



**Oregon**

Tina Kotek, Governor



Department of Consumer  
and Business Services

October 19, 2023

## **EXHIBIT D:**

### **Proposed Division 1 Civil Penalty & Work Refusal Changes from Senate Bills 592 and 907**

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As of October 19, 2023 at 10 AM, Oregon OSHA has received 30 comments on the proposed rule changes.

**DEB PATTERSON  
STATE SENATOR/SENADORA ESTATAL  
DISTRICT 10/DISTRITO 10**

D-1



**OREGON STATE SENATE/SENADO DEL ESTADO DE OREGON**

August 31, 2023

Dear Oregon OSHA and BOLI:

My name is Deb Patterson, and I am the State Senator for District 10, which includes West Salem, South Salem, Monmouth, and Independence. I am also the Chief sponsor and Senate carrier of SB 907.

Thank you for your attention to this bill, and for your agency's desire to conclude the rulemaking in a timely manner. I have reviewed the [latest iteration of SB 907 rules](#). While I appreciate the swift and dedicated action on SB 907's rulemaking, I do have some concerns that my legislative intent in SB 907 has not been reflected in the rule language.

Specifically, it has always been my intent to account for risks associated with heat, smoke, and climate change as hazardous conditions, if extreme enough, in a worker's right to refuse dangerous work.

My testimony in front of the Senate Labor and Business Committee back in May stated:

"Workers are exposed to dangerous work conditions when they work with heavy machinery and hazardous materials, and during severe weather conditions. This problem is exacerbated by climate change, which increases the risk of wildfires, extreme heat, and ice storms, which create risks especially for those who work outdoors. These hazards put workers at risk of injury, impairment or even death.

Oregon workers must have the ability to reasonably refuse work that presents a clear risk of death or serious harm. This right exists in federal and state labor rules, but is in practice difficult to exercise, and workers often face retaliation when they refuse to work in hazardous conditions." (See attached document.)

As such, I request the rule language to reflect more of this context:

**OAR 437-001-0295**

Sec. 1(b)(B): A reasonable person would agree that the task, work area, equipment or any other factors including but not limited to natural, environmental, manmade, or

biological factors created a hazardous condition that if exposed, would have subjected the employee to imminent danger or serious physical harm; and

While my understanding is that OSHA has broad authority to interpret *any* factor as hazardous depending on circumstance, including environmental factors, I feel that it is important to contextualize such conditions as a sign of the times. I have heard that federal OSHA does not believe adding context would harm our rule or make it overly narrow.

In just my last three years as Senator, I have led my constituents through a pandemic, an unprecedented heat dome, the death of a farmworker due to heat, and multiple wildfires and evacuations in Salem. Such risks are only increasing for workers, and such fears are consistently mentioned by my constituents.

Your draft rule already points to work “equipment” as a specific example of a hazard, but it does not give other examples. Such explicit context is important for laypersons reading the rule to know their rights, as opposed to relying on agency interpretations and practices.

As such, it would be much appreciated if these considerations could be accounted for before the rules are published for public commenting.

Thank you,

A handwritten signature in black ink that reads "Deb Patterson". The signature is written in a cursive, flowing style.

State Senator Deb Patterson



**OREGON STATE SENATE/SENADO DEL ESTADO DE OREGON**

May 10, 2023

Chair Taylor, Vice Chair Bonham, and members of the committee,

For the record, my name is Deb Patterson. I am the State Senator for District 10, which includes West Salem, South Salem, Monmouth, and Independence. I am here to voice my support for SB 907.

Workers are exposed to dangerous work conditions when they work with heavy machinery and hazardous materials, and during severe weather conditions. This problem is exacerbated by climate change, which increases the risk of wildfires, extreme heat, and ice storms, which create risks especially for those who work outdoors. These hazards put workers at risk of injury, impairment or even death.

Oregon workers must have the ability to reasonably refuse work that presents a clear risk of death or serious harm. This right exists in federal and state labor rules, but is in practice difficult to exercise, and workers often face retaliation when they refuse to work in hazardous conditions.

SB 907 addresses this issue by allowing workers to refuse work that involves unsafe equipment or exposes them to unsafe conditions at the worksite, if the employer cannot fix the hazardous conditions or reassign the worker. In response to feedback from a number of stakeholders, my office is working on an amendment to SB 907 that states this bill does not apply to first responders such as firefighters, paramedics, emergency medical technicians, law enforcement, and corrections and parole officers. I believe this amendment strengthens the bill while ensuring that Oregon workers are safe on the job and can reasonably refuse work that can seriously injure or kill them.

Colleagues, I urge you to support SB 907 to keep workers safe at work. Thank you for your consideration.

*Deb Patterson*

July 26, 2023

**TO:** Renee Stapleton, OR-OSHA Administrator  
**FR:** Derek Sangston, Oregon Business & Industry  
**RE:** Comments on Division 1 – SB 592 and SB 907 RAC

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Oregon Business & Industry (OBI) is a statewide association representing businesses from a wide variety of industries and from each of Oregon's 36 counties. Our 1,600 member companies, more than 80% of which are small businesses, employ more than 250,000 Oregonians. Oregon's private sector businesses help drive a healthy, prosperous economy for the benefit of everyone.

Thank you for the opportunity to comment on aspects of the proposed rulemaking materials regarding Division 1 – SB 592 and SB 907. These comments will regard OBI's position on:

1. the new rules and definitions arising due to the passage of SB 592;
2. the schedule of increased penalties due to the passage of the SB 592; and
3. the new rule arising due to the passage of SB 907.

Comments regarding the new SB 592 rules/definitions.

OBI is generally supportive of the proposed rules and definitions in response to SB 592. The new rules creating and defining "programmed inspections for cause" are clear and consistent with the legislative intent of SB 592. However, OBI notes the word "systemic" is unnecessary. Additionally, the newly added definition for "caused or contributed" is clear and workable for employers.

Comments regarding the increased penalty matrix.

OBI ardently favors the new penalty matrix described by Option B - \$1116 Low Serious Base. Foremost, OBI notes that SB 592 requires OSHA to increase the penalty for so-called low serious infractions from \$100 to \$1,116. That is an increase of more than 1000 percent. An increase of that magnitude will undoubtedly change employer behavior. Second, since that penalty is merely a minimum penalty amount, OR-OSHA would have the ability to increase the penalty if more egregious infractions occur, especially in situations where the employer has a history of infractions or bad faith. Finally, Option B, being the most simplistic option, will make it much easier for OR-OSHA to administer and for employers to understand, which will likely decrease the number of appeals filed.

