

**Oregon Occupational Safety and Health Division**  
**Department of Consumer and Business Services**

**OREGON State Plan**

**September 2003**  
**(updates through December 15, 2011)**



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*(updates through December 15, 2011)*

## PREFACE

The Occupational Safety and Health Act (Williams-Steiger Act) was signed into law by President Richard Nixon on December 29, 1970. This law charged the U.S. Department of Labor, through its Occupational Safety and Health Administration (OSHA), with the responsibility of establishing a program assuring “so far as possible every working man and woman in the nation, safe and healthful working conditions, and preserving our human resources.”

Congress included in the OSHAct of 1970 a provision, Section 18(b), under which “any state at any time, that desires to assume the responsibility for development and enforcement of a state occupational safety and health program, may elect to do so.”

On December 28, 1972, a notice was published in the Federal Register (37 FR 28628) approving the Oregon developmental plan, and adopting Subpart D of Part 1952 containing the decision, a description of the plan, and the developmental schedule.

In 1973, the Oregon Legislature passed into law Senate Bill 44, effective July 1, 1973, established the Oregon Safe Employment Act (OSEAct) under ORS 654. During the 3-year period ending December 28, 1975, following commencement of state operations, the designee submitted documentation attesting to the completion of each state developmental commitment for review and approval as provided in 29 CFR Part 1953. The Assistant Secretary of the Occupational Safety and Health Administration, Thorne Auchter, certified completion of developmental steps for the Oregon State Plan on September 24, 1982 (47 FR 42105).

## **INTRODUCTION**

### **A. PURPOSE**

The purpose of this plan is to implement the provisions and intent of the Williams-Steiger Occupational Safety and Health Act of 1970, Public Law 91-596, 91<sup>st</sup> Congress, under Section 18 of the Act, which provides that any state may assume responsibility for the development and enforcement of occupational safety and health standards related to issues covered by corresponding standards promulgated under Section 6 of the Act.

### **B. DEFINITIONS**

“Administrator” – the Administrator of the Oregon Occupational Safety and Health Division.

“Assistant Secretary” – the Assistant Secretary of the Occupational Safety and Health Administration, United States Department of Labor.

“Department” – the Oregon Department of Consumer and Business Services.

“DCBS” – the Oregon Department of Consumer and Business Services.

“Director” – the Director of the Oregon Department of Consumer and Business Services.

“Issue” – an occupational standard, code, regulation, rule or statute for an industrial, occupational or hazard grouping.

“OR-OSHA” – the Oregon Occupational Safety and Health Division.

“OSEAct” – the Oregon Safe Employment Act (ORS 654).

“OSHA” – the federal Occupational Safety and Health Administration.

“Secretary” – the Secretary of Labor, United States Department of Labor.

### **C. CRITERIA FOR STATE PLANS**

In accordance with 29 CFR 1902.3 and 1902.4, the Oregon State Plan meets the specific criteria and indices of effectiveness as set forth by the Occupational Safety and Health Administration, U.S. Department of Labor.

The criteria (1902.3) and the applicable chapter/paragraph in the plan are listed here for easy reference. The indices of effectiveness (1902.4) are performance measures or are contained in directives, policies or procedures; therefore, they are not listed here with their location.

<b>CRITERIA</b>	<b>TOPIC</b>	<b>STATE PLAN LOCATION</b>
CFR 1902.3(b)(1)	Designation of Agency	Chapter I.C
CFR 1902.3(b)(2)	Authority/Assurances	Chapter I.D
CFR 1902.3(b)(3)	Responsibility	Chapter I.B
CFR 1902.3(c)	Standards	Chapter II.A
CFR 1902.3(d)(1)	Enforcement Program	Chapter III
CFR 1902.3(d)(2)	Employers' and Employees' Responsibility	Chapter III.A
CFR 1902.3(e)	Right of Entry	Chapter III.A
CFR 1902.3(f)	Advance Notice	Chapter III.A
CFR 1902.3(g)	Legal Authority	Chapter III.A
CFR 1902.3(h)	Personnel	Chapter VII
CFR 1902.3(i)	Resources	Chapter IX.B
CFR 1902.3(j)	State and Local Government Employees	Chapter I.B
CFR 1902.3(k)	Reporting Requirements	Chapter VIII
CFR 1902.3(l)	State Agency Reports	Chapter VIII.B

## ***I. LEGAL AUTHORITY***

*(Updated September 2003)*

### **A. ENABLING LEGISLATION**

The 1973 session of the Oregon Legislature passed into law Senate Bill 44, effective July 1, 1973, which established the Oregon Safe Employment Act (OSEAct) under Oregon Revised Statutes Chapter 654.

### **B. SCOPE AND COVERAGE UNDER THE LAW -- *PUBLIC/PRIVATE***

The Oregon Occupational Safety and Health Act of 1973 (OSEAct) places authority for the administration of Oregon's State Plan with the Oregon Occupational Safety and Health Division (OR-OSHA) of the Department of Consumer and Business Services (DCBS). The Director of DCBS and his/her designated representatives have authority to do all that is necessary to administer the OSEAct as mandated by the Oregon Legislative Assembly.

Under the State Plan, the OSEAct applies to all employers and employees in all industries subject to the jurisdiction of the Oregon Occupational Safety and Health Division. For purposes of administering the OSEAct, the Oregon State Plan makes no distinction between private and public sector employers. Under the terms of an operational status agreement entered into between the Occupational Safety and Health Administration and the Oregon Workers' Compensation Department (now the Department of Consumer and Business Services) effective April 28, 1975 (40 FR 18427) and as amended effective August 9, 1977 (42 FR 40268) and August 18, 1978 (43 FR 36624), Federal OSHA will exercise authority that is limited to: enforcement of new Federal standards including temporary emergency standards until adopted by the State; enforcement of standards in areas excluded from plan coverage; enforcement of standards under 29 CFR 1918, longshoring; investigations for fulfillment of monitoring obligations under Section 18(e) and (f) of the Act; and abatement dates from OSHA-issued citations, which extend beyond the date of State assumption of inspection responsibility.

Exclusions: The Oregon Safe Employment Act does not cover employees of the federal government. Also excluded are employees whose occupational health and safety is protected under the Atomic Energy Act of 1954 (42 U.S.C. 2021), the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801), the Federal Metallic and Nonmetallic Mine Safety Act (30 U.S.C. 721), and the Longshoremens' and Harbor Workers' Compensation Act (33 U.S.C. 901).

Other exclusions or agreements concerning jurisdiction are contained in jurisdictional agreements with federal, state or local agencies.

## **C. DESIGNATION OF AN AGENCY**

On October 18, 1971, Oregon Governor Tom McCall appointed the Chairman of the Workers' Compensation Board as the designee charged with the responsibility of administering of the Oregon Safe Employment Act. At that time occupational health functions were designated to the Health Section of the Oregon Health Division. Subsequently, with passage of House Bill 2089 during the 1975 legislative session, the occupational health functions were transferred into the Workers' Compensation Board.

The 1977 Oregon Legislature passed Senate Bill 1050 creating the Workers' Compensation Department. As a result, the state designee became the Director of the Department, relieving the Chairman of the Board of his duties as designee.

The 1987 Oregon Legislature passed House Bill 3381 abolishing the Workers' Compensation Department and forming the Department of Insurance and Finance (DIF). Oregon Governor Neil Goldschmidt formally appointed DIF as the Designated Agency with the Administrator of the Accident Prevention Division as the state designee.

By letter dated December 13, 1989, the Director of the Department of Insurance and Finance announced that the Accident Prevention Division was being renamed the Oregon Occupational Safety and Health Division (OR-OSHA) to more clearly define the mission of the division.

The 1993 Oregon Legislature passed Senate Bill 167 abolishing the Department of Insurance and Finance (DIF) and forming the Department of Consumer and Business Services (DCBS), effective August 27, 1993. The new department combined the divisions within the former Department of Insurance and Finance with the Building Codes Agency. The new Department contained the following divisions: Building Codes, Housing and Real Estate Council; Appraiser Certification and Licensure Board; Oregon Medical Insurance Pool; the Office of Minority, Women and Emerging Small Business; the Insurance Division; Workers' Compensation Division; Oregon Occupational Safety and Health Division; and the Division of Finance and Corporate Securities.

## **D. OREGON STATE DESIGNEE (Authority/Assurances) *(updated January 7, 2011)***

The Department of Consumer and Business Services is a department under the executive branch of state government and is the agency designated to administer the plan. The director is appointed by the Governor and serves as the State Insurance Commissioner. The Department regulates insurance, state-chartered financial institutions and intrastate security offerings, workers' compensation, occupational safety and health laws, building codes and appraisers.

The Oregon Occupational Safety and Health Division (OR-OSHA) is a division within the Department of Consumer and Business Services. OR-OSHA administers the Oregon Safe Employment Act (OSEAct) and enforces the Oregon Occupational Safety and Health Rules. The distinct assignment of this responsibility to OR-OSHA assures separation of occupational safety and health functions from all other activities of the Department, and will not detract from resources devoted to this plan and the priorities assigned to the administration of the OSEAct.

The Administrator is appointed by the Director of the Department with the approval of the Governor. The Administrator of the Occupational Safety and Health Division is appointed as the “State Designee” and is responsible for setting occupational safety and health policy. The Administrator, through the Director, has the power and authority to administer and enforce the provisions of the Oregon Safe Employment Act, and shall prescribe such regulations as deemed necessary to carry out the responsibilities of the Act.

**E. INTERAGENCY AND JURISDICTIONAL AGREEMENTS** *(updated August 18, 2011)*

Copies of interagency and jurisdictional agreements are included in Appendix F of this plan.

**General**

**G-1 General Jurisdictional Agreement Between Federal OSHA and OR-OSHA**

This jurisdictional agreement was signed and effective February 4, 1987, and revised and newly effective on October 1, 1992. It describes in greater detail the level of federal enforcement in Oregon as stated in the operational agreement. It contains the agreement for jurisdictional boundaries in the following areas:

Shipyards and Boatyards	U.S. Military Reservations
Longshoring	Warm Springs Indian Reservations
Marine Terminals	Umatilla Indian Reservation
(including Marine Grain Terminals)	Superfund Sites
Marine Construction	Commercial Diving

**G-2 U.S. Department of Labor, OSHA Region X – Umatilla Chemical Agent Disposal Facility**

This agreement, signed and effective on April 16, 2002, establishes the framework for a joint federal-state presence during the start-up, operation and tear down of the Umatilla Chemical Agent Disposal Facility at the U.S. Army Umatilla Chemical Depot. It delineates specific roles and responsibilities for each agency. The agreement clarifies, but does not change, the jurisdictional arrangement between the two agencies as described in the Operational Status Agreement (see G-1).

**G-3 U.S. Department of Labor, OSHA Region X – Emergency Response Coordination**

This agreement, signed and effective on April 9, 2004, delineates the roles and responsibilities of each agency related to emergency response in the event of a natural disaster or terrorist event. The agreement specifies that both agencies will initially respond to such an emergency in a technical advisor role. The lead agency will be determined according to the jurisdiction outlined in the Operational Status Agreement (see G-1).

**G-4 U.S. Department of Labor, OSHA – SGE’s on State of Oregon VPP sites**

This agreement, signed and effective on February 11, 2008, delineates the roles and responsibilities of duly authorized Federal employees who have the status of Special Government Employees (SGE), as members of the State of Oregon’s Voluntary Protection Program (VPP) onsite review teams.

## **Federal**

### **F-1 Federal Railroad Administration**

The Federal Railroad Administration (F.R.A.) is the primary regulatory agency concerned with railroad safety. The F.R.A. has jurisdiction over those areas of the railroad industry that are directly related to railroad operations - that is, the provision of a transportation service by rail. OSHA (i.e., OR-OSHA) jurisdiction is normally over working conditions which are not directly related to railroad operation; e.g., offices, repair shops and service areas. OR-OSHA would also have jurisdiction over the employees of an outside contractor hired to clean up a railroad hazardous waste spill.

### **F-2 U.S. Coast Guard**

A memorandum of understanding, dated December 19, 1979, between the Occupational Safety and Health Administration and the United States Coast Guard was adopted by OR-OSHA through Program Directive A-195, issued May 1, 1982. Fixed structures attached to the continental shelf within the territorial sea and outward from the 3-mile limit, including the subsoil and seabed of the outer continental shelf (OCS) and all devices permanently or temporarily attached to the seabed, are under the exclusive jurisdiction of Federal OSHA. The directive defines OR-OSHA jurisdiction, which includes the islands and structures located within the area of the territorial sea up to the outer continental shelf. The U.S. Coast Guard is the principle federal agency on matters of safety and health on the outer continental shelf. The Coast Guard has authority to promulgate and enforce safety and health standards on the OCS. OSHA (i.e., OR-OSHA) may promulgate general standards for working conditions of the OCS for which the Coast Guard has not yet promulgated enforceable standards.

### **F-3 Mine Safety and Health Administration**

An interagency agreement (CPL 2.42) between the Mine Safety and Health Administration (MSHA) and OSHA was signed in 1979 and adopted by OR-OSHA through Program Directive A-114, issued May 18, 1981. According to the terms of the agreement, MSHA has jurisdiction of all underground mines, sand and gravel pits, including the rock crusher if it is in or next to the pit. OR-OSHA has jurisdiction over portable rock crushers that are not connected with a sand or gravel mine pit. OR-OSHA also has jurisdiction when MSHA standards do not cover or do not apply on mine or mill sites. The agreement includes procedures used to resolve jurisdictional issues and establishes means for inter-agency coordination. Enforcement procedures are also outlined in the agreement.

