

Oregon OSHA – Proposed Changes Division 1, General Administrative Rules

August 2011

Text proposed to be removed is in [~~brackets with line through~~].

Text proposed to be added is in **bold and underlined**.

437-001-0057 Scheduling Inspections. The following rules are intended to predominantly focus enforcement activities on the places of employment that the director reasonably believes to be the most unsafe.

(1) The Division will schedule programmed inspections according to a priority system based on written neutral administrative standards.

(2) The Division will identify the most hazardous industries and places of employment through information obtained from the 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, the Oregon Employment Department, and knowledge of recognized safety and health hazards associated with certain processes. Health hazards include carcinogens, lead, silica, toxic metals and fumes, vapors or gases, toxic or highly corrosive liquids or chemicals, chemical sensitizers, pesticides, fungicides, solvents, harmful physical stress agents, and biological agents.

(3) Scheduling lists will be provided by the Division to its field offices, at least annually.

Note: An employer will be exempt from a programmed inspection of a fixed site from seven days prior to the scheduled date of an Oregon OSHA consultation to 60 days after receipt of the written consultation report.

An employer will be exempt from a programmed inspection of a construction, forest activities or Agriculture Labor Housing site from seven days prior to the scheduled date of an Oregon OSHA consultation to 30 days after receipt of the written consultation report.

(4) Scheduling Safety Inspections for Fixed Places of Employment.

(a) The scheduling lists are ~~[designed as]~~ **compiled, using** an electronic scheduling system, **for** ~~[used by]~~ safety enforcement managers to schedule inspections at fixed places of employment for each compliance officer. ~~[Places of employment will be listed by North American Industrial Classification System (NAICS) and randomly selected within each tier using the following percentages whenever a list is generated. The scheduling lists will be sorted by field office.]~~ **Written neutral administrative standards (the seven criteria listed below) are standardized using a statistical weighting method involving t-scores. These weighted scores are averaged across the seven criteria to create a composite score. This composite score is used to determine the position of each industry (using the 4-digit NAICS code) on the list from most to least hazardous.**

<u>Source type</u>	<u>Data source</u>	<u>Weighting factor</u>
<u>Oregon total case incidence rate</u>	<u>Bureau of Labor Statistics</u>	<u>1.5</u>
<u>Oregon DART rate</u>	<u>Bureau of Labor Statistics</u>	<u>1.5</u>
<u>Federal total case incidence rate</u>	<u>Bureau of Labor Statistics</u>	<u>0.5</u>
<u>Federal DART rate</u>	<u>Bureau of Labor Statistics</u>	<u>0.5</u>
<u>Federal fatal case rate</u>	<u>Census of Fatal occupational injuries</u>	<u>1</u>
<u>Oregon compensable fatality claims rate</u>	<u>Oregon Worker Compensation</u>	<u>1</u>
<u>Oregon accepted disabling claims rate</u>	<u>Oregon Worker Compensation</u>	<u>1</u>

Lists are ~~[generated using the following percentages: (]~~ **divided into 10 tiers. Places of employment are randomly selected for inspection within each tier using the following percentages whenever a list is generated.** The percentages will not be affected by the places of employment excluded ~~in~~ ~~[under]~~ (4)(b) ~~[below]~~ unless the number of exclusions makes it impossible to meet the target percentage. ~~[; in such a case,]~~ **When that occurs, all remaining eligible places of employment will be selected.])** **The scheduling lists will be sorted by field office.**

(A) 30 percent of places of employment under the NAICS identified as Tier A ~~[in Appendix A]~~.

(B) 25 percent of places of employment under the NAICS identified as Tier B ~~[in Appendix A]~~.

(C) 20 percent of places of employment under the NAICS identified as Tier C ~~[in Appendix A]~~.

(D) 15 percent of places of employment under the NAICS identified as Tier D [~~in Appendix A~~].

(E) 12.5 percent of places of employment under the NAICS identified as Tier E [~~in Appendix A~~].

(F) 10 percent of places of employment under the NAICS identified as Tier F [~~in Appendix A~~].

(G) 7.5 percent of places of employment under the NAICS identified as Tier G [~~in Appendix A~~].

(H) 5 percent of places of employment under the NAICS identified as Tier H [~~in Appendix A~~].

(I) 2.5 percent of places of employment under the NAICS identified as Tier I [~~in Appendix A~~].

(J) No more than 0.05 percent of places of employment under the NAICS not [~~listed in Appendix A~~] **otherwise identified in Tiers A through I.**

(b) Places of employment will be exempt from programmed inspections if any of the following conditions apply:

(A) A location has received a comprehensive safety inspection within the previous 36 months.

(B) A location has received Voluntary Protection Program (VPP) status.

(C) A location is in its second year, or later, of the Safety and Health Achievement Recognition Program (SHARP).

(D) A location has graduated from the Safety and Health Achievement Recognition Program (SHARP). Locations are exempt from inspection for 36 months after graduation.

(E) A location has received two consecutive comprehensive safety inspections with no serious, willful, or egregious violations, and with no inspections of any type resulting in serious, willful, or egregious violations since the date of the first of the two consecutive comprehensive inspections.

(F) A location has received certification as meeting the British Standards Institute's OHSAS 18001 standards (Occupational Health and Safety Management Systems). Evidence of certification must be provided before the start of an inspection.

(G) A location has a MOD rate of 0.50 and they provide evidence to that effect before the start of an inspection.

(c) The field office managers will provide each compliance officer a list of inspections that are assigned in descending order from tiers A through J. The compliance officer will make a reasonable effort to inspect each place of employment on that list prior to receiving another list; however, failure to inspect all places of employment on a list will not invalidate subsequent inspections. The compliance officer's list will generally be followed in descending order but may be inspected in any order to use the compliance officer's time efficiently.

