying, to employees, to employee representatives, and to the superintendent. If employers are engaged in activities which are geographically dispersed, the document may be posted at the location where employees report each day in accordance with rule 4167-4-01 of the Administrative Code.

(4) The employer shall assure that any document required to be posted by this section is not altered, defaced, or covered by other material.

(5) Any document required to be posted by this section shall remain posted until the violation has been abated, or for six calendar days, whichever is later.

(I) Penalties. Any employer failing to comply with the provisions of this rule shall be subject to citation.

(J) False statements. False statements knowingly and willfully made in any document required by this rule are subject to the willful failure to comply provisions.

4167-14-01 Contests of citations.

(A) A public employer to whom a citation has been issued has fourteen calendar days after the receipt of the citation to contest all or any part of the citation.

(B) Any public employee or public employee representative has fourteen calendar days after the receipt of a citation to file notice that the time period fixed in the citation for the abatement of a violation is unreasonable.

(C) The contest for an adjudication hearing must include:

(1) By the public employer, the factual basis for contesting each provision of the act, standard, regulation, rule, or order issued by the administrator.

(2) By the public employer, employee or employee representative evidence that any proposed abatement date is unreasonable.

(D) Any contest must be postmarked within fourteen calendar days of the receipt of the citation and be mailed to the superintendent of the division of ~~labor and worker~~ safety and hygiene at the official address listed in rule 4167-1-02 of the Administrative Code.

(E) Any contest of an superintendent's citation must be made to the superintendent within fourteen calendar days of the receipt of the citation.

(F) 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. 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. When the complainant is an employee and/or an employee representative, the complainant may be given the opportunity to participate in the conference. Any party may be represented by counsel at such conference. 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 this rule.

4167-14-02 Hearings and appeals.

(A) Except as provided in paragraph (E) of rule 4167-14-01 of the Administrative Code, any public employer, public employee, or public employee representative affected by an order, rule or Ohio employment risk reduction standard proposed, adopted, or otherwise issued pursuant to this chapter, may request, within fourteen calendar days of the proposal, adoption, or issuance of the order, rule, or standard, a hearing from the superintendent.

(B) The superintendent shall appoint a hearing officer within fourteen calendar days of the receipt of the request. The hearing officer shall hold a hearing within fourteen calendar days of appointment and render a decision within fourteen calendar days of the hearing.

(C) The hearing will be held in conformance with the procedures outlined in section 119.09 of the Revised Code.

(D) A public employer, public employee, or public employee representative may appeal the decision of the hearing officer to the superintendent pursuant to 119. of the Revised Code, provided that the appeal is made within thirty days of the receipt of the hearing officer's decision. The decision of the hearing officer is final unless appealed to the superintendent within the time period set in this rule or unless the superintendent, on his own motion, modifies or reverses the decision within that time period.

(E) The superintendent shall issue a decision within thirty days of receipt of the appeal of the hearing officer's decision.

(F) If a party fails to appeal the decision of the hearing officer, the decision of the hearing officer is not, for purposes of paragraph (C) of this rule, a final order of the administrator and is not appealable to court as provided in rule 4167-14-03 of the Administrative Code.

4167-14-03 Appeals to the court.

(A) A public employer, public employee, or public employee representative who has exhausted all administrative appeals of a final order by the superintendent may within thirty calendar days of issuance of the order appeal to the court of common pleas of Franklin county or to the court of common pleas of the county in which the alleged violation has occurred.

(B) The court shall conduct a hearing on the appeal filed under paragraph (A) of this rule and shall give preference to all proceedings under this rule over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. The hearing shall proceed as in the case of a civil action as provided for in Chapter 2505. of the Revised Code, and the court shall determine the rights of the parties in accordance with the laws applicable to the action.

(C) If the court finds an undue hardship to the appellant as defined in rule 4167-5-02 of the Administrative Code will result from the enforcement of the order pending determination of the appeal, the court may grant a suspension of the order and fix the terms thereof.

(D) The court shall affirm the order of the superintendent upon consideration of the record as a whole and additional evidence as the court has admitted, if the order is supported by reliable, probative, and substantial evidence and is in accordance with law.

(E) In the absence of the elements of paragraph (C) of this rule, the court shall reverse, vacate or modify the order or make such other ruling as is supported by this rule.

(F) The judgment of the court is final and conclusive unless reversed, vacated, or modified on appeal as provided in Chapter 2505. of the Revised Code.

(G) No person who has failed to exhaust all administrative appeals as provided in this rule and rule 4167-5-03 of the Administrative Code may file an appeal of a final order of the superintendent.

4167-15-01 Exemption application requirements.

(A) Pursuant to the application (see appendix to rule 4167-15-01 of the administrative code) the public employer must provide:

- (1) Its bureau of workers' compensation risk number;
- (2) If a member of a group, the name of the sponsoring association and or service representative;
- (3) If not a member of a group, a copy of its current workers' compensation experience (actuarial) exhibit;
- (4) A copy of the ordinance or resolution requesting an exemption.

(B) The certification must be made by the elected official(s) of the public employer requesting the exemption.

Appendix A

Ohio Bureau of ~~Employment Services~~ Workers' Compensation

Public Employment Risk Reduction Act

Application for Exemption

1. Public Employer: _____

Address: _____

City: _____ Zip: _____ County: _____

Contact: _____ Title: _____

Phone: _____ Fax: _____

2. BWC Risk No.: PE-_____ 3. No. of employees: _____

4. Are you a member of a group rating plan pursuant to division (A)(4) of section 4123.29 of the Revised Code?

____yes ____no

a. If yes, please provide the name of your:

Sponsoring association: _____

Service representative: _____

b. If no, please attach a copy of your current workers' compensation experience (actuarial) exhibit.

c. If you do not qualify for a group rating plan, provide the names and titles of the members of your safety committee. Attach a separate sheet, if necessary. (Not required of employers with five or fewer employees)

Employee Representatives Employer Representatives

Name Title Name Title

I, _____, certify that the following statements are true:

Name of applicant(please print)

1. The public employer has adopted an ordinance or a resolution, dated _____, requesting an exemption from Chapter 4167 of the Revised Code. (Please attach a copy.)

2. At least ten days prior to the passage of the ordinance or resolution, the public employer informed its public employees of this application by giving a copy of the application to its public representative, if any.

a. Name of public employee representative: _____

b. Date notified: _____

3. The public employer has informed its public employees by posting a statement, for thirty consecutive days at the place or places where notices to public employees are normally posted and by any other appropriate means of public employee notification, giving a summary of this application and specifying where a copy of this application may be examined. Dates of posting: From _____ to _____

4. The public employer has informed its public employees of their rights to a hearing under section 4167.15 of the Revised Code.

Describe briefly how the public employees have been informed of this application and of their rights to a hearing:

Signature of Applicant

Title

Sworn to before me and subscribed in my presence this _____ day of _____, 19__

(SEAL) _____

Notary Public

My commission expires _____

4167-15-02 ~~Exemption~~ Exemption may be revoked.

~~Once~~ The administrator may revoke an exemption is granted, it may be revoked. under the following circumstances:

(A) ~~If R.C. 4167.19(I) is not complied with~~ the employer does not comply with division (I) of section 4167.19 of the Revised Code.

(B) ~~If pursuant to an R.C.4167.19(I), 4167.19(G) or 4167.06 inspection pursuant to division (G) or (I) of section 4167.19 of the Revised Code or section 4167.06 of the Revised Code, the administrator finds hazardous or unsafe conditions are found.~~

h:rules/perrp rules WCB (3-08).doc
March 11, 2008

Number	Original Paragraph	Change	
4123;1-3-01 Scope and Definitions	(16) (17) "Operator" means any person authorized to operate the specific equipment.	(16) "Lanyard" means a flexible line of rope, wire rope, or strap which generally has a connector at each end for connecting the body belt or body harness to a life line or anchorage.	Added Lanyard as a definitions and recodified paragraph old 16 to new 17 and so on.
4123;1-3-02 Temporary storage and disposal	(2) Material stored inside buildings under construction shall not be placed within six feet of any hoistway, or inside floor openings, nor within ten feet of an exterior wall which does not extend above the top of the material stored.	(2) Material stored inside buildings under construction shall not be placed within six feet of any hoistway, or inside floor openings, nor within ten feet of an exterior wall which does not extend above the top of the material stored.	delete coma after "hoistway"
4123;1-3-03 personal protective equipment (A) Scope	A) (7) Safety belts, lifelines and lanyards.	A)(7) Safety belts, Body Harness lifelines and lanyards.	Added the term Body Harness
4123;1-3-03 personal protective equipment (B) Definitions	(2) "Lanyard" means a rope, wire rope, suitable for supporting one person. One end is fastened to a safety belt or harness and the other end is secured to a substantial object or a life line.	(2) "Lanyard" means a flexible line of rope, wire rope, or strap which generally has a connector at each end for connecting the body belt or body harness to a life line or anchorage.	Included flexible line, strap and including connectors at each end
4123;1-3-03 personal protective equipment (B) Definitions	(3) "Lifeline" means a rope, suitable for supporting one person, to which a lanyard or safety belt (or harness) is attached	(3) "Vertical Lifeline" means a rope, suitable for supporting one person, to which a lanyard or safety belt (or harness) is attached	Clarified with the word vertical