#### F-4 Nuclear Regulatory Commission

Through a memorandum of understanding, dated October 21, 1988, both the Nuclear Regulatory Commission (NRC) and the Occupational Safety and Health Administration have jurisdiction over occupational safety and health issues at NRC-licensed facilities. Generally, the NRC has jurisdiction over radiation and chemical risk produced by radioactive materials. OSHA has jurisdiction over plant conditions that result in an occupational risk, but do not affect the safety of licensed radioactive materials. The agreement delineates areas of responsibility of each agency, establishes criteria for referrals and guidelines for interface activities. OR-OSHA has adopted this memorandum of understanding (CPL 2.86) through Program Directive A-201, issued July 15, 1990.

#### F-5 Federal Aviation Administration

Through a memorandum of understanding, dated August 9, 2000, both the Federal Aviation Administration (FAA) and the Occupational Safety and Health Administration have jurisdiction over occupational safety and health issues with respect to the working conditions of employees on aircraft in operation (other than flight deck crew). A joint team of FAA and OSHA representatives will determine the degree OSHA requirements can be applied without compromising aviation safety.

#### F-6 U.S. Chemical Safety and Hazard Investigation Board on Chemical Incident Investigations

This memorandum of understanding, dated 9/24/1998, sets forth the principles of a working relationship between the United States Chemical Safety and Hazard Investigation Board (CSB) and the United States Department of Labor, Occupational Safety and Health Administration (OSHA) in the area of chemical incident investigations,. It is entered into under the authority of section 112(r)(6)(E) of the Clean Air Act and the Occupational Safety and Health Act of 1970 (OSH Act). This MOU establishes policy and general procedures for cooperation and coordination between the two agencies and minimizes duplication of activities so that each agency may carry out its specific statutory requirements in an efficient and effective manner.

### **State**

#### S-1 Oregon Bureau of Labor and Industries - Discrimination

The Department of Consumer and Business Services, on behalf of OR-OSHA, maintains an interagency agreement with the Bureau of Labor and Industries delineating duties for the workplace safety and health discrimination program. Pursuant to ORS 654.062, employee complaints related to workplace safety and health discrimination are to be filed with the Commissioner of the Bureau of Labor and Industries under the provisions of ORS 659A.820. The interagency agreement includes the terms for billing procedures, reporting requirements, and monitoring of the program. OR-OSHA is active in assuring all aspects of the program are in compliance with the law.

#### S-2 Oregon Bureau of Labor and Industries - Farm Worker Camps

The Department of Consumer and Business Services, on behalf of OR-OSHA, maintains an interagency agreement with the Bureau of Labor and Industries relating to the regulation of farm worker camps. The Department of Consumer and Business Services, through OR-OSHA, has jurisdiction over the enforcement of occupational safety and health standards. The Bureau of Labor and Industries has jurisdiction of statutes specified in the agreement that are applicable to agricultural employment. This agreement includes the terms for camp registration/pre-occupancy inspections, enforcement action, and coordination with and referrals to other agencies.

S-3 Rescinded

S-4 Rescinded

S-5 Department of Environmental Quality - Asbestos

An interagency agreement was entered into on October 18, 1991, between the Department of Consumer and Business Services on behalf of Oregon OSHA and the Oregon Department of Environmental Quality (DEQ). The purpose of this agreement is to delineate the responsibilities and activities to be performed by each agency pursuant to its authority to regulate asbestos-containing materials.

S-6 Fire Marshal - Fire and Hazardous Materials

An interagency agreement between the Fire Marshal and the Department of Consumer and Business Services, on behalf of OR-OSHA, was entered into in 1976. The agreement identifies the responsibilities and activities to be performed by each agency, pursuant to regulating hazards related to fire and those related to hazardous materials.

S-7 Department of Agriculture - Pesticides

The Department of Consumer and Business Services, on behalf of OR-OSHA, has maintained an interagency agreement with the Oregon Department of Agriculture relating to occupational exposure to pesticides since August 1991. The agreement identifies the coordinated activities of the two agencies as they relate to implementation of the United States Environmental Protection Agency Worker Protection Standards for Agricultural Pesticides.

S-8 Oregon Health Division - Ionizing Radiation

An interagency agreement was entered into on December 8, 1993, between the Department of Consumer and Business Services on behalf of Oregon OSHA, and the Oregon Department of Human Resources, Oregon Health Division. The purpose of this agreement is to delineate the responsibilities and activities to be performed by each agency pursuant to its authority to regulate sources of ionizing radiation.

#### S-9 U.S. Environmental Protection Agency - Worker Protection Standard

A cooperative agreement was entered into on August 8, 2000, between the Department of Consumer and Business Services on behalf of Oregon OSHA and the U.S. Environmental Protection Agency (EPA). The purpose of this agreement is to delineate the roles and responsibilities to be performed by each agency as they relate to enforcement activities of the Worker Protection Standard.

#### S-10 U.S. Environmental Protection Agency, Region X, et. al. - Clean Air Act

A memorandum of agreement was entered into in 2000 between the U.S. Environmental Protection Agency - Region X, Oregon OSHA, the Oregon Office of the State Fire Marshal, the Oregon Office of Emergency Management, and Oregon's Local Emergency Planning Committee. The purpose of this agreement is to identify and coordinate the roles under Section 112(r), Risk Management Program Rule for Prevention of Accidental Releases (40 CFR 68), of the Clean Air Act.

#### S-11 Oregon Pesticide Analytical and Response System

A memorandum of agreement was entered into in 2006 between the Pesticide Analytical and Response Center (administered by the Oregon Department of Agriculture) and Oregon OSHA. The purpose of this agreement is to coordinate the reporting of pesticide related health and environmental incidents, including alleged incidents and complaints.

#### S-12 Oregon Health Licensing Agency

A memorandum of agreement was entered into in 2011 between the Oregon Health Licensing Agency (OHLA) and the Oregon Department of Consumer and Business Services, Occupational Safety and Health Division (Oregon OSHA) for the purpose of delineating the responsibilities and activities to be performed by each agency pursuant to its authority to regulate hair-smoothing products containing formaldehyde. This agreement is intended to promote cooperative efforts between OHLA and Oregon OSHA and effective regulation of formaldehyde hazards in Oregon.

## **F. PUBLIC INFORMATION AND DISCLOSURE**

Public information requests are handled in accordance with the provisions of the Oregon Public Records Policy ORS 192. Records are allowed exemption from disclosure under ORS 192.501(17), ORS 192.502(2), and ORS 654.120(3). In addition, information gathered as the result of any complaint or charge filed under ORS 654 is exempt from disclosure until a final administrative determination is made or, if a citation is issued, until an employer receives notice of the citation.

## **II. RULES AND REGULATIONS** *(Updated September 2003)*

### **A. STANDARDS**

Refer to Appendix E for a copy of Oregon Administrative Rule, Chapter 437, the “Oregon Occupational Safety and Health Code,” and Chapter 658, the Workers’ Compensation Board rules for contested cases and farm labor. Oregon Revised Statute, Chapter 654, “The Oregon Safe Employment Act,” and Chapter 183, “The Administrative Procedures Act,” are contained in Appendix D. The Oregon Revised Statutes relating to public records, ORS 192.501 and 192.502, can also be found in Appendix D.

#### **Standards Development**

##### Basic Authority and Responsibility

The Oregon Safe Employment Act authorizes the Director of the Department of Consumer and Business Services and the representatives of the Director, to set reasonable and mandatory occupational safety and health standards for all employment and places of employment that are designed to protect the life, safety and health of employees. Oregon Administrative Rule 437-001-0035 provides the process by which adoption by the Director shall occur. These standards must be at least as effective as those promulgated under the Occupational Safety and Health Act of 1970. All standards adopted are applicable to both the private and public sectors. ORS 654.003(3), ORS 654.025(2), and ORS 654.035

##### Sources

Safety and health standards have been and/or will be developed following: promulgation of federal standards, triennial review of all standards as required by ORS 183, adoption of new consensus industry standards, direction of the state legislature, requests from affected parties, and upon discovery of new and unforeseen hazards.

##### Adoption

Rules will be adopted, amended or repealed in accordance with authority in ORS 654, and the Administrative Procedures Act, ORS 183, adopted by reference as OAR 437-001-0001.

##### Adoption by Reference

National consensus standards or established federal standards may be adopted by the Department of Consumer and Business Services, OR-OSHA, after giving notice of the adoption of the rule or regulation, the effective date, and the subject matter of the rule or regulation in the manner established in ORS 183.335(1). After giving notice, the agency adopts the rule or regulation by filing a copy with the Secretary of State in compliance with ORS 183.355. OR-OSHA is not required to conduct a public hearing concerning the adoption of a rule by reference. This adoption by reference by the Director conforms to publishing a notice of such intent to adopt. A public hearing is held if deemed necessary by the Director.

### Assurances

Federal standards will be considered as they are published. Oregon standards that are “at least as effective as” the federal standards will be adopted by the Director within 6 months after federal adoption or as quickly thereafter as possible under the limitations of current state adoption procedures as provided by law.

All confidential OSHA rulemaking documents transmitted to OR-OSHA as a limited, inter-agency/intra-agency disclosure, made as part of OSHA's internal decision-making process, are exempt from disclosure under the Freedom of Information Act by ORS 192.502(1) and/or (3).

The Oregon State Plan does not include standards for products distributed or used in interstate commerce which are different from federal standards unless there are compelling local conditions.

### New Standards

Per Oregon Revised Statutes, Chapter 183, in the development of state-initiated standards and new federal standards not adopted by reference, the Director is required to utilize advisory committees or explain why they were not used. The committees are generally composed of employees, employers, and those having special expertise or knowledge in the area(s) of concern.

### **Promulgation Procedures**

Standards are adopted by the Director of the Department of Consumer and Business Services following the procedures in the Oregon Administrative Procedures Act, ORS 183, adopted by reference as OAR 437-001-0001.

### Temporary Emergency Standards

Evidence of conditions necessitating temporary emergency standards may be presented to the Director by representatives of federal, state or local governments, industry, labor, institutions or interested members of the public. The Director may promulgate a temporary emergency standard, the life of which shall not exceed 6 months, upon determination that employees are exposed to grave danger and that an emergency standard is necessary to protect the employees from such danger.

The temporary emergency standard may become effective immediately upon filing with the Secretary of State's Public Records Section. It is then published in the Secretary of State's Oregon Bulletin. The statement of need and emergency justification must accompany this filing with the Secretary of State. A fiscal impact statement is not required when filing an emergency temporary standard. However, one will be required when filing the Notice of Rulemaking to make the temporary emergency standard a permanent standard.

### Judicial Determination of Validity of Rule

The validity of a rule may be determined upon a petition by any person to the Court of Appeals in the manner provided for review of orders in contested cases. However, the court is without jurisdiction if the petitioner is party to an order or a contested case in which the validity of the rule may eventually be considered by the court. The validity of any applicable rule may also be determined by a court upon review of an agency order in any manner provided by law or pursuant to ORS 183.480, or upon enforcement of the rule or order as provided by law, or pursuant to ORS 183.400(1) and (2).

### Identical Standards and Oregon Standards

It is the state's intention to adopt or develop standards which are or will be at least as effective as those established under the Federal Occupational Safety and Health Act of 1970. In addition, the Director may promulgate such unique standards as are deemed necessary for the protection of Oregon employees.

In order to ensure that state standards are at least as effective as federal standards, those federal standards, as amended to date, pertaining to Construction (29 CFR Part 1926) were adopted by the Director and became effective on July 7, 1989. General Industry (29 CFR Part 1910) and Agricultural Operations (29 CFR 1928) were adopted by the Director under Oregon codification gradually over time. General procedure is for the Director to adopt most federal rules by reference. The Director has adopted the OSHA Maritime standards effective November 1, 1982, Marine Terminals effective January 23, 1984, and Longshoring effective September 1, 1984. The Director continues to adopt new and amended federal standards.

In addition to federal standards, the Director has found it necessary for the protection of Oregon workers to adopt several unique Oregon standards to protect Oregon workers. The most comprehensive of these are the Forest Activities Standard, which applies to the unique conditions present in Oregon's logging industry, and the Agriculture Standard.

### Federal Approval

Oregon OSHA submits all new or revised standards to Federal OSHA for approval, in accordance with STP 2-1.117 and other policies and procedures dealing with submission of rules and regulations for state plans.

## **B. VARIANCES**

Oregon Revised Statute 654.056 and Oregon Administrative Rules 437-001-0400 through 0435 set forth the procedures for granting temporary, research, and permanent variances. A variance permits a specific employer to deviate from a specific standard. Variances are granted under the following circumstances:

- A permanent variance may be granted when the conditions, practices, operations or processes are as safe and healthful as the rule.

- A temporary variance may be granted when an employer cannot comply with a new rule by the effective date and there are adequate employee safeguards in the interim.
- A research variance may be granted when the conditions, practices, operations or processes in the workplace adequately safeguard employees while demonstrating new or improved safety or health techniques or products.

A variance may be granted for a condition, practice, operation, or process that does not strictly conform to established safety and health standards but is conclusively demonstrated to provide an equivalent degree of worker protection. Any employer may apply for a variance from any rule which specifically affects working conditions. A written application must be submitted to the Division. Affected employees must be given notice of a variance application and must be given an opportunity to request a hearing.

An employer applying for a variance may request an interim order to be effective until final action is taken on the variance application. An interim order must contain all information required for the permanent variance. Employees must be notified by posting of the order and, if granted, the action must be published.

After a variance request is determined to be complete and procedurally accurate, the Division must publish it for one day in at least one daily newspaper with statewide circulation. The publication must include the employer's name, the rule from which variance is sought, information on how interested parties may learn of the decision, and notice of the public's right to comment and request a hearing. If a request is made within 20 days of publication, a hearing must be held by the Administrator in a manner to allow all affected persons to submit information. The Administrator will evaluate the information and make a determination on merit.

Following a request for variance, an on-site visit may be made by OR-OSHA. A written report with recommendations is submitted following an on-site visit. Based on the recommendations in the report, the variance is either granted or denied. A variance, if granted, has no retroactive effect; it cannot be the basis for amending or withdrawing a citation.