(5) Scheduling Safety Inspections for Construction and Forest Activities.

(a) Construction and forest activities scheduling lists will be used by safety enforcement managers and compliance staff to focus enforcement efforts on employers with the most hazardous places of employment. Employers will be selected and placed on one of two lists based on the following criteria:

(A) Construction List – The following written neutral administrative standards will be used to select and rank employers on this list. Construction employers that have one or more accepted disabling claims in the first 12 of the previous 18 months and are ranked in the top 500 construction employers. The employers on this list will be ranked statewide using violation history, weighted claims rate, and weighted claims count as described in subsection (b) of this section. The 500 employers with the most points will be placed on a list.

(B) Forest Activities List – The following written neutral administrative standards will be used to select and rank employers on this list. Forest activities employers that have one or more accepted disabling claims in the first 12 of the previous 18 months and are ranked in the top 50 forest activities employers. The employers on this list will be ranked statewide using violation history, weighted claims rate, and weighted claims count as described in subsection (b) of this section. The 50 employers with the most points will be placed on a list.

(b) Ranking Factors: Construction and forest activities employers are ranked using violation history, weighted claims rate, and weighted claims count. The rankings from each factor are combined to produce a score for each employer, and the employers are ranked based on their score. The top 500 construction employers will be on one list and the top 50 forest activities employers will be on another list:

(A) Violation History: Employers with a violation history will be assigned points for each violation on citations that have become a final order within the previous 36 months. Willful violations are assigned five points, failure to abate violations four points, repeat violations three points, serious violations two points, and other-than-serious violations one point. Average points per citation will be determined with the employer having the most points receiving a ranking of one followed by the employer with the next highest points receiving a ranking of two, etc. Employers not inspected within 36 months are given a ranking of zero, that will put them at the top of this category.

(B) Weighted Claims Count: Selected claims from the first 12 of the previous 18 months are assigned points based on the seriousness of the claim. These points are totaled for each employer. Employers are ranked on the total points with the employer having the most points receiving a rank of one, followed by the second highest weighted claims count receiving a ranking of two, etc.

(C) Weighted Claims Rate: Employers are ranked in this category with the highest weighted claims rate receiving a ranking of one, followed by the second highest weighted claims rate receiving a ranking of two, etc. The weighted claims count described in (B) above is used to determine the claims rate.

NOTE: The selected claims and the points assigned to the selected claims will be identified by the agency in a program directive.

(c) The field office manager will provide selected compliance officers the construction and/or forest activities lists. The compliance officers will make a reasonable effort to locate and inspect those employers on the construction and forest activities lists, however failure to inspect all employers on a list will not invalidate subsequent inspections.

(6) Scheduling Health Inspections for Fixed Places of Employment.

(a) The scheduling lists are designed as an electronic scheduling system used by health enforcement managers to schedule inspections at fixed places of employment for each compliance officer. Places of employment will be listed by NAICS and randomly selected within each tier using the following percentages whenever a list is generated. The scheduling lists will be sorted by field office.

(A) 7.5 percent of places of employment under the NAICS identified as Tier A [~~in Appendix B~~].

(B) 2.5 percent of places of employment under the NAICS identified as Tier B [~~in Appendix B~~].

(C) Not more than 0.05 percent of places of employment under NAICS not identified in Tiers A and B [~~of Appendix B~~].

(b) Places of employment will be exempt from programmed inspections if any of the following conditions apply:

(A) A location has received a comprehensive health inspection within the previous 36 months.

(B) A location has received Voluntary Protection Program (VPP) status.

(C) A location is in its second year, or later, of the Safety and Health Achievement Recognition Program (SHARP).

(D) A location has graduated from the Safety and Health Achievement Recognition Program (SHARP). Locations are exempt from inspection for 36 months after graduation.

(E) A location has received two consecutive comprehensive health inspections with no serious, willful, or egregious violations, and with no inspections of any type resulting in serious, willful, or egregious violations since the date of the first of the two consecutive comprehensive inspections.

(F) A location has received certification as meeting the British Standards Institute's OHSAS 18001 standards (Occupation Health and Safety Management Systems). Evidence of certification must be provided before the start of an inspection.

(G) A location has a MOD rate of 0.50 and they provide evidence to that effect before the start of an inspection.

(c) The field office managers will provide each compliance officer a list of inspections that are assigned in descending order from the health scheduling lists. The compliance officer will make a reasonable effort to inspect each place of employment on that list prior to receiving another list; however, failure to inspect all places of employment on a list will not invalidate subsequent inspections. The compliance officer's list will generally be followed in descending order, but may be inspected in any order to use the compliance officer's time efficiently.

(7) Scheduling Health Inspections for Nonfixed Places of Employment – An inspection may be scheduled when information such as recognized health hazards known to be associated with certain processes are reasonably thought to exist at a place of employment.

(8) Random Inspections – The Division will conduct random inspections of places of employment that are scheduled and conducted under written neutral administrative standards. Program directives will be issued and changed when the director believes it necessary to preserve the random nature of the inspections.

(9) Emphasis Inspections – An inspection may be made if the place of employment is included in a national or local safety or health emphasis program. Emphasis programs are established by identifying the most hazardous industries and processes through information obtained from the Department of Consumer and Business Services claim files, the Bureau of Labor Statistics Occupational Injury and Illness Survey, the Oregon Employment Department, and knowledge of recognized hazards associated with certain processes. Program directives will be issued to establish and describe emphasis programs and the written neutral administrative standards that will be used to schedule the inspections.