Comments regarding the new SB 907 rule.

OBI urges OR-OSHA to adopt the language resembling the federal rule as provided by Option A – Federal OSHA Work Refusal (Option A). Foremost, subsection 8 of SB 907 called for rulemaking that is "in accordance with the federal Occupational Safety and Health Act of 1970, (the Act)" and while the proposed BOLI language may not be out of compliance with the Act, it certainly

does not match it as well as Option A. Additionally, at times during the negotiation over SB 907, the language adopted in federal OSHA rule on this issue was presented as something Oregon could codify in statute as a solution. While both employer and worker stakeholders seemingly agreed with it, that approach was ultimately rejected because the federal OSHA rule is so poorly written. Adopting the federal OSHA language as presented here best matches that compromise made by the stakeholders.

Secondarily, but equally as important, Option A offers the clearest guidance to both employers and workers of their obligations and rights under this rule. Not only is that language already federal law so employers should be generally comfortable with complying with it, but the language it uses establishes four clear elements workers must demonstrate before refusing a task at work. Option A additionally uses language that better clarifies the situations protected by this rule are those where a worker is in “real danger” and there is “urgency,” and avoids broadening the rule so that it encompasses more day-to-day situations that are already clearly covered by Oregon law.

Thank you for the opportunity to provide comments on this issue.

*Contact: dereksangston@oregonbusinessindustry.com*



Lloyd Anderson  
2075 NW 14th Street  
Gresham, OR. 97030  
[lloyd@armadas.us](mailto:lloyd@armadas.us)  
503-396-7229  
09/21/2023

Subject: Concerns Regarding Proposed Workplace Safety Fines - Senate Bill 592 and 907

To whom it may concern:

I hope this letter finds you well. I am writing to express my deep concerns regarding Senate Bill 592 and 907, which addresses fines for workplace safety violations. As a small business owner in the roofing industry, I believe it is crucial to strike a balance between ensuring the safety of our employees and protecting the livelihoods of small companies like mine.

First and foremost, I want to emphasize my commitment to workplace safety. The safety and well-being of our employees are paramount, and we have implemented safety protocols, provided necessary equipment, and conducted training to ensure a safe working environment. However, I wish to draw attention to the unique challenges we face in enforcing these safety measures effectively.

One significant challenge we encounter is employee compliance. Our employees are provided with safety equipment and undergo thorough training on its proper use. However, once they leave the office, we have limited control over their actions. Many of our employees, despite our best efforts, choose not to use safety equipment consistently. This puts both them and the company at risk. Moreover, due to the current employment landscape with a low unemployment rate, finding and retaining skilled employees is an arduous task. The termination of even one employee can severely impact our ability to complete projects and sustain our business.

Senate Bill 592 and 907 proposes substantial increases in fines for workplace safety violations. While I understand the need to hold employers accountable for safety, the proposed fines could be crippling for small businesses like mine. These exorbitant fines threaten not only our financial stability but also our ability to provide employment opportunities in our community.

I urge you to consider the following points in your deliberation on this bill:

**Balancing Act:**

We are committed to workplace safety, but compliance relies heavily on employee choices that are often beyond our control. Fines alone may not address the root issues.

**Retention Challenges:**

With a limited pool of skilled labor, the termination of employees can have devastating consequences for small businesses.

**Alternative Approaches:**

Explore alternative solutions, such as enhanced education and support for small businesses to improve safety compliance, rather than solely relying on punitive measures.

**Small Business Impact:**

Excessive fines can have a detrimental impact on small businesses, affecting not only our survival but also our ability to contribute to the local economy.

I kindly request that you consider the unique challenges faced by small businesses like mine when evaluating Senate Bill 592 and 907. I believe that a collaborative approach that addresses safety concerns while also supporting small businesses can lead to better outcomes for all stakeholders.

Thank you for your attention to this matter. I appreciate your dedication to serving our state, and I trust that you will make informed decisions that benefit our community.

Sincerely,

Lloyd Anderson





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Stephanie Baird, General Manager - Bliss Roofing  
14430 SE 98<sup>th</sup> Court  
Clackamas, OR 97015  
[sbaird@blissroofing.com](mailto:sbaird@blissroofing.com)  
(503) 653-6100  
9/22/2023

Subject: Concerns Regarding Proposed Workplace Safety Fines – Senate Bill 592 & 907.

Oregon OSHA Rulemaking:

I am writing to express my immeasurable concerns regarding emergency Senate Bill 592 and 907, which addresses changes and increased fines for workplace violations. Bliss Roofing has been serving the Portland metro area for the last 54 years, and operating out of our Clackamas office since 1990. I have been with Bliss Roofing since 1994, starting as a receptionist and working my way to General Manager. Over my years, I have been witness to, and a part of, the positive impacts our business lends to our employees and our community at large. I believe it is critical to strike a balance between ensuring the safety of our employees while also protecting the livelihoods of small family run and operated businesses like Bliss Roofing, Inc.

First and foremost, I want to emphasize our commitment to workplace safety. The safety and well-being of our employees are paramount. We have implemented safety protocols, provided necessary and state of the art equipment, and conduct frequent and ongoing trainings to ensure our employees have the knowledge and tools to create a safe workplace and perform their jobs to the highest standards of safety. In 2020 we hired an outside safety consulting firm, Safety Northwest. They have been imperative in our efforts to continually educate our employees on the safest roofing practices by holding monthly safety meetings and frequent, graded/scored, jobsite visits to call attention to safety shortcomings/potential violations.

As a small business, I feel we have gone above and beyond with our efforts in providing our employees with everything that is needed to adhere to the rules and regulations enforced by OSHA. However, no matter how much training or equipment we provide, or how much corrective action we take internally, we have very limited control on the actions and implementations of said training our employees take once they are out in the field. This leaves our small family owned business vulnerable to the potential

negligence of our employees – with repeat fines coming starting at \$50,000.00 and going upwards to \$250,000.00 this could put us out of business and affect the livelihoods of our 75 employees.

I am on the board of directors for Western States Roofing Contractors Association and am the current year chair of the safety committee. Other states on this board do not have the struggles with OSHA that Oregon does. Their experience in the event of an inspection is to be able to provide documentation to the compliance officer showing they have provided employees with safety equipment and training in lieu of receiving a citation. The Employee Misconduct appeal is non-existent in Oregon.

Why does OSHA want to impede on small businesses thriving with such large fines?

And where are these funds being allocated? They certainly aren't being put into programs to help businesses adhere to their ever-changing regulations. This seems like a big money grab, and is infuriating to small business owners.