Number	Original Paragraph	Change	
4123;1-3-03 personal protective equipment (B) (6)(a)(i)	(i) "Mechanical-filter respirator" means a device which provides respiratory protection against particulate mater , such as non-volatile dusts, mists, or metal fumes.	(i) "Mechanical-filter respirator" means a device which provides respiratory protection against particulate matter , such as non-volatile dusts, mists, or metal fumes.	Spelling correction "mater" to matter"
4123;1-3-03 personal protective equipment (D)(1)	(1)Responsibility. The employer shall provide eye protection for all employees engaged in the operations listed in paragraph(D)(2) of this rule and exposed to an eye hazard. Eye protection shall also be provided for any other employees required to work in the immediate area and who are exposed to the hazards of the operations listed. It shall be the responsibility of the employee to use the eye protection provided by the employer (see sections 4101.12 and 4101.13 of the Revised Code). (See also appendix to paragraph(D) of this rule for "Eye and Face Protector Selection Guide".)	(1)Responsibility. The employer shall provide eye protection for all employees engaged in the operations listed in paragraph(D)(2) of this rule and exposed to an eye hazard. Eye protection shall also be provided for any other employees required to work in the immediate area and who are exposed to the hazards of the operations listed. It shall be the responsibility of the employee to use the eye protection provided by the employer (see sections 4101.12 and 4101.13 of the Revised Code). (See also appendix to paragraph (D) of this rule for "Eye and Face Protector Selection Guide".)	Space correction
4123;1-3-03 personal protective equipment (D)(3)	Face shields may be used in lieu of other forms of eye protection if they provide the required protection against the particular hazards for which they are designed and they shall be provided where additional protection for the face is necessary.	(3) Face shields. Face shields may be used only in conjunction with safety glasses and/or goggles where additional protection for the face is necessary.	Face shields as additional protection
4123;1-3-03 personal protective equipment (D)(4)	(4) Material requirements for eye protection. (a)Lens thickness-glass and plastic (i) no less than 3.0mm. (b) Impact test. Etc...	(4) Material requirements for eye protection shall meet ANSI Z87.1 – 1968 or any revisions to that standard.	Removed (4)(a) Thru (f) lens and frame testing to provide for the proper use of ANSI rated safety glasses

Number	Original Paragraph	Change	
4123;1-3-03 personal protective equipment (E)	(E) Foot (toe) protection. Foot protection shall be made available by the employer and shall be worn by the employee where an employee is exposed to machinery or equipment that represents a foot hazard or where an employee is handling material which presents a foot hazard.	(E) Foot (toe) protection. Foot protection shall be worn by the employee where an employee is exposed to machinery or equipment that represents a foot hazard or where an employee is handling material which presents a foot hazard.	Deleted- shall be made available by the employer and
4123;1-3-03 Personal protective equipment (F)	(F) Respiratory equipment (1) The employer shall furnish approved respiratory equipment where there are air contaminants as defined in paragraph (B)(1) of rule 4124:1-3-01 of the Administrative Code. It shall be the responsibility of the employee to use the respirator or respiratory equipment provided by the employer, guard it against damage and report any malfunction to the employer (see sections 4101.12 and 4101.13 of the Revised Code). Note: See appendix to this rule for basic guides for the selection of respirators.	(F) Respiratory equipment (1) The employer shall furnish approved respiratory equipment where there are air contaminants as defined in paragraph (B)(1) of rule 4123:1-3-01 of the Administrative Code. It shall be the responsibility of the employee to use the respirator or respiratory equipment provided by the employer, guard it against damage and report any malfunction to the employer (see sections 4101.12 and 4101.13 of the Revised Code). Note: See appendix to this rule for basic guides for the selection of respirators.	Corrected rule number 4121 to 4123
4123;1-3-03 Personal protective equipment (G)	(G)Head and hair protection (1) Responsibility (a) Employer (i) Whenever employees are required to be present in areas where the potential hazard mentioned in paragraph (A)(4) of this rule are present, employers shall provide them with suitable protective headgear or hair enclosures.	(G)Head and hair protection (1) Responsibility (a) Employer (i) Whenever employees are required to be present in areas where the potential hazard mentioned in paragraph (A)(4) of this rule are present, employers shall provide them with suitable protective headgear or hair enclosures. (i)(a) Where required, head protection shall meet the requirements of ANSI Z89.1 – 1969.	Added (i)(a) to provide for use of ANSI
4123;1-3-03 personal protective equipment (G)	(G)(2) Protective helmets (a) classes of helmets & (3) Bump caps	(G)(2) Protective helmets (a) classes of helmets & (3) Bump caps	Deleted classes of helmet to meet material and testing of manufacture and product used on the Job today

Number	Original Paragraph	Change	
4123;1-3-03 personal protective equipment (J)	(J) Safety belts, Harness lifelines and lanyards (1) Lifelines, safety belts or harnesses and lanyards shall be provided by the employer, and it shall be the responsibility of the employee to wear such equipment when engaged in securing or shifting thrustouts, inspecting or working on overhead machines that support scaffolds, or on other high rigging, when working on steeply pitched roofs, when working on poles or steel frame construction, when working on all swinging scaffolds, when exposed to hazards of falling where the operation being performed is more than six feet above ground or above a floor or platform, except as otherwise specified in this chapter, and when required to work on stored material in silos, hoppers, tanks, and similar storage areas. Lifelines and safety belts or harnesses shall be securely fastened to the structure and shall sustain a static load of no less than five thousand pounds.	(J) Safety belts, Harness lifelines and lanyards (1) Lifelines, safety belts or harnesses and lanyards shall be provided by the employer, and it shall be the responsibility of the employee to wear such equipment when exposed to hazards of falling where the operation being performed is more than six feet above ground or above a floor or platform, except as otherwise specified in this chapter, and when required to work on stored material in silos, hoppers, tanks, and similar storage areas. Lifelines and safety belts or harnesses shall be securely fastened to the structure and shall sustain a static load of no less than three thousand pounds.	Clarified except when otherwise specified in this chapter. Removed reference to swing scaffold, steel frame construction, steeply pitched roofs. Changed from five thousand to three thousand to coordinate with OSHA
4123;1-3-03 personal protective equipment (J)	(4) Safety belt or harness lanyard shall be a minimum of one-half-inch nylon, or equivalent, with a maximum length to provide for a fall of no more than six feet. The lanyard shall have a breaking strength of no less than five thousand pounds.	(4) Safety belt or harness lanyard shall be a minimum of one-half-inch nylon, or equivalent, with a maximum length to provide for a fall of no more than six feet. The lanyard shall have a breaking strength of no less than three thousand pounds.	To include belts and compatible with OSHA 3000 pounds is referenced
4123;1-3-03 personal protective equipment (J)	(6) All safety belt or harness and lanyard hardware shall be capable of withstanding a tensile loading of four thousand pounds without cracking, breaking, or becoming permanently deformed.	(6) All safety belt or harness and lanyard hardware shall be capable of withstanding a tensile loading of three thousand pounds without cracking, breaking, or becoming permanently deformed.	To include belts and compatible with OSHA 3000 pounds is referenced

Number	Original Paragraph	Change																	
4123;1-3-03 personal protective equipment (L)	<p style="text-align: center;">TABLE</p> <hr/> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">Vertical distance from working level to horizontal plane from the edge of the</td> <td style="width: 50%; padding: 2px;">Minimum required horizontal distance of outer edge of net working surface.</td> </tr> <tr> <td style="padding: 2px;">Up to five feet</td> <td style="padding: 2px;">Eight feet</td> </tr> <tr> <td style="padding: 2px;">More than five feet up to ten feet</td> <td style="padding: 2px;">Ten feet</td> </tr> <tr> <td style="padding: 2px;">More than ten feet</td> <td style="padding: 2px;">Thirteen feet</td> </tr> </table>	Vertical distance from working level to horizontal plane from the edge of the	Minimum required horizontal distance of outer edge of net working surface.	Up to five feet	Eight feet	More than five feet up to ten feet	Ten feet	More than ten feet	Thirteen feet	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">Vertical distance from working level to horizontal plane of net</td> <td style="width: 50%; padding: 2px;">Minimum required horizontal distance of outer edge of net from the edge of the working surface</td> </tr> <tr> <td style="padding: 2px;">Up to 5 feet</td> <td style="padding: 2px;">8 feet</td> </tr> <tr> <td style="padding: 2px;">More than 5 feet up to 10 feet</td> <td style="padding: 2px;">10 feet</td> </tr> <tr> <td style="padding: 2px;">More than 10 feet</td> <td style="padding: 2px;">13 feet</td> </tr> </table>	Vertical distance from working level to horizontal plane of net	Minimum required horizontal distance of outer edge of net from the edge of the working surface	Up to 5 feet	8 feet	More than 5 feet up to 10 feet	10 feet	More than 10 feet	13 feet	Formatted with table to align text in columns
Vertical distance from working level to horizontal plane from the edge of the	Minimum required horizontal distance of outer edge of net working surface.																		
Up to five feet	Eight feet																		
More than five feet up to ten feet	Ten feet																		
More than ten feet	Thirteen feet																		
Vertical distance from working level to horizontal plane of net	Minimum required horizontal distance of outer edge of net from the edge of the working surface																		
Up to 5 feet	8 feet																		
More than 5 feet up to 10 feet	10 feet																		
More than 10 feet	13 feet																		
4123;1-3-03 personal protective equipment (N)	(N) Employee's Responsibility. It shall be the responsibility of the employee to properly use the equipment provided by the employer provided by the employer as required in this rule (See also sections 4101.12 and 4101.13 of the Revised Code).	(N) Employee's Responsibility. It shall be the responsibility of the employee to properly use the equipment provided by the employer as required in this rule (See also sections 4101.12 and 4101.13 of the Revised Code).	Removed repeated phase "provided by the employer"																
Appendix to Rule 4123: 1-3-03	Word text only. Table 3-1 Eye and Face Protector Selection Guide all word text no diagrams	Inserted Table 3-1 Eye and Face Protector Selection Guide.																	
Appendix to Rule 4123: 1-3-03	Word text only. Table 3-2 Filter lens shade numbers for protection against Radiant Energy.	Inserted Table 3-2 Filter lens shade numbers for protection against Radiant Energy.																	
Appendix to Rule 4123: 1-3-03	Word text only. Table 3-3. Selecting laser safety glass.	Inserted Table 3-3. Selecting laser safety glass.																	
Appendix to Rule 4123: 1-3-03	Word text only. EXAMPLE 3-A SAMPLE WARNING SIGN FOR LASER USE.	Inserted EXAMPLE 3-A SAMPLE WARNING SIGN FOR LASER USE.																	
Appendix to Rule 4123: 1-3-03	Word text only. EXAMPLE 3-B SAMPLE WARNING SIGN FOR LASER USE.	Inserted EXAMPLE 3-B SAMPLE WARNING SIGN FOR LASER USE.																	
Appendix to Rule 4123: 1-3-03	Word text only. Table 3-4. Guide for Selection of Respirators.	inserted Table 3-4. Guide for Selection of Respirators.																	

