

June 19, 2009

Oregon OSHA - Proposed Changes to Division 1, General Administrative Rules

Public Hearing Scheduled for:

<u>Date</u>	<u>Time</u>	<u>Location</u>
July 28, 2009	9:30 am	*Oregon State Capitol Building 900 Court Street NE Hearing Room 50 (lower level) Salem OR 97301
August 14, 2009	11:00 am	Red Oaks Square 1230 NE Third Street, Suite A-115 Bend OR 97701-4374
August 18, 2009	9:30 am	Jackson County Juvenile Services Center Large Conference Room 609 W 10 th Street Medford OR 97501

*NOTE: In addition to in-person testimony at the July 28th hearing at the State Capitol Building, we will have video streaming. To access the hearing on July 28th go to www.leg.state.or.us and click "Audio/Visual" in the top horizontal bar. Then select Capitol Hearing Room "50". This is view and listen only, it is **not** interactive.

Oregon OSHA is proposing changes to the methods used for scheduling safety and health inspections as described within Oregon Administrative Rule, Chapter 437, Division 1. Under these proposed changes, employers will be selected for inspection from identified lists of industries described under the North American Industry Classification System (NAICS). The changes will use a variety of data that more accurately reflects the risk of injury by industry. The changes are designed to make the best use of Oregon OSHA resources by conducting inspections where the likelihood of finding serious hazards that could cause serious injuries or illness is the greatest. The identified NAICS are considered high hazard industries for scheduling inspections.

After examining the current scheduling system and historical data on inspections it was determined that the system did not adequately focus our resources in industries considered to be the most hazardous. The current method of using workers compensation claims as the prime indicator of where inspections should be conducted is not a reliable indicator of where the risk of injury is the highest.

Primary changes are:

- Definitions are changed.
- Inspection priorities are changed.
- How the safety and health scheduling lists are going to be selected and run.
 - Scheduling Safety Inspections for Fixed Places of Employment.
 - Scheduling Health Inspections for Fixed Places of Employment.
- A list of potential exemptions.
- An evaluation paragraph is added.
- Two appendices are added showing the specific NAICS codes for industries in each tier:
 - Appendix A Safety Inspections for Fixed Places of Employment.
 - Appendix B Health Inspections for Fixed Places of Employment.

When does this happen: Adoption tentatively will be September 2009

To get a copy: Our web site – www.orosha.org Rules/Compliance, then Proposed Rules
Or call the OR-OSHA Resource Center at 503-947-7447

To comment: Department of Consumer and Business Services/Oregon OSHA
350 Winter Street NE
Salem OR 97301-3882
E-mail – tech.web@state.or.us
Fax – 503-947-7461

Comment period closes: August 21, 2009

OR-OSHA contacts Trena Van De Hey, phone 503-947-7459,
email trena.vandehy@state.or.us
Gary Beck, phone 541-686-7562, email gary.i.beck@state.or.us

Note: In compliance with the Americans with Disabilities Act (ADA), this publication is available in alternative formats by calling 503-378-3272.

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services/Oregon OSHA
Agency and Division

OAR 437
Administrative Rules Chapter Number

Sue Joye 350 Winter Street NE Salem OR 97301-3882
Rules Coordinator Address

503-947-7449
Telephone

RULE CAPTION

Proposed changes to Division 1, General Administrative Rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
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Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

AMEND: OAR 437-001-0015, 437-001-0055, 437-001-0057, 437-001-0420.

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

RULE SUMMARY

Oregon OSHA is proposing changes to the methods used for scheduling safety and health inspections as described within Oregon Administrative Rule, Chapter 437, Division 1. Under these proposed changes, employers will be selected for inspection from identified lists of industries described under the North American Industry Classification System (NAICS). The changes will use a variety of data that more accurately reflects the risk of injury by industry. The changes are designed to make the best use of Oregon OSHA resources by conducting inspections where the likelihood of finding serious hazards that could cause serious injuries or illness is the greatest. The identified NAICS are considered high hazard industries for scheduling inspections.

After examining the current scheduling system and historical data on inspections it was determined that the system did not adequately focus our resources in industries considered to be the most hazardous. The current method of using workers compensation claims as the prime indicator of where inspections should be conducted is not a reliable indicator of where the risk of injury is the highest.

Primary changes are:

- Definitions are changed.
- Inspection priorities are changed.
- How the safety and health scheduling lists are going to be selected and run.
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 - Scheduling Health Inspections for Fixed Places of Employment.
- A list of potential exemptions.
- An evaluation paragraph is added.
- Two appendices are added showing the specific NAICS codes for industries in each tier:
 - Appendix A Safety Inspections for Fixed Places of Employment.
 - Appendix B Health Inspections for Fixed Places of Employment.

Please visit our web site www.orosha.org Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final rules.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

/s/Michael D. Wood

Signature

August 21, 2009

Last Day for Public Comment

Last day to submit written comments to the Rules Coordinator

Michael D. Wood

Printed name

6/15/09

Date

*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday. ARC 920-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services/Oregon OSHA
Agency and Division

OAR 437
Administrative Rules Chapter Number

In the Matter of: Amending OAR 437-001-0015, 437-001-0055, 437-001-0057, 437-001-0420.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)
Proposed changes to Division 1, General Administrative Rules.

Statutory Authority: ORS 654.025(2) and 656.726(4)

Stats. Implemented: ORS 654.001 through 654.295

Need for the Rule(s):

After examining the current scheduling system and historical data on inspections it was determined that the system did not adequately focus our resources in industries considered to be the most hazardous. The current method of using workers compensation claims as the prime indicator of where inspections should be conducted is not a reliable indicator of where the risk of injury is the highest.

Documents Relied Upon, and where they are available:

OAR 437, Division 1, General Administrative Rules
2007 Oregon Legislative Regular Session, House Bill 2702, Plain Language
Oregon Safe Employment Act, Chapter 654 Occupational Safety and Health 2007 Edition
Workers' Compensation Division – Experience Rating Plan Manual – 2003 Edition
North American Industry Classification System (NAICS)
Oregon OSHA FIRM – January 2003
Data from: Department of Consumer and Business Services claim and employer files, the Bureau of Labor Statistics Occupational Injury and Illness Survey, the Bureau of Labor Statistics Census of Fatal Occupational Injuries, and the Oregon Employment Department.

Fiscal and Economic Impact, including Statement of Cost of Compliance:

There will be no economic impact to employers as a result of our changes to the scheduling system. Although different employers may be selected for inspection based on this revision, the total number of Oregon OSHA scheduled inspections is expected to remain the same. Therefore, the overall impact to employers will be unchanged.

How were small businesses involved in the development of this rule?

Oregon OSHA convened an advisory committee, specifically for this rulemaking effort, to reach across a broad spectrum of industries. The Fixed Site Scheduling Advisory Committee met numerous times beginning in July 2008 including one meeting with health experts to develop the criteria for high hazard industries for health inspections. They met on seven different occasions to discuss the Division 1 scheduling rules and suggested changes. Representatives included members of manufacturing businesses, the construction industry, city/county services, councils and associations that speak for businesses both large and small, and union leaders.

Administrative Rule Advisory Committee consulted? Yes.

If not, why?

The Fixed Site Scheduling Advisory Committee held seven meetings beginning July 7, 2008 and ending May 22, 2009.

/s/Michael D. Wood
Authorized Signer

Michael D. Wood
Printed name

6/15/09
Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.
ARC 925-2005