Some of our former employees have gone out on their own and started their own smaller roofing businesses. If said employees are owners or part owners but still working on the roof top, they are not required to obey the same OSHA regulations as our company. Why is this fair? Aren't the hazards the same? Why should roofing companies of our size receive a fine if you won't fine the same to an owner/operator roofing company?

I also have felt like Bliss Roofing has been an easy target for OSHA. Having been in business for over 50 years, we are a well-known, branded name in the Portland Metro area with high visibility in the field. We have notable equipment that affects not only safety of our employees and clients but the production on our job sites and we are proud to showcase it. With such high visibility, I feel like we are sitting ducks for continual job site inspections. There is never positive feedback for the numerous times there is an inspection without any corrections or recommendations.

This past summer, OSHA provided with Bliss Roofing with consultation. I firmly believe the only reason we received consultation was due to the fact that I was so pushy and had some help from an OSHA colleague. While it was helpful, it did not solve any problems we face with the ever-changing rules and regulations. I think there is a huge imbalance inside OR OSHA when it comes to compliance and consultation.

I am urging you to dismiss and vacate the new fine increases. Increasing the penalties will in no way make workers safer, however it will ultimately close businesses.

Respectfully submitted,

*Stephanie Baird*

Stephanie Baird  
General Manager  
Bliss Roofing, Inc.



**From:** [STEWART Jennifer \\* DCBS](#)  
**To:** [APPEL Lisa \\* DCBS](#)  
**Subject:** FW: Senate Bills 592 & 907  
**Date:** Wednesday, October 4, 2023 10:48:02 AM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image005.png](#)  
[image007.png](#)  
[image009.png](#)  
[image010.png](#)  
[image011.png](#)  
[image012.png](#)

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**From:** Koch, Sally <[Sally.Koch@portlandoregon.gov](mailto:Sally.Koch@portlandoregon.gov)>  
**Sent:** Monday, October 2, 2023 12:39 PM  
**To:** STEWART Jennifer \* DCBS <[Jennifer.Stewart2@dcbs.oregon.gov](mailto:Jennifer.Stewart2@dcbs.oregon.gov)>  
**Subject:** Senate Bills 592 & 907

You don't often get email from [sally.koch@portlandoregon.gov](mailto:sally.koch@portlandoregon.gov). [Learn why this is important](#)

Good morning Ms. Stewart,

I am writing this note today to congratulate you on this amazing piece of rulemaking! As I read through, I find it remarkably clear, straightforward, and easy to comprehend. It expressly covers not only what is changing but also why, which I appreciate. It feels like I am reading the words of a live human, in fact, one who's words are more than pretty mouth sounds!

I am currently distributing this to my superiors at the City of Portland so they can enjoy the same clarity I have enjoyed with this important piece of rulemaking. It my sincere hope that one day this rule will come to bear on certain employers in the state who willfully and repeatedly violate basic safety standards, particularly in jurisdictions where elected officials do not believe that Oregon OSHA has actual rulemaking and enforcement authority.

It would be my pleasure to discuss this and/or other future rule-making efforts at your earliest convenience.

In the meantime, I will continue to ensure that my current employer understands the necessity of having up to date Job Safety Analyses (JSA - otherwise referred to as Jennifer Stewart is Awesome surveys) completed for the benefit of municipal building users specifically in the Portland area.

Thank you so much for your time, I look forward to hearing from you!

sally

***Sally Koch, CSP/ARM/SMS (she/her)***

Safety Program Administrator  
OMF Facilities, Division of Asset Management  
[sally.koch@portlandoregon.gov](mailto:sally.koch@portlandoregon.gov) | 503-308-5819  
[www.portland.gov](http://www.portland.gov)

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**APPEL Lisa \* DCBS**

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**From:** James Rankin <campaigns@good.do>  
**Sent:** Tuesday, October 10, 2023 10:25 AM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

Dear Oregon OSHA

Thank you for having a strong baseline rule to implement SB 907. We appreciate your efforts in streamlining the right to refuse rule within Oregon's agencies. However, Oregonians in the last three years have gone through a pandemic, unprecedented heat dome, and numerous seasonal wildfires. This summer was particularly smokey. These trends are part of our reality.

We ask you to expand your list of examples of hazardous work conditions beyond just unsafe work equipment to fully capture the scope of threats out there- including biological, natural, manmade, and environmental threats. Our state has seen unprecedented smoke from wildfires, extreme heat, drought, floods, pandemics, air & water pollution, and other health hazards. These threats impact workers, and should be addressed.

Workers and laypersons must be able to read this rule and understand that the right to refuse hazardous work covers anything that causes them imminent physical harm. This right shouldn't just be left to agency interpretation and practices- but rather Oregon's language should be modernized to account for 21st-century health threats.

Thank you

Yours sincerely,  
 James Rankin

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Please reply to James Rankin at jim.rankin@oregonstate.edu.

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**From:** Sandra Joos <campaigns@good.do>  
**Sent:** Tuesday, October 10, 2023 10:51 AM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

Dear Oregon OSHA

Thank you for having a strong baseline rule to implement SB 907. We appreciate your efforts in streamlining the right to refuse rule within Oregon’s agencies. However, Oregonians in the last three years have gone through a pandemic, a devastating heat dome, and numerous seasonal wildfires. This summer was particularly smokey. These trends are part of our new reality.

We ask you to expand your list of examples of hazardous work conditions beyond just unsafe work equipment to fully capture the scope of threats that workers regularly face - including biological, natural, manmade, and environmental threats. Our state has seen unprecedented smoke from wildfires, extreme heat, pandemics, toxic algae blooms, and other health hazards. These hazards adversely affect workers, and should be addressed.

Workers and laypersons must be able to read this rule and understand that the right to refuse hazardous work covers anything that causes them imminent physical harm. This right shouldn’t be left to agency interpretation and practices. Rather, Oregon’s language should be modernized to account for 21st-century health threats.

Thank you

Yours sincerely,  
 Sandra Joos

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Please reply to Sandra Joos at joosgalefamily@comcast.net.

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**From:** Sammi Teo <campaigns@good.do>  
**Sent:** Tuesday, October 10, 2023 11:37 AM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

Dear Oregon OSHA,

Thank you for having a strong baseline rule to implement SB 907. We appreciate your efforts in streamlining the right to refuse rule within Oregon’s agencies. However, Oregonians in the last three years have gone through a pandemic, unprecedented heat dome, and numerous seasonal wildfires. This summer was particularly smokey. These trends are part of our reality.