Number	Original Paragraph	Change	
Appendix to Rule 4123: 1-3-03	Word text only. Table 3-5. Outline for selecting respiratory protective devices.	Inserted Table 3-5. Outline for selecting respiratory protective devices.	
4123;1-3-04	Floors Stairways Railings (B) Definitions (4) "Nose Nose (nosing)" means that portion of a tread projecting beyond the face of the riser immediately below.	(4) "Nose (nosing)" means that portion of a tread projecting beyond the face of the riser immediately below.	Remove double word "Nose"
4123;1-3-04 Floors Stairways Railings (C) (5) Temporary Floors	(a) Structural steel frame buildings shall have temporary floors as provided in paragraph (C)(1) of this rule placed within two typical floors of the erectors and the riveters riveters. Such floors shall cover the entire floor area beneath riveters or erectors except that no floors are required over hoistway or stairway openings.	(a) Structural steel frame buildings shall have temporary floors as provided in paragraph (C)(1) of this rule placed within two typical floors of the erectors and the riveters. Such floors shall cover the entire floor area beneath riveters or erectors except that no floors are required over hoistway or stairway openings.	Spelling "riveters"
4123;1-3-04 Floors Stairways Railings (D) Openings	(1)Floor Openings. Floor openings shall be guarded by a standard guard railing and toeboard or A a cover with a safety factor of no less than two and so constructed that the cover cannot be accidentally displaced. A safety belt or harness with a lanyard may be provided in lieu of a standard guard railing and toeboard or cover.	(1)Floor Openings. Floor openings shall be guarded by a standard guard railing and toeboard or a cover with a safety factor of no less than two and so constructed that the cover cannot be accidentally displaced. A safety belt or harness with a lanyard may be provided in lieu of a standard guard railing and toeboard or cover.	Remove capital A/replace with a. Add with lanyard

Number	Original Paragraph	Change	
4123;1-3-04 Floors Stairways Railings (D) Openings	(2) Wall openings. (a) Guarding. Where there is a danger of an employee falling six feet or more to a lower level through a wall opening, the opening shall be guarded by a standard guard railing and toeboard, or a barricade. When the height and placement of the opening in relation to the working surface is such that either a standard guardrail or intermediate rail will effectively reduce the danger of falling, one or both shall be provided. Three-eighth One-forth-inch wire rope, securely fastened in place, may be used in lieu of the top rail and intermediate rail. A safety belt or harness or a safety net system may be provided in lieu of the standard guard railing and toeboard or barricade.	(2) Wall openings. (a) Guarding. Where there is a danger of an employee falling six feet or more to a lower level through a wall opening, the opening shall be guarded by a standard guard railing and toeboard, or a barricade. When the height and placement of the opening in relation to the working surface is such that either a standard guardrail or intermediate rail will effectively reduce the danger of falling, one or both shall be provided. One-forth-inch wire rope, securely fastened in place, may be used in lieu of the top rail and intermediate rail. A safety belt or harness or a safety net system may be provided in lieu of the standard guard railing and toeboard or barricade.	Strike 3/8, move to 1/4 inch wire rope. Common in the industry and compatible with OSHA
4123;1-3-04 Floors Stairways Railings (E) standard guard railing	None	(1) (a) Metal (iii) For wire rope railings, the top and intermediate rail shall be at least one-quarter inch diameter of thickness.	New paragraph (iii)
4123;1-3-04 Floors Stairways Railings (F) Stairways	(2)(b) Where it is not possible to provide temporary stairways due to the absence of floors in the structure a fixed ladder shall be provided with rest platforms every twenty feet.	(2)(b) Where it is not possible to provide temporary stairways due to the absence of floors in the structure a ladder shall be provided.	Removed fixed ladder requirements because they are specific in the ladders section.
4123;1-3-04 Floors Stairways Railings (F) Stairways	(3) Stairways with pan-type treads. Permanent steel or other metal stairways with hollow pan-type treads that are to be filled with concrete or other materials, when used during construction, shall be filled to the level of the nosing with solid material. This requirements shall apply as each flight of stairs is completed.	(3) Stairways with pan-type treads. Permanent steel or other metal stairways with hollow pan-type treads that are to be filled with concrete or other materials, when used during construction, shall be filled to the level of the nosing with solid material. This requirement shall apply as each flight of stairs is completed.	Spelling requirement (s)

Number	Original Paragraph	Change	
4123;1-3-04 Floors Stairways Railings (G) Overhead Protection.	(G) Overhead Protection. Overhead protection covering of two inch plank, three fourth inch plywood or other solid material of equivalent strength shall be provided where employees are working below other employees on floor levels with open floor above.	(G) Overhead Protection. Overhead protection shall be provided where employees are working below other employees on floor levels with open floor above.	Allows for the employer to choose material.
4123;1-3-04 Floors Stairways Railings (H) Guarding of open-sided floors, platforms and runways.	(1) Open-sided floors or platforms. (b) Three-eighths One-quarter-inch wire rope and toeboard, substantially secured in place, may be used in lieu of standard guard railing.	(1) Open-sided floors or platforms. (b)One-quarter-inch wire rope and toeboard, substantially secured in place, may be used in lieu of standard guard railing.	Compatible with wire rope requirements in other references
4123;1-3-04 Floors Stairways Railings (H) Guarding of open-sided floors, platforms and runways.	(2) Runways.(a) Standard guard railings and toeboards shall be provided on all open sides of runways four six feet or more above floor or ground level.	(2) Runways.(a) Standard guard railings and toeboards shall be provided on all open sides of runways six feet or more above floor or ground level.	Compatible with height requirements in other references

Number	Original Paragraph	Change	
4123;1-3-04 Floors Stairways Railings (H) Guarding of open-sided floors, platforms and runways.	(3) Working above dangerous equipment.(b) Each employee working six feet or more above dangerous equipment, such as machinery in operation, open vats, hoppers, or tanks, railroad tracks with moving equipment below the work, live electrical conductors unless deenergized and effectively grounded, or similar sources of danger, shall be protected from falling into or onto the dangerous equipment by a standard guard railing and toeboard, or safety belt or harness a-ess , or a safety net system.	(3) Working above dangerous equipment.(b) Each employee working six feet or more above dangerous equipment, such as machinery in operation, open vats, hoppers, or tanks, railroad tracks with moving equipment below the work, live electrical conductors unless deenergized and effectively grounded, or similar sources of danger, shall be protected from falling into or onto the dangerous equipment by a standard guard railing and toeboard, or safety belt or harness, or a safety net system.	Compatible with other references and includes safety belt or harness
4123;1-3-05 Mechanical power transmission apparatus.		None	
4123:1-3-06 Motor vehicles, mechanized equipment and marine operations (C)	(C) Equipment. (6) At locations where gasoline is being transferred to the fuel tank of any construction machinery, a notice shall be posted by the employer stating specifically that the engine shall be shut down during the transfer of fuel.	(C) Equipment. (6) At locations where gasoline is being transferred to the fuel tank of any construction machinery the engine shall be shut down during the transfer of fuel.	Removed notice posting
4123:1-3-06 Motor vehicles, mechanized equipment and marine operations (C)	(4) Trucks used to transport employees, (a) Trucks assigned to, or generally used for the transportation of employees shall be equipped with seats and back rests which are securely fastened, ,	(4) Trucks used to transport employees, (a) Trucks assigned to, or generally used for the transportation of employees shall be equipped with seats and back rests which are securely fastened.	Change comma to period

Number	Original Paragraph	Change	
4123:1-3-06 Motor vehicles, mechanized equipment and marine operations Material handling equipment.	(3) Mobile concrete mixers. (a) Guarding. (i) Mobile concrete mixers with skips having a capacity of three quarters of a one cubic yard or more, shall be provided with single rail guards on both sides of the skip pan. The single rail guard shall be constructed of (E) substantial material and shall be no less than thirty-six inches or more than forty-two inches in height above the ground or working level and shall extend the full length of the pan.	(3) Mobile concrete mixers. (a) Guarding. (i) Mobile concrete mixers with skips having a capacity of one cubic yard or more, shall be provided with single rail guards on both sides of the skip pan. The single rail guard shall be constructed of substantial material and shall be no less than thirty-six inches or more than forty-two inches in height above the ground or working level and shall extend the full length of the pan.	Capacity to one cubic yard
4123:1-3-07 Cranes, hoists, and derricks (C) Cranes.	CLIP SIZE — – MINIMUM NUMBER OF CLIPS — – AMOUNT OF ROPE TO TURN BACK 1/8 2 3-1/4 3/16 2 3-3/4 1/4 2 4-3/4	(4) Ropes. (h) Fastening. Wire rope shall not be secured by knots. Thimbles shall be used where wire rope is looped. Wire rope clips shall conform to the manufacturer's specifications. The loop ends of wire rope clips shall be on the dead end of the wire rope and the grooved plate of the wire rope clip shall take the load of the pulling part for which it is designed. In looping or in short bends, wire rope clips and turnback of rope shall conform to <u>the following table and spacing of clips</u> shall be uniform between the loop and the dead end.	Delete numbers in columns add Table
4123:1-3-07 Cranes, hoists, and derricks (C) Cranes. (4) Ropes	Figure: How to attach wire rope clips For Figure - See Agency.	Added Diagram "how to attach wire rope clips"	Provide actual diagram
4123:1-3-07 Cranes, hoists, and derricks (D) Hoist (3) Personnel hoist	MINIMUM FACTORS OF SAFETY FOR SUSPENSION WIRE ROPES Rope speed feet per minute. In minimum factor of safety. 50-----7.60 75-----7.75	(q) Ropes. (iii) Factor of safety. MINIMUM FACTOR OF SAFETY FOR SUSPENSION WIRE ROPES (Table)	Delete numbers in columns add Table

