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# HANDBOOK

**Ohio County Commissioners**

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## CHAPTER 73

# PUBLIC EMPLOYMENT RISK REDUCTION PROGRAM (PERRP)

**Latest Revision  
November, 2012**

### 73.01 INTRODUCTION

With the passage of Am. Sub. HB 308 in December of 1992, a state version of the federal Occupational Safety and Health Administration (OSHA) became effective for county and all other public employees in Ohio. The first provisions of HB 308 became effective April 30, 1993. HB 308 incorporated by reference all federal OSHA standards found in the Code of Federal Regulations (CFR) Title 29 parts 1910, 1926. .

In July of 2005 the Public Employee Risk Reduction Program (PERRP) became part of the Ohio Bureau of Workers' Compensation, Division of Safety and Hygiene. This Chapter outlines the requirements and procedures. General law relating to PERRP is found in ORC Chapter 4167 and the Ohio Administrative Code.

(<http://codes.ohio.gov/orc/4167>; <http://codes.ohio.gov/oac/4167>)

The PERRP website can be found at:

[www.ohiowbc.com/employer/programs/safety/sandhperrp.asp](http://www.ohiowbc.com/employer/programs/safety/sandhperrp.asp)

### 73.02 COVERAGE OF PERRP (ORC 4167.01)

The PERRP applies to the state and all of its political subdivisions and to all public employees furnishing services to any subdivision. The following definitions are helpful to understand this Chapter:

1. Public employer means the state and its instrumentalities, including any county, county hospital, municipality, township, park district, state institution of higher learning, public or special district, state agency, authority, commission, or board and any other branch of public employment.

Since ORC Section 4167.01 defines "public employer" as a county, not as the appointing authority, it places the county commissioners squarely in charge and makes them responsible for compliance for all county operations. See *Tudor v Mayfield* (1989), 62 Ohio App 3d 633, motion to certify the record to the Supreme Court of Ohio overruled (1989), 46 Ohio St, 3d 705, 545 N.E. 2<sup>nd</sup> 1283; and OAG 98-012, March 2, 1998. Thus, in this Chapter where the term "employer" or "county" is used it refers to the board of county commissioners

2. Public employee 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 over whom the National Labor Relations Board has declined jurisdiction.
3. Public employee does not mean a firefighter, an emergency medical technician, a paramedic, a peace officer employed by a public employer; any person employed as a correctional officer in a correctional institution operated or jointly operated by a county or municipality; or a firefighter, an emergency medical technician, or a paramedic employed by a private contractor that is organized as a nonprofit fire company or life squad that contracts with a public employer to provide fire protection or emergency medical services

However, public employers of firefighters, emergency medical technicians, and paramedics must comply with rules and standards for the prevention of exposure incidents, as outlined in Section 73.12 of this Chapter.

Finally, it should be noted that Ohio law allows for counties to be exempted from the application of the law. For further information refer to Sections 73.13-73.134 of this Chapter.

### **73.03 ADMINISTRATOR OF BWC TO ENFORCE PROGRAM (ORC 4167.02)**

It is the responsibility of the administrator of the Bureau of Workers' Compensation to operate and enforce the public employment risk reduction program created by ORC Chapter 4167. As used in this Chapter of the *Handbook*, "administrator" will refer to the Administrator of the Bureau of Workers Compensation. The administrator is responsible to do all of the following:

1. Rules - Adopt rules, with the advice and consent of the bureau of workers' compensation board of directors in accordance with ORC Chapter 119, for the administration and enforcement of the law. This includes rules covering

standards the administrator must follow in issuing an emergency temporary Ohio employment risk reduction standard under ORC Section 4167.08 and a temporary variance and a variance from an Ohio Employment Risk Reduction Standard pursuant to ORC Section 4167.09.

2. Services - In carrying out these responsibilities the administrator may use, with the consent of any federal, state, or local agency, the services, facilities, and personnel of such agency, with or without reimbursement, and may retain or contract with experts, consultants, and organizations for services or personnel on such terms as the administrator determines appropriate.
3. Do all things necessary for the administration and enforcement of ORC Chapter 4167.

### **73.031 ADOPTION OF RULES (ORC 4167.07)**

Back in 1994 the law required the adoption of rules to establish employment risk reduction standards. The law required the adoption of an Ohio employment risk reduction standard for every federal occupational safety and health standard **fix** then adopted by the United States secretary of labor pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended.