If a variance is granted, an Order of Variance shall be issued that includes the employer name, address of affected business, type of variance, affected rule, alternative methods to safeguard employees, notice of employees right to appeal, and notice that it becomes a final order of the Director within 20 days if not appealed.

If a variance is denied, a denial notice shall be issued that includes the reason for the denial, notification of employer and employee appeal rights, notice that it becomes a final decision within 20 days if not appealed, and notice that a compliance inspection will be made within 30 days.

All variance orders or denials must be posted for 20 days.

A variance may be modified or revoked after it has been in effect 6 months or longer. This may be done upon the written request of the employer, an affected employee or an employee representative. A variance may also be modified or revoked by notification and confirmation that the alternative methods or safeguards are not in full compliance. The notice of modification or revocation shall be published, and the employer and employees must be notified in writing of the action. A hearing must be held if requested within 20 days of the order.

A variance granted by the U.S. Secretary of Labor will be accepted in lieu of the variance application procedure in OAR 437-001-0400.

### **III. ENFORCEMENT**

*(Updated September 2003)*

#### **A. LEGAL AUTHORITY**

The Department of Consumer and Business Services, the Director, and his or her representative have the power and authority to administer and enforce the Oregon Safe Employment Act. These provisions apply to all workplaces in Oregon, and to both public and private employers with certain exceptions (see I.B, Coverage).

“The Director of the Department of Consumer and Business Services is vested with full power and jurisdiction over, and shall have such supervision of, every employment and place of employment in this state as may be necessary to enforce and administer all laws, regulations, rules, standards and lawful orders requiring such employment and place of employment to be safe and healthful, and requiring the protection of the life, safety and health of every employee in such employment or place of employment.” ORS 654.025(1)

“The Director and the Workers’ Compensation Board may make, establish, promulgate and enforce all necessary and reasonable regulations, rules, standards, orders and other provisions for the purpose of carrying out their respective functions under ORS 654.001 to 654.295 and 654.750 to 654.780, notwithstanding any other statutory provisions which may be to the contrary.” ORS 654.025(2)

“The director may enforce all the regulations, rules and standards duly adopted by any other state agency for the safety and health of employees.” ORS 654.025(3)(a)

#### **Employers' Responsibility**

“Every employer shall furnish employment and a place of employment which are safe and healthful for employees therein, and shall furnish and use such devices and safeguards, and shall adopt and use such practices, means, methods, operations, and processes as are reasonably necessary to render such employment and place of employment safe and healthful, and shall do every other thing reasonably necessary to protect the life, safety, and health of such employees.” ORS 654.010

“Every employer, owner, employee and other person shall obey and comply with every requirement of every order, decision, direction, standard, rule or regulation made or prescribed by the Department of Consumer and Business Services . . . .” ORS 654.022

#### **Employees' Responsibility**

“Every employer, owner, employee, and other person shall obey and comply with every requirement of every order, decision, direction, standard, rule or regulation made or prescribed by the Department of Consumer and Business Services . . . .” ORS 654.022

## **Right To Entry and Inspection**

“In order to carry out the purposes of ORS 654.001 to 654.295 and 654.750 to 654.780, the Director of the Department of Consumer and Business Services, upon presenting appropriate credentials to the owner, employer or agent in charge, is authorized: (a) to enter without delay and at reasonable times any place of employment; and (b) to inspect and investigate during regular working hours and at other reasonable times, within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein, and to question privately the owner, employer, agents or employees.” ORS 654.067(1)(a) and (b)

## **Authority to Compel Entry**

“Except in the case of an emergency, or of a place of employment open to the public, if the director is denied access to any place of employment for the purpose of an inspection or investigation, such inspection or investigation shall not be conducted without an inspection warrant obtained pursuant to ORS 654.202 to 654.216, or without such other authority as a court may grant in an appropriate civil proceeding. Nothing contained herein, however, is intended to affect the validity of a constitutionally authorized inspection conducted without an inspection warrant.” ORS 654.067(3)

Procedures to obtain a warrant are contained in ORS 654.202, 654.206, 654.212, 654.216 and Chapter 2 of the Oregon Field Inspection Reference Manual (FIRM). The Oregon FIRM can be found in Appendix H of this plan.

## **Advance Notice of Inspection**

“No person shall give an owner, employer, agent or employee advance notice of any inspection to be conducted under 654.001 to 654.295 and 654.750 to 654.780 at any place of employment without authority from the director.” ORS 654.067(2)

“Any person who gives advance notice of any inspection to be conducted under ORS 654.001 to 654.295 and 654.750 to 654.780, without authority from the Director of the Department of Consumer and Business Services or the designees of the director, shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both.” ORS 654.991(2)

## **Private Interview**

The Director of the Department of Consumer and Business Services or his or her designees are authorized to “question privately the owner, employer, agents or employees.” ORS 654.067(1)(b)

## **Records Review**

The Director of the Department of Consumer and Business Services or his or her designee are authorized to review records required by the Act, records required by regulations issued by the Director, and other records directly related to the purpose of the inspection. ORS 654.067(1)(b) and OAR 437-001-0090(1)

## **Right to File a Complaint**

“. . . any employee or representative of the employee may complain to the Director of the Department of Consumer and Business Services or any authorized representatives of the Director of any violation of law, regulation or standard pertaining to safety and health in the place of employment, whether or not the employee also notifies the employer.” ORS 654.062(2)

“Upon receiving any employee complaint, the director shall make such inquiries, inspections and investigations as the director considers reasonable and appropriate. Where an employee has complained in writing of an alleged violation and no resulting citation is issued to the employer, the director shall furnish to the employee or representative of the employee, upon written request, a statement of reasons for the decisions.” ORS 654.062(3)

## **Confidentiality of Trade Secrets**

“All information reported to or otherwise obtained by the department in connection with any matter or proceeding under ORS 654.001 to 654.295 and 654.750 to 654.780 which contains or which might reveal a trade secret referred to in Section 1905, Title 18, United States Code, shall be considered confidential for the purposes of that section, except that such information may be disclosed to other officers or employees of the department or other agencies concerned with carrying out their duties under ORS 654.001 to 654.295 and 654.750 to 654.780 . . .” ORS 654.120(3)

## **B. INSPECTION SCHEDULING**

OR-OSHA's priority system for conducting inspections is designed to distribute available OR-OSHA resources as effectively as possible to ensure that maximum feasible protection is provided men and women working in Oregon.

Inspections are prioritized to predominantly focus enforcement activities on the places of employment reasonably believed to be the most unsafe. Inspections are made according to the following priorities:

- (1) Imminent danger.
- (2) Fatality, catastrophe or accident.

- (3) Complaint – when the nature of the information indicates the complaint’s probably validity.
- (4) Referral – when safety or health violations are observed by a Division employee or other federal, state or local government representative and the nature of the information indicates the referral’s probable validity.
- (5) Programmed Inspections – following the provisions in OAR 437-001-0057.
- (6) Follow-up – when employer requests removal of a Red Warning Notice, a stay or correction or variance has been denied, a time extension has been denied, the Division has reason to believe the employer is not in compliance or to monitor progress toward correction of a violation, or when an employer is issued a citation with a correction order for one or more serious violations. (OAR 437-001-0055)

### **Unprogrammed Inspections**

Unprogrammed inspections are those inspections conducted in response to specific evidence of hazardous conditions at a work site. These inspections are prioritized using the system described above.

### **Programmed Inspections**

Programmed inspections are those inspections conducted based on employer’s ranking in an electronically generated scheduling system. The Division will identify the most hazardous industries and places of employment through information obtained from the Department of Consumer and Business Services claims and employer files, the Bureau of Labor Statistics Occupational Injury and Illness Survey, and knowledge of recognized safety and health hazards associated with certain processes. Oregon Administrative Rule 437-001-0057 and Program Directive A-244 outline, in detail, Oregon’s electronic scheduling system used for scheduling safety and health inspections for fixed places of employment.

## **C. INSPECTION PROCEDURES**

“During an inspection, a Compliance Officer is authorized to inspect without unreasonably disrupting operations in a place of employment all required records, conditions, structures, machines, materials and methods for compliance with statutes, regulations, rules, standards and orders, and identify and document hazards.” OAR 437-001-0090(1)

Chapter 2 of the Oregon Field Inspection Reference Manual and OAR 437-001-0075 contain detailed procedures and requirements outlining how inspections and enforcement activities of the OSEAct will be conducted. Information specific to health inspections is contained in the OSHA Technical Manual. Standards interpretations and other information relevant to inspection procedures are included in the Oregon Program Directive System. (See Appendix H)

### **Opening Conferences**

The Compliance Officer will conduct a brief opening conference with the employer or representative prior to the inspection. The conference should, if possible, include an employee representative. The Compliance Officer should outline the scope of the inspection, including employee interviews, physical inspection of the workplace, and records review.

### **Physical Examination of the Place of Employment**

The main purpose of the walkaround inspection is to identify potential safety and/or health hazards or violations of the OSEAct in the workplace. During the inspection, the safety and health program of the employer shall be evaluated to ascertain the degree to which the employer is aware of potential hazards present in the workplace and what actions have been taken to minimize the hazards. Samples for testing shall be collected if necessary. Photographs or videotapes should be used to provide documentation of violations. Interviews with employees is an essential element of an effective inspection. Compliance Officers may offer abatement assistance during the walkaround regarding the elimination of workplace hazards and violations. However, the issuance of citations shall not be delayed.

The OSEAct does not require that an employee representative be present for each inspection. ORS 654.067(4) provides that where there is no employee representative or the employee representative is not an employee of the employer, the Compliance Officer should consult with a reasonable number of employees concerning safety and health in the place of employment.

### **Imminent Danger**

Oregon Administrative Rule 437-001 defines imminent danger as, “A condition, practice or act which exists in any place of employment and could reasonably be expected to cause death or serious physical harm immediately.”

Any investigation of an imminent danger complaint shall be handled on the highest priority basis. If an imminent danger situation is discovered, alleged, or is brought to the attention of the inspector during a routine inspection, that situation shall be immediately inspected. Imminent danger inspection procedures are outlined in the Oregon Field Inspection Reference Manual.

The OSE Act, ORS 654.082, provides that when action is necessary to preclude or eliminate exposure to employees to a condition which, if such exposure occurred or continued, would constitute a violation of any statute or of any lawful regulation, rule, standard, or order, affecting employee safety or health at a place of employment, a compliance officer shall obtain permission to post a Red Warning Notice. The notice shall be posted in plain view of any person likely to use the place of employment, machine, device, apparatus or equipment that constitutes the hazard. The law further states that no person shall operate or use such equipment or place of employment, or remove or deface the Red Warning Notice until authorization has been obtained from the Director. Any person who violates those provisions shall be assessed a civil penalty of not less than \$100 and not more than \$5,000 for each violation, ORS 654.086(1)(g), unless it is determined to be a willful violation, in those cases a civil penalty of not less than \$5,000 and not more than \$70,000 may be assessed. (OAR 437-001-0096(7))

### **Closing Conference**

At the conclusion of an inspection, the compliance officer shall conduct a closing conference with the employer and employee representatives. A joint closing conference shall be held with the employer and the employee representatives whenever practicable.

The compliance officer shall describe the apparent expanded enforcement hazards and violations found during the inspection, and indicate the applicable section(s) of the rules that may have been violated. During the course of the closing conference, both the employer and the employee representatives shall be advised of their rights to participate in any subsequent conferences, meetings, or discussions. The compliance officer shall discuss the employer rights and responsibilities and courses of action available to the employer if a citation is issued.

### **Complaint Procedures**

The Oregon Safe Employment Act, ORS 654.062, provides that employees may make a complaint to the Director, or the designee, and that the Director shall make reasonable and appropriate inquiries or inspections. Oregon Administrative Rule OAR 437-001-0285 provides that, "Any person may complain to the Administrator of possible violations of any statute or of any lawful regulation, rule, standard or order affecting employee safety or health at a place of employment."

Oral or written complaints regarding the alleged occupational safety and health violations at a place of employment may be made by employees, a representative of an employee, or any other person. At the complainant's request, their identity will be kept confidential and not considered public record in accordance with OAR 437-001-0290(1). Any person making a complaint to the Division shall receive written notice of the Division's action if the complainant's address is provided. Complainants shall be informed they have the right to contact the Administrator and request a review of the matter should they feel the complaint was not adequately investigated by the Division.

Oregon OSHA does not categorize complaints received as “formal” or “informal.” Instead, complaints are classified as: 1) on-site inspections; 2) investigations using telephone, letter or fax; and 3) invalid. For the purposes of entry into the NCR, signed complaints are coded as “formal” and unsigned complaints are coded as “informal.” This coding has no bearing on how the complaint is handled by Oregon OSHA.

Oregon OSHA Program Directive A-219 outlines specific policies and procedures to be followed in response to complaints received by the Division.

## **D. CITATIONS**

“If the Director of the Department of Consumer and Business Services or an authorized representative of the director has reason to believe, after inspection or investigation of a place of employment, that an employer has violated any state occupational safety or health law, regulation, standard, rule or order, the director or the authorized representative shall with reasonable promptness issue to such employer a citation, and notice of proposed civil penalty, if any, to be assessed under this chapter, and fix a reasonable time for correction of the alleged violation.” ORS 654.071(1)

Each citation and notice of proposed civil penalty shall be in writing, and shall be mailed to or served upon the employer or a registered agent of the employer. ORS 654.071(2)

“No citation or notice of proposed civil penalty may be issued under this section after the expiration or 180 days following the start of the inspection or investigation, but this shall not prevent the issuance, at any time, of an order to correct that violation or the issuance of a citation for a subsequent violation.” ORS 654.071(3)

Each citation or copies of each citation “shall be posted by the employer, immediately upon receipt, in a conspicuous manner in a sufficient number of locations in the place or places of employment to reasonably inform employees of such citation and notice.” ORS 654.071(6)

The Division will send each employee representative a copy of all citations and notices of penalties issued per OAR 437-001-0205(3).