(10) Farm Labor Housing Inspections – Farm labor housing is a national and local emphasis program. A list of all known farm labor housing locations will be sent to field offices annually. Locations may be selected and inspected in any order to make efficient use of available resources. Housing locations not on the list may also be inspected. Farm labor housing is not an agricultural operation; therefore, the agriculture exemption for employers of 10 or fewer permanent, year-round employees does not apply to farm labor housing inspections.

(11) The Division will annually make reasonable efforts to notify, in writing, each employer whose place of employment is rated as one of the most unsafe places of employment, ~~and~~ that there is increased likelihood of inspection of the employer's place of employment and consultative services are available.

~~[(a) Notification will be done on an annual basis and sent by regular mail to the last known address on record with the Division.]~~

~~[(b) Failure to provide notification to an employer under this section will not invalidate a subsequent inspection.]~~

(12) Agricultural employers with 10 or fewer permanent, year-round employees, both full-time and part-time, will be subject to scheduled inspections only if any of the following has occurred:

(a) A valid complaint has been filed according to ORS 654.062, or

(b) Within the preceding two-year period, an accident at the employer's agricultural place of employment resulted in death or a serious disabling injury from a violation of the Oregon Safe Employment Act or rules adopted under the [A]act, or

(c) The employer and principal supervisors of the agricultural establishment have not annually completed at least four hours of instruction on agricultural safety or health rules and procedures. This instruction must be documented.

(A) Instruction includes any instruction conducted or accepted by Oregon OSHA or instruction related to agricultural safety and health that is offered or approved by any public or private college, university, or governmental agency. The employer must maintain documentation of the instruction. The documentation must include the date, provider, subject, and duration of the instruction, and the signature of the person completing the instruction.

NOTE: Certified Applicator Training Core A and B offered by the Oregon Department of Agriculture will satisfy a portion of the required training. One hour credit will be allowed annually for this training.

(B) For purposes of these sections, the time period begins to run when the instruction is received, or

(d) Within the preceding four-year period, the agricultural establishment has not had a comprehensive consultation by an individual acting in a public or private consultant capacity. For purposes of this section, the time period begins to run when the consultation is received, or

(e) If the consultation was done and the agricultural employer has failed to correct violations noted in the consultation report within 90 days after receiving the report.

NOTE: For purposes of determining the number of employees, members of the agricultural employer's immediate family are excluded. This includes grandparents, parents, children, step-children, foster children, and any blood relative living as a dependent of the core family.

(13) Evaluation of Enforcement Scheduling:

(a) Each year Oregon OSHA will complete a summary evaluation of enforcement scheduling, including (but not limited to) the number of scheduled inspections and the basis for those inspections, the number of attempted scheduled inspections that could not be completed, and the results of those inspections.

(b) At least every three years beginning by July 1, 2012, Oregon OSHA will assess the enforcement scheduling system and other available data to ensure that the scheduling system continues to accomplish its statutory purpose of predominantly focusing Oregon OSHA enforcement resources on those places of employment reasonably believed to be the most unsafe.

NOTE: See [Safety by NAICS](#), [Safety by Tier/Rank](#), [Health by NAICS](#), to review safety and health scheduling lists of employers identified by NAICS codes and their placement in appropriate tiers.

Stat. Auth.: ORS 654.025(2) and 656.726(4).
Stats. Implemented: ORS 654.001 through 654.326, 654.412 through .423, 654.991.
Hist: WCD Admin. Order, Safety 5-1978, f. 6-22-78, ef. 8-15-78.
WCD Admin. Order, Safety 4-1981, f. 5-22-81, ef. 7-1-81.
WCD Admin. Order, Safety 6-1982, f. 6-28-82, ef. 8-1-82.
APD Admin. Order 6-1987, f. 12-23-87, ef. 1-1-88.
APD Admin. Order 7-1988, f. 6-17-88, ef. 7-1-74.
OR-OSHA Admin. Order 7-1992, f. 7/31/92, ef. 10/1/92.
OR-OSHA Admin. Order 11-1999, f. 10/20/99, ef. 10/20/99 (temp).
OR-OSHA Admin. Order 4-2000, f. 4/14/00, ef. 4/15/00.
OR-OSHA Admin. Order 7-2006, f. 9/6/06, ef. 9/6/06.
OR-OSHA Admin. Order 10-2009, f. 10/5/09, ef. 10/5/09.
OR-OSHA Admin. Order X-2011, f. X/XX/11, ef. X/XX/11.

APPENDIX A to 437-001-0057
Safety Inspections for Fixed Places of Employment

NAICS Code	NAICS description	Tier	%
1111	Oilseed and grain farming	†	2.50%
1112	Vegetable and melon farming	†	2.50%
1113	Fruit and tree-nut farming	†	2.50%
1114	Greenhouse and nursery	†	2.50%
1119	Other crop farming	†	2.50%
1121	Cattle ranching and farming	G	7.50%
1123	Poultry and egg production	H	5%
1124	Sheep and goat farming	G	7.50%
1125	Animal aquaculture	†	2.50%
1129	Other animal production	F	10%
1131	Timber tract operations	†	2.50%
1132	Forest nurseries	F	10%
1141	Fishing	†	2.50%
1151	Support for crop production	F	10%
1152	Support for animal production	F	10%
2111	Oil and gas extraction	†	2.50%
2123	Nonmetallic mineral mining	†	2.50%
2131	Support activities for mining	†	2.50%
2211	Electric power utilities	G	7.50%
2212	Natural gas distribution	†	2.50%
2213	Water, sewage, and other systems	†	2.50%
3111	Animal food manufacturing	F	10%
3112	Grain and oilseed milling	G	7.50%
3113	Sugar and confections manufacturing	G	7.50%
3114	Fruit and vegetable preserving	G	7.50%
3115	Dairy product manufacturing	G	7.50%
3116	Animal slaughtering and processing	C	20%
3117	Seafood preparation and packaging	F	10%
3118	Bakeries and tortilla manufacturing	G	7.50%
3119	Other food manufacturing	F	10%
3121	Beverage manufacturing	†	2.50%
3131	Fiber, yarn and thread mills	†	2.50%
3132	Fabric mills	†	2.50%
3133	Textile and fabric finishing	†	2.50%
3141	Textile furnishings mills	†	2.50%
3149	Other textile product mills	†	2.50%
3159	Apparel accessories	†	2.50%
3161	Leather and hide tanning and finishing	†	2.50%
3162	Footwear manufacturing	†	2.50%
3169	Other leather and allied products	†	2.50%
3211	Sawmills and wood preservation	G	7.50%
3212	Veneer, plywood manufacturing	†	2.50%
3219	Other wood product manufacturing	A	30%
3222	Converted paper product manufacturing	†	2.50%