The law also requires the administrator, no later than 120 days after the U. S. Secretary of Labor adopts, modifies, or revokes any federal occupational safety and health standard, by rule, to do one of the following:

1. Adopt the federal occupational safety and health standard as the Ohio employment risk reduction standard.
2. Amend the existing Ohio employment risk reduction standard to conform to the modification of the federal occupational safety and health standard.
3. Rescind the existing Ohio employment risk reduction standard that corresponds to the federal occupational safety and health standard the U. S. Secretary of Labor revoked.

### **73.032 ADMINISTRATOR DISCRETION ON RULE ADOPTION (ORC 4167.07)**

The administrator may decline to adopt any federal occupational safety and health standard as an Ohio employment risk reduction standard. The administrator also may decline to modify or rescind any existing standard to conform to any federal occupational safety and health standard modified or revoked by the States Secretary of Labor. Likewise, the administrator may adopt as a standard any occupational safety and health standard that is not covered under the federal law or that differs from one adopted or modified by the U. S. Secretary of Labor. Prior to taking such action,

however, the administrator must determine that existing Ohio employment risk reduction standards provide protection at least as effective as would be provided by the existing, new, or modified federal occupational safety and health standard, that if determined local conditions warrant a different standard.

In adopting, modifying, or rescinding any Ohio employment risk reduction standard dealing with toxic materials or harmful physical agents, the administrator must do all of the following:

1. Set the employment risk reduction standard to most adequately assure, to the extent technologically feasible and on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity as a result of the hazards addressed by the rule or standard for the period of the employee's working life.
2. Base the development of Ohio employment risk reduction standards on research, demonstrations, experiments, and other information as is appropriate and upon the technological feasibility of the standard, using the latest available scientific data in the field and the experience gained in the workplace and other health and safety laws, to establish the highest degree of safety and health for the employee.
3. Whenever practicable, express Ohio employment risk reduction standard in terms of objective criteria and of the performance desired.
4. Prescribe the use of labels or other appropriate forms of warning to ensure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure.
5. Prescribe suitable protective equipment and control procedures to be used in connection with the hazards.
6. Provide for measuring or monitoring employee exposure in a manner necessary for the protection of employees.
7. Where appropriate, prescribe the type and frequency of medical examinations or other tests the employer must make available, at the cost of the employer, to the employees exposed to the hazards in order to determine any adverse effect from the exposure.

The administrator may prioritize adoption of standards, giving due regard to the urgency of need and recommendations of the Ohio Department of Health.

The administrator may delay the effective date of any standard for up to 90 days beyond the usual time period to ensure that affected employers and employees will be informed and have the opportunity to familiarize themselves with the specific requirements.

All such standards except those adopted directly from federal OSHA are to be adopted under the procedures of ORC Chapter 119 which requires notice, public hearing, and review by the Joint Committee on Agency Rule Review of the Ohio General Assembly and an effective date at least 90 days after the hearing.

### **73.033 EMERGENCY RULES (ORC 4167.08)**

In the event of an emergency or unusual situation, the administrator must issue an emergency temporary Ohio employment risk reduction standard to protect employees who are exposed to grave danger substances or agents determined to be toxic or physically harmful or from new agents.

1. Immediate Effect - An emergency standard takes immediate effect upon publication in newspapers of general circulation in Cleveland, Columbus, Cincinnati, and Toledo.
2. Extension of Emergency Standard - An emergency standard is in effect for no longer than 15 days unless the Board of Directors of the Bureau of Workers Compensation approves the standard for a 120 day period. The standard may be renewed for an additional 100 days if the administrator finds the conditions still exist.
3. Adoption of Permanent Standard - On or before the expiration date, if the conditions continue to exist, the administrator must adopt a permanent standard to replace the emergency standard.

### **73.034 VARIANCES FROM STANDARDS (ORC 4167.09)**

Any public employer may apply to the administrator for an order granting a temporary variance from a standard. The application for a variance or any extension must be accompanied by a reasonable application fee and all of the following information:

1. A specification of the Ohio public employment risk reduction standard or provision of it from which the employer seeks the temporary variance.
2. A representation by the employer that it is unable to comply with the Ohio employment risk reduction standard. The claim must include a detailed statement of the reasons for the inability to comply, and must be supported by information from qualified persons having firsthand knowledge of the facts.
3. A statement of the steps the employer has taken and will take to protect

employees against the hazard covered by the standard. Each step must be tied to a specific date.