Oregon maintains a Standard Alleged Violation Elements (SAVES) system and manuals. The SAVES are equivalent to Federal OSHA and includes SAVES for state-initiated rules. The SAVES manuals are not included as part of the State Plan or the Appendices. Contact the OR-OSHA Central Office, Enforcement Section, for more information.

### **Orders to Correct**

On a discriminate and limited basis, Oregon OSHA utilizes Orders to Correct to improve workplace safety and health in Oregon. The Order to Correct is similar to a citation in all respects except one – it does not carry civil penalties. As with a citation, it can be used as the basis for repeat and failure to abate violations. This tool gives OR-OSHA the ability to assure the abatement of workplace hazards that would otherwise be addressed with a Hazard Letter, which does not require abatement. Orders to Correct are documented in the same manner as a violation.

Orders to Correct can be used when any of the following occur: 1) a small employer who is

required by rule to have a safety committee but does not, agrees to implement an “innovative” committee following the OR-OSHA guidelines for small employers, 2) a citation is not issued within 180 days of the opening conference, and 3) legal estoppel issues interfere with issuing a citation. Estoppel, as used by Oregon OSHA, is an inconsistent practice on the part of Oregon OSHA that may not be used as the basis to adversely impact an employer.

Compliance officers must document the rationale for issuing an Order to Correct in the inspection report when such an order is issued. Chapter 3 of the Oregon OSHA Field Inspection Reference Manual provides direction for compliance officers in issuing Orders to Correct.

The legal basis for Oregon OSHA’s issuance of Orders to Correct derives from the Director’s broad power to enforce safety and health standards and issues orders for such purpose. Per ORS 654.022, “Every employer, owner, employee and other person shall obey and comply with every requirement of every order, decision, direction, standard, rule or regulation made or prescribed by the Department of Consumer and Business Services in connection with the matters specified in ORS 654.001 to ORS 654.296 and 654.750 to 654.780, or in any way relating to or affecting safety and health in employments or places of employment, or to protect the life, safety and health or employees in such employments or places of employment, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, standard, rule or regulation.” (emphasis added)

ORS 654.031 states, in part, “Whenever the Director of the Department of Consumer and Business Services has reason to believe after an inspection or investigation, that any employment or place of employment is unsafe or detrimental to health . . . , the director shall issue such citation and order relative thereto as may be necessary to render such employment or place of employment safe and protect the life, safety and health of employees therein.” (emphasis added)

## **E. PENALTIES**

### **Civil Penalties**

Private and public employers are subject to civil and criminal penalties under the OSE Act, which are equivalent to Federal OSHA penalties. Refer to House Bill 3017, Appendix B, passed by the 1991 Oregon Legislature. All penalties are paid into the Consumer and Business Services Fund per ORS 654.086(4).

“The Director of the Department of Consumer and Business Services or the authorized representative of the Director is hereby granted the authority to assess civil penalties as provided by this section for violation of the requirements of any state occupational safety or

health statute or the lawful rules, standards or orders adopted thereunder as follows:” ORS 654.086(1)

Serious Violations – “Any employer who receives a citation for a serious violation of such requirements shall be assessed a civil penalty of not less than \$50 and not more than \$7,000 for each such violation.” ORS 654.086(1)(a)

“ . . . a serious violation exists in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.” ORS 654.086(2)

Other-Than-Serious Violations – “Any employer who receives a citation for a violation of such requirements, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than \$7,000 for each such violation.” ORS 654.086(1)(b)

Willful or Repeated Violations – “Any employer who willfully or repeatedly violates such requirements, may be assessed a civil penalty of not more than \$70,000 for each violation and not less than \$5,000 for a willful violation.” ORS 654.086(1)(c)

Failure to Correct Violation within Permitted Period – “Any employer who receives a citation . . . for failure to correct a violation may be assessed a civil penalty of not more than \$7,000 for each day during which such failure or violation continues.” ORS 654.086(1)(d)

Making False Statements – “Any employer who knowingly makes any false statement, representation or certification regarding the correction of a violation shall be assessed a civil penalty of not less than \$100 and not more than \$2,500.” ORS 654.086(1)(e)

Violation of Posting Requirements – “Any employer who violates any of the posting requirements, as prescribed under the provisions of ORS 654.001 to 654.295 and 654.750 to 654.780 may be assessed a civil penalty of not more than \$1,000 for each violation.” ORS 654.086(1)(f)

Failure to post a copy of a received citation or the annual summary of the OSHA 300 log will be assessed a minimum penalty of \$200. (OAR 437-001-0203)

Failure to post the “Safety and Health Protection on the Job” Poster will be assessed a minimum penalty of \$100. (OAR 437-001-0203)

Violation of Red Warning Notice – “Any person who violates or directs an employee to violate OAR 437-001-0096(3) or (4) shall be assessed a civil penalty of not less than \$100 and not more than \$5,000 for each such violation (OAR 437-001-0096(6)). Any employer who violates or directs an employee to violate OAR 437-001-0096(3), and the violation is determined to be a willful violation, may be assessed a civil penalty of not less than \$5,000 and not more than \$70,000.” OAR 437-001-0096(7)

“Notwithstanding paragraph (b) of this subsection, an employer who substantially fails to comply with ORS 654.174(1) shall be assessed a civil penalty of not less than \$250 and not more than \$2,500 for each such violation.” ORS 654.086(h)

### **Criminal Penalties**

Under the OSEAct, the following criminal penalties are provided:

“ . . . any employer who willfully violates any provision of, or any regulation, rule, standard or order promulgated pursuant to ORS 654.001 to 654.295 and 654.750 to 654.780, and that violation is found to have caused or materially contributed to the death of any employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000 or by imprisonment of not more than one year, or by both. For the purposes of this section, a violation is willful if it is committed knowingly by an employer or supervisory employee who, having a free will or choice, intentionally or knowingly disobeys or recklessly disregards the requirements of a regulation, rule, standard or order.” ORS 654.991(1)

“Any person who gives advance notice of any inspection to be conducted under ORS 654.001 to 654.295 and 654.750 to 654.780 without authority from the Director of the Department of Consumer and Business Services or the designees of the Director, shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both.” ORS 654.991(2)

“Whoever knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to ORS 654.001 to 654.295 and 654.750 to 654.780, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both.” ORS 654.991(3)

“Punishment under this section does not affect or lessen the civil liability of the offender.” ORS 654.991(4)

A comparison of federal and Oregon penalties is presented in table format on the following page.

### COMPARISON OF PENALTIES SET BY LAW

	FEDERAL		OREGON	
	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
<b>Willful</b>	\$5,000	\$70,000	\$5,000	\$70,000
<b>Repeat</b>	None	\$70,000	\$200	\$70,000
<b>Serious</b>	None	\$7,000	\$100	\$7,000
<b>Other-than-serious</b>	None	\$7,000	None	\$7,000
<b>Failure-to-correct</b>	None	\$7,000/day	\$50	\$7,000/day
<b>Posting</b>	None	\$7,000	None	\$1,000
<b>Criminal – Death</b>				
1st Offense	None	\$10,000 &/or 6 mo. in prison	None	\$10,000 &/or 6 mo. in prison
2nd Offense	None	\$20,000 &/or 1 yr. in prison	None	\$20,000 &/or 1 yr. in prison
<b>Advance Notice</b>				
Criminal	None	\$1,000 &/or 6 mo. in prison	None	\$1,000 &/or 6 mo. in prison
<b>False Statements</b>				
Criminal	None	\$10,000 &/or 6 mo. in prison	None	\$10,000 &/or 6 mo. in prison
Civil	None	None	\$100	\$2,500
<b>Red Tag</b>	N/A	N/A	\$100	\$5,000
<b>Field Sanitation</b>	N/A	N/A	\$250	\$2,500

#### F. ABATEMENT DATES/EXTENSIONS

“Whenever the Director of the Department of Consumer and Business Services has reason to believe, after an inspection or investigation, that any employment or place of employment is unsafe or detrimental to health or that the practices, means, methods, operations, or processes employed or used in connection therewith are unsafe or detrimental to health, or do not afford adequate protection to life, safety and health of employees therein, the Director shall issue a citation or order relative thereto as may be necessary to render such employment or place of employment safe and to protect the life, safety and health of employees therein. The Director may, in the order, direct that such additions, repairs, improvements or changes be made, and such devices and safeguards be furnished, provided and used, as are reasonably required to render such employment or place of employment safe and healthful, in the manner and within the time specified in the order.” ORS 654.031

Procedures for extension requests, approvals and revocations are contained in Oregon Administrative Rule 437-001.

## **G. CONTESTED CASES**

“An employer may contest a citation, a proposed assessment of civil penalty and the period of time fixed for correction of a violation, or any of these, by filing with the Department of Consumer and Business Services, within 20 days after receipt of the citation, notice or order, a written request for a hearing before the Oregon Workers' Compensation Board. Such a request need not be in any particular form, but shall specify the alleged violation that is contested, and the grounds upon which the employer considers the citation or proposed penalty or correction period unjust or unlawful.” ORS 654.078(1)

“An affected employee or representative of such employees may contest the time fixed for correction of a violation by filing with the department, within 20 days after the receipt by the employer of the citation, notice or order which fixes such time for correction, a written request for a hearing before the board. Such a request need not be in any particular form, but shall specify the violation in question, and the grounds upon which the employee considers the correction period to be unreasonable.” ORS 654.078(2)

### **Informal Conference**

“The Administrator shall provide an opportunity for the employer and employees to discuss informally with the Division any matter affecting occupational safety and health in the place of employment.” OAR 437-001-0255(1)

“An informal conference may be used to clarify statements of observed violations, discuss safety and health requirements, discuss abatement dates, explain the penalty system, improve employer/employee understanding of the Oregon Safe Employment Act, correct errors, narrow issues, or, negotiate a statewide settlement agreement to resolve disputed citations. Notwithstanding any other rule in this division, proposed civil penalties may be reduced as part of a settlement agreement resolving disputed claims.” OAR 437-001-0255(2)

“An informal conference concerning a citation shall not extend the 20 days allowed for filing an appeal with the Board.” OAR 437-001-0255(3)

In those cases where an informal conference concerns a citation, the Division shall contact the employer and require them to notify the employees or their representatives of the opportunity to attend the informal conference. OAR 437-001-0255(4)

## **Formal Hearings**

Formal hearings are held in accordance with the Administrative Procedures Act, Oregon Administrative Rules, Chapter 438, Division 85. Provisions concerning admissibility of evidence, application of the Administrative Procedures Act, and representation of the employer by an attorney also are referenced in ORS 654.285, 290 and 293.

“The Board will defer action on a Request for Hearing for 90 days unless there is a withdrawal of the citation or Request for Hearing, a settlement is reached, there is an express waiver of participation in the OR-OSHA informal settlement conference process, an expedited hearing is required by ORS 654.078(6), or there is a motion or matter requiring action by an Administrative Law Judge. If, during the deferral period, the case is settled or the citation or request for hearing is withdrawn, or there is any other reason the case requires action by an Administrative Law Judge, OR-OSHA shall immediately transmit to the Hearings Division those documents necessary to allow the Administrative Law Judge to dismiss the request for hearing and close the case, or take whatever other action is required.” OAR 438-085-0305(1) and (2)

“When the Hearings Division receives a transmittal, pursuant to OAR 438-085-0305, it shall caption and assign a docket number to the case. The case shall then be assigned to an Administrative Law Judge, who will thereafter be responsible for all case management, including all pre-hearing matters and the matter itself. After a case has been received by the Hearings Division and assigned to an Administrative Law Judge, the Hearings Division shall mail the parties an acknowledgment and case assignment.” OAR 438-085-0306(1) and (2)

## **Settlement**

“The parties may enter into a settlement agreement at any time. A signed copy of any settlement entered into after the filing of a request for hearing shall be submitted to the Hearings Division, and the Administrative Law Judge shall issue an order dismissing the request for hearing, or take other appropriate action.” OAR 438-085-0621(1) and (2)

## **H. EMPLOYEE ACCESS TO INFORMATION**

### **Posting Requirements**

#### General

“Where OAR 437, Division 1, requires an employer to inform affected employees by posting, copies of the unedited notice or other document shall be posted promptly upon receipt in one or more places where it will readily be observable by affected employees (for example, a location where employees report each day or at a location from which the employees operate to carry out their activities).” OAR 437-001-0275(1)

### Citations

The OSEAct requires that “Each citation and notice, or copies thereof . . . shall be posted by the employer, immediately upon receipt, in a conspicuous manner in a sufficient number of location in the place or places of employment to reasonably inform employees of such citation and notice.” Oregon Administrative Rule 437-001-0275(2)(b) requires that “A copy of any citation received by the employer shall be posted for three days or until the violation(s) is corrected, whichever occurs last.”

### Field Sanitation Poster

ORS 654.174(2) requires that employers required to comply with the Field Sanitation Regulations, ORS 654.174(1), “shall keep conspicuously posted a notice describing the requirements of that subsection and advising where complaints may be filed. The notice must be in the English language and in the language spoken by the majority of the employees.”

### Hazardous Substances Poster

ORS 654.196(2) and (3) require that employers post a notice to employees informing them of the right to know what hazardous substances are present in the workplace.

### **Access to Records**

OAR 437-001-0700(22) provides the following direction to employers regarding access to records: “When an authorized government representative asks for the records you keep in compliance with this standard, you must provide copies of the records within four (4) business hours.”