NAICS Code	NAICS description	Tier	%
3241	Petroleum and coal products man.	I	2.50%
3255	Paint, coating and adhesive man.	I	2.50%
3261	Plastics product manufacturing	H	5%
3262	Rubber product manufacturing	G	7.50%
3271	Clay product and refractory manufacturing	G	7.50%
3272	Glass and glass product manufacturing	G	7.50%
3273	Cement and concrete product man.	E	12.50%
3274	Lime and gypsum product manufacturing	I	2.50%
3279	Other Nonmetallic mineral manufacturing	G	7.50%
3311	Iron and steel mills and ferroalloy	H	5%
3312	Steel product manufacturing	E	12.50%
3313	Aluminum production and processing	F	10%
3314	Nonferrous metal production	F	10%
3315	Foundries	A	30%
3321	Forging and stamping	F	10%
3322	Cutlery and hand tool manufacturing	G	7.50%
3323	Architectural and structural metals	F	10%
3324	Boiler, tank and container manufacturing	F	10%
3325	Hardware manufacturing	I	2.50%
3326	Spring and wire product manufacturing	G	7.50%
3327	Machine shops, turned product man.	I	2.50%
3328	Coating, engraving, heat treating	F	10%
3329	Other fabricated metal product man.	G	7.50%
3331	Ag, construct and mining machinery	I	2.50%
3333	Commercial and service machinery man.	I	2.50%
3334	Ventilation, heating, AC manufacturing	I	2.50%
3335	Metalworking machinery manufacturing	I	2.50%
3336	Engine, turbine, and power equip. man.	I	2.50%
3339	Other general purpose machinery man.	I	2.50%
3361	Motor vehicle manufacturing	F	10%
3362	Motor vehicle body and trailer man.	C	20%
3363	Motor vehicle parts manufacturing	F	10%
3364	Aerospace products and parts man.	G	7.50%
3365	Railroad rolling stock manufacturing	G	7.50%
3366	Ship and boat building	F	10%
3369	Other transportation manufacturing	G	7.50%
3371	Furniture and kitchen cabinet man.	I	2.50%
3372	Office furniture manufacturing	I	2.50%
3379	Other furniture related products	I	2.50%
4231	Motor vehicle wholesalers	H	5%
4232	Home furnishings wholesalers	I	2.50%
4233	Construction materials wholesalers	H	5%
4234	Commercial equipment wholesalers	I	2.50%
4235	Metal and mineral wholesalers	G	7.50%
4236	Electronic goods wholesalers	I	2.50%
4237	Hardware supplies wholesalers	I	2.50%
4238	Machinery supplies wholesalers	I	2.50%

NAICS Code	NAICS description	Tier	%
4239	Misc. durable goods wholesalers	H	5%
4241	Paper product wholesalers	†	2.50%
4244	Grocery wholesalers	G	7.50%
4245	Farm product wholesalers	†	2.50%
4246	Chemical product wholesalers	†	2.50%
4247	Petroleum product wholesalers	†	2.50%
4248	Alcoholic beverage wholesalers	†	2.50%
4249	Misc. nondurable goods wholesalers	†	2.50%
4411	Automobile dealers	†	2.50%
4412	Other motor vehicle dealers	†	2.50%
4413	Automotive parts and tires stores	H	5%
4421	Furniture stores	†	2.50%
4441	Bldg material and supplies dealers	G	7.50%
4442	Lawn and garden stores	†	2.50%
4451	Grocery stores	†	2.50%
4452	Specialty food stores	†	2.50%
4453	Beer, wine and liquor stores	†	2.50%
4521	Department stores	H	5%
4529	Other general merchandise stores	†	2.50%
4531	Florists	†	2.50%
4533	Used merchandise stores	†	2.50%
4539	Other misc. store retailers	†	2.50%
4541	Electronic shopping and mail order	†	2.50%
4542	Vending machine operators	F	10%
4543	Direct-selling establishments	E	12.50%
4811	Scheduled air transportation	D	15%
4812	Nonscheduled air transportation	F	10%
4821	Rail transportation	†	2.50%
4832	Inland water transportation	†	2.50%
4841	General freight trucking	B	25%
4842	Specialized freight trucking	D	15%
4851	Urban transit systems	A	30%
4852	Interurban and rural bus transit	D	15%
4853	Taxi and limousine service	G	7.50%
4854	School and employee bus transit	F	10%
4855	Charter bus industry	F	10%
4859	Other ground passenger transportation	F	10%
4869	Other pipeline transportation	†	2.50%
4871	Scenic transportation, land	H	5%
4872	Scenic transportation, water	†	2.50%
4879	Scenic transportation, other	†	2.50%
4881	Support for air transportation	†	2.50%
4882	Support for rail transportation	†	2.50%
4883	Support for water transportation	†	2.50%
4884	Support for road transportation	†	2.50%
4889	Other support for transportation	†	2.50%
4921	Couriers	F	10%