We ask you to expand your list of examples of hazardous work conditions beyond just unsafe work equipment to fully capture the scope of threats out there- including biological, natural, manmade, and environmental threats. Our state has seen unprecedented smoke from wildfires, extreme heat, pandemics, toxic algae blooms, and other health hazards. These hazards impact workers, and should be addressed.

Workers and laypersons must be able to read this rule and understand that the right to refuse hazardous work covers anything that causes them imminent physical harm. This right shouldn’t just be left to agency interpretation and practices- but rather Oregon’s language should be modernized to account for 21st-century health threats.

Thank you

Yours sincerely,  
 Sammi Teo

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Please reply to Sammi Teo at sammiteo1@gmail.com.

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**From:** Phil Houston Goldsmith <campaigns@good.do>  
**Sent:** Tuesday, October 10, 2023 1:12 PM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

Dear Oregon OSHA

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Thank you for considering my views

Yours sincerely,  
 Phil Houston Goldsmith  
 Portland, Oregon, 97229, United States

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Please reply to Phil Houston Goldsmith at phil@loplaw.com.

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**From:** Dana Weintraub <campaigns@good.do>  
**Sent:** Tuesday, October 10, 2023 3:33 PM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

Dear Oregon OSHA:

Thank you for having a strong baseline rule to implement SB 907. We appreciate your efforts in streamlining the right to refuse rule within Oregon's agencies.

However, Oregonians in the last three years have gone through a pandemic, unprecedented heat dome, and numerous seasonal wildfires. This summer was particularly smokey. These trends are part of our reality.

We ask you to expand your list of examples of hazardous work conditions beyond just unsafe work equipment to fully capture the scope of threats out there- including biological, natural, manmade, and environmental threats.

Our state has seen unprecedented smoke from wildfires, extreme heat, pandemics, toxic algae blooms, and other health hazards. These hazards impact workers, and should be addressed.

Workers and laypersons must be able to read this rule and understand that the right to refuse hazardous work covers anything that causes them imminent physical harm.

This right shouldn't just be left to agency interpretation and practices- but rather Oregon's language should be modernized to account for 21st-century health threats.

Thank you

Best Regards,  
Dana Weintraub  
Beaverton, Oregon, 97006, United States

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This email was sent by Dana Weintraub via Do Gooder, a website that allows people to contact you regarding issues they consider important. In accordance with web protocol RFC 3834 we have set the FROM field of this email to our generic no-reply address at campaigns@good.do, however Dana provided an email address (mrdanaweintraub@tutanota.com) which we included in the REPLY-TO field.

Please reply to Dana Weintraub at mrdanaweintraub@tutanota.com.

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October 11<sup>th</sup>, 2023

**TO:** Renee Stapleton

**FR:** Jodi Hack, Oregon Home Builders Association

**RE:** Public Comments on SB 592 and SB 907 Rulemaking

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Oregon Home Builders Association (OHBA) is a statewide association representing residential construction businesses and associated industries from each of Oregon's 36 counties. OHBA is the Oregon state chapter of the National Association of Home Builders, and represents nearly 3,000 member companies – the bulk of which are small businesses, and employ more than 75,000 Oregonians. Oregon's homebuilders help drive a healthy, prosperous economy for the benefits of communities across the state.

Thank you for the opportunity to comment on Oregon OSHA's proposed rules implementing SB 592 and SB 907. OHBA is generally supportive of the proposed changes to Oregon OSHA rules implementing those bills. Below addresses how Oregon OSHA could improve the proposed rules by making them clearer for both employers and workers.

#### Rules and Definitions Implementing SB 592

The proposed rules are clear and consistent with the legislative intent of SB 592 on when programmed inspections may now occur because of an employer's willful violations or a workplace fatality that was caused by or contributed to by a violation.

#### Penalty Provisions of SB 592

OHBA would prefer rules that establish the initial penalty amount as close to the statutory minimum penalty amount as possible without the need for subsequent downward adjustment. The statutory increase is substantial and will change employer behavior on its own. Even without changes, however, OHBA finds the proposed rules implementing the penalty provisions of SB 592 to be reasonable. OHBA is especially appreciative the proposed rules:

- 1) Allow for downward adjustments due to a business' size, good faith, and history;
- 2) Reduce by \$7,000 the penalty amounts when a business with 50 or fewer workers is cited with repeat violations; and
- 3) Link the \$7,000 penalty reduction for small businesses that commit repeat violations to CPI like the rest of the penalties amounts.



## Right to Refuse Dangerous Work

OHBA generally supports the proposed rule implementing SB 907's provisions clarifying a worker's right to refuse dangerous work. The proposed rule tracks closely with the federal rule governing a worker's right to refuse work, which is consistent with the provision of SB 907 directing rulemaking "in accordance with the federal Occupational Safety and Health Act of 1970."

Additionally, the proposed rule offers relatively clear guidance to both employers and workers of their obligations and rights under this rule. The language of the proposed rule roughly mirrors what is already federal law and copies the four clear elements found in federal law that workers must demonstrate before refusing a task at work. OHBA additionally supports that the proposed rule does not impose additional requirements on employers that are outside of the federal rule. Due to its close conformity with the federal rule, both employers and workers should be generally comfortable complying with it.

Thank you for the opportunity to comment on this rulemaking.

Contact: [jodi@oregonhba.com](mailto:jodi@oregonhba.com)



2075 Madrona Ave SE STE. 150 ■ Salem, OR 97302 ■ [www.oregonhba.com](http://www.oregonhba.com)  
P ■ 503.378.9066 F ■ 503.362.5120

*Building Jobs, Creating Communities*





October 11<sup>th</sup>, 2023

**TO:** Renee Stapleton  
**FR:** Jodi Hack, Oregon Home Builders Association  
**RE:** Public Comments on SB 592 and SB 907 Rulemaking

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Western Oregon Builders Association (WOBA) is a local association representing Benton, Lane, Lincoln, and Linn Counties within the Oregon Home Builders Association (OHBA), a statewide association representing residential construction businesses and associated industries from each of Oregon's 36 counties. OHBA is the Oregon state chapter of the National Association of Home Builders and represents nearly 3,000 member companies – the bulk of which are small businesses and employ more than 75,000 Oregonians. Oregon's homebuilders help drive a healthy, prosperous economy for the benefits of communities across the state.

Thank you for the opportunity to comment on Oregon OSHA's proposed rules implementing SB 592 and SB 907. WOBA is generally supportive of the proposed changes to Oregon OSHA rules implementing those bills. Below addresses how Oregon OSHA could improve the proposed rules by making them clearer for both employers and workers.