Number	Original Paragraph	Change	
4123:1-3-07 Cranes, hoists, and derricks (D) Hoist (4) Overhead hoist	(b)The supporting structure to which the hoist is attached shall have a safe working load no less than one and one half time that of the hoist.	(b)The supporting structure to which the hoist is attached shall have a safe working load equal to that of the hoist.	Manufacturers design
4123:1-3-07 Cranes, hoists, and derricks (G) Derricks (1) Design	(a) Derricks and all appurtenances thereof, including anchorage, shall be designed to carry the maximum working loads to be imposed upon them and shall provide a factor of safety of no less than four, including wind loads calculated on the basis of the following table: Wind loads to be used in design of derricks Height Zone (Feet) – Wind Load (lbs./sq. ft. of Vertical Surface _____ Less than 20 _____ 10 20 to less than 30 _____ 15	(a) Derricks and all appurtenances thereof, including anchorage, shall be designed to carry the maximum working loads to be imposed upon them and shall provide a factor of safety of no less than four, including wind loads calculated on the basis of the following table: Wind loads to be used in design of derricks	Delete numbers in columns add Table
4123:1-3-07 Cranes, hoists, and derricks (G) Derricks (6) Running lines	Appendix TO RULE 4121:1-3-07 STRUCTURAL TIMBER_UNIT STRESSES-	TABLE 4 WORKING	Delete numbers in columns add Table
4123:1-3-08 Ropes chains and slings (D) Alloy steel chains.	(4) Rated capacity (working load limit) for alloy steel chain slings shall conform to the values shown in "Table 8-1.. TABLE 8-1. TABLE 8-2. FOR Tables - See Agency	(4) Rated capacity (working load limit) for alloy steel chain slings shall conform to the values shown in "Table 8-1."	Delete "FOR Tables See Agency"

Number	Original Paragraph	Change	
4123;1-3-08 Ropes chains and slings (D) Alloy steel chains.	(5) Whenever wear at any point of any chain link exceeds that shown in "Table 8-2," the assembly shall be removed from service. TABLE 8-1. TABLE 8-2. FOR Tables -- See Agency	(5) Whenever wear at any point of any chain link exceeds that shown in "Table 8-2," the assembly shall be removed from service.	Delete "FOR Tables See Agency"
4123;1-3-08 Ropes chains and slings (E) Wire rope.	No paragraph number noted (E)	(E)	Added outline paragraph number (E)
4123;1-3-08 Ropes chains and slings (E) Wire rope. (1) (d)	(E) Wire rope. (1) (d) TABLE 8-3 through 8-14	(E) Wire rope. (1) (d)	Added copies of tables 8-3 through 8-14
4123;1-3-08 Ropes chains and slings (E) Wire rope. (5)	Missing paragraph (E)(5)	(5) When U-bolt wire rope clips are used to form eyes, "Table 8-15" shall be used to determine the number of clips and the amount of rope to turn back. Spacing of clips shall be uniform between the loop and the dead end. When used for eye splices, the U-bolt shall be applied so that the "U" section is in contact with the dead end of the rope.	Paragraph (E) (5) was missing added text
4123;1-3-08 Ropes chains and slings (E) Wire rope. (5) table 8-15	For table See Agency-	Insert actual table	Insert actual table
4123;1-3-08 Ropes chains and slings (F) Table 8-16	Figure: Tables 8-16 and 8-17 Figure: Tables 8-18 and 8-19 For Figures — See Agency	Insert actual table	Insert actual table

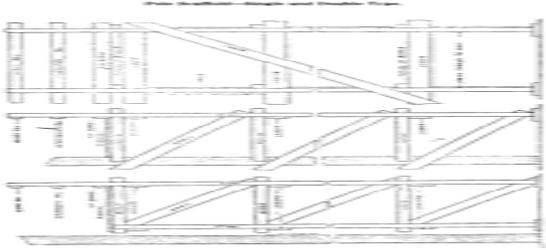
Number	Original Paragraph	Change	
4123;1-3-08 Ropes chains and slings (F) Table 8-20	TABLE 8-20. SAFE WORKING LOADS FOR SHACKLES. For Table — See Agency.	Insert actual table	Insert actual table
4123;1-3-09 Roofing devices	(D) Felt-laying machines and mechanical moppers. Operators of felt-laying machines and mechanical moppers shall not be required to operate such machines within a distance of three six feet or of any unprotected roof opening or within five six feet of any unprotected roof edge which is parallel to the direction of mechanical equipment operation, and not less than 10 feet from the roof edge which is perpendicular to the direction of mechanical equipment operation.	(D) Felt-laying machines and mechanical moppers. Operators of felt-laying machines and mechanical moppers shall not be required to operate such machines within a distance of six feet or of any unprotected roof opening or within six feet of any unprotected roof edge which is parallel to the direction of mechanical equipment operation, and not less than 10 feet from the roof edge which is perpendicular to the direction of mechanical equipment operation.	Changed 3 feet from roof opening to six feet with mobile equipment increased stopping distance. Changed five feet to six feet unprotected edge to increase stopping distance, Added 10 feet for perpendicular travel. Compatible to OSHA.
4123;1-3-10 Scaffolding (C) General	(1) The footing or anchorage for scaffolds shall be sound, rigid, and capable of supporting the carrying four times the maximum rated load without settling or displacement. Unstable or loose objects shall not be used to support scaffolds.	(1) The footing or anchorage for scaffolds shall be sound, rigid, and capable of supporting the carrying four times the maximum rated load without settling or displacement. Unstable or loose objects shall not be used to support scaffolds.	Cross referenced to OSHA
4123;1-3-10 Scaffolding (C) General	(4) Guardrails and toeboards. (a) Scaffolds having one horizontal dimension of less than forty-five inches, shall have standard guardrails installed on all open sides and ends of the platform when more than four feet above the ground or floor.	(4) Guardrails and toeboards. (a) Scaffolds having one horizontal dimension of less than forty-five inches, shall have standard guardrails installed on all open sides and ends of the platform when more than four feet above the ground or floor.	Compatible with Scaffold manufacturers for narrow scaffolds (4 time the minimum base dimension still applies)

Number	Original Paragraph	Change	
4123;1-3-10 Scaffolding (C) General	(b) Standard guardrails and toeboards shall be installed on all open sides and ends of platforms more than ten feet above the ground or floor, except on needle beam scaffolds and floats.	(b) Standard guardrails and toeboards shall be installed on all open sides and ends of platforms more than ten feet above the ground or floor, except on needle beam scaffolds and floats.	(a) is removed, reformat (b) to C)(4)
4123;1-3-10 Scaffolding (C) General	(5) Where employees are required to work or pass under the scaffold, the scaffold shall be provided with a screen between the toeboard and the guardrail, extending along the entire opening, consisting of "No. 18 Gauge, U.S. Standard" wire one-half-inch mesh, or the equivalent.	(5) <u>Where employees are required to work or pass under the scaffold each employee on a scaffold shall be provided with additional protection from falling hand tools, debris, and other small objects through the installation of toeboards, screens, or guardrail systems, or through the erection of debris nets, catch platforms, or canopy structures that contain or deflect the falling objects.</u> Where employees are required to work or pass under the scaffold, the scaffold shall be provided with a screen between the toeboard and the guardrail, extending along the entire opening, consisting of "No. 18 Gauge, U.S. Standard" wire one-half-inch mesh, or the equivalent.	Include other methods of protection including screens, debris nets, catch platforms, contain or deflect.
4123;1-3-10 Scaffolding (D) Wood pole scaffold	(15) All wood pole scaffolds feet or less in height shall be constructed and erected in accordance with "Tables 10-1 to 10-6." If they are over sixty feet in height, they shall be designed by a professional engineer competent in this field, and shall be constructed and erected in accordance with such design.	(15) All wood pole scaffolds <u>sixty</u> feet or less in height shall be constructed and erected in accordance with "Tables 10-1 to 10-6." If they are over sixty feet in height, they shall be designed by a professional engineer competent in this field, and shall be constructed and erected in accordance with such design.	Replace omitted "sixty"
4123;1-3-10 Scaffolding (D) Wood pole scaffold	Tables 10-1 through tables 10-6 Word text	Insert tables format for tables 10-1 through table 10-6.	Replace word text with tables

Number	Original Paragraph	Change	
4123;1-3-10 Scaffolding (E) Tube and coupler scaffolds	(3) A medium duty tube and coupler scaffold shall consist of no less than nominal two-inch O.D. steel tubing in all posts, runners, and bracing. Where the posts are spaced no farther apart than five feet by eight feet, the bearers shall also be no less than nominal two-inch O.D. steel tubing. Where the posts are spaced at greater distances apart than five feet by eight feet, the bearers shall be of not <u>less</u> than nominal two and one-half inch O.D. steel tubing but, in no event, may the posts of a medium duty tube and coupler scaffold be spaced farther apart than six feet by eight feet. Other structural metals, when used, must be capable of carrying a load equivalent to the load supportable by the prescribed tube and coupler scaffold. No dissimilar metals shall be used together.	(3) A medium duty tube and coupler scaffold shall consist of no less than nominal two-inch O.D. steel tubing in all posts, runners, and bracing. Where the posts are spaced no farther apart than five feet by eight feet, the bearers shall also be no less than nominal two-inch O.D. steel tubing. Where the posts are spaced at greater distances apart than five feet by eight feet, the bearers shall be of not <u>less</u> than nominal two and one-half inch O.D. steel tubing but, in no event, may the posts of a medium duty tube and coupler scaffold be spaced farther apart than six feet by eight feet. Other structural metals, when used, must be capable of carrying a load equivalent to the load supportable by the prescribed tube and coupler scaffold. No dissimilar metals shall be used together.	Corrected missing word(s) for clarity
4123;1-3-10 Scaffolding (E) Tube and coupler scaffolds	(7) Runners shall be erected along the length of the scaffold, located on both the inside and the outside posts at even heights. Runners shall be interlocked to the inside and the outside posts at even heights. Runners shall be interlocked to form continuous lengths and coupled to each post. The bottom runners shall be located as close to the base as possible. Runners shall be placed no more than six feet six inches on centers.	(7) Runners shall be erected along the length of the scaffold, located on both the inside and the outside posts at even heights. Runners shall be interlocked to the inside and the outside posts at even heights. Runners shall be interlocked to form continuous lengths and coupled to each post. The bottom runners shall be located as close to the base as possible. Runners shall be placed no more than six feet six inches on centers.	Corrected missing word(s) for clarity
4123;1-3-10 Scaffolding (E) Tube and coupler scaffolds	Tables 10-7 through tables 10-9 Word text	Insert tables format for tables 10-7 through table 10-9.	Replace word text with tables