NAICS Code	NAICS description	Tier	%
4922	Local messengers and delivery	G	7.50%
4931	Warehousing and storage	F	10%
5611	Office administrative services	†	2.50%
5612	Facilities support services	†	2.50%
5613	Employment services	†	2.50%
5616	Investigation and security services	†	2.50%
5617	Services to buildings and dwellings	†	2.50%
5619	Other support services	†	2.50%
5621	Waste collection	H	5%
5622	Waste treatment and disposal	H	5%
5629	Remediation and other waste services	†	2.50%
6221	General medical and surgical hospitals	†	2.50%
6222	Psychiatric and subs. abuse hospitals	H	5%
6223	Other specialty hospitals	†	2.50%
6231	Nursing care facilities	F	10%
6232	Substance abuse, mental health facilities	G	7.50%
6233	Facilities for the elderly	G	7.50%
6239	Other residential facilities	G	7.50%
6243	Vocational rehabilitation services	†	2.50%
7111	Performing arts companies	†	2.50%
7112	Spectator sports	H	5%
7113	Promoters of events	†	2.50%
7114	Agents and managers	†	2.50%
7115	Artists, writers and performers	†	2.50%
7121	Museums and historical sites	†	2.50%
7131	Amusement parks and arcades	H	5%
7132	Gambling industries	†	2.50%
7139	Other amusement and recreation	†	2.50%
7211	Traveler accommodation	†	2.50%
7212	RV parks and recreational camps	†	2.50%
9211	General government support	†	2.50%
9221	Justice, public order, and safety	†	2.50%
9241	Environmental quality programs	†	2.50%
9251	Urban planning, and community dev.	†	2.50%
9261	Economic programs	†	2.50%
9281	National security and international affairs	†	2.50%

Note: Refer to Appendix 1 of the Explanation of Rulemaking for a description of the factors used to select industries for ranking.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.326, 654.412 through 423, 654.991.

Hist: OR-OSHA Admin. Order 10-2009, f. 10/5/09, ef. 10/5/09.

APPENDIX B to 437-001-0057
Health Inspections for Fixed Places of Employment

NAICS Code	NAICS description	Tier	%
2131	Support Activities for Mining	A	7.5
2211	Electric Power Generation, Transmission and Distribution (Utilities including Electric, Hydroelectric, Fossil, Nuclear and Other)	B	2.5
2212	Natural Gas Distribution	B	2.5
2213	Water, Sewage and Other Systems	A	7.5
3211	Sawmills and Wood Preservation	A	7.5
3212	Veneer, Plywood and Engineered Wood Product Manufacturing	A	7.5
3219	Other Wood Product Manufacturing	A	7.5
3221	Pulp, Paper, and Paperboard Mills	A	7.5
3222	Converted Paper Product Manufacturing	A	7.5
3251	Basic Chemical Manufacturing	A	7.5
3252	Resin, Synthetic Rubber, and Artificial Synthetic Fibers and Filaments Manufacturing	A	7.5
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	A	7.5
3254	Pharmaceutical and Medicine Manufacturing	A	7.5
3255	Paint, Coating and Adhesive Manufacturing	A	7.5
3259	Other Chemical product and Preparation Manufacturing	A	7.5
3261	Plastics Product Manufacturing	A	7.5
3262	Rubber Product Manufacturing	A	7.5
3311	Iron and Steel Mills and Ferroalloy Manufacturing	A	7.5
3312	Steel Product Manufacturing from Purchased Steel	A	7.5
3313	Alumina and Aluminum Production and Processing	A	7.5
3314	Nonferrous Metal (except Aluminum) Production and Processing	A	7.5
3315	Foundries	A	7.5
3321	Forging and Stamping	A	7.5
3322	Cutlery and Hand tool Manufacturing	A	7.5
3323	Architectural and Structural Metals Manufacturing	A	7.5
3324	Boiler, Tank and Shipping container Manufacturing	A	7.5
3325	Hardware Manufacturing	A	7.5
3326	Spring and Wire Product Manufacturing	A	7.5
3327	Machine Shops; Turned Product; and Screw, Nut and Bolt Manufacturing	A	7.5
3328	Coating, engraving, Heat Treating and Allied Activities	A	7.5
3329	Other Fabricated Metal Product Manufacturing	A	7.5
3331	Agriculture, Construction, and Mining Machinery Manufacturing	A	7.5
3332	Industrial Machinery Manufacturing	A	7.5
3333	Commercial and Service Industry Machinery Manufacturing	A	7.5
3334	Ventilation, Heating, Air Conditioning, and Commercial Refrigeration Equipment Manufacturing	A	7.5
3335	Metalworking Machinery Manufacturing	A	7.5
3336	Engine, Turbine and Power Transmission Equipment Manufacturing	A	7.5
3339	Other General Purpose Machinery Manufacturing	A	7.5
3341	Computer and Peripheral Equipment Manufacturing	A	7.5
3342	Communications Equipment Manufacturing	A	7.5
3343	Audio and Video Equipment Manufacturing	A	7.5
3344	Semiconductor and other Electronic Component Manufacturing	A	7.5
3345	Navigational, Measuring, Electromedical and Control Instruments	A	7.5