#### Rules and Definitions Implementing SB 592

The proposed rules are clear and consistent with the legislative intent of SB 592 on when programmed inspections may now occur because of an employer's willful violations or a workplace fatality that was caused by or contributed to by a violation.

#### Penalty Provisions of SB 592

WOBA would prefer rules that establish the initial penalty amount as close to the statutory minimum penalty amount as possible without the need for subsequent downward adjustment. The statutory increase is substantial and will change employer behavior on its own. Even without changes, however, WOBA finds the proposed rules implementing the penalty provisions of SB 592 to be reasonable. WOBA is especially appreciative the proposed rules:

- 1) Allow for downward adjustments due to a business' size, good faith, and history;
- 2) Reduce by \$7,000 the penalty amounts when a business with 50 or fewer workers is cited with repeat violations; and
- 3) Link the \$7,000 penalty reduction for small businesses that commit repeat violations to CPI like the rest of the penalties amounts.



### Right to Refuse Dangerous Work

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Additionally, the proposed rule offers relatively clear guidance to both employers and workers of their obligations and rights under this rule. The language of the proposed rule roughly mirrors what is already federal law and copies the four clear elements found in federal law that workers must demonstrate before refusing a task at work. WOBA additionally supports that the proposed rule does not impose additional requirements on employers that are outside of the federal rule. Due to its close conformity with the federal rule, both employers and workers should be generally comfortable complying with it.

Thank you for the opportunity to comment on this rulemaking.

Contact: [jodi@oregonhba.com](mailto:jodi@oregonhba.com)



D-13

October 11<sup>th</sup>, 2023

**TO:** Renee Stapleton  
**FR:** Jodi Hack, Oregon Home Builders Association  
**RE:** Public Comments on SB 592 and SB 907 Rulemaking

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Home Building Association of Greater Portland (HBA PDX) is a local association representing Clackamas, Columbia, Hood River, Multnomah, Washington, and Yamhill Counties within the Oregon Home Builders Association (OHBA), a statewide association representing residential construction businesses and associated industries from each of Oregon's 36 counties. OHBA is the Oregon state chapter of the National Association of Home Builders and represents nearly 3,000 member companies – the bulk of which are small businesses and employ more than 75,000 Oregonians. Oregon's homebuilders help drive a healthy, prosperous economy for the benefits of communities across the state.

Thank you for the opportunity to comment on Oregon OSHA's proposed rules implementing SB 592 and SB 907. HBA PDX is generally supportive of the proposed changes to Oregon OSHA rules implementing those bills. Below addresses how Oregon OSHA could improve the proposed rules by making them clearer for both employers and workers.

#### Rules and Definitions Implementing SB 592

The proposed rules are clear and consistent with the legislative intent of SB 592 on when programmed inspections may now occur because of an employer's willful violations or a workplace fatality that was caused by or contributed to by a violation.

#### Penalty Provisions of SB 592

HBA PDX would prefer rules that establish the initial penalty amount as close to the statutory minimum penalty amount as possible without the need for subsequent downward adjustment. The statutory increase is substantial and will change employer behavior on its own. Even without changes, however, HBA PDX finds the proposed rules implementing the penalty provisions of SB 592 to be reasonable. HBA PDX is especially appreciative the proposed rules:

- 1) Allow for downward adjustments due to a business' size, good faith, and history;
- 2) Reduce by \$7,000 the penalty amounts when a business with 50 or fewer workers is cited with repeat violations; and
- 3) Link the \$7,000 penalty reduction for small businesses that commit repeat violations to CPI like the rest of the penalties amounts.





### Right to Refuse Dangerous Work

HBA PDX generally supports the proposed rule implementing SB 907's provisions clarifying a worker's right to refuse dangerous work. The proposed rule tracks closely with the federal rule governing a worker's right to refuse work, which is consistent with the provision of SB 907 directing rulemaking "in accordance with the federal Occupational Safety and Health Act of 1970."

Additionally, the proposed rule offers relatively clear guidance to both employers and workers of their obligations and rights under this rule. The language of the proposed rule roughly mirrors what is already federal law and copies the four clear elements found in federal law that workers must demonstrate before refusing a task at work. HBA PDX additionally supports that the proposed rule does not impose additional requirements on employers that are outside of the federal rule. Due to its close conformity with the federal rule, both employers and workers should be generally comfortable complying with it.

Thank you for the opportunity to comment on this rulemaking.

Contact: [jodi@oregonhba.com](mailto:jodi@oregonhba.com)



October 11<sup>th</sup>, 2023

**TO:** Renee Stapleton

**FR:** Jodi Hack, Oregon Home Builders Association

**RE:** Public Comments on SB 592 and SB 907 Rulemaking

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Umpqua Valley Home Builders Association (UVHBA) is a local association representing Douglas County within the Oregon Home Builders Association (OHBA), a statewide association representing residential construction businesses and associated industries from each of Oregon's 36 counties. OHBA is the Oregon state chapter of the National Association of Home Builders, and represents nearly 3,000 member companies – the bulk of which are small businesses, and employ more than 75,000 Oregonians. Oregon's homebuilders help drive a healthy, prosperous economy for the benefits of communities across the state.

Thank you for the opportunity to comment on Oregon OSHA's proposed rules implementing SB 592 and SB 907. UVHBA is generally supportive of the proposed changes to Oregon OSHA rules implementing those bills. Below addresses how Oregon OSHA could improve the proposed rules by making them clearer for both employers and workers.

#### Rules and Definitions Implementing SB 592

The proposed rules are clear and consistent with the legislative intent of SB 592 on when programmed inspections may now occur because of an employer's willful violations or a workplace fatality that was caused by or contributed to by a violation.

#### Penalty Provisions of SB 592

UVHBA would prefer rules that establish the initial penalty amount as close to the statutory minimum penalty amount as possible without the need for subsequent downward adjustment. The statutory increase is substantial and will change employer behavior on its own. Even without changes, however, UVHBA finds the proposed rules implementing the penalty provisions of SB 592 to be reasonable. UVHBA is especially appreciative the proposed rules:

- 1) Allow for downward adjustments due to a business' size, good faith, and history;
- 2) Reduce by \$7,000 the penalty amounts when a business with 50 or fewer workers is cited with repeat violations; and
- 3) Link the \$7,000 penalty reduction for small businesses that commit repeat violations to CPI like the rest of the penalties amounts.