Number	Original Paragraph	Change	
4123;1-3-10 Scaffolding (F) Tubular welded frame scaffolds	(2) Scaffold legs shall be set on adjustable bases or plain bases placed on mud sills or other foundations adequate to support four times the maximum rated load.	(2) Scaffold legs shall be set on adjustable bases or plain bases placed on mud sills or other <u>adequate</u> foundations. adequate to support four times the maximum rated load.	Cross referenced to OSHA
4123;1-3-10 Scaffolding (F) Tubular welded frame scaffolds	(5) To prevent movement, the scaffold shall be secured to the building or structure at intervals not to exceed thirty feet horizontally and twenty-six feet vertically.	(5) <u>Supported scaffolds with a height to base width (including outrigger supports if used) ratio of more than 4 to 1</u> To prevent movement, the scaffold shall be secured to the building or structure at intervals not to exceed thirty feet horizontally and twenty-six feet vertically.	To provide clarity - supported scaffolds - base dementions-30ft horizontal 26 vertical
4123;1-3-10 Scaffolding (H) Elevated work platforms and self-propelled elevated work platforms (4) (b)	(iii) Where the elevation o the platform is accomplished by a single hoist cable, the system shall be protected by a broken-cable safety device.	(iii) Where the elevation of the platform is accomplished by a single hoist cable, the system shall be protected by a broken-cable safety device.	Spelling correction o - of
4123;1-3-10 Scaffolding (I) Outrigger scaffolds	Table 10-10 word text	Insert table format for Table 10-10	Replace word text with tables
4123;1-3-10 Scaffolding (J) Masons' adjustable multi- point suspension scaffolds	(6) Where the overhand exceeds six feet six inches, outrigger beams shall be composed of stronger beams or multiple beams, providing proportionally greater strength than that required in paragraph (J)(5) of this rule.	(6) Where the overhandg exceeds six feet six inches, outrigger beams shall be composed of stronger beams or multiple beams, providing proportionally greater strength than that required in paragraph (J)(5) of this rule.	Spelling correction overhand to overhang

Number	Original Paragraph	Change	
4123;1-3-10 Scaffolding (K) Two-point suspension scaffolds (swinging scaffolds)	(1) Two-point suspension scaffold platforms shall be no less than twenty inches and no more than thirty-six inches wide overall. The platform shall be securely fastened to the hangers by U-bolts or by other equivalent means.	(1) Two-point suspension scaffold platforms shall be no less than twenty inches and no more than thirty-six inches wide overall. The platform shall be securely fastened to the hangers by U-bolts or by other equivalent means.	Scaffold manufactures limit and compatible with OSHA
4123;1-3-10 Scaffolding (K) Two-point suspension scaffolds (swinging scaffolds)	(4) Employees shall not be required to use a bridge between, or to move directly form, one swinging scaffold and another.	(4) Employees shall not be required to use a bridge between, or to move directly form, one swinging scaffold and another <u>unless the platforms are at the same height, are abutting, and walk through stirrups specifically designed for this purpose are used</u> .	To add clarity and allow for manufacturers design
4123;1-3-10 Scaffolding (K) Two-point suspension scaffolds (swinging scaffolds)	Table 10-11 word text	Insert table format for Table 10-11	Replace word text with tables
4123;1-3-10 Scaffolding (O) Bricklayers' square scaffolds	(5) Bricklayers' square scaffold shall not exceed three tiers in height and shall be so constructed and arranged that on square shall rest directly above the other. The upper tiers shall stand on a continuous row of planks laid across the next lower tier and be nailed down or otherwise secured to prevent displacement.	(5) Bricklayers' square scaffold shall not exceed three tiers in height and shall be so constructed and arranged that <u>one</u> square shall rest directly above the other. The upper tiers shall stand on a continuous row of planks laid across the next lower tier and be nailed down or otherwise secured to prevent displacement.	Spelling correction (on)-(one)
4123;1-3-10 Scaffolding (O) Bricklayers' square scaffolds	Table 10-12 word text	Insert table format for Table 10-12	Replace word text with tables

Number	Original Paragraph	Change	
4123;1-3-10 Scaffolding (Q) Horse scaffolds	Table 10-13 word text	Insert table format for table 10-13	Replace word text with tables
Scaffolding (R) Chimney, stack or tank bracket scaffolds	(6) Guardrails. Chimney, stack, or tank bracket scaffolds shall be provided with standard guardrails, but no guardrail is required when safety belts with lifelines are provided.	(6) Guardrails. Chimney, stack, or tank bracket scaffolds shall be provided with standard guardrails, but no guardrail is required when safety belts <u>or harness</u> with lifelines are provided.	Include the choice of harness as fall protection
4123;1-3-10 Scaffolding (X) Form scaffolds	table 10-14 through 10-16 word text	Insert table format for table 10-14 through 10-16	Replace word text with tables
4123;1-3-10 Scaffolding (Y) Pump jack scaffolds	(4) (e) All poles bear on mud sills or other firm foundations.	(4) (e) All poles <u>shall</u> bear on mud sills or other firm foundations.	Clarify/correct with shall
4123;1-3-10 Scaffolding (Z) Stilts	The maximum height of stilts shall be thirty-six inches. Stilts shall be equipped with "feet" of skid resistant material. Means shall be provided to securely fasten the stilts to employee's feet and legs. The floor in the work area shall be maintained free of debris and other possible hazards.	The maximum height of stilts shall be thirty-six inches. Stilts shall be equipped with "feet" of skid resistant material. Means shall be provided to securely fasten the stilts to employee's feet and legs. The floor in the work area shall be maintained free of debris and other possible hazards.	Scaffold manufactures limit and Industry practice
4123;1-3-10 Scaffolding appendix to rule 4123;1-3-10	Appendix A For Appendix A — See Agency.		Insert scaffold diagrams

Number	Original Paragraph	Change	
4123;1-3-11 Ladders (D) Portable ladders	(3)(a) Height. Step ladders shall not exceed twenty feet in height.	(3)(a) Height. Step ladders shall not exceed twenty feet in height.	ANSI / Manufacturers height requirements
		NOTE: may need to reserve paragraph (a) or renumber	
4123;1-3-11 Ladders (E) Fixed ladders	(E) Fixed ladders.	(E) Fixed ladders <u>that can not be readily moved or carried because it is an integral part of a building or structure.</u>	Added for clarity
4123;1-3-11 Ladders (E) Fixed ladders	(2) Fixed ladders exceeding twenty feet in length. Ladder landings (rest platforms) shall be installed on fixed ladders each twenty feet or major fraction thereof in length. This shall not apply to water towers, masts, smokestacks, or material hoists.	(2) Fixed ladders exceeding <u>fifty</u> feet in length. Ladder landings (rest platforms) shall be installed on fixed ladders each <u>fifty</u> feet or major fraction thereof in length. This shall not apply to water towers, masts, smokestacks, or material hoists.	Consistency with ladder standards ANSI and OSHA
4123;1-3-11 Ladders (E) Fixed ladders	(3) Fixed ladder landings. All fixed ladder landings shall be equipped with standard guard railing, intermediate rail and and toeboards. The platform of such landings shall be no less than twenty four inches in width.	(3) Fixed ladder landings. All fixed ladder landings shall be equipped with standard guard railing, intermediate rail and toeboards. The platform of such landings shall be no less than twenty four inches in width.	Double word (and)
4123;1-3-11 Ladders (F) Ladders constructed on the job	Ladders constructed on the job shall comply with the provisions of paragraphs(C)(1) of this rule and the following table. (See appendix to this rule for examples of ladders constructed on the job.)	Ladders constructed on the job shall comply with the provisions of paragraphs(C)(1) of this rule <u>and the following table.</u> (See appendix to this rule for examples of ladders constructed on the job.)	Add table remove word text(color added for emphasis)
4123;1-3-11 Ladders	For Appendix A See Agency	Add diagrams 11-1, 11-2, 11-3	