4. A statement of when the employer expects to be able to comply fully with the Ohio employment risk reduction standard and what steps the employer has taken and will take to come into full compliance with the standard. The date the employer expects to fully comply with the standard and dates for any steps proposed to fully comply must be specified.
5. A certification that the employer has informed its employees of the application by giving a copy of the application to the public employee representative, if any. A statement giving a summary of the application and specifying where a copy of the application may be examined must also be posted where notices to employees are normally posted. Other appropriate means of public employee notification is also acceptable.

The employer also must inform its employees of their rights to a hearing under ORC Section 4167.15.

The administrator must issue an order providing for a temporary variance if the employer files an application that meets the requirements and establishes that all of the following pertaining to the employer is true:

1. The employer is unable to comply with the Ohio employment risk reduction standard by its effective date because of the unavailability of professional or technical personnel or of materials and equipment.
2. The employer is taking all available steps to safeguard its employees against the hazards covered by the Ohio employment risk reduction standard.
3. The employer has an effective program for coming into compliance with the standard as quickly as practicable.
4. The granting of the variance will not create an imminent danger of death or serious physical harm to employees.

If a variance is granted, the administrator must prescribe the practices, means, methods, operations, and processes the employer must adopt and use while the order is in effect. The administrator must notify the affected employees and offer a hearing. An interim order may be issued prior to the hearing.

Variances are granted for no more than one year and may be renewed up to two times upon application to the administrator no later than 90 days prior to expiration.

## **73.04 INSPECTION OF WORKPLACES (ORC 4167.10)**

The administrator may conduct inspections and investigations only pursuant to a request by an employee, public employee representative, employer, or the notification the administrator receives of a refusal to work occurrence.

### **73.041 REQUEST FOR INSPECTION (ORC 4167.10(B)(1))**

Any employee or public employee representative who believes that a violation of an Ohio employment risk reduction standard exists that threatens the physical harm, or that an imminent danger exists, may request an inspection by giving written notice to the administrator of the violation or danger.

The notice must set forth the grounds for the inspection, and must be signed by the employee or public employee representative. The names of individual employees requesting an inspection cannot appear in the copy of the notice provided to the employer and must be kept confidential.

### **73.042 NO REASONABLE GROUNDS EXIST (ORC 4167.10(B) (2))**

If, upon receipt of a notification, the administrator determines that there are no reasonable grounds to believe that a violation or danger exists, the administrator informs the employee or public employee representative in writing of the determination.

### **73.043 NOTIFICATION OF EMPLOYER (ORC 4167.10(B)(2))**

If, upon receipt of a notification, the administrator determines that there are reasonable grounds to believe that a violation or danger exists, the administrator must, within one week after receipt of the notification, notify the employer, by certified mail, return receipt requested, of the alleged violation or danger.

1. The notice provided to the employer must contain a copy of the notice provided to the administrator by the employee or public employee representative and informs the employer of the alleged violation or danger and that the administrator will inspect the workplace.
2. The employer must respond to the administrator concerning the alleged violation or danger within 30 days after receipt of the notice.
3. If the employer does not correct the violation or danger within the 30 day period or fails to respond within that time period, the administrator will investigate and inspect the workplace. The administrator is not allowed to conduct any inspection prior to the end of the 30 day period unless requested or permitted by the employer.

4. The administrator may perform an inspection at any time at the request of the employer. For a period of three years, neither the administrator nor any other person may use any information obtained from the inspection in any proceeding for a violation of the law or standards nor in any court action.

#### **73.044 INSPECTIONS NOT LIMITED TO COMPLAINT (ORC 4167.10(B)(3))**

The authority of the administrator to inspect a premise pursuant to an employee or public employee representative notification is not limited to the alleged violation or danger contained in the notification. The administrator may investigate and inspect any other area of the premises where there is reason to believe a violation or danger exists.

#### **73.045 POSSIBILITY OF IMMEDIATE SHUTDOWN (ORC 4167.10 (B)(4))**

If, during an inspection, the administrator finds any condition or practice that presents a substantial probability that the condition or practice could result in death or serious physical harm, the administrator has the authority to order the cessation of operations until the condition is corrected. Prior notice of the administrator's intent to issue such an order must be given to the employer.