### Right to Refuse Dangerous Work

UVHBA generally supports the proposed rule implementing SB 907's provisions clarifying a worker's right to refuse dangerous work. The proposed rule tracks closely with the federal rule governing a worker's right to refuse work, which is consistent with the provision of SB 907 directing rulemaking "in accordance with the federal Occupational Safety and Health Act of 1970."

Additionally, the proposed rule offers relatively clear guidance to both employers and workers of their obligations and rights under this rule. The language of the proposed rule roughly mirrors what is already federal law and copies the four clear elements found in federal law that workers must demonstrate before refusing a task at work. UVHBA additionally supports that the proposed rule does not impose additional requirements on employers that are outside of the federal rule. Due to its close conformity with the federal rule, both employers and workers should be generally comfortable complying with it.

Thank you for the opportunity to comment on this rulemaking.

Contact: [jodi@oregonhba.com](mailto:jodi@oregonhba.com)



October 11<sup>th</sup>, 2023

**TO:** Renee Stapleton  
**FR:** Jodi Hack, Oregon Home Builders Association  
**RE:** Public Comments on SB 592 and SB 907 Rulemaking

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Home Builders Association of Marion & Polk Counties (HBA-MP) is a local association representing Marion and Polk Counties within the Oregon Home Builders Association (OHBA), a statewide association representing residential construction businesses and associated industries from each of Oregon's 36 counties. OHBA is the Oregon state chapter of the National Association of Home Builders and represents nearly 3,000 member companies – the bulk of which are small businesses, and employ more than 75,000 Oregonians. Oregon's homebuilders help drive a healthy, prosperous economy for the benefits of communities across the state.

Thank you for the opportunity to comment on Oregon OSHA's proposed rules implementing SB 592 and SB 907. HBA-MP is generally supportive of the proposed changes to Oregon OSHA rules implementing those bills. Below addresses how Oregon OSHA could improve the proposed rules by making them clearer for both employers and workers.

#### Rules and Definitions Implementing SB 592

The proposed rules are clear and consistent with the legislative intent of SB 592 on when programmed inspections may now occur because of an employer's willful violations or a workplace fatality that was caused by or contributed to by a violation.

#### Penalty Provisions of SB 592

HBA-MP would prefer rules that establish the initial penalty amount as close to the statutory minimum penalty amount as possible without the need for subsequent downward adjustment. The statutory increase is substantial and will change employer behavior on its own. Even without changes, however, HBA-MP finds the proposed rules implementing the penalty provisions of SB 592 to be reasonable. HBA-MP is especially appreciative the proposed rules:

- 1) Allow for downward adjustments due to a business' size, good faith, and history;
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- 3) Link the \$7,000 penalty reduction for small businesses that commit repeat violations to CPI like the rest of the penalties amounts.



### Right to Refuse Dangerous Work

HBA-MP generally supports the proposed rule implementing SB 907's provisions clarifying a worker's right to refuse dangerous work. The proposed rule tracks closely with the federal rule governing a worker's right to refuse work, which is consistent with the provision of SB 907 directing rulemaking "in accordance with the federal Occupational Safety and Health Act of 1970."

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Thank you for the opportunity to comment on this rulemaking.

Contact: [jodi@oregonhba.com](mailto:jodi@oregonhba.com)



D-16

October 11<sup>th</sup>, 2023

**TO:** Renee Stapleton  
**FR:** Jodi Hack, Oregon Home Builders Association  
**RE:** Public Comments on SB 592 and SB 907 Rulemaking

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Builders Association Southern Oregon (BASO) is a local association representing Coos, Curry, Jackson, and Josephine Counties within the Oregon Home Builders Association (OHBA), a statewide association representing residential construction businesses and associated industries from each of Oregon's 36 counties. OHBA is the Oregon state chapter of the National Association of Home Builders and represents nearly 3,000 member companies – the bulk of which are small businesses and employ more than 75,000 Oregonians. Oregon's homebuilders help drive a healthy, prosperous economy for the benefits of communities across the state.

Thank you for the opportunity to comment on Oregon OSHA's proposed rules implementing SB 592 and SB 907. BASO is generally supportive of the proposed changes to Oregon OSHA rules implementing those bills. Below addresses how Oregon OSHA could improve the proposed rules by making them clearer for both employers and workers.

#### Rules and Definitions Implementing SB 592

The proposed rules are clear and consistent with the legislative intent of SB 592 on when programmed inspections may now occur because of an employer's willful violations or a workplace fatality that was caused by or contributed to by a violation.

#### Penalty Provisions of SB 592

BASO would prefer rules that establish the initial penalty amount as close to the statutory minimum penalty amount as possible without the need for subsequent downward adjustment. The statutory increase is substantial and will change employer behavior on its own. Even without changes, however, BASO finds the proposed rules implementing the penalty provisions of SB 592 to be reasonable. BASO is especially appreciative the proposed rules:

- 1) Allow for downward adjustments due to a business' size, good faith, and history;
- 2) Reduce by \$7,000 the penalty amounts when a business with 50 or fewer workers is cited with repeat violations; and
- 3) Link the \$7,000 penalty reduction for small businesses that commit repeat violations to CPI like the rest of the penalties amounts.



### Right to Refuse Dangerous Work

BASO generally supports the proposed rule implementing SB 907's provisions clarifying a worker's right to refuse dangerous work. The proposed rule tracks closely with the federal rule governing a worker's right to refuse work, which is consistent with the provision of SB 907 directing rulemaking "in accordance with the federal Occupational Safety and Health Act of 1970."

Additionally, the proposed rule offers relatively clear guidance to both employers and workers of their obligations and rights under this rule. The language of the proposed rule roughly mirrors what is already federal law and copies the four clear elements found in federal law that workers must demonstrate before refusing a task at work. BASO additionally supports that the proposed rule does not impose additional requirements on employers that are outside of the federal rule. Due to its close conformity with the federal rule, both employers and workers should be generally comfortable complying with it.

Thank you for the opportunity to comment on this rulemaking.

Contact: [jodi@oregonhba.com](mailto:jodi@oregonhba.com)

**APPEL Lisa \* DCBS**

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**From:** John Livingston <campaigns@good.do>  
**Sent:** Thursday, October 12, 2023 11:43 AM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please strengthen comprehensive language and environmental health threats in right to refuse dangerous work.

Dear Oregon OSHA

I appreciate all the hard work that people do in our country even when it is very hot outside. Thank you for having a strong baseline rule to implement SB 907. We appreciate your efforts in streamlining the right to refuse rule within Oregon's agencies. However, Oregonians in the last three years have gone through a pandemic, unprecedented heat dome, and numerous seasonal wildfires. This summer was particularly smokey. These trends are part of our reality.