Number	Original Paragraph	Change	
4123;1-3-12 Portable Explosive-actuated fastening tools (E) Minimum instructions for qualifying operators	(E) Instructions to operators in order to teach them the use of portable explosive-actuated fastening tools shall include, but shall not be limited to the following items:	(E) Instructions to operators in order to teach them the use of portable explosive-actuated fastening tools shall include, but shall not be limited to the following items: <u>Only employees who have been trained in the operation of that particular tool in use shall be allowed to operate a powder-actuated tool. The tool shall be tested each day before loading to see that safety devices are in proper working condition. The method of testing shall be in accordance with manufacturer's recommendation procedure.</u>	Ensure trained worker use the tool and provides for testing the tool prior to use.
4123;1-3-12 Portable Explosive-actuated fastening tools (E) Minimum instructions for qualifying operators	(5) In case of a misfire, the operator shall hold the tool in the operating position for no less than thirty seconds, and then try to operate the tool a second time. The operator shall wait another thirty seconds, holding the tool in the operating position and only then shall proceed to remove the explosive load which shall be done in strict accordance with the manufacturer's instructions. Misfired cartridges shall be placed carefully in a metal container filled with water, and returned to the supervisor for disposal.	(5) In case of a misfire, the operator shall hold the tool in the operating position for no less than <u>fifteen</u> seconds, and then try to operate the tool a second time. The operator shall wait another <u>fifteen</u> seconds, holding the tool in the operating position and only then shall proceed to remove the explosive load which shall be done in strict accordance with the manufacturer's instructions. Misfired cartridges shall be placed carefully in a metal container filled with water, and returned to the supervisor for disposal.	Establish consistency with the manufacturer
4123;1-3-12 Portable Explosive-actuated fastening tools (E) Minimum instructions for qualifying operators	(14) Any tool found not in proper working order shall be immediately removed from service. The tool shall be inspected at regular intervals and shall be repaired in accordance with the manufacturer's specifications.	(14) Any tool found not in proper working order shall be immediately removed from service. The tool shall be inspected <u>each day before loading</u> and shall be repaired in accordance with the manufacturer's specifications.	Establish consistency with the manufacturer

Number	Original Paragraph	Change	
4123;1-3-13 Trenching and Excavation (C) General requirements	(3) Undercutting of the exposed faces of trenches or excavations is prohibited unless the exposed faces of such undercutting are supported by one or more of the methods undercutting are supported by one or more of the methods prescribed for the support of exposed faces of trenches.	(3) Undercutting of the exposed faces of trenches or excavations is prohibited unless the exposed faces of such undercutting are supported by one or more of the methods prescribed for the support of exposed faces of trenches.	Delete repeated words
4123;1-3-13 Trenching and Excavation (D) Trenches (5) Minimum requirements - trench shoring	(b) Braces and diagonal shores in a wood shoring system shall not be subjected to compressive stress in excess of value given by the following formula: S = 1300 – 20L/D Maximum ratio L/D = 50 Where: L = Length, unsupported, in inches D = Least side of the timber in inches S = Allowable stress in pounds per square inch of cross-section.	(b) Braces and diagonal shores in a wood shoring system shall not be subjected to compressive stress in excess of value given by the following formula: S = 1300 – 20L/D Maximum ratio L/D = 50 Where: L = Length, unsupported, in inches D = Least side of the timber in inches S = Allowable stress in pounds per square inch of cross-section.	Maximum ratio is L divided by D equals 50 not Maximum ratio L divided by D minus 50
4123;1-3-13 Trenching and Excavation (E) Excavations	(7) If it is necessary to place or operate power shovels, derricks, trucks, materials, or other heavy objects on a level above and near an excavation, the side of the excavation shall be sheet -piled, shored, braced or sloped as necessary to resist the extra pressure due to such superimposed loads.	(7) If it is necessary to place or operate power shovels, derricks, trucks, materials, or other heavy objects on a level above and near an excavation, the side of the excavation shall be sheet -piled, shored, braced or sloped as necessary to resist the extra pressure due to such superimposed loads.	Added the first word "If".
4123;1-3-13 Trenching and Excavation (E) Excavations	(9) Walkways shall be provided where employees or equipment are required to cross over excavations S standard guardrails shall be provided where the walkways are six feet or more above lower levels.	(9) Walkways shall be provided where employees or equipment are required to cross over excavations, standard guardrails shall be provided where the walkways are six feet or more above lower levels.	Spelling Capital S changed to small s

Number	Original Paragraph	Change
4123;1-3-13 Trenching and Excavation APPENDIX TO RULE 4123;1-3- 13	Angle of repose 2:1 (26 ⁰)	
4123;1-3-13 Trenching and Excavation APPENDIX TO RULE 4123;1-3- 13	Table 13-2 word text	Insert table format for Table 13-2 Replace word text with table

4123;1-3-14 Electrical conductors, wire and equipment (C) Installation and maintenance of temporary wiring	<p>(1)(a) Main feed and secondary conductors shall be no less than eight feet above the floor or ground level unless in rigid or other conduit such as nonmetallic sheathed cable or metallic sheathed cable which provides equivalent protection and support.</p> <p>Temporary wiring run as open conductors shall be on insulators spaced no more than ten feet apart and shall not be exposed to mechanical damage.</p> <p>Extension cords shall not be considered as secondary conductors. No branch circuits or feeder conductors shall be laid on the floor except properly maintained extension cords feeding portable powered tools.</p>	<p>(1)(a) Main feed and secondary conductors shall be no less than eight feet above the floor or ground level unless in rigid or other conduit such as nonmetallic sheathed cable or metallic sheathed cable which provides equivalent protection and support. Extension cords shall not be considered as secondary conductors. No branch circuits or feeder conductors shall be laid on the floor except properly maintained extension cords feeding portable powered tools.</p>	Open conductors are prohibited from use
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Number	Original Paragraph	Change	
4123;1-3-15 Explosives and blasting (G) Initiation of explosive charges	(2) Electric blasting caps (b) Blasters, when testing circuits to charged holes, shall use only blasting galvanometers powered with a silver chloride cell especially designed for the purpose.	(2) Electric blasting caps (b) Blasters, when testing circuits to charged holes, shall use only blasting galvanometers or other instruments that are specifically designed for this purpose.	To allow for advances in blasting and give the employer a choice
4123;1-3-16 Tunnels and shafts, caissons, cofferdams and compressed air (D) Tunnels and shafts (3) Ventilation	(b)(i)(a)(i) The atmosphere within the tunnel or shaft contains an adequate quantity of oxygen (nineteen per cent) and harmful atmospheric contaminants have been diluted to safe concentrations; or	(b)(i)(a)(i) The atmosphere within the tunnel or shaft contains an adequate quantity of oxygen (nineteen and one half per cent) and harmful atmospheric contaminants have been diluted to safe concentrations; or	19.5% Oxygen as identified in health stadards
4123;1-3-16 Tunnels and shafts, caissons, cofferdams and compressed air (D) Tunnels and shafts (3) Ventilation	(b)(i)(a)(ii) Adequate mechanically induced dilution ventilation is used prior to entry and continued in use during occupancy to ensure that no less than nineteen per cent oxygen is maintained in the tunnel or shaft.	(b)(i)(a)(ii) Adequate mechanically induced dilution ventilation is used prior to entry and continued in use during occupancy to ensure that no less than nineteen and one half per cent oxygen is maintained in the tunnel or shaft.	19.5% Oxygen as identified in health stadards

Number	Original Paragraph	Change	
4123;1-3-16 Tunnels and shafts, caissons, cofferdams and compressed air	(c) Less than nineteen per cent oxygen; then appropriate control measures shall be instituted. Control measures may consist of forced or natural ventilation, use of personal protective equipment, a combination of these, or other effective control techniques.	(C) Less than nineteen <u>and one half</u> per cent oxygen; then appropriate control measures shall be instituted. Control measures may consist of forced or natural ventilation, use of personal protective equipment, a combination of these, or other effective control techniques.	19.5% Oxygen as identified in health stadards
4123;1-3-16 Tunnels and shafts, caissons, cofferdams and compressed air (D) Tunnels and shafts (8) Drilling	(j) When jumbos are being moved, only the drive and those assisting the driver shall be permitted on the jumbo.	(j) When jumbos are being moved, only the driver and those assisting the driver shall be permitted on the jumbo.	Change drive to driver add (r)
4123;1-3-16 Tunnels and shafts, caissons, cofferdams and compressed air (D) Tunnels and shafts (10) Haulage	(m) Where necessary, bumper blocks, or the equivalent, shall be provided at all rack dead ends.	(m) Where necessary, bumper blocks, or the equivalent, shall be provided at all <u>t</u> rack dead ends.	Correct word track

Number	Original Paragraph	Change	
4123;1-3-16 Tunnels and shafts, caissons, cofferdams and compressed air (D) Tunnels and shafts (12) Hoisting	(d) Hand-operated release mechanisms, which can permit the load to descend faster than the speed rating, shall not be used.	(d) Hand-operated release mechanisms, which can permit the load to descend faster than the speed rating, <u>May be preformed if shaft conditions permit.</u>	Equipments may permit based on shaft conditions
4123;1-3-16 Tunnels and shafts, caissons, cofferdams and compressed air (E) Caissons	(5) All caissons having diameter or side greater than then feet shall be provided with a manlock and shafting for the exclusive use of employees.	(5) All caissons having diameter or side greater than <u>ten</u> feet shall be provided with a manlock and shafting for the exclusive use of employees.	Correct demension 10 feet
4123;1-3-16 Tunnels and shafts, caissons, cofferdams and compressed air (G) Compressed air	(3) Telephone and signal communication. Effective and reliable means of communication, such as bells, whistles, or telephones, shall be maintained at all times between al the following locations:	(3) Telephone and signal communication. Effective and reliable means of communication, such as bells, whistles, or telephones, shall be maintained at all times between <u>all</u> the following locations:	Spelling 2 ll's in all

Number	Original Paragraph	Change		
4123;1-3-16	Tunnels and shafts, caissons, cofferdams and compressed air	(G) Compressed air (4)(a)		Correct layout (tabs) of the form
	(4) Signs and records. (a) The time of decompression shall be posted in each manlock as follows:	(4) Signs and records. (a) The time of decompression shall be posted in each manlock as follows:		correct layout (tabs) of the form
	Time of Decompression for this Lock”	Time of Decompression for this Lock”		correct layout (tabs) of the form
	.pounds to.....pounds in.....minutes.pounds to.....pounds in.....minutes.		correct layout (tabs) of the form
pounds to.....pounds in.....minutes.pounds to.....pounds in.....minutes.		correct layout (tabs) of the form
	(Signed by) _____ (Superintendent)	(Signed by) _____		correct layout (tabs) of the form
		(Superintendent)		correct layout (tabs) of the form
	This form shall be posted in the manlock at all times.	This form shall be posted in the manlock at all times.		correct layout (tabs) of the form
4123;1-3-16	Appendix Decompression tables Number 1 and table 2	word text not in table format		Replace word text with table
		<u>APPENDIX TO RULE 4121: 1-3-16</u> DECOMPRESSION TABLES		