The immediate shutdown is limited to 15 days unless otherwise ordered by a court of common pleas.

#### **73.046 CITATION OF VIOLATION (ORC 4167.10(D))**

If, upon inspection and investigation, the administrator believes that an employer has violated any requirement or standard, the administrator must, with reasonable promptness, issue a citation to the employer by certified mail. The citation must be in writing, must be particular in describing alleged violations and must fix a time for abatement of the violation.

The employer must immediately post the citation, or a copy thereof, at or near each place of an alleged violation.

The administrator may not issue a citation after the expiration of six months following the final occurrence of any violation.

If the employer notifies the administrator within 14 days that the employer wishes to contest the citation, or if within 14 days after the issuance of a citation an employee or public employee representative files notice that the time period fixed in the citation for the abatement of the violation is unreasonable, the administrator must hold a hearing under ORC Chapter 119.

In setting a time for abatement, the administrator must consider under ORC Section 4167.10(H):



1. The costs to the employer.
2. The size and financial resources of the employer.
3. The severity of the violation.
4. The technological feasibility of compliance.
5. The possible present and future detriment to the health and safety for failure to comply.
6. Other factors the administrator determines appropriate.

The administrator may set the abatement period at any time up to two years and may extend it for an additional year.

### **73.047 COURT OF COMMON PLEAS (ORC 4167.14)**

Upon petition of the administrator any court of common pleas may:

1. Restrain any conditions or practices which present a danger which could reasonably be expected to cause death or serious physical harm or contribute significantly to occupational related illness immediately.
2. Require steps necessary to avoid, correct, or reverse imminent danger or prohibit employment in the location except those necessary to correct or remove the danger.
3. Issue injunctive relief or a temporary restraining order not to exceed 5 days.

If the administrator determines that the imminent danger is such that immediate action is necessary, and further determines that there is not sufficient time to seek and obtain a temporary restraining order or injunction, the administrator must file a petition with the common pleas court and issue an order requiring action to be taken as necessary to correct the imminent danger.

### **73.05 REQUEST FOR HEARINGS/APPEALS (ORC 4167.15, 4167.16)**

Various progressive appeals are available to an employer relative to actions proposed or taken by the administrator under the law.

1. INFORMAL HEARINGS (ORC 4167.15) - Any employer, employee, or employee representative affected by an order, rule, or standard proposed, adopted, or issued under ORC Chapter 4167 may request a hearing from the administrator within 14 days after the proposal, adoption, or issuance of any rule. The

administrator, within 14 days after receipt of the request for a hearing, must appoint a hearing officer. The hearing office must hold a hearing within 14 days of the appointment, and render a decision within 14 days of the hearing.

2. HEARINGS UNDER ORC 119 - The decision of the hearing officer is appealable to the administrator within 30 days under ORC Chapter 119.
3. COURT OF COMMON PLEAS (ORC 4167.16) - Any decision of the administrator under ORC Chapter 119 may be appealed to common pleas court within 30 days, but only if all administrative recourse has been exhausted.

### **73.06 DUTIES OF EMPLOYER UNDER ORC CHAPTER 4167 (ORC 4167.04)**

The law requires each public employer to:

1. Furnish to each of its employees employment and a place of employment free from recognized hazards that cause or are likely to cause death or serious physical harm to employees.
2. Comply with Ohio employment risk reduction standards, rules, and orders adopted or issued pursuant to ORC Chapter 4167.

No employer is required to take any action that would cause an undue hardship upon the employer, unless the action is required to prevent imminent danger of death or serious harm to the employee.

### **73.07 MANDATORY REPORTING OF FATALITIES AND MULTIPLE HOSPITALIZATION INCIDENTS**

Public employers are required to report all workplace fatalities and incidents where three or more employees are hospitalized within 8 hours of the incident. The report must be made verbally by telephone to the phone number contained in the appendix to OAC 4167-4-01.