### **Basic Information for Agricultural Employees**

Agriculture employers shall give all employees a copy of the basic information developed by the Oregon Occupational Safety and Health Division for the purpose of informing employees of proper personal hygiene, protective safety and health equipment, general safety rules, proper work clothing, employee rights, and common symptoms of hazardous chemical exposure. The information shall be provided in the employee's own language if the Division has produced it in that language. ORS 654.770 and ORS 654.780

## **I. SAFETY AND HEALTH ON-THE-JOB POSTER**

“The Safety and Health Protection on the Job poster shall be posted permanently.” OAR 437-001-0275(2)(a)

“If the employer has not displayed the poster a minimum penalty of \$100 may be assessed.” OAR 437-001-0203(1)

## **J. DISCRIMINATION**

By Oregon statute, the Civil Rights Division of the Oregon Bureau of Labor and Industries (BOLI) has responsibility for enforcing Oregon's civil rights laws and investigating complaints, including those filed under Section 11(c) of the Occupational Safety and Health Act, and following the guidelines provided in Federal CPL-02-03-003 (Whistleblower Investigation Manual). In all, BOLI investigates nearly 30 protected classes, including race, national origin, sex, religion and age.

Oregon OSHA contracts with BOLI to conduct investigations of alleged discrimination related to workers' rights protected under the Occupational Safety and Health Act. OR-OSHA closely monitors BOLI's administration of the discrimination program, including quarterly audits of all closed 11(c) case files. Following each audit, OR-OSHA meets with BOLI representatives to review the findings and discuss any issues. Files are audited for timeliness, documentation, use of prima facie elements, case analysis, and sufficient evidence to justify the investigative outcomes.

ORS 654.062(5)(b) and (c) read as follows:

“Any employee or prospective employee who believes that the employee has been barred or discharged from employment or otherwise discriminated against in compensation, or in terms, conditions or privileges of employment, by any person in violation of this subsection may, within 30 days after the employee has reasonable cause to believe that such a violation has occurred, file a complaint with the Commissioner of the Bureau of Labor and Industries alleging such discrimination under the provisions of ORS 659A.820. Upon receipt of such complaint the commission shall process the complaint and case under the procedures, policies and remedies established by ORS chapter 659A and the policies established by ORS 654.001 to 654.295 and 654.750 to 654.780 in the same way and to the same extent that the complaint would be processed by the commission if the complaint involved allegations of unlawful employment practices based upon race, religion, color, national origin, sex or age under ORS 659.030(1)(f). The affected employee shall also have the right to bring suit in any circuit court of the State of Oregon against any person alleged to have violated this subsection. The commissioner or the circuit court may order all appropriate relief including rehiring or reinstatement of the employee to the employee's former position with back pay. Within 90 days after receipt of a complaint filed under this subsection the commission shall notify the complainant of the commissioner's determination . . .” ORS 654.062(5)(b) and (c)

Reference the interagency agreement between the Bureau of Labor and Industries and the Department of Consumer and Business Services, OR-OSHA. (See I.E)

## **IV. MANAGEMENT SYSTEMS**

*(Updated September 2003)*

### **A. OREGON INTEGRATED MANAGEMENT INFORMATION SYSTEMS (IMIS)**

Oregon's integrated management information systems are required by Section 18(c) of the Occupational Safety and Health Act of 1970 which says that state plans must assure that the state agency "shall make such reasonable reports to the Assistant Secretary in such form and containing such information as she/he may from time to time require." Oregon is also mandated in its own law to "establish appropriate reporting and research procedures which will help achieve the objectives of the Oregon Safe Employment Act, identify occupational hazards and unsafe and unhealthy working conditions, and describe the nature of the occupational safety and health problem." ORS 654.003(5)

Historically, Oregon provided quarterly data reports from the state information management system and manual logs. Oregon revised its data processing input documents and began participating in the OSHA Unified Management Information System (UNI MIS) in May 1982. OSHA revised UNI MIS into the Integrated Management Information System (IMIS), and Oregon converted in 1984. Through December 1987, IMIS data was collected, batched, and shipped to OSHA for data entry or entered into an Altos minicomputer by OR-OSHA staff.

Because of the lack of data in the IMIS pertaining to work-related deaths, injuries and illnesses, in June 1986 it was determined that Oregon needed a state information management system which could provide data for both federal and state-specific needs. Systems development was completed in February 1987 and tested with OSHA until July 1987. In January 1988, Oregon stopped data entry into the Altos System. However, because of funding issues, the state rejoined the federal IMIS in September 1988 and came back on line with a new Altos system in April 1989.

The state continued to rely largely on its own management information reports for guidance in day-to-day operations, until 1990 when Federal OSHA required states to implement the federal program change OSHA Instruction ADM 1-1.21 and subsequent updates. These instructions mandate state maintenance on the Altos System of an accurate and complete IMIS database, and the use of Altos reports for managing office operations. The state complied by implementing a plan to carry out the instructions, and is continuing database cleanup and initiation of regular report scheduling and dissemination to Division managers and supervisors.

Oregon continues to collect, record, and transmit information consistent with the requirements of the Federal Integrated Management Information System for enforcement, 21(d) consultation and other program areas as may be developed.

### **B. INTERNAL REVIEW - Reserved**

### **C. PLANNING SYSTEMS – Reserved**

## **V. VOLUNTARY COMPLIANCE**

*(Updated September 2003)*

### **A. LEGAL AUTHORITY**

#### **Consultation**

The Oregon Safe Employment Act requires that a procedure will be provided to “Establish a coordinated program of worker and employer education, health and safety consultative services . . . to assist workers and their employers in preventing occupational injury and disease, whatever the cause.” ORS 654.003(2)

ORS 654.090 requires that “In order to carry out the purposes of ORS 654.001 to 654.295 and 654.750 to 654.780, and encourage voluntary compliance with occupational safety and health laws, regulations, and standards, and promote more effective workplace health and safety programs, the Director shall: . . . Provide consultative services for employers on safety and health matters, and prescribe procedures which will permit any employer to request a special inspection or investigation, focused on specific problems or hazards in the place of employment of the employer or to request assistance in developing a plan to correct such problems or hazards, which will not directly result in a citation and civil penalty.”

The unique aspect of Oregon's Consultative Services Program requiring that the services “shall” be provided, originated in the 1987 session of the Legislature in House Bill 2900. This legislation made consultative services an integral part of workers' compensation reform. Further reinforcement of this link to workers' compensation reform was made in the 1989 legislative session and in a special session of the Oregon Legislature in 1990. During the special session, additional OR-OSHA Consultative Services staff were allocated to continue the active role consultation played in workers' compensation reform.

#### **Training**

ORS 654.090 of the Oregon Safe Employment Act directs that in order to encourage voluntary compliance with occupational safety and health laws, regulations, and standards, and to promote more effective workplace health and safety programs, the Director shall: “(1) Develop greater knowledge and interest in the causes and prevention of industrial accidents, occupational diseases and related subjects through (a) . . . , conferences, lectures and the use of public communications media, and, . . . (c) the publication and distribution of training and accident prevention materials, including audio and visual aids.”

## **B. EXTERNAL TRAINING AND EDUCATION**

In accordance with 29 CFR 1902.4(c)(2)(xiii), OSHA Instruction STP 2.22 and subsequent updates, and ORS 654.003(2), 654.090(1), and ORS 654.090(3); OR-OSHA attempts to maintain the highest level of training feasible within budgetary constraints by utilizing personnel from throughout the agency to assist in education and training functions. Areas of staff expertise are identified to assure that the most knowledgeable personnel provide training.

The Training Section conducts seminars, workshops, and training sessions throughout the state. This service, provided free of cost to the participants, is made available to employers, employees, organizations, and groups representing employers and employees who have an interest in occupational safety and health. These sessions are provided to inform those directly affected by Oregon's occupational safety and health laws and standards about the existence of those requirements, what is needed to come into compliance with the standards, and how to manage occupational safety and health programs. The subjects covered vary from an in-depth presentation of a technical occupational safety and health standard or hazard, to instruction on safety and health program management.

OR-OSHA coordinates occupational safety and health educational conferences at the regional and statewide level. The Division works cooperatively with other groups to bring multiple topics and speakers together for the benefit of Oregon employers and employees.

## **C. CONSULTATIVE SERVICES**

The primary goal of the Consultative Services Program is to assist employers and workers with the recognition, control, and self-management of workplace hazards. Consultative services are offered at no charge to Oregon employers, effectively balancing enforcement activities. By law, these services must be provided by the Department. The OR-OSHA Consultation Program consists of two parts: the federally-funded 21(d) program, and a 100% state-funded program for private and public-sector employers.

### **21(d) Funded Program**

The 21(d) federally funded program conforms with the requirements in Part 1908 of Title 29 of the Code of Federal Regulations (29 CFR 1908), and all related formal directives issued by the U. S. Department of Labor. Policies and procedures for 21(d) staff are contained in the OR-OSHA Consultation Services Reference Guide. TED 3.5 is used to address issues not covered by the state guide.

## **100% State-Funded Program**

The 100% state-funded consultation program was developed as a result of House Bill 2900 passed by the Oregon Legislature in 1987. Subsequently, resources were enhanced as a result of the special session of 1990. The 100% state-funded consultation program concentrates its efforts on employers not covered by the 21(d) program, and does not detract from the resources and priorities assigned to the 21(d) program. An employer may request a survey of an entire establishment, of a particular portion of the site, or a piece of equipment or process. A visit to the worksite (fixed or mobile) is scheduled by a safety consultant, ergonomist, or industrial hygienist. A consultative survey follows the same general format as a regular OR-OSHA inspection, including an opening meeting, walkaround, employee interviews, and a closing meeting. The employer's top management staff representative is encouraged to attend all phases of the on-site visit to demonstrate support and management commitment.

With the state-funded program, employers are strongly encouraged to correct serious hazards found during an on-site visit. This is consistent with legislative intent that the state-funded consultation program operate entirely separate from the enforcement program and not provide an opportunity for an inspection or a path to later enforcement action. However, because imminent danger situations may result in either death or serious injury to an employee, an employer must take immediate action to eliminate employee exposure to a hazard which, in the judgment of the consultant, presents an imminent danger to workers. Policies and procedures are contained in the Consultative Services Reference Guide.

The state-funded program maintains a high degree of innovative assistance with occupational safety and health issues not related to normal rule-related hazards. These innovative approaches include non-compliance, ergonomics, assistance with safety and health programs, job safety analysis, accident investigation, safety committee implementation, plan review for new or expanding businesses, and pre-job planning. A number of Oregon's state-funded consultation staff are professional ergonomists trained specifically to deal with the strains and sprains which make up a high percentage of Oregon's serious disabling injuries.

## **VI. OCCUPATIONAL SAFETY AND HEALTH LABORATORY**

*(Updated September 2003)*

The Department of Consumer and Business Services, Occupational Safety and Health Division, has an occupational health laboratory which provides in-house analytical services to both the enforcement and consultation program.

The Oregon occupational health laboratory is accredited by the American Industrial Hygiene Association and will maintain its accreditation. The lab also successfully participates in the National Proficiency Testing (PAT) Program and the American Industrial Hygiene Association Bulk Asbestos Sample Proficiency Testing Program. The laboratory is responsible for internal quality control of analytical procedures, which includes ensuring the precision and accuracy of the test results and maintaining mechanisms to ensure sample integrity.

Nearly all samples collected in the work environment by the field staff are analyzed in-house for contaminants; these analyses define the extent to which health hazards may be present. The laboratory provides frequent assistance to field staff in selecting appropriate methods for sampling, storage, treatment of samples, and validity of test results.

Sampling equipment for both chemical and physical agents are inventoried, processed, calibrated, and maintained as part of laboratory activities. The laboratory also provides consultation to field staff on the use, maintenance, and limitations of field direct-reading instruments.

**VII. PERSONNEL**  
*(Updated September 2003)*

**A. MERIT SYSTEM**

Personnel in the Occupational Safety and Health Division are employed under a merit system in compliance with:

Oregon Revised Statutes, Chapter 240, State Personnel Relations;

Oregon Administrative Rules, Personnel Rules and Personnel Policies; and

Collective Bargaining Contract Between the State of Oregon Executive Department and the Oregon Public Employees Union.

These statutes, rules, and agreements meet the standards prescribed by the U.S. Civil Service Commission and can be viewed by contacting the Department of Consumer and Business Services, Office of Personnel Services. NOTE: The Administrator is appointed by and serves at the pleasure of the Director of the Department of Consumer and Business Services.

**B. AFFIRMATIVE ACTION**

The Governor and the State of Oregon are strongly committed to a sound and effective affirmative action program. The affirmative action plan is updated annually and has the full and active support of all management in the Department of Consumer and Business Services.

Affirmative action is a method of eliminating the effects of past or present, intended or unintended, discrimination in the workplace. The foundation of affirmative action is fairness for all individuals regardless of their race, color, ancestry, national origin, age, marital status, sexual orientation, political or religious affiliations, physical or mental disability not shown to prevent adequate work performance or any other non-merit factor.

Documents related to DCBS's Affirmative Action Plan are:

1. Department of Consumer and Business Services Affirmative Action Plan;
2. Department of Consumer and Business Services Policies and Procedures; and
3. Department of Consumer and Business Services Employee Handbook.

These documents can be viewed by contacting the Department of Consumer and Business Services, Office of Personnel Services.

### **C. BENCHMARKS/SUFFICIENT STAFFING**

Federal evaluations of the OR-OSHA program have indicated that the state has had a sufficient number of trained and qualified personnel to enforce the standards and regulations adopted under the plan and to carry out its provisions. It is the intent of the state to continue to provide a sufficient number of qualified personnel necessary for the enforcement and administration of the state occupational safety and health programs.

### **D. INTERNAL TRAINING**

In order to assure a sufficient number of adequately trained and qualified personnel, Oregon OSHA provides a training program that includes classroom and on-the-job experiences, as well as a standard evaluation process. This ensures that all field personnel are qualified and have received a basic body of knowledge sufficient to provide effective inspections and consultation surveys that are procedurally correct.