NAICS Code	NAICS description	Tier	%
	Manufacturing		
3351	Electric Lighting Equipment Manufacturing	A	7.5
3352	Household Appliance Manufacturing	A	7.5
3353	Electrical Equipment Manufacturing	A	7.5
3359	Other Electrical Equipment and Component Manufacturing	A	7.5
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing	A	7.5
3372	Office Furniture (including Fixtures) Manufacturing	A	7.5
3399	Other Miscellaneous Manufacturing	A	7.5
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers	B	2.5
5617	Services to Buildings and Dwellings	B	2.5
5621	Waste Collection	A	7.5
5622	Waste Treatment and Disposal	A	7.5
5629	Remediation and Other waste Management Services	A	7.5
6211	Offices of Physicians	B	2.5
6212	Office of Dentists	B	2.5
6215	Medical and Diagnostic Laboratories	A	7.5
6219	Other Ambulatory Health Care Services	A	7.5
6221	General Medical and Surgical Hospitals	A	7.5
6222	Psychiatric and Substance Abuse Hospitals	A	7.5
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals	A	7.5
6231	Nursing and Care Facilities	A	7.5
6232	Residential Mental Retardation, Mental Health and Substance Abuse Facilities	B	2.5
6233	Community care Facilities for the Elderly	B	2.5
6239	Other Residential Care Facilities	B	2.5
8111	Automotive Repair and Maintenance	A	7.5
423930	Recyclable Material Merchant Wholesalers	A	7.5
424950	Paint, Varnish, and Supplies Merchant Wholesalers	A	7.5
621420	Outpatient Mental Health and Substance Abuse Centers	B	2.5
621491	HMO Medical Centers	A	7.5
621492	Kidney Dialysis Centers	A	7.5
621493	Freestanding Ambulatory Surgical and Emergency Centers	A	7.5
621498	All Other Outpatient Care Centers	B	2.5
922120	Police Protection	B	2.5
922140	Correctional Institutions	A	7.5
922160	Fire Protection	A	7.5

Note: Refer to Appendix 1 of the Explanation of Rulemaking for a description of the factors used to select industries for ranking.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.326, 654.412 through .423, 654.991.

Hist: OR-OSHA Admin. Order 10-2009, f. 10/5/09, ef. 10/5/09.

437-001-0706 Recordkeeping for Health Care Assaults.

NOTE: For further information, instructions, and resources, visit Oregon OSHA's healthcare work- place violence assault log web page at:

www.cbs.state.or.us/osha/subjects/health_care_assault_log.html.

(1) Purpose. This rule implements the amendments to the Oregon State Employment Act, ORS 654.412 through 654.423, providing specific provisions for the recordkeeping and reporting requirements of health care assaults, and additional recordkeeping requirements as authorized under ORS 654.025(2) and ORS 656.726(4)(a).

NOTE: For the ease of the reader, ORS 654.412 through 654.423 is reprinted as Appendix B to OAR 437-001-0706.

(2) Scope and Definitions. This rule applies to health care employers and home health care services provided by health care employers. Health care employers only include hospitals and ambulatory surgical centers, which are defined in ORS 442.015:

- "Hospital" means a facility with an organized medical staff, with permanent facilities that include inpatient beds and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for but not limited to acutely ill patients and accident victims, to provide treatment for the mentally ill or to provide treatment in special inpatient care facilities.
- "Ambulatory surgical center" means a facility that performs outpatient surgery not routinely or customarily performed in a physician's or dentist's office, and is able to meet health facility licensure requirements.

(3) Health care assault recordkeeping [~~and reporting~~]. In addition to existing general recordkeeping requirements in OAR 437-001-0700, Recordkeeping and Reporting, health care employers must use the Health Care Assault Log, or equivalent, to record assaults.

~~[(a)] See ORS 654.412 through 654.423 for details required to be recorded. Appendix A of 437-001-0706 provides instructions for completing the form.~~

~~[(b) The Health Care Assault Log for 2008 (January 1, 2008—December 31, 2008) must be transmitted to Oregon OSHA by January 31, 2009.~~

~~Electronic reporting: oshahealth@state.or.us This is the preferred method.~~

~~Paper reporting: Oregon OSHA, Attention Health Care Assault reporting, PO Box 14480, Salem, OR 97309-0405. If email and/or electronic reporting are not available at your location, send the completed log to this address.~~

~~(c) The Hospital Administrator, or highest-level officer of the facility, must sign the first page of the Health Care Assault Log, certifying all information contained is true, accurate, and complete. This sheet, with signature, must be sent to Oregon OSHA either in hard-copy, or as a scanned electronic document.]~~

~~[(c)]~~ **NOTE:** If the incident results in an overnight hospitalization, a catastrophe, [serious injury] or fatality, it must be immediately reported to Oregon OSHA, ~~[, and r]~~ Record [ed on] **recordable injuries, illnesses, fatalities on** the OSHA 300 Log. See OAR 437-001-0700.

(4) Other recordkeeping information. The following sections of OAR 437-001-0700 apply to health care assault recordkeeping and reporting:

- Section (6) Work-relatedness
- Section (14)(b) Forms
- Section (15) Multiple Business Establishments
- Section (16) Covered Employees
- Section (19) Change of Business Ownership

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.412 through 654.423.

Hist: OR-OSHA Admin. Order 11-2007, f. 12/21/07, ef. 1/1/08.

OR-OSHA Admin. Order 8-2008, f. 7/14/08, ef. 7/14/08.

OR-OSHA Admin. Order X-2011, f. X/XX/11, ef. X/XX/11.