### **73.08 PERRP RECORDKEEPING AND POSTING REQUIREMENTS**

The purpose of the PERRP recordkeeping requirements is to assist public employers in analyzing their work environment for existing and predictable hazards that are likely to cause serious injuries and illnesses. The PERRP recordkeeping forms consist of three separate documents: the Log of Work-Related injuries and illnesses (300P), the Summary of Work-Related Injuries and Illnesses (300AP); and the Injury and Illness Incident Report (301P). These forms are available from the PERRP web page in Excel format to provide public employers with an electronic means of maintaining their injury and illness records. [www.ohiobwc.com/employer/programs/safety/sandhperrp.asp](http://www.ohiobwc.com/employer/programs/safety/sandhperrp.asp)

Every year by February 1 public employers must submit their Summary of Work-Related Injuries and Illnesses (300AP) to PERRP. Public employers must also complete and submit a PERRP Sharps Injury Form (and) Needlestick Report (SH-12) for every needlestick or sharps injury that occurs in a public sector workplace. Detailed instructions on completing all PERRP recordkeeping forms are available on the PERRP website.

Public employers are also required to display a notice to inform employees of their rights and responsibilities. Counties can order a printed copy of the required poster, or download an electronic version from the PERRP web site.

### **73.09 REFUSAL TO WORK (ORC 4167.06)**

An employee acting in good faith has the right to refuse to work under conditions the employee reasonably believes present an imminent danger of death or serious harm, provided such conditions are not such as normally exist, or might reasonably be expected to occur in the occupation of the employee. The following additional provisions also apply to the refusal to work in such situations by an employee:

1. An employer must not discriminate against an employee for a good faith refusal to perform assigned tasks if the employee has requested that:
  - a. The employer corrects the hazardous conditions, but the conditions remain uncorrected.
  - b. There was insufficient time to eliminate the danger by resorting to the enforcement methods provided under the law.
  - c. The danger was one that a reasonable person under the circumstances then confronting the employee would conclude is an imminent danger of death or serious physical harm.
2. An employee who has refused in good faith to perform assigned tasks and who has not been reassigned to other tasks by the public employer must, in addition to retaining a right to continued employment, receive full compensation for the tasks that would have been performed.
3. If the employer reassigns the employee, the employer must pay the employee's full compensation as if the employee were not reassigned.
4. An employee who exercises the right to refuse to work must notify by a written statement that is signed by the public employee, as soon as practicable after exercising that right, the administrator of the condition that presents an imminent danger of death or serious harm to the employee.

Upon receipt of the notification, the administrator immediately shall inspect the premises of the employer. The administrator must comply with ORC Section 4167.10 in conducting the inspection and investigation and in issuing orders and citations.

5. An employee who refuses to perform assigned or reassigned tasks and fails to meet all of the conditions set forth above is subject to any disciplinary action provided by law or a collective bargaining agreement between the county and employee for a refusal to work, including, but not limited to, suspension, nonpayment of wages for the duration of the refusal to work, and discharge.

### **73.10 DISCRIMINATION (ORC 4167.13)**

The county cannot discharge or in any manner discriminate against any employee because the employee, in good faith, files any complaint, institutes any proceeding, or testifies or is about to testify in any proceeding under ORC Chapter 4167.

An employee who was discharged or believes discrimination otherwise occurred for activities contrary to the law may elect any one of the following remedies:

1. File, within 60 days after the violation occurs, a complaint with the state personnel board of review. The state personnel board of review may restrain violations and order all appropriate relief including rehiring or reinstatement of the employee to the employee's former position with back pay, including reasonable interest.
2. Pursue any grievance or appeal under a collective bargaining agreement.
3. Pursue any grievance or appeal under ORC Section 124.34.

An employee may elect only one of the remedies provided above. In addition, this does not limit the right of the county to take any action authorized in Division (C) of ORC Section 4167.06.

### **73.11 DUTIES OF PUBLIC EMPLOYEES UNDER ORC 4167 (ORC 4167.05)**

The law requires each employee to:

1. Comply with Ohio employment risk reduction standards, rules, and orders adopted or issued pursuant to ORC Chapter 4167 which are applicable to the employee's actions and conduct;
2. Comply with safety rules the employer establishes for the purpose of fulfilling compliance with Ohio employment risk reduction standards, rules, or orders adopted or issued.

### **73.12 DATA AND STATISTICAL REQUIREMENTS (ORC 4167.11)**

The administrator must develop and maintain, for employers and employees, an effective program of collection, compilation, and analysis of risk reduction employment statistics.