The quality and credibility of both the Enforcement and Consultation programs depends on the professional skills of field personnel. To ensure that performance levels remain high, Oregon OSHA utilizes several approaches to staff training. Basic training is provided for all new personnel. Journey and advanced level training is provided in accordance with OSHA Instruction STP 2.22, subsequent updates, and TED 1.12, through the equivalent Oregon OSHA Standard Operating Procedure 13. A variety of training sources are utilized, including the Region X OSHA Training Institute Education Center at the University of Washington, and national professional development conferences. Oregon OSHA also contracts with technical experts to present courses for staff. Training on new standards is provided as such standards are adopted.

### **E. ORGANIZATION OF OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION**

Materials describing employee organization, classifications and job titles can be found in the Division's Table of Organization located in Appendix J.

#### **The Administrator's Office**

The primary function of the Administrator's Office is to set policy and direct OR-OSHA's statewide occupational safety and health programs including establishing goals, strategies and legislative concepts to help reduce occupational injuries, illnesses, and fatalities. Programs housed within the Administrator's Office include state plan administration, public relations, as well as the Appeals Unit. The Administrator also coordinates the division's four major programs with field offices across Oregon. These programs are described below.

## **Occupational Safety and Health Enforcement Program**

OR-OSHA's comprehensive enforcement program ensures that Oregon's occupational safety and health rules are carried out in the workplace.

The Safety Enforcement Program directs the agency's resources to prevent the traumatic injury of workers in the workplace. This program also investigates program-related fatalities and serious disabling injuries and, where appropriate, makes referrals to local District Attorney's for criminal negligence.

The Health Enforcement Program has a primary focus of preventing occupational diseases and illnesses that can result from exposure to chemical substances and physical agents in the workplace.

Oregon OSHA's occupational health laboratory is a nationally-certified laboratory. The laboratory analyzes samples collected by field compliance officers and consultants.

The Agriculture Program is administered under the enforcement program, and includes inspections of pesticide issues.

The Insurer/Self-Insured Services Program ensures that workers' compensation insurance companies are providing their policyholders with occupational safety and health consultative services at no charge.

## **Consultation and Services Programs**

OR-OSHA's Consultation and Services Program is responsible for conducting on-site consultations, adopting occupational safety and health rules, interpreting rules, providing technical assistance to employers and workers, and providing training assistance to the public.

Consultative Services assists employers and workers with the recognition, control and self-management of workplace hazards. Consultants help firms develop their own occupational safety and health programs. Services are available to public and private employers including hazard assessments, ergonomic assessments, new and small business assistance, accident investigation training, and pre-job assistance.

Technical Section staff research federal rule adoptions and work with statewide stakeholder groups to consider adopting federal rules by reference, making specific Oregon additions, or preparing complete replacement regulations. Technical staff also consider variance applications to specific rules when an employer demonstrates that equally effective health and safety measures are being followed in the workplace.

The OR-OSHA Resource Center includes a technical library, an occupational health and safety film/video lending library, and offers workplace health and safety research assistance.

The Public Education Section provides an extensive schedule of occupational safety and health class offerings across the state. The Conference Section sponsors and co-sponsors educational conferences such as the biennial Governor's Occupational Safety and Health Conference, smaller regional safety and health conferences, and specialty conferences focused on unique industry needs.

The Training and Education Grant Program awards grants to industrial and labor groups for the development of innovative occupational safety and health training materials for Oregon workers and employers.

### **Administrative Services**

This program provides fiscal management and administrative support services to OR-OSHA. Services provided include budgeting, accounting, and purchasing coordination; federal grant coordination; contracting; computer and data support; and word processing.

## **VIII. RECORDKEEPING AND REPORTING REQUIREMENTS**

*(Updated September 2003)*

### **A. PARTICIPATION IN THE BUREAU OF LABOR STATISTICS GRANT PROGRAM**

#### **Annual BLS Survey**

The Bureau of Labor Statistics (BLS) is responsible for developing and maintaining an effective nationwide occupational injuries and illnesses statistical program. Through this program, Oregon employers report their injury and illness experience to the Research and Analysis (R & A) Section of the Information Management Division, Department of Consumer and Business Services. The R & A Section is funded partially by a grant from BLS to participate in the BLS program. With this grant, the R & A Section is responsible for collecting data for the annual survey. Oregon statistics are included with data from other states to produce national incidence rates for injuries and illnesses by industry. Each annual survey is conducted according to federal specifications. The reporting form supplies data for both state and federal agencies.

#### **Supplemental Data System**

Although the BLS Annual Survey is the accepted source of incidence rate data, it does not provide detailed information on the nature of the causes of workplace accidents. The Supplemental Data System (SDS) uses workers' compensation reports to produce detailed information describing the types of accidents and how they occur. These statistics are utilized to schedule inspections, target consultations, develop safety and health standards, indicate the major characteristics of injuries and illnesses for various occupations and industries, target accident and disease prevention activities, assist in the selection of appropriate personal protective equipment, and provide information for the development of education and training materials for government agencies, employers, and employees.

### **B. OR-OSHA REPORTING REQUIREMENTS**

#### **U.S. Department of Labor Reports**

Under authority granted by ORS 654.120(4), the state will make such reports as are requested by the U. S. Department of Labor.

#### **State Reports**

Under the authority granted by ORS 654 through 656, the state will make such reports as are statutorily required or determined necessary or appropriate to achieve the goals of the Oregon Safe Employment Act and the Williams-Steiger Act.

## **C. EMPLOYER REPORTING REQUIREMENTS**

The OSHA Act and 29 CFR Part 1904 require employers to prepare and maintain records of occupational injuries and illnesses. The Act made the Secretary of Labor responsible for the collection, compilation, and analysis of statistics of work-related injuries and illnesses. The state agencies cooperate with the Bureau of Labor Statistics in administering the OSHA recordkeeping and reporting programs.

Nothing contained in the Oregon Safe Employment Act shall relieve an employer from making such reports as may be required by federal law. ORS 654.120(5)

“Each employer shall keep records, in the manner prescribed by the Director of the Department of Consumer and Business Services, of work-related deaths and serious injuries and illnesses, and of such other relevant occupational safety and health matters as are reasonably necessary for achieving the purposes of ORS 654.001 to 654.295 and 654.750 to 654.780.” ORS 654.120(2)

Employers shall maintain an OSHA 300, or equivalent, for recording and classifying occupational injuries and illnesses, and for noting the extent of each case.

Employers must also complete DCBS Form 801 or equivalent within 7 calendar days of receiving information that a recordable injury or illness has occurred. This is a supplementary record which describes how the accident or illness exposure occurred, the objects or substances involved, the nature of the injury or illness, and the part(s) of the body affected.

Employers shall inform the Administrator, or designee, of all fatalities or catastrophes within 8 hours of occurrence or employer knowledge and accidents or injuries resulting in overnight hospitalization for medical treatment within 24 hours of occurrence or employer knowledge. ORS 654.120(2) and OAR 437-001-0700

At the end of each calendar year, the employer must “post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced or covered by other material.” OAR 437-001-0700(17)

Each employer “must save the OSHA 300 log, the privacy case list (if any), the annual summary, and the DCBS Form 801 or equivalent forms for five years following the end of the calendar year that they cover.” OAR 437-001-0700(18)

## **D. RECORDS RETENTION AND DISPOSAL**

In accordance with ORS 654.120, the Department will retain records in compliance with state records retention requirements and, as appropriate, to achieve the goals of the Oregon Safe Employment Act.

## **IX. BUDGET AND FUNDING**

*(Updated September 2003)*

### **A. ADEQUATE STATE FUNDING**

Pursuant to the requirements of Section 18(c)(5) of the Occupational Safety and Health Act of 1970, state plans submitted for approval under Section 18(b) of the Act must ensure “that such state will devote adequate funds to the administration and enforcement of such standards.” Adequate state funds will be devoted for administration, enforcement and voluntary compliance programs of the Oregon Occupational Safety and Health Program.

### **B. FUNDING PROVIDED BY LAW**

Funding for the Oregon occupational safety and health program is provided for by law. The Oregon Safe Employment Act provides that the cost of administering the occupational safety and health program is included in the budget of the Department of Consumer and Business Services.

Oregon OSHA is primarily funded by workers’ compensation premium assessment revenues. Additional sources of revenue include federal funds, fines, and penalties. Fines, penalties and federal fund revenues are deposited into the Consumer and Business Services Fund, which is established at the State Treasury per Oregon Law, Chapter 373, Section 17(4), to reduce the impact on premium assessment dollars. Civil penalty revenue, generated through citations issued to employers who are found to be in violation of the Oregon Safe Employment Act, are expended for occupational safety and health training grants, scholarships for children of injured or killed workers, and for general operating expenses of the workers’ compensation-related program areas.

### **C. GRANT(S)**

A grant application, prepared in accordance with Section 23(g) of the Occupational Safety and Health Act of 1970, is submitted annually to the U.S. Department of Labor. This application represents a request for federal funds needed to operate the Oregon Occupational Safety and Health Program. One portion of this application outlines in detail the anticipated expenses for one full year of operation. Major deviations from the grant are not undertaken without prior approval from the U.S. Department of Labor. Expenditures are accounted for under generally accepted accounting principles (GAP) as promulgated by the Governmental Accounting Standards Board, and as interpreted by the State Accounting Manual and Executive Department Administrative Rules.

## **X. OPTIONAL CHANGES**

*(Updated September 2003)*

### **A. SANITARY FACILITIES AT CONSTRUCTION PROJECTS**

ORS 654.150 and 160 require that construction projects estimated to cost \$1 million or more have “toilet facilities available and facilities for maintenance of personal cleanliness for the use of employees on the construction project. Flushable toilets shall be provided and the washing facilities shall consist of warm water, wash basins and soap.” The statute also provides that the contracts for such projects contain details as to responsibility for such facilities. The rules for these requirements are located in the Oregon Construction Code.

### **B. SANITATION FACILITIES FOR WORKERS HARVESTING FOOD CROPS; POSTING NOTICE**

ORS 654.174 requires employers of workers engaged in the harvesting of food crops to have sanitation and handwashing facilities available to those workers and to post a notice describing these requirements. The rules for these requirements are located in the Oregon Agriculture Code.

### **C. BASIC INFORMATION FOR AGRICULTURAL WORKERS**

In addition to other rules on hazard communication, agricultural employers must provide information contained in ORS 654.760, 654.770 and 654.780 to all of their employees. Rules for these requirements are contained in the Oregon Agriculture Code.

### **D. HAZARD COMMUNICATION AND HAZARDOUS SUBSTANCES**

ORS 654.196 contains requirements for Oregon employers regarding hazard communications and hazardous substances. Rules on posting requirements for piping systems and informing employees on the contents of piping systems are also contained in this law. The rules for these requirements are located in OAR 437-002-0377 and 0378.

### **E. INSURER/SELF-INSURED SAFETY AND HEALTH PROGRAM**

The OR-OSHA Insurers' Program is a state program mandated by ORS 654.097. Requirements for the program are in OAR 437-001-1005 through 1065. This statute, and the rules, require that all insurers for workers' compensation and all employers self-insured for workers' compensation furnish safety and health loss prevention consultative services. Insurers are not to charge a fee for these consultative services, and are required to notify employers annually of the services offered. Self-insured employers are required to maintain a comprehensive written occupational safety and health plan in addition to offering consultative services to all of their locations. The original authority for these requirements was originally contained in ORS 656.451 and subsequently moved to the OSE Act by legislation during the 1991 session.

## **F. OCCUPATIONAL SAFETY AND HEALTH TRAINING GRANTS PROGRAM**

ORS 654.189 and 191 require the Department to implement an occupational safety and health grant program that awards grants to employer or employee organizations to develop innovative training or education programs. The Safe Employment Education and Training Advisory Committee (SEETAC) reviews each application and recommends possible awards to the Director of the Department. The grants are funded from the civil penalties paid into the Consumer and Business Services Fund under ORS 654.086. The requirements for this program are located in Oregon Administrative Rules 437-001-0800 to 437-001-0810.

## **G. SAFETY COMMITTEES**

ORS 654.176 and 182 require that “every public or private employer of more than 10 employees shall establish and administer a safety committee . . .” The statute also specifies the conditions under which employers of 10 or fewer employees shall be required to establish a safety committee. The rules for these requirements are located in the Oregon Administrative Rules 437-001.

## **H. TECHNICAL RESOURCE CENTER**

To facilitate dissemination of technical knowledge on occupational safety and health topics, OR-OSHA maintains a Resource Center. Offering assistance to both internal staff and the public, the Resource Center offers telephone-linked data line systems, books, periodicals, and topical files regarding occupational safety and health.

## **I. WORKERS’ MEMORIAL SCHOLARSHIP**

The 1991 Legislature passed legislation establishing the Workers' Memorial Scholarship Account. The interest from the account is used to fund educational scholarships for the spouses and children of fatally or seriously injured workers. The program is administered by OR-OSHA through the Safe Employment Education and Training Advisory Committee as established in ORS 654.189. The maximum amount credited to the Workers’ Memorial Scholarship fund is \$250,000.

## APPENDIX A

### FEDERAL REGISTERS - APPROVALS AND NOTIFICATIONS

Revised July 15, 2004

The Federal Registers listed below for 1994-2000, as well as an Abstract for the 1986 FR notice, can be viewed on the web at:

[http://www.osha.gov/pls/oshaweb/owasrch.search\\_form?p\\_doc\\_type=FEDERAL\\_REGISTER&p\\_toc\\_level=1&p\\_keyvalue=Federal\\_Register\\_Number](http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=FEDERAL_REGISTER&p_toc_level=1&p_keyvalue=Federal_Register_Number).