We ask you to expand your list of examples of hazardous work conditions beyond just unsafe work equipment to fully capture the scope of threats out there- including biological, natural, manmade, and environmental threats. Our state has seen unprecedented smoke from wildfires, extreme heat, pandemics, toxic algae blooms, and other health hazards. These hazards impact workers, and should be addressed.

Workers and laypersons must be able to read this rule and understand that the right to refuse hazardous work covers anything that causes them imminent physical harm. This right shouldn't just be left to agency interpretation and practices- but rather Oregon's language should be modernized to account for 21st-century health threats.

Thank you

Yours sincerely,  
 John Livingston

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This email was sent by John Livingston via Do Gooder, a website that allows people to contact you regarding issues they consider important. In accordance with web protocol RFC 3834 we have set the FROM field of this email to our generic no-reply address at campaigns@good.do, however John provided an email address (Livigstonjohn@att.net) which we included in the REPLY-TO field.

Please reply to John Livingston at Livigstonjohn@att.net.

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**Via Email**

(OSHA.rulemaking@dcbs.oregon.gov)  
Department of Consumer and Business Services/  
Oregon OSHA  
P.O. Box 14480  
Salem, Oregon 97309

Re: Proposed Changes from Senate Bill 592

Safety Northwest has worked with medium to small employers for over 20 years. During this time, we have assisted companies to reduce workers compensation rates, reduce employee accidents and help them work with Oregon OSHA to improve the work environment. Oregon OSHA has put tremendous effort in improving their relationship with the business community over the years. Oregon is one of the few states plans that make extra efforts in helping businesses develop good safety cultures.

In my opinion we are going to sink back to the old days of mistrust that the business community had with Oregon OSHA with the increased penalties. Our communities already get very nervous when OSHA appears at their front door. Truly I am confused that our State Legislature feels that steep penalties will be a good thing for Oregon businesses?

Would be happy to share my thoughts with the folks that think this is a good idea.

Thank you,

Joe Mullens

Safety Northwest

503-709-7129





**WESTERN STATES**  
ROOFING CONTRACTORS ASSOCIATION



October 16, 2023

D-19

Via Email  
(OSHA.rulemaking@dcbs.oregon.gov)  
Department of Consumer and Business Services/Oregon OSHA  
P.O. Box 14480  
Salem, Oregon 97309

Re: Proposed Changes to Emergency Senate Bill 592: Legal Concerns and Business Impacts

To Whom it May Concern,

On behalf of the Western States Roofing Contractors Association (“WSRCA”) and the Associated Roofing Contractors of Oregon and Southwest Washington (“ARC”), we appreciate the legislature’s recognition and concern for workplace safety in Oregon.

The WSRCA is a regional roofing association with almost 1,000 contractor and associate member companies throughout the Western United States, including Oregon. WSRCA’s and ARC’s members include roofing contractors, manufacturers, manufacturing representatives, safety professionals, suppliers, distributors, insurance agents/brokers, and roofing consultants, among others. Both WSRCA and ARC aim to foster, encourage, and improve the quality of roofing and related industries through research and education.

Emergency Senate Bill 592 (“SB592”) introduces amendments to the existing Occupational Safety and Health (“OSHA”) fines and penalties in Oregon. While the bill may have been introduced to improve workplace safety, it is essential to critically evaluate its legal implications and potential adverse effects on the interests of contractors and businesses in the construction industry. This position statement aims to analyze the legal reasons why SB592 is inappropriate and the potential harm it may pose to businesses in the State.

First, one of the fundamental legal concerns with Emergency Senate Bill 592 is the potential infringement on due process and fairness. Under Section (1)(c), there is no clear guideline as to what “prior violation history” would entitle OSHA to perform a comprehensive inspection. No other state or federal OSHA is permitted to perform a comprehensive inspection based on something as simple and arbitrary as a “prior violation history.” This lack of due process exposes businesses to arbitrary enforcement actions and undermines their rights through murky, if not entirely arbitrary, legal justification standards.

Second, as alluded to above, the increased fines and penalties will disproportionately affect contractors without providing adequate mechanisms for appeal or redress. The lack of procedural safeguards and an adequate appeals process exposes businesses to arbitrary enforcement actions, undermining the intent of OSHA standards and their purpose. Employers are often dedicated to workplace safety, but employees act in ways that are outside the employers’ control or ability to correct. In such instances, punishment is rendered without consideration of the employers’ workplace operating standards, procedures, or employee training/education.

Third, in addition to stifling business growth, the fear of severe penalties may deter contractors from investing in innovative safety solutions or adopting new technologies that could enhance workplace safety. This reluctance to invest in advancements may hinder the overall progress of the construction industry, jeopardizing both safety and economic growth.

Fourth, the substantial increase of punitive measures and fine amounts will disproportionately impact small businesses and contractors and may lead to higher operational costs across the construction industry. In an industry already experiencing significant hardship due to inflation and supply chain issues, Emergency SB592 threatens to stifle economic growth and job creation in the State.

Fifth, the requirement that the State perform a comprehensive inspection in the event of a fatality, or 3 or more willful/repeat violations is not reasonably related to any safety purpose and may likely lead to a waste of state resources. For example, there is no exception for a Contractor that has demonstrated sufficient abatement during an inspection – a comprehensive inspection is still mandated. This excessive requirement, based not on workplace safety but on increased oversight, would drain Oregon's financial resources and time.

Finally, Oregon OSHA failed to consult with industry stakeholders in the formulation of Emergency SB592. Collaborative efforts between legislators and businesses are essential to creating effective and fair regulatory frameworks. The absence of such collaboration raises questions about the bill's practicality and its alignment with the needs and realities of the construction industry. While workplace safety is undeniably crucial, a balanced approach that considers the concerns of contractors is necessary.

In conclusion, the Emergency Senate Bill 592 raises legitimate concerns and will negatively impact the business interests of contractors and their employees. Oregon can achieve a regulatory framework that promotes safety without unduly burdening the construction industry, but only by incorporating procedural safeguards and fostering collaboration with industry partners. We, therefore, ask you to reconsider and revise the proposed changes to Emergency Senate Bill 592.