Appendix A to OAR 437-001-0706 Instructions for Recording Health Care Assaults

(A)	<i>Case number</i> This is a unique sequential number that identifies this case.
(B)	<i>Location (include address)</i> If all incidents occur at the same physical site, then this information can be entered once. If, as the case with distributed reporting, there are multiple sites (such as home care sites) reporting on a common Log, then enter identifying information for the side where this incident occurred, including street address. [Note: if location is a home address, record this information, but when the Log is transmitted to DCBS, remove this field or redact the address to protect patient privacy rights.]
(C)	<i>H/S/M (H - hospital, S - surgical center, M - home setting)</i> Enter the code indicating the type of facility.
(D)	<i>Date of incident</i>
(E)	<i>Time of incident</i>
(F)	<i>Specific location where incident occurred</i> Enter a code that most closely matches the type of location where the incident occurred, from the following list: AD - admitting/triage CO - corridor/hallway/stairwell/elevator BA – bathroom EN - entrance/exit/restricted entry LO - lobby/waiting room NU - nurse's station/pod area PA - patient room TR - treatment room CS - common space (cafeteria, recreation room, etc.) O - other (enter text to describe this location)
(G)	<i>Floor number where incident occurred</i>
(H)	<i>Name of employee assaulted</i> Enter the name of the employee assaulted. [When this information is transmitted to DCBS, remove this field or redact the name.]
(I)	<i>Job title of this employee</i> Enter the job title of the employee assaulted; please select a code from the following list: N - RN (registered nurse), LPN (licensed practical nurse) HA - CNA (certified nursing assistant), nurse's aide, health aide, orderly PH - physician, physician's assistant, nurse practitioner PT – pharmacist TE - technician, technologist R – receptionist ES - housekeeping, maintenance S – security SW - social worker HH - home health aide TT - physical therapist, occupational therapist, speech therapist O - other (enter job description)

(J)	<p><i>Department or unit assignment</i> Enter the home department or ward assignment for the employee: IN – intake ER – emergency LA – laboratory OB - obstetrics/gynecology ON – oncology PD – pediatrics PH – pharmacy PC - primary care/medical clinic BH - behavioral health/psych units in acute care RA - radiology/diagnostic imaging RE - rehabilitation medicine SU - surgery/operating room RC – recovery IC - intensive care/critical care MS - medical/surgical unit NE – neurology CA - cardiac care FL - float staff (additional designation, employee is working in an alternate location) O – other Note: If an employee is float staff (sometimes called "float pool" or "float/per diem") record the additional code FL, as well as the department/unit assignment.</p>
(K)	<p><i>Status of assailant (P - patient/general, BH - behavioral health patient, V - visitor, E - employee, O - other)</i> Enter the code corresponding to the status of the assailant (person assaulting the employee). BH would apply to patients diagnosed as behavioral health, whether currently in a behavioral health unit or acute care unit.</p>
(L)	<p><i>Assailment action</i> Enter the code corresponding to the action taken by the assailant (multiple selections ok). B – biting GR - grabbing, pinching, scratching HK - hitting, kicking, beating PS - pushing, shoving TR - throwing objects ST – stabbing SH – shooting SR - sexual assault, rape O - other (enter text to describe)</p>

(M)	<p><i>Possible cause</i> Enter the code that most closely corresponds to the reason for the attack. BH - behavioral health AN - anesthesia recovery M - medication issue Include drugs and alcohol WD - withdrawal symptoms SN - systemic/neurological disorders Underlying physical conditions that can result in erratic behavior, including diabetes, head trauma, epilepsy, dementia, and other. EM - emotional issue Angry, distraught, other strong emotions H - history of violent behavior O - other (enter text to describe) Note: even if more than one may apply, please determine the cause that most directly contributed to this incident. Other causes can be noted in the Comments field.</p>
(N)	<p><i>Result of Assaultive Behavior</i> Place a checkmark in the column that reflects the injury resulting from the assault - enter one check reflecting the most serious injury for this incident. (1) Mild soreness, surface abrasions, scratches, or small bruises (2) Major soreness, cuts, or large bruises (3) Severe laceration, bone fracture, or head injury (4) Loss of limb or death [Note: for serious injuries, be sure to enter the incident on the OSHA 300 Log, and contact Oregon OSHA if the injury resulted in death or an overnight hospitalization.]</p>
(O)	<p><i>Weapon</i> Enter a code reflecting the type of weapon used, if any. G – gun K – knife B - bar, rod, club, stick DW - door, window, floor, wall F – furniture MI - medical instrument or equipment FO - food, utensils, meal tray AB - assailant's body (assaulted by assailant's hands, feet, other body parts) BF - bodily fluids O - other (enter type of weapon used)</p>
(P)	<p><i>Number of employees present (in addition to victim)</i> Enter the number of other employees that witnessed the incident (enter 0 if no one else was present).</p>

(Q)	<p><i>Response</i></p> <p>Enter the code that most closely reflects the response taken by the employee and others when the incident occurred (multiple selections ok).</p> <p>SR - seclusion or physical restraint PRN - medication administered as necessary SM - self-defense moves D - de-escalate by talking down B - call for backup Calls may be verbal or electronic (phone, pager, or other). LE - reported to law enforcement E - exit the scene O - other (describe the response if none of the codes reflect the action taken)</p> <p>Note immediate response, even if subsequent action (e.g., procedural or policy changes by the facility) led to additional interventions.</p>
(R)	<p><i>Comments</i></p> <p>Enter any additional information that will help describe this incident or the actions taken.</p>

Stat. Auth.: ORS 654.025(2) and 656.726(4).
Stats. Implemented: ORS 654.001 through 654.295.
Hist: OR-OSHA Admin. Order 11-2007, f. 12/21/07, ef. 1/1/08.
OR-OSHA Admin. Order X-2011, f. X/XX/11, ef. X/XX/11.

Appendix B to 437-001-0706

SAFETY OF HEALTH CARE EMPLOYEES

654.412 Definitions for ORS 654.412 to 654.423. As used in ORS 654.412 to 654.423:

(1) "Assault" means intentionally, knowingly or recklessly causing physical injury.