1. 12-28-72 37 FR 28628 State Plan Approval
2. 04-01-74 39 FR 11881 Revised Developmental Schedule
3. 09-17-74 39 FR 33423 Oregon Safe Employment Act
4. 04-28-75 40 FR 18427 Operational Agreement
5. 06-09-75 40 FR 24522 Complaint Processing, Stay of Abatement
6. 11-10-75 40 FR 52367 Safety and Health Poster
7. 03-02-76 41 FR 8955 Staff Training, Management Information System, Laboratory Accreditation
8. 06-11-76 41 FR 23671 Affirmative Action Plan
9. 07-05-77 42 FR 34281 Field Compliance Manual, Goals and Objectives
10. 08-09-77 42 FR 40268 Longshoring: Federal Enforcement
11. 08-18-78 43 FR 36624 Warm Springs: Federal Enforcement
12. 09-24-82 47 FR 42103 Rules for Enforcement, Rules for Contested Cases, Rules for Discrimination, Poster, Safe Employment Act
13. 09-24-82 47 FR 42105 Completion of Developmental Steps, 18(e) Certification
14. 07-29-86 51 FR 27023 Field Compliance Manual, IH Technical Manual, Inspection Scheduling, Gender Neutral Legislation, Superfund Sites, Voluntary Compliance, Interagency Agreements
15. 03-29-94 59 FR 14554 Penalty Levels
16. 03-29-94 59 FR 14589 Proposed Revised Compliance Staffing Benchmarks
17. 08-18-94 59 FR 42493 Compliance Staffing Benchmarks
18. 09-24-97 62 FR 49908 Umatilla Tribes: Federal Enforcement; Superfund Sites and U.S. Army Dam Construction: State Enforcement
19. 01-06-99 64 FR 913 Shipyards and Indian Reservations: Federal Enforcement
20. 06-09-00 65 FR 36617 U. S. Postal Service: Federal Enforcement

## APPENDIX B

### OREGON LEGISLATION, 1973 -2003

(Revised February 6, 2004)

1.	1973	SB	44	Oregon Safe Employment Act
2.	1975	SB	440	Insurer Program
3.	1975	HB	2089	Transfer Occupational Health Functions
4.	1975	HB	2959	Sanitary Facilities at Construction Projects
5.	1977	SB	423	Red Tag Provisions
6.	1977	SB	1050	Creation of Worker's Compensation Department
7.	1977	HB	2635	Sanitary Facilities at Construction Projects
8.	1981	SB	519	Safety Committees
9.	1981	HB	2600	Creation of SACOSH
10.	1985	SB	501	Agriculture - Posting/Field Sanitation
11.	1985	SB	868	Worker Right to Know - Posting/Piping Systems
12.	1987	SB	904	Agriculture - Hazard Communication
13.	1987	HB	2409	Gender Reference Change
14.	1987	HB	2900	Voluntary Compliance Enhancement
15.	1987	HB	3381	Creation of Department of Insurance and Finance
16.	1989	SB	731	Farm Labor Contractors
17.	1989	SB	732	Farm Labor Camps – Registration
18.	1989	HB	2192	Disclosure Exemption for Investigation Files
19.	1989	HB	2982	Grant Program
20.	1990	SB	1197	Safety Committees
21.	1991	SB	829	Safety Committees
22.	1991	SB	962	Worker Memorial
23.	1991	HB	2433	Insurer Program
24.	1991	HB	2825	Live-Line, Bare-Hand Electrical Work
25.	1991	HB	3017	Penalties
26.	1993	SB	167	Creation of Dept of Consumer & Business Services
27.	1993	HB	2262	Rulemaking
28.	1993	HB	2330	Worker Memorial Scholarship Fund
29.	1993	HB	3114	Sanitary Facilities at Construction Projects

## Appendix B (continued)

30.	1995	SB	369	Ergonomics Research Funding ( <a href="http://www.leg.state.or.us/95reg/measures/sb0300.dir/sb0369.en.html">http://www.leg.state.or.us/95reg/measures/sb0300.dir/sb0369.en.html</a> )
31.	1995	SB	705	Farm Labor Camps – Registration ( <a href="http://www.leg.state.or.us/95reg/measures/sb0700.dir/sb0705.en.html">http://www.leg.state.or.us/95reg/measures/sb0700.dir/sb0705.en.html</a> )
32.	1995	HB	2038	Penalties ( <a href="http://www.leg.state.or.us/95reg/measures/hb2000.dir/hb2038.en.html">http://www.leg.state.or.us/95reg/measures/hb2000.dir/hb2038.en.html</a> )
33.	1995	HB	2541	Safety Committees ( <a href="http://www.leg.state.or.us/95reg/measures/hb2500.dir/hb2541.en.html">http://www.leg.state.or.us/95reg/measures/hb2500.dir/hb2541.en.html</a> )
34.	1995	HB	3019	Agricultural Employer Inspection Exemptions ( <a href="http://www.leg.state.or.us/95reg/measures/hb3000.dir/hb3019.en.html">http://www.leg.state.or.us/95reg/measures/hb3000.dir/hb3019.en.html</a> )
35.	1997	SB	038	Farm Labor Camps - Alternative Housing ( <a href="http://www.leg.state.or.us/97reg/measures/sb0001.dir/sb0038.en.html">http://www.leg.state.or.us/97reg/measures/sb0001.dir/sb0038.en.html</a> )
36.	1997	SB	135	Discontinuation of SACOSH ( <a href="http://www.leg.state.or.us/97reg/measures/sb0100.dir/sb0135.en.html">http://www.leg.state.or.us/97reg/measures/sb0100.dir/sb0135.en.html</a> )
37.	1999	SB	211	Citations ( <a href="http://www.leg.state.or.us/99reg/measures/sb0200.dir/sb0211.en.html">http://www.leg.state.or.us/99reg/measures/sb0200.dir/sb0211.en.html</a> )
38.	1999	SB	212	Hazard Communication ( <a href="http://www.leg.state.or.us/99reg/measures/sb0200.dir/sb0212.en.html">http://www.leg.state.or.us/99reg/measures/sb0200.dir/sb0212.en.html</a> )
39.	1999	HB	2320	Consultation Report Confidentiality ( <a href="http://www.leg.state.or.us/99reg/measures/hb2300.dir/hb2320.en.html">http://www.leg.state.or.us/99reg/measures/hb2300.dir/hb2320.en.html</a> )
40.	1999	HB	2402	Family Farm Exemption ( <a href="http://www.leg.state.or.us/99reg/measures/hb2400.dir/hb2402.en.html">http://www.leg.state.or.us/99reg/measures/hb2400.dir/hb2402.en.html</a> )
41.	1999	HB	2477	Workers’ Memorial Scholarship Account ( <a href="http://www.leg.state.or.us/99reg/measures/hb2400.dir/hb2477.en.html">http://www.leg.state.or.us/99reg/measures/hb2400.dir/hb2477.en.html</a> )
42.	1999	HB	2830	Inspection Scheduling ( <a href="http://www.leg.state.or.us/99reg/measures/hb2800.dir/hb2830.en.html">http://www.leg.state.or.us/99reg/measures/hb2800.dir/hb2830.en.html</a> )
43.	2003	HB	3010	Steel Erection ( <a href="http://www.leg.state.or.us/03reg/measures/hb3000.dir/hb3010.en.html">http://www.leg.state.or.us/03reg/measures/hb3000.dir/hb3010.en.html</a> )

**Oregon Legislation Amending Only the Oregon Safe Employment Act, ORS 654**  
**Or Amending Farmworker Camps, ORS 658**

(see other Oregon Act amendments on pages B-8 to B-11)

1973	SB	44	Oregon Safe Employment Act - ORS 654 Amended: ORS 654.005, 654.010, 654.015, 654.020, 654.025, 654.030, 654.035, 654.045, 654.060, 654.062, 654.085, 654.090, 654.202, 654.206, 654.212, and 654.216. Repealed: ORS 654.040, 654.047, 654.050, 654.055, 654.065, 654.070, 654.075, 654.080, 654.093, 654.095, 654.100, 654.105, 654.155, 654.222, 654.226, 654.232, 654.405, 654.410, 654.415, 654.420, 654.425, 654.430, 654.605, 654.610 and 654.990.
1975	HB	2089	Transfer Occupational Health Functions Amended: ORS 654.005 and 654.082 Repealed: ORS 654.241
1975	HB	2959	Sanitary Facilities at Construction Projects Added: ORS 654.150
1977	SB	423	Red Tag Provisions Amended: ORS 654.020 and 654.082
1977	HB	2635	Sanitary Facilities at Construction Projects Added: ORS 654.160
1981	SB	519	Safety Committees Added: ORS 654.176, 654.176
1985	SB	868	Worker Right to Know - Posting/Piping Systems Added: ORS 654.194 and 654.196 (ORS 654.194 was repealed in 1999 by Senate Bill 212)
1987	SB	904	Agriculture - Hazard Communication Amended: ORS 654.750, 654.760, 654.770 and 654.780
1989	SB	731	Farm Labor Contractors Added: ORS 658.440(2)
1989	SB	732	Farm Labor Camps - Registration Added: ORS 658.705, 658.715, 658.717, 658.720, 658.730, 658.735, 658.740, 658.750, 658.755, 658.760, 658.780, 658.785, 658.790, 658.805, 658.810, 658.815, 658.820, 658.825 and 658.827.

1989	HB	2982	Grant Program Added: ORS 654.191
1991	SB	829	Safety Committees Amended: ORS 654.182 Repealed: ORS 654.187
1991	SB	962	Worker Memorial Added: ORS 654.200
1991	HB	2825	Live-Line, Bare-Hand Electrical Work Added: ORS 654.165
1991	HB	3017	Penalties Amended: ORS 654.086
1993	HB	2330	Worker Memorial Scholarship Fund Amended: ORS 654.200
1993	HB	3114	Sanitary Facilities at Construction Projects Amended: ORS 654.150
1995	SB	705	Farm Labor Camps – Registration Amended: ORS 658.750, 658.755, 658.780, 658.785, 658.805, 658.810 and 658.825.
1995	HB	2038	Penalties Amended: ORS 654.086
1995	HB	2541	Safety Committees Amended: ORS 654.176
1995	HB	3019	Agricultural Employer Inspection Exemptions Added: ORS 654.154
1997	SB	038	Farm Labor Camps - Alternative Housing Amended: ORS 658.790
1999	SB	211	Citations Amended: ORS 654.071
1999	SB	212	Hazard Communication Amended: ORS 654.196 and 654.760 Repealed: ORS 654.194

1999	HB	2320	Consultation Report Confidentiality Added: ORS 654.101
1999	HB	2402	Family Farm Exemption Amended: ORS 654.005
1999	HB	2830	Inspection Scheduling Amended: ORS 654.003, 654.035, 654.067 and 654.071
1999	HB	2477	Workers' Memorial Scholarship Account Amended: ORS 654.200
2003	HB	3010	Steel Erection Amended: ORS 654.035

**Legislation with NO amendments to the Oregon Safe Employment Act or ORS 658**  
**(amends only other laws)**

- 1975 SB 440 Insurer Program  
This bill made one minor amendment to laws relating to workers' compensation. The amendment gave the workers' compensation commissioner authority to refuse to continue, suspend or revoke an insurer's certificate of authority if it is found, after a hearing, that the insurer has not furnished occupational safety and health loss control consultative services to its insured employers in accordance with standards established by the Director of the Department of Consumer and Business Services. (see ORS 731.418(1)(h) and ORS 654.097(1)(a))
- 1981 HB 2600 Creation of the State Advisory Committee on Occupational Safety and Health (SACOSH)  
SACOSH was discontinued in 1997 by Senate Bill 135.
- 1989 HB 2192 Disclosure Exemption for Investigation Files  
The entire text of ORS 192.501, Public Records, is included in the Oregon State Plan, Appendix D. This 1989 house bill modified the public records law by exempting information related to an open investigation.  
  
**“The following public records are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular instance ... *Investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation.*”** ORS 192.501 (17)
- 1993 HB 2262 Rulemaking  
The entire text of ORS 183 related to administrative procedures and rules of state agencies is included in Appendix D of the Oregon State Plan. This 1993 house bill made a variety of modifications to rule making procedures, including requiring public involvement in the rule making process.  
  
**“The Legislative Assembly finds and declares that it is the policy of this state that whenever possible the public be involved in the development of public policy by agencies and the drafting of rules.**

**The Legislative Assembly encourages agencies to seek public input to the maximum extent possible before giving notice of intent to adopt, amend or repeal a rule. The agency may appoint an advisory committee that will represent the interests of persons likely to be affected by the rule, or use any other means of obtaining public views that will assist the agency in drafting the rule.” ORS 183.025 (2)**

1995 SB 369

Ergonomics Research Funding

This bill allowed for the creation of the Worksite Redesign Grant program under ORS 656.622(2). The program offered financial assistance for the research and development of solutions to workplace safety, health and ergonomic problems with the goal of precluding or reducing one-the-job injuries.

While active, the Worksite Redesign Program was administered jointly by OR-OSHA and the Workers’ Compensation Division (WCD). Funding for this program was discontinued by the Oregon legislature in July 2001 as a result of budget cutbacks.

1997 SB 135

Discontinuation of the State Advisory Committee on Occupational Safety and Health (SACOSH)

This bill repealed ORS 656.796 creating the State Advisory Committee on Occupational Safety and Health. SACOSH had been inactive since 1991. It was replaced by direct partnership relationships with principal stakeholder groups, and by the active development of a labor-management advisory committee that directly reports to the Director of DCBS on issues of concern.