To implement and maintain these statistics, the administrator must adopt the following rules:

1. Requiring the employer to keep, preserve and maintain reports, records, and activities relating to causes and prevention of occupational accidents. The PERRP annual 300AP summary log is used to comply with this section.
2. Requiring every employer, through posting of notices or other appropriate means, to keep employees informed of their rights and obligations, including the provisions of applicable Ohio employment risk reduction standards.
3. Requiring employers to maintain accurate records of employee exposure to potentially toxic materials, carcinogenic materials, and harmful physical agents that are required to be monitored or measured. In addition:
  - a. Employees or public employee representatives must be given an opportunity to observe the monitoring or measuring and to have access on request to such records.
  - b. Employees or public employee representatives must be given an opportunity to participate in and to undertake their own monitoring or measuring. The rules also must permit each current or former employee to have access to the records that indicate their own exposure to toxic materials, carcinogenic materials, or harmful agents.

The administrator must obtain any information required under ORC Section 4167.11 with a minimum burden upon the employer and must attempt to reduce unnecessary duplication of efforts in obtaining the information.

### **73.13 WILL FAILURE TO COMPLY-PENALTIES (ORC 4167.17)**

1. If the employer, employee, or public employee representative willfully fails to comply with any final order issued by the administrator, the administrator may apply to the court of common pleas of Franklin county or the court of common pleas of the county in which the violation occurred, for an injunction, restraining order, or any other appropriate relief compelling the employer, employee, or public employee representative to comply with the order. The court must order such relief as it considers appropriate and must also impose a civil penalty of not more than \$500 per day per violation not to exceed a total of \$10,000 per

violation.

2. The administrator shall not seek to enforce the law, or any Ohio employment risk reduction standard, rule, or order adopted or issued in any manner that derogates from the immunity offered to an employer by variances obtained, or by variations, tolerance, or exemption allowed a public employer for reasons of national defense by the U. S. Secretary of Labor pursuant to Section 16 of the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended.

### **73.12 DUTIES OF PUBLIC EMPLOYERS FOR PUBLIC HEALTH CARE WORKERS (ORC 4167.28)**

A public health care worker is an employee that provides health services and where the employee is subject to "exposure incidents". This includes employees of a public hospital, county home, home health care workers, or employees of other public health care facilities. It also includes firefighters, paramedics, and emergency medical technicians. Under ORC Section 4167.25, "exposure incidents" include occupational exposure to blood or other potentially infectious material (OPIM) containing bloodborne pathogens, including exposure that occurs as a result of cuts, abrasions, and needlesticks. OPIM is defined in 29 CFR 1910.1030 and does not normally include: nasal secretions, saliva, urine, feces, vomit, unless they are visibly contaminated with blood.

The specific duties of an employer that employs health care workers are outlined in ORC Section 4167.28, but in general the employer must implement a written exposure plan, must provide training, and must maintain accurate records of public exposure incidents that comply with ORC Section 4167.28(A)(4).

Under ORC Section 4167.28 (B)(1), the employer may be granted a variance if the required injury protection is not available in the marketplace, or if the employer determines that with respect to a specific medical procedure, the available injury protection would jeopardize patient or worker safety.

### **73.15 EXEMPTION FROM PROGRAM (ORC 4167.19)**

A county may apply to the administrator for an order exempting the county from compliance with ORC Chapter 4167, if it satisfies both of the following criteria:

1. The county is a member of a group that qualifies for a group rating plan pursuant to ORC Section 4123.29(A)(4), or the county's premium rate is at least 50% less than the base rate for its workers' compensation premiums. The CCAO Workers' Compensation Group Experience Rating Plan qualifies under this provision of law, but the Group Retro Plan does not qualify.

2. If the county does not qualify for the CCAO Workers' Compensation Group Experience Rating Plan, the county establishes and maintains a safety committee with both county employees and representatives of the county.

The application must be on a form prescribed by the administrator and must be transmitted to the administrator by certified mail, return receipt requested. The application must contain a certification of all of the following:

1. The county has adopted a resolution requesting an exemption from ORC Chapter 4167.
2. At least 10 working days prior to passage of the resolution, the county has informed its employees of the application by giving a copy of the application to the public employee representative, if any.
3. The county has informed its employees by posting a statement for 30 consecutive days giving a summary of the application and specifying where a copy of the application may be examined at the place or places where notices to employees are normally posted, and by any other appropriate means of public employee notification.
4. The county has informed its employees of their rights to a hearing under ORC Section 4167.15.