Number	Original Paragraph	Change
4123;1-3-17 Cutting and welding		No Changes

Number	Original Paragraph	Change										
4123;1-3-18 Heating ventilating and exhaust equipment (C) Temporary heating devices (4) Liquefied petroleum gas (L-P gas)	(h) storage outside of building table word text	<p style="text-align: center;">Table 4121:1-3-18(C)(4)(h)</p> <table border="1"> <thead> <tr> <th>Quantity of LP-Gas Stored:</th> <th>Distance (feet)</th> </tr> </thead> <tbody> <tr> <td>500 lbs. or less</td> <td>0</td> </tr> <tr> <td>501 to 6,000 lbs.</td> <td>10</td> </tr> <tr> <td>6,001 to 10,000 lbs.</td> <td>20</td> </tr> <tr> <td>Over 10,000 lbs.</td> <td>25</td> </tr> </tbody> </table> <p>Replace word text with table 4123;1-3-18(C) (4)(h)</p>	Quantity of LP-Gas Stored:	Distance (feet)	500 lbs. or less	0	501 to 6,000 lbs.	10	6,001 to 10,000 lbs.	20	Over 10,000 lbs.	25
Quantity of LP-Gas Stored:	Distance (feet)											
500 lbs. or less	0											
501 to 6,000 lbs.	10											
6,001 to 10,000 lbs.	20											
Over 10,000 lbs.	25											

4123;1-3-18 Heating ventilating and exhaust equipment (G) Confined spaces	(1)(a)(i) The atmosphere within the confined space contains an adequate quantity of oxygen (nineteen per cent) and harmful atmospheric contaminants have been diluted to safe concentrations; or	(1)(a)(i) The atmosphere within the confined space contains an adequate quantity of oxygen (nineteen and one half per cent) and harmful atmospheric contaminants have been diluted to safe concentrations; or	19.5% Oxygen as identified in health stadards
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4123;1-3-18 Heating ventilating and exhaust equipment (G) Confined spaces	(1)(a)(ii) Adequate mechanically induced dilution ventilation is used prior to entry and continued in use during occupancy to ensure that no less than nineteen per cent oxygen is maintained in the confined space.	(1)(a)(ii) Adequate mechanically induced dilution ventilation is used prior to entry and continued in use during occupancy to ensure that no less than nineteen and one half per cent oxygen is maintained in the confined space.	19.5% Oxygen as identified in health stadards
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Number	Original Paragraph	Change	
4123;1-3-18 Heating ventilating and exhaust equipment (G) Confined spaces	(2) When the confined space has been exposed to, contained, or is likely to have combustible gases within its confines (such as sewage treatment plants), it shall not be entered if any reading is obtained on a combustible gas indicator (see "Appendix III", "LEL Table").	(2) When the confined space has been exposed to, contained, or is likely to have combustible gases within its confines (such as sewage treatment plants), it shall not be entered if any reading is obtained in excess of 10 percent of its lower flammable limit (LFL) is obtained on a combustible gas indicator (see "Appendix III", "LEL Table").	Compatible with OSHA
4123;1-3-18 Heating ventilating and exhaust equipment (G) Confined spaces	(3)(a) Any concentration of flammable vapor or gas; and	(3)(a) Any concentration of flammable vapor or gas <u>in excess of 10 percent of its LFL</u> ; and/or,	Compatible with OSHA
4123;1-3-18 Heating ventilating and exhaust equipment (G) Confined spaces	(3)(c) Less than nineteen per cent oxygen; then appropriate control measures shall be instituted. Control measures may consist of forced or natural ventilation, use of personal protective equipment, a combination of these, or other effective control techniques.	(3)(c) Less than nineteen <u>and one half per cent</u> oxygen then appropriate control measures shall be instituted. Control measures may consist of forced or natural ventilation, use of personal protective equipment, a combination of these, or other effective control techniques.	Compatible with OSHA
4123;1-3-18 Heating ventilating and exhaust equipment (H) Procedures (1) Procedure for safe entry	(b)(ii) Post established entry procedures immediately adjacent to all confined space entry ports; other acceptable areas for posting would include the lid of the storage container or to post requirements for respiratory or testing equipment on crew trucks;	(b)(ii) Post <u>danger signs or by any other equally effective means, of the existence and location of the permit spaces. NOTE: A sign reading DANGER -- PERMIT-REQUIRED CONFINED SPACE, DO NOT ENTER or using other similar language would satisfy the requirement for a sign</u>	Compatible with OSHA

Number	Original Paragraph	Change
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4123;1-3-18
 Heating
 ventilating and
 exhaust
 equipment (H)
 Procedures (1)
 Procedure for
 safe entry (b)

(xii) Many employers use tags to show that a confined space may be entered safely. An example of such a tag is **as follows**:

...as follows: provide example of tag

4123;1-3-19
 Demolition (C)

(5) During the period before demolition begins in a particular area, wall openings less than forty-two inches above the floor and floor openings other than material drops shall be protected.

(5) During the period before demolition begins in a particular area, wall openings less than forty-two inches above the floor and floor openings other than material drops shall be protected.

Remove comma

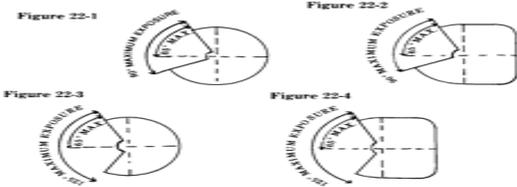
4123;1-3-20
 Steel erection (C)
 Floor requirements

(2) Temporary flooring – skeleton steel construction in tiered buildings. (b) On buildings or structures not adaptable to temporary floors, and where scaffolds are not used, safety nets shall be installed and maintained whenever the potential fall distance exceeds two stories or ~~twenty-five~~ feet. The nets shall be hung with sufficient clearance to prevent contacts with the surface of structures below.

(2) Temporary flooring – skeleton steel construction in tiered buildings. (b) On buildings or structures not adaptable to temporary floors, and where scaffolds are not used, each employee exposed to a potential fall distance exceeding 2 stories or 30 feet shall have a personal fall arrest system or safety nets shall be installed and maintained. The nets shall be hung with sufficient clearance to prevent contacts with the surface or structures below.

Consistent with OSHA 2 stories or 30 feet

Number	Original Paragraph	Change	
4123;1-3-20 Steel erection (C) Floor requirements (2)	(c) Floor periphery - safety railing. A safety railing of one-half-inch wire rope or equal shall be installed, approximately forty-two inches high, around the periphery of all temporary-planked or temporary-metal-decked floors of tier buildings and other multi-floored structures during structural steel assembly.	(c) Floor periphery – safety railing. A safety railing of <u>one-quarter-inch</u> wire rope or equal shall be installed, approximately forty-two inches high, around the periphery of all temporary-planked or temporary-metal-decked floors of tier buildings and other multi-floored structures during structural steel assembly.	Consistant with other guardrail requirements in this rule, compatible with OSHA
4123;1-3-20 Steel erection (C) Floor requirements (2)	(e) When gathering and stacking temporary floor planks from the last panel, the employees assigned to such work shall be protected by safety belts with safety lines attached to the structure.	(e) When gathering and stacking temporary floor planks from the last panel, the employees assigned to such work shall be protected by safety belts <u>or harness</u> with safety lines attached to the structure.	Include harness as a choice for fall protection
4123;1-3-20 Steel erection (D) Structural steel assembly.	(4) Where long-span joists or trusses, forty feet or longer are used, a center row of bolted bridging shall be installed to provide lateral stability during construction prior to slacking of hoisting line.	(4) Where longspan joists or trusses, <u>sixty</u> feet or longer, are used <u>a row or rows</u> of bolted bridging shall be installed to provide lateral stability during construction prior to slacking of hoisting line.	Compatible with OSHA representing Industry practices
4123:1-3-20 Steel erection (E) Bolting, riveting, fitting- up and plumbing- up	(11) Employees shall be provided with safety belts and lifelines, securely fastened to a permanent part of the structure, when they are working on float scaffolds.	(11) Employees shall be provided with safety belts <u>or harness</u> and lifelines, securely fastened to a permanent part of the structure, when they are working on float scaffolds.	Include harness as a choice for fall protection
4123:1-3-21 Diving operations APPENDIX TO RULE 4123:1-3- 21			No Change

Number	Original Paragraph	Change	
4123;1-3-22 Woodworking machines, power saws and other tools and equipment	See Agency for Figures		Insert figures
4123;1-3-23 Helicopters	See Agency "Illustration 23-1, Helicopter Hand Signals".	Insert Illustration 23-1	Insert figures
4123;1-3-24 Roof car suspended platforms	(G) Safety belts and lifelines. A safety belt or harness with means for attachment to a lifeline on the roof or to the working platform shall be provided for each employee on a working platform suspended by less than four wire ropes.	(G) <u>Fall Protection. Each employee shall have a personal fall arrest system.</u>	Inclusive of fall protection system.
4123;1-3 APPEN	No Changes	No Changes	No Changes
4123;1-3 APPEN	No Changes	No Changes	No Changes
4123;1-3 APPEN	No Changes	No Changes	No Changes

**BWC Board of Directors
Executive Summary
Construction Safety Rules: Chapter 4123:1-3
Five year rule review**

Introduction

Chapter 4123:1-3 of the Administrative Code contain the construction safety rules. An employer's violation of a specific safety rule can lead to an additional award for the injured worker (VSSR award). The cost of the VSSR award is billed to the employer as a penalty.

Five-Year Rule Review

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. The safety rules of Chapters 4123:1-3 of the Administrative Code were last reviewed in 1998, and are due for five year rule review.