(2) "Health care employer" means:

(a) An ambulatory surgical center as defined in ORS 442.015.

(b) A hospital as defined in ORS 442.015.

(3) "Home health care services" means items or services furnished to a patient by an employee of a health care employer in a place of temporary or permanent residence used as the patient's home. [2007 c.397 §2]

654.414 Duties of health care employer; security and safety assessment; assault prevention program; requirements. (1) A health care employer shall:

(a) Conduct periodic security and safety assessments to identify existing or potential hazards for assaults committed against employees;

(b) Develop and implement an assault prevention and protection program for employees based on assessments conducted under paragraph (a) of this subsection; and

(c) Provide assault prevention and protection training on a regular and ongoing basis for employees.

(2) An assessment conducted under subsection (1)(a) of this section shall include, but need not be limited to:

(a) A measure of the frequency of assaults committed against employees that occur on the premises of a health care employer or in the home of a patient receiving home health care services during the preceding five years or for the years that records are available if fewer than five years of records are available; and

(b) An identification of the causes and consequences of assaults against employees.

(3) An assault prevention and protection program developed and implemented by a health care employer under subsection (1)(b) of this section shall be based on an assessment conducted under subsection (1)(a) of this section and shall address security considerations related to the following:

(a) Physical attributes of the health care setting;

(b) Staffing plans, including security staffing;

(c) Personnel policies;

(d) First aid and emergency procedures;

(e) Procedures for reporting assaults; and

(f) Education and training for employees.

(4)(a) Assault prevention and protection training required under subsection (1)(c) of this section shall address the following topics:

(A) General safety and personal safety procedures;

(B) Escalation cycles for assaultive behaviors;

(C) Factors that predict assaultive behaviors;

(D) Techniques for obtaining medical history from a patient with assaultive behavior;

(E) Verbal and physical techniques to de-escalate and minimize assaultive behaviors;

(F) Strategies for avoiding physical harm and minimizing use of restraints;

(G) Restraint techniques consistent with regulatory requirements;

(H) Self-defense, including:

(i) The amount of physical force that is reasonably necessary to protect the employee or a third person from assault; and

(ii) The use of least restrictive procedures necessary under the circumstances, in accordance with an approved behavior management plan, and any other methods of response approved by the health care employer;

(I) Procedures for documenting and reporting incidents involving assaultive behaviors;

(J) Programs for post-incident counseling and follow-up;

(K) Resources available to employees for coping with assaults; and

(L) The health care employer's workplace assault prevention and protection program.

(b) A health care employer shall provide assault prevention and protection training to a new employee within 90 days of the employee's initial hiring date.

(c) A health care employer may use classes, video recordings, brochures, verbal or written training or other training that the employer determines to be appropriate, based on an employee's job duties, under the assault prevention and protection program developed by the employer. [2007 c.397 §3]

654.415 [Repealed by 1973 c.833 §48]

654.416 Required records of assaults against employees; contents; rules. (1) A health care employer shall maintain a record of assaults committed against employees that occur on the premises of the health care employer or in the home of a patient receiving home health care services. The record shall include, but need not be limited to, the following:

(a) The name and address of the premises on which each assault occurred;

(b) The date, time and specific location where the assault occurred;

(c) The name, job title and department or ward assignment of the employee who was assaulted;

(d) A description of the person who committed the assault as a patient, visitor, employee or other category;

(e) A description of the assaultive behavior as:

(A) An assault with mild soreness, surface abrasions, scratches or small bruises;

(B) An assault with major soreness, cuts or large bruises;

- (C) An assault with severe lacerations, a bone fracture or a head injury; or
 - (D) An assault with loss of limb or death;
 - (f) An identification of the physical injury;
 - (g) A description of any weapon used;
 - (h) The number of employees in the immediate area of the assault when it occurred; and
 - (i) A description of actions taken by the employees and the health care employer in response to the assault.
- (2) A health care employer shall maintain the record of assaults described in subsection (1) of this section for no fewer than five years following a reported assault.
- (3) The Director of the Department of Consumer and Business Services shall adopt by rule a common recording form for the purposes of this section. [2007 c.397 §4]

654.418 Protection of employee of health care employer after assault by patient. If a health care employer directs an employee who has been assaulted by a patient on the premises of the health care employer to provide further treatment to the patient, the employee may request that a second employee accompany the employee when treating the patient. If the health care employer declines the employee's request, the health care employer may not require the employee to treat the patient. [2007 c.397 §5]

654.420 [Repealed by 1973 c.833 §48]

654.421 Refusal to treat certain patients by home health care employee. (1) An employee who provides home health care services may refuse to treat a patient unless accompanied by a second employee if, based on the patient's past behavior or physical or mental condition, the employee believes that the patient may assault the employee.

(2) An employee who provides home health care services may refuse to treat a patient unless the employee is equipped with a communication device that allows the employee to transmit one-way or two-way messages indicating that the employee is being assaulted. [2007 c.397 §6]

654.423 Use of physical force by home health care employee in self-defense against assault. (1) A health care employer may not impose sanctions against an employee who used physical force in self-defense against an assault if the health care employer finds that the employee:

- (a) Was acting in self-defense in response to the use or imminent use of physical force;
- (b) Used an amount of physical force that was reasonably necessary to protect the employee or a third person from assault; and
- (c) Used the least restrictive procedures necessary under the circumstances, in accordance with an approved behavior management plan, or other methods of response approved by the health care employer.

(2) As used in this section, "self-defense" means the use of physical force upon another person in self-defense or to defend a third person. [2007 c.397 §7]