No counties are currently exempt from the program, nor have any applied for exemption during the past ten years.

### **73.151 PROVIDING AN EXEMPTION (ORC 4167.19(C))**

The administrator must issue an order providing for an exemption if the county meets the above requirements.

The administrator must not grant an exemption until after the superintendent of the division of safety and hygiene in the bureau of workers' compensation conducts an employment risk reduction inspection of the county's place of employment to determine the presence of any hazardous or unsafe conditions. The administrator must not cite the county for a violation of the law.

The superintendent must provide a copy of the report of the inspection and any findings to the county. Within six months after receipt of the report, the county must submit the report to the administrator, if it wishes to proceed with the exemption request. If the report does not contain a description of any hazardous or unsafe conditions, the administrator shall grant the county an exemption.

If the report contains a description of any hazardous or unsafe conditions, the county must submit to the administrator a plan within a one-year period of time, that describes how it intends to remedy the hazardous or unsafe conditions. Within 30 days after receipt of the plan from the county, the administrator may approve or disapprove the plan as submitted.

If the administrator disapproves the plan, the administrator returns it and the reasons for its rejection to the county. The county may submit a revised plan, which corrects the deficiencies for which the original plan was rejected, within 30 days after receipt of the disapproved plan from the administrator. The administrator has another 30 days after receipt of the revised plan to review it, and if it remedies the administrator's objections, to approve it and grant the exemption.

Within 10 working days after completing implementation of the plan, the county must certify to the administrator, by certified mail, return receipt requested, that the hazardous or unsafe conditions have been abated.

If the county fails to complete the plan within the one-year period of time, the administrator may do either of the following:

1. Terminate the exemption;
2. Grant the county a 60 day extension to the one-year period of time, provided that the administrator determines that the county is making significant progress in completing implementation of the plan. The administrator shall terminate the exemption of a county who does not complete implementation of the plan within the 60 day extension granted by the administrator.

### **73.152 DUTY TO INSPECT EXEMPTED COUNTIES (ORC 4167.19(G))**

The administrator must inspect the county's place of employment immediately when one of the following occurs:

1. A county employee is killed due to an incident that is related to the employee's employment;
2. Three or more employees are hospitalized as a result of the same accident event.
3. An employee exercises their rights under ORC Section 4167.06 to refuse unsafe work assignments that present an imminent danger of death or serious harm.

After reviewing the inspection report, the administrator may require the county to submit to the administrator, within a reasonable amount of time a plan that describes how it



intends to remedy any conditions described in the report that the administrator determines need to be remedied.

### **73.153 EXPIRATION OF EXEMPTION (ORC 4167.19(H))**

An exemption granted expires seven years after its issuance. A county may apply for a subsequent exemption in the same manner as for an original exemption.

### **73.154 INSPECTION REQUESTED BY EXEMPTED COUNTY (ORC 4167.19 (I))**

Each county granted an exemption may request the superintendent of the division of safety and hygiene in the bureau of workers' compensation to conduct a safety inspection of the county's place of employment any time during the exemption period. The superintendent must provide a copy of the report of the inspection conducted and any resulting recommendations to the county. The administrator must not cite the county for a violation due to a hazardous or unsafe condition identified by the superintendent pursuant to this inspection.

### **73.16 PRACTICAL CONSIDERATIONS**

Since ORC Section 4167.01 defines "public employer" as a county, not as the appointing authority, it places the county commissioners' squarely in charge and makes them responsible for compliance for all county operations. This responsibility should be taken extremely seriously. Commissioners should give strong consideration to the following:

1. Pooling county resources to hire someone full-time on staff with OSHA/PERRP related experience to coordinate all county activities.
2. Do a self-evaluation of the county's health and safety conditions and programs.
3. Obtain a free inspection without prejudice from the Bureau of Workers Compensation Division of Safety and Hygiene. 1-800-671-6858
4. Establish and publish health and safety policies for county workplaces and employees.
5. Provide county safety and health policies to employees in writing.
6. Provide training to supervisors and employees on county safety and health policies.
7. Post appropriate notices and hazard warnings.