Rule Review Process

Personnel from the BWC Division of Safety and Hygiene met for the past few months with professionals from labor and management in the construction industry to review these rules. The stakeholders included representatives from the Ohio State Building and Construction Trade Council, South Central Ohio District Council of Carpenters JATC, Norris Brothers Co., Allied Construction Industries (Cincinnati), the Builders Exchange of Central Ohio, and the Construction Employers Association of Cleveland.

The committee met and reviewed the rules based on the following major principles:

- If the standard complies with the BWC safety rule and complies with OSHA, keep the BWC safety rule as is. [Example: Ladder extends 3 feet above landing. BWC safety rule and OSHA are the same].
- If the standard complies with BWC safety rule but violates OSHA, change BWC safety rule. [Example: Safety belts (BWC safety rule) versus body harness (OSHA)].
- If the standard violates BWC safety rule but complies with OSHA, change BWC safety rule. [Example: Perimeter guardrail 1/4 inch wire rope (OSHA) versus 3/8 inch wire rope].
- If the standard does not exist in BWC safety rule now but is in OSHA, keep BWC safety rule as is. [Example: Fire protection and prevention, Not in BWC safety rule, is in OSHA].

Rule Changes

There are 24 rules in Chapters 4123:1-3 of the Administrative Code. Because the rules are lengthy (300 pages in a bound 6" by 9" volume), rather than the full text of the rules, attached is a summary of the changes in the rules.

Privacy and The Protection of Sensitive Data



Tom Stevens, BWC Computer Security Manager
Audit Committee – March 27, 2008

Who wants our data?

MCOs

Providers

TPAs

Employers

Public Records
Request

Lawyers

Media

Federal
Agencies

State
Agencies



What have we done?

- ◆ Backup Tape Encryption
 - Mainframe tapes (V3, Rates and Payments, Employer databases)
 - Open System Tapes (Network drives, e-mail, etc.)
 - Sun Systems Tapes (HR and Financial data)

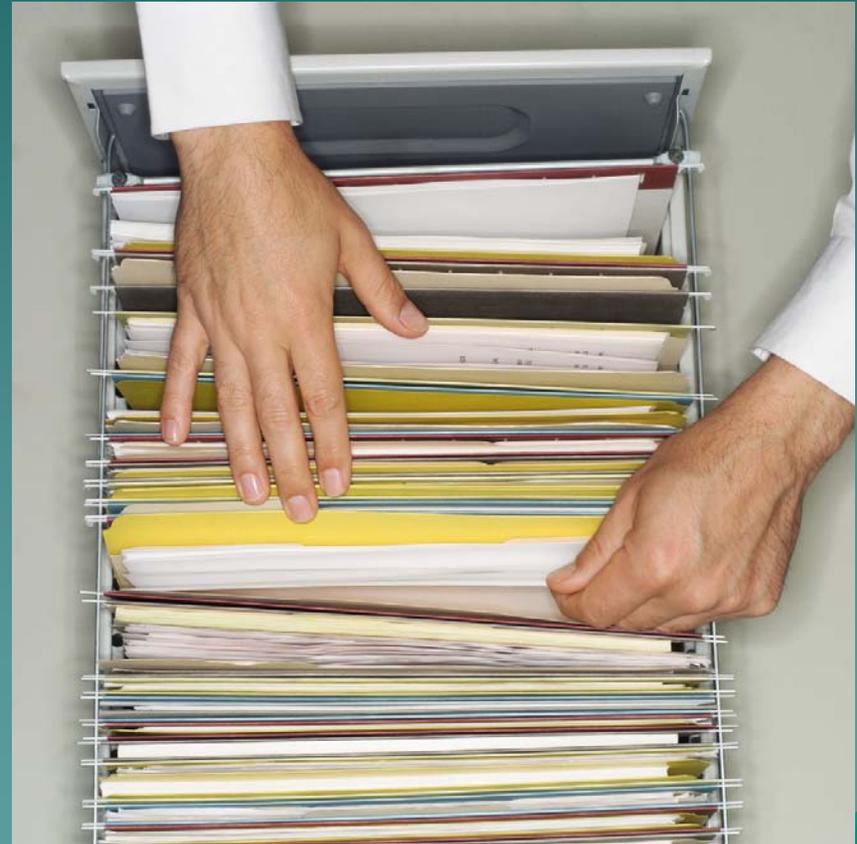


What have we done?

- ◆ Portable Storage Device Policy
 - Covers All Portable Storage Devices Such as: Laptops, Smart Phones, USBs, CDs.
 - List Do's and Don'ts
 - ◆ Never Leave Unattended
 - ◆ Never Download Sensitive Data To A USB Device
 - ◆ Never Maintain Sensitive Data Longer Than Required
 - ◆ Maintain A List Of Sensitive Data That Is On The Device

What have we done?

- ◆ Sensitive Paper Record Handling Policy
 - Store In A Secure Environment
 - Always Keep Sensitive Information Under Visual Control
 - Never Throw Sensitive Information in the trash
 - Must Shred Or Dispose In Lockable Trash Bin



What have we done?

- ◆ Disposal Of Sensitive Material Procedures
 - Paper Records (Shred Or Lockable Trash Bins)
 - CDs (Shred Or Bend Back and Forth Until Unusable)
 - Diskettes (Remove Outer Tab, Open Case and Cut Up Floppy Disk)

What have we done?

◆ Encryption For Customers

- When Customers Have To Input Data Or Review Sensitive Data On BWC Web, The Data Is Encrypted Using Secure Socket Layer (SSL).
- Utilize Virtual Private Networks (VPNs) For Partners
- Use Pretty Good Privacy (PGP) Encryption For File Transfers

What are we doing?

- ◆ Device Encryption (State Sponsored)
 - Laptop Full Disk Encryption
 - Desktop Data Encryption
 - Removable Device Content Encryption (CDs, USBs, etc.)
 - PDA, Smart Phone Encryption



What are we doing?

◆ Sensitive Data Transmission Policy

- SB7 Requirements
- Never Transmit Sensitive Data Via E-mail unless protected
- Never Send The Password To A Protected Document Via E-mail
- Never Transmit Sensitive Data Via Right Fax IF It Is Going To An E-mail Address
- Include Disclosure Statement On All Faxes
- If Someone Sends Sensitive Data Without Protecting The Data, We Must Contact Them
- Outlines BWC Sensitive Data

It's Not A Perfect World!!

- ◆ Risks and Vulnerabilities
 - SB7 Media Exemption
 - Identity Fraud
 - Public Records Request Abuse
 - Misuse of Information

Questions??



6-month Audit Committee Calendar

Date	March	Notes
	April	
4/24/2008	<ol style="list-style-type: none"> 1. BWC Risk Management Strategies 2. BWC Quarterly Litigation Update 3. BWC Quarterly Financial Statement Overview 	
	May	
5/29/2008	<ol style="list-style-type: none"> 1. Annual Audit Scope Meeting - Internal Audit Division 2. Internal Audit Quarterly Executive Summary Report 3. Annual Review of the Internal Audit Division Charter 	
	June	
7/24/2008	<ol style="list-style-type: none"> 1. Review of BWC Internal Fraud (Whistle Blower) Policy 2. Quarterly Actuarial & Investments Update 3. Semi-annual Inspector General Update 	
	July	
	August	

BOARD FIVE YEAR RULE REVIEW IN 2008

RULES SCHEDULED FOR REVIEW IN 2008

Chapter 4123-3 Claims Procedure

30 rules

Five year RR: PROPOSED: JUNE OR JULY 2008

Chapter 4123-9 General Policy of the Bureau and General Organization of Bureau Offices

12 rules

Five year RR: PROPOSED: MAY OR JUNE 2008

Chapter 4123-17 General Rating for the State Insurance Fund

8 of 73 rules

Five year RR: PROPOSED: MAY OR JUNE 2008

Chapter 4123-18 Rehabilitation of Injured and Disabled Workers

16 rules

Five year RR: PROPOSED: JULY OR AUGUST 2008

Safety Rules

Chapter 4123:1-9 Steel Making, Manufacturing, and Fabricating

5 rules

Five year RR: NOT YET UNDER REVIEW

Chapter 4123:1-11 Laundering and Drycleaning

5 rules

Five year RR: NOT YET UNDER REVIEW

Chapter 4123:1-13 Rubber and Plastic Industries

4 rules

Five year RR: NOT YET UNDER REVIEW

Chapter 4123:1-17 Window Cleaning

7 rules

Five year RR: NOT YET UNDER REVIEW

Chapter 4123:1-21 Fire Fighting

7 rules

Five year RR: PROPOSED: JULY OR AUGUST 2008

Public Employment Risk Reduction Program Rules

Five year RR: AGENDA: MARCH 2008

RULES SCHEDULED FOR REVIEW PRIOR TO 2008

Chapter 4123-1 Notice Procedure

1 rule

Five year RR: PROPOSED: APRIL OR MAY 2008

Chapter 4123-14 Noncomplying Employer

6 rules

Five year RR: PROPOSED: AUGUST OR SEPTEMBER 2008

Chapter 4123-16 Personal Information Systems

12 rules

Five year RR: DONE: JANUARY 2008

Chapter 4123-20 Marine Industry Fund

7 rules

Five year RR: DONE: DECEMBER 2007

Chapter 4123-21 Coal-Workers' Pneumoconiosis Fund

8 rules

Five year RR: DONE: DECEMBER 2007

Safety Rules

Chapter 4123:1-1 Elevators

5 rules

Five year RR: NOT YET UNDER REVIEW

Chapter 4123:1-3 Construction

24 rules

Five year RR: AGENDA: MARCH 2008

Chapter 4123:1-5 Workshops and Factories

32 rules

Five year RR: NOT YET UNDER REVIEW

Chapter 4123:1-7 Metal Casting

14 rules

Five year RR: NOT YET UNDER REVIEW

Joint BWC and IC rules

4125-1-01 Compensation for wage losses.

4125-1-02 Electronic submission and acceptance of documents.

Five year RR: PENDING JOINT REVIEW WITH IC