**Legislation Amending the Oregon Safe Employment Act and Other Laws**  
**(only the Oregon Act changes affect the Oregon State Plan)**

- 1985      SB    501      Agriculture - Posting/Field Sanitation  
Sections 1 through 6 of this bill relate to the Oregon Safe Employment Act. This bill modified Oregon law to specify mandatory fines for violations of field sanitation standards.
- “Notwithstanding paragraph (b) of this subsection, an employer who substantially fails to comply with ORS 654.174(1) shall be assessed a mandatory minimum fine of \$250.”** ORS 654.086(1)(h)
- This bill also gave the director authority to designate duties related to the enforcement of field sanitation requirements to local government employees.
- “The director may designate local government employees with public health administration or enforcement duties to exercise duties and powers imposed upon the director with respect to ORS 654.174(1) and (2).”** ORS 654.025(5)(a)
- 1987      HB    2900      Scope of Rules and Voluntary Compliance Enhancement  
This bill expanded the authority of the director related to orders, regulations, rules, and codes.
- “The director may, by general or special orders, or by regulations, rules, codes or otherwise...(2) Fix reasonable standards and prescribe and enforce reasonable orders for the adoption, installation, use and maintenance of devices, safeguards and other means of protection, and of methods, processes and work practices, including but not limited to, work practices qualifications for equipment, materials and activities requiring special competence, to be as nearly uniform as possible, as may be necessary to carry out all laws relative to the protection of the life, safety and health of employees.”** ORS 654.035(2)
- This bill amended penalties for violations of state occupational safety or health statutes and rules.
- “Any employer who receives a citation for a serious violation of such requirements shall be assessed a civil penalty of not less than \$50 and not more than \$2,500 for each such violation.”** ORS 654.086(1)(a)

**“Any employer who receives a citation, as provided in ORS 654.071(4), for failure to correct a violation may be assessed a civil penalty of not more than \$2,500 for each day during which such failure or violation continues.”** ORS 654.086 (1)(d)

**“Any employer who knowingly makes any false statement, representation or certification regarding the correction of a violation shall be assessed a civil penalty of not less than \$100 and not more than \$2,500.”** ORS 654.086 (1)(e)

**“Any person who violates the provisions of ORS 654.082 (2) or (3) shall be assessed a civil penalty of not less than \$100 and not more than \$5,000 for each such violation.”** ORS 654.086 (1)(g)

**“Notwithstanding paragraph (b) of this subsection, an employer who substantially fails to comply with ORS 654.174 (1) shall be assessed a civil penalty of not less than \$250 and not more than \$2,500 for each such violation.”** ORS 654.086 (1)(h)

This bill required the department to establish a consultative services program.

**“Establish a coordinated program of worker and employer education, health and safety consultative services, demonstration projects and research to assist workers and their employers in preventing occupational injury and disease, whatever the cause.”**  
ORS 654.003(2)

**“In order to carry out the purposes of ORS 654.001 to 654.295 and encourage voluntary compliance with occupational safety and health laws, regulations and standards and to promote more effective workplace health and safety programs, the director shall...*provide consultative services for employers on safety and health matters and prescribe procedures which will permit any employer to request a special inspection or investigation, focused on specific problems or hazards in the place of employment of the employer or to request assistance in developing a plan to correct such problems or hazards, which will not directly result in a citation and civil penalty.*”** ORS 654.090(3)

**“In order to carry out the purposes of ORS 654.001 to 654.295 and encourage voluntary compliance with occupational safety and health laws, regulations and standards and to promote more effective workplace health and safety programs, the director shall...place emphasis, in the research, education and consultation program, on development of a model for providing services to groups of small employers in particular industries and their employees.”** ORS 654.090(4)

**“In order to carry out the purposes of ORS 654.001 to 654.295 and encourage voluntary compliance with occupational safety and health laws, regulations and standards and to promote more effective workplace health and safety programs, the director shall...separately administer the voluntary compliance and research, education and consultation activities described in this section and the enforcement activities described in ORS 654.025 and 654.086.”** ORS 654.090(5)

1987      HB    2409      Gender Reference Change  
This bill amended ORS 654.212, Procedure for Issuance of Inspection Warrant by Magistrate, to make this provision gender neutral.

1990      SB    1197      Safety Committees  
This bill created the requirements for work place safety committees.

**“(1)In order to promote health and safety in places of employment in this state:**

**(a) Every public or private employer of more than 10 employees shall establish and administer a safety committee in accordance with rules adopted pursuant to ORS 654.182.**

**(b) Every public or private employer of 10 or fewer employees shall establish and administer a safety committee in accordance with rules adopted pursuant to ORS 654.182 if the director finds that:**

**(A) The employer has a lost workday cases incidence rate in the top 10 percent of all rates for employers in the same industry; or**

**(B) The workers’ compensation premium classification assigned to the greatest portion of the payroll for the employer has a premium rate in the top 25 percent of premium rates for all classes as approved by the director pursuant to ORS 737.320(3).**

**(2) In making determinations under subsection (1) of this section, the director shall utilize the most recent departmental statistics regarding occupational injuries and illnesses and workers’ compensation loss cost rates approved according to ORS 737.320**

**(3) for use in this state.”** ORS 654.176(1-2)

The bill amended Oregon statute by adding a provision for the training of safety committee members.

**“In carrying out ORS 654.176, the director shall promulgate rules which include, but are not limited to provisions...prescribing guidelines for the training of safety committee members.”** ORS 654.182(e)

- 1991 HB 2433 Insurer Program  
 This bill amended Oregon statute to include penalties for failure of insurers to furnish occupational safety and health loss control consultative services to its insured employers in accordance with 656.451.
- “Any insurer or self-insured employer who violates any provision of ORS 656.451, or any rule or order carrying out ORS 656.451, shall be assessed a civil penalty of not more than \$2,000 for each violation or \$10,000 in the aggregate for all violations within any three-month period. Each violation, or each day a violation continues, shall be considered a separate offense.”** ORS 654.086(1)(i)
- 1977 SB 1050 Creation of Worker’s Comp Department  
 1987 HB 3381 Creation of Dept. of Insurance & Finance  
 1993 SB 167 Creation of Dept. of Consumer & Business Services
- These three bills created a succession of parent departments for OR-OSHA. The 1993 bill (Senate Bill 167) abolished the Department of Insurance and Finance and created the Department of Consumer and Business Services, where Oregon OSHA is currently located.
- “*Department* means the Department of Consumer and Business Services. *Director* means the Director of the Department of Consumer and Business Services.”**

## **APPENDIX C**

### **ENABLING EXECUTIVE ORDER AND CORRESPONDENCE**

1. Executive Order No. EO-72-8
2. Letter of support from Cornelius C. Bateson, Administrator of Oregon Department of Human Resources, April 28, 1972
3. Letter regarding draft legislation from Lee Johnson, Attorney General, May 11, 1972
4. Letter of support and approval from M. Keith Wilson, Chairman, Workmen's Compensation Board, May 18, 1972
5. Letter of support and approval from Hillman Dueddemann, Director, Oregon Department of Commerce, May 23, 1972
6. Letter of support and approval from Governor Tom McCall, June 13, 1972
7. Letter regarding modifications to draft legislation from Lee Johnson, Attorney General, June 13, 1972
8. Letter regarding discussion with Federal OSHA regarding proposed legislation from M. Keith Wilson, Chairman, Workmen's Compensation Board, June 13, 1972



## **APPENDIX E**

### **OREGON ADMINISTRATIVE RULES**

1. OAR 437-001 Safety and Health  
([http://www.cbs.state.or.us/external/osha/standards/div\\_1.htm](http://www.cbs.state.or.us/external/osha/standards/div_1.htm))
2. OAR 438-085 Contested Cases  
([http://arcweb.sos.state.or.us/rules/OARS\\_400/OAR\\_438/438\\_085.html](http://arcweb.sos.state.or.us/rules/OARS_400/OAR_438/438_085.html))
3. OAR 839-003 Bureau of Labor and Industries - Civil Rights Complaint Procedures  
([http://arcweb.sos.state.or.us/rules/OARS\\_800/OAR\\_839/839\\_003.html](http://arcweb.sos.state.or.us/rules/OARS_800/OAR_839/839_003.html))
4. OAR 839-004 Bureau of Labor and Industries - Retaliation for Opposition to Health and Safety Hazards  
([http://arcweb.sos.state.or.us/rules/OARS\\_800/OAR\\_839/839\\_004.html](http://arcweb.sos.state.or.us/rules/OARS_800/OAR_839/839_004.html))
5. OAR 839-050 Bureau of Labor and Industries -Contest Case Hearing Rules  
([http://arcweb.sos.state.or.us/rules/OARS\\_800/OAR\\_839/839\\_050.html](http://arcweb.sos.state.or.us/rules/OARS_800/OAR_839/839_050.html))

## **APPENDIX F**

### **INTERAGENCY AGREEMENTS - JURISDICTIONS**

(Revised August 18, 2011)

#### **GENERAL**

- G-1. Operational Status Agreement
- G-2. U. S. Department of Labor, OSHA Region X – Umatilla Chemical Agent Disposal Facility
- G-3. U. S. Department of Labor, OSHA Region X – Emergency Response Coordination
- G-4. U.S. Department of Labor, OSHA – SGE’s on State of Oregon VPP sites

#### **FEDERAL**

- F-1. Federal Railroad Administration
- F-2. U. S. Coast Guard
- F-3. Mine Safety and Health Administration
- F-4. Nuclear Regulatory Commission
- F-5. Federal Aviation Administration
- F-6. U.S. Chemical Safety and Hazard Investigation Board on Chemical Incident Investigations

#### **STATE**

- S-1. Oregon Bureau of Labor and Industries - Discrimination
- S-2. Oregon Bureau of Labor and Industries - Farm Worker Camps
- S-3. Rescinded
- S-4. Rescinded
- S-5. Department of Environmental Quality - Asbestos
- S-6. Fire Marshal – Fire and Hazardous Materials
- S-7. Department of Agriculture - Pesticides
- S-8. Oregon Health Division - Ionizing Radiation
- S-9. U.S. Environmental Protection Agency - Worker Protection Standard
- S-10. U.S. Environmental Protection Agency-Region X, et. al. - Clean Air Act
- S-11. Oregon Pesticide Analytical and Response System
- S-12. Oregon Health Licensing Agency

## APPENDIX G

### RULES AND REGULATIONS

1. List of Safety and Health Regulations  
(<http://www.cbs.state.or.us/external/osha/standards/standards.htm>)
2. Code Comparison Documents (CCD) --

Because the documentation is extensive for CCD's, it is not contained within these volumes. Review can be made at OR-OSHA Central Office, Salem, Oregon, or Region X Federal OSHA Office, Seattle, Washington.

## Safety and Health Regulations

Regulations can be viewed on OR-OSHA's website at <http://www.cbs.state.or.us/external/osha/standards/standards.htm>.

### Oregon Administrative Rule 437

#### Division 1 – General Administrative Rules

#### Division 2 – General Occupational Safety and Health Rules

Subdivision A	General
Subdivision B	Adoption and Extension of Established Federal Standards
Subdivision D	Walking-Working Surfaces
Subdivision E	Means of Egress
Subdivision F	Powered Platforms, Manlifts, and Vehicle Mounted Work Platforms
Subdivision G	Occupational Health and Environmental Control
Subdivision H	Hazardous Materials
Subdivision I	Personal Protective Equipment
Subdivision J	General Environmental Controls
Subdivision K	Medical and First Aid
Subdivision L	Fire Protection
Subdivision M	Compressed Gas and Compressed Air Equipment
Subdivision N	Materials Handling and Storage
Subdivision O	Machinery and Machine Guarding
Subdivision P	Hand and Portable Powered Tools and Other Hand-held Equipment
Subdivision Q	Welding, Cutting and Brazing
Subdivision R	Special Industries
Subdivision S	Electrical
Subdivision T	Commercial Diving Operations
Subdivision Z	Toxic and Hazardous Substances

#### Division 3 – Construction

#### Division 4 – Agriculture

#### Division 6 – Forest Activities (see below)

#### Division 7 – Forest Activities (replaces Division 6 on December 1, 2003)

## APPENDIX H

### MANUALS AND DIRECTIVES

1. Oregon OSHA Field Inspection Reference Manual (FIRM)

Because of the size of the FIRM, it is not included in hard copy within these volumes. See the OR-OSHA CD-ROM of Regulations, Documents and Technical Information. Review can also be made at the OR-OSHA Central Office, Salem, Oregon, or the Federal OSHA Region X Office, Seattle, Washington. The OR-OSHA FIRM can also be printed and viewed at: <http://www.orosha.org/>.

2. Oregon OSHA Technical Manual (OTM)

Because of the size of the OTM, it is not included in hard copy within these volumes. See the OR-OSHA CD-ROM of Regulations, Documents and Technical Information. Review can also be made at the OR-OSHA Central Office, Salem, Oregon, or the Federal OSHA Region X Office, Seattle, Washington. The OR-OSHA Technical Manual can also be printed and viewed at: <http://www.orosha.org/>.

3. Oregon OSHA Program Directives

Because of the size of the Program Directive set, it is not included in hard copy within these volumes. See the OR-OSHA CD-ROM of Regulations, Documents and Technical Information. Review can also be made at the OR-OSHA Central Office, Salem, Oregon, or the Federal OSHA Region X Office, Seattle, Washington. OR-OSHA Program Directives can also be printed and viewed at: <http://www.orosha.org/>.

4. Oregon OSHA Consultative Services Reference Guide

Because of the size of the Consultative Services Reference Guide, it is not contained within these volumes. Review can be made at the OR-OSHA Central Office, Salem, Oregon, or the Federal OSHA Region X Office, Seattle, Washington.

## **APPENDIX I**

### **SAFETY AND HEALTH ON THE JOB POSTER**

The Oregon OSHA Safety and Health on the Job poster can be viewed on the OR-OSHA website at:  
<http://www.cbs.state.or.us/external/osha/pdf/pubs/1507.pdf>

## **APPENDIX J**

### **PERSONNEL**

1. Table of Organization
2. DCBS Policy & Procedure DEV-02: Employee Training & Education
3. Oregon OSHA Standard Operating Procedure 13: Employee Training and Education