Respectfully,



Michael Wakerling  
Western States Roofing Contractors Association  
President



Stan Robinson  
Associated Roofing Contractors of Oregon and Southwest Washington  
President



**WESTERN STATES**  
ROOFING CONTRACTORS ASSOCIATION



**From:** Melissa Melquist <campaigns@good.do>  
**Sent:** Monday, October 16, 2023 5:39 PM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

Dear Oregon OSHA

Thank you so much for having a strong baseline rule to implement SB 907. We appreciate your efforts in streamlining the right to refuse rule within Oregon’s agencies. However, Oregonians in the last three years have gone through a pandemic, unprecedented heat dome, and numerous seasonal wildfires. This summer was particularly smokey. These trends are part of our reality.

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Workers and laypersons must be able to read this rule and understand that the right to refuse hazardous work covers anything that causes them imminent physical harm. This right shouldn’t just be left to agency interpretation and practices- but rather Oregon’s language should be modernized to account for 21st-century health threats.

Thank you

Yours sincerely,  
 Melissa Melquist

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Please reply to Melissa Melquist at mkmelquist@willamette.edu.

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**From:** Inéz Nieves <campaigns@good.do>  
**Sent:** Monday, October 16, 2023 5:40 PM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

Dear Oregon OSHA

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Thank you

Yours sincerely,  
 Inéz Nieves

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Please reply to Inéz Nieves at ianieves@willamette.edu.

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**From:** Cassie Segura <campaigns@good.do>  
**Sent:** Monday, October 16, 2023 5:40 PM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

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Thank you

Yours sincerely,  
 Cassie Segura  
 Salem, Oregon, 97301, United States

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**From:** Teresa Hernández <campaigns@good.do>  
**Sent:** Monday, October 16, 2023 5:41 PM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

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Thank you,

Teresa Hernández  
 Salem, Oregon, 97306, United States

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Please reply to Teresa Hernández at thernandez@willamette.edu.

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**From:** Sara McNaughton <campaigns@good.do>  
**Sent:** Monday, October 16, 2023 5:41 PM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

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Thank you

Yours sincerely,  
 Sara McNaughton  
 Salem, Oregon, 97301, United States

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Please reply to Sara McNaughton at saracmcnaughton@gmail.com.

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**From:** Megan McNaughton <campaigns@good.do>  
**Sent:** Monday, October 16, 2023 5:43 PM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Please add more comprehensive language and environmental health threats in right to refuse dangerous work.

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Thank you

Sincerely,  
Megan McNaughton

\_\_\_\_\_  
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Please reply to Megan McNaughton at megangmcaughton@gmail.com.

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## KLAMATH IRRIGATION DISTRICT

6640 K.I.D. LANE  
KLAMATH FALLS, OREGON 97603  
Phone: (541) 882-6661 Fax (541) 882-4004

D-26

18 October 2023

Lisa Appel  
OSHA.rulemaking@dcbs.oregon.gov  
350 Winter St NE | Salem, OR 97301

Oregon OSHA Division 1 Rules Committee and OSHA Staff,

Klamath Irrigation District provides the following public comment on the proposed changes to Division 1 Rules as announced on 31 August 2023. The District is concerned that the changes to the work refusal rules will likely have severe implications on responses to emergencies, resulting in loss of human life, billions in property damages, and the District's increased cost on an already deteriorating budget.

Klamath Irrigation District (District) is a quasi-municipal corporation (special government district) formed under Oregon Revised Statute 545 by popular vote in 1917. The District represents over 1,200 agricultural producers and an additional 1,800 water users. It delivers water through canals above the urban areas of Klamath Falls, affecting most of the population and business districts. A breach of the A Canal in the urban growth boundary will likely result in the loss of human life and billions in property damage.

Klamath Irrigation District has a statutorily defined budget and revenue source placed directly upon the backs of farmers and ranchers without any guaranteed water supply due in part to Oregon State's failure to defend state water law and water rights. Any increase in penalties to the District will harm the District's ability to provide needed services to the public.

Due to this effect of penalties on the ability of the local government to provide needed services, Oregon OSHA should consider amending their administrative rules to change the inspection procedures to a more consultative approach for statutorily authorized public employers. Education first, then penalties for severe offenders. The Federal OSHA State Plan Policies and Procedures Manual discusses alternative methods of compliance for public employers.

The District provides emergency services, including flood control and emergency repairs to levies. Oregon OSHA must clearly define what conditions a public employee can refuse to work; emergency conditions should be an exception. Any reduction in the workforce can cause severe health and safety risks, up to and including death, for everyone, including the public and those employees remaining to complete these mandatory tasks.

Gene Souza (Lieutenant Colonel, U.S. Army, Retired)  
Executive Director and District Manager  
Klamath Irrigation District



# Umatilla County Fire District #1

**320 S. 1<sup>st</sup> Street**  
**Hermiston, OR 97838**

541-567-8822 Bus | [ucfd1.com](http://ucfd1.com)  
541-564-6463 Fax | [fire.district@ucfd1.com](mailto:fire.district@ucfd1.com)

D-27

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TO: Lisa Appel

FROM: Scott Stanton, Fire Chief

RE: Division 1 437-001-0295/SB 907 Rulemaking  
SB 592

October 18, 2023

I am writing this letter to address the possible negative impacts of the rulemaking of SB 592 and SB 907 to our fire district. As first responders we understand that our job is inherently dangerous, and we have taken an oath to do that job. We use risk benefit analysis, specialized training, and specific rules of engagement to always protect our employees to the best of our abilities. We understand that the proposed regulation is applicable to all jobs and industries, however, I also understand that OSHA has established other rules where the hazardous conditions are acknowledged.

We frequently operate in high-risk environments where our employees are exposed to life-threatening situations. Our duties require us to rapidly address emergencies and provide life saving first aid in circumstances that are unpredictable and potentially hazardous.

Our first responders undergo arduous and specialized training to effectively navigate and manage hazardous situations. Utilizing our knowledge, skills, and abilities along with specialized personal protective equipment allows us to respond and mitigate conditions we are tasked with in an efficient and safe manner. This distinguishes first responders from members of the public who are held to a "reasonable person standard" because they are untrained and in the course of their work are not exposed to nor do their duties include inherently dangerous environments and situations.

First responders are frequently the first on the scene of emergencies, be it natural disasters, accidents or acts of violence. Their capabilities to provide timely help can mean the difference between life and death to our community members. This type of response requires specialized preparation and

*Umatilla County Fire District # 1 is devoted to protecting the communities we serve by providing the highest quality of compassionate and professional services.*

consideration in matters of worker safety that are addressed through proper and specific equipment, policies and procedures and training.

I respectfully request that recognition of the inherently dangerous work performed by first responders be specifically acknowledged and clarified in the new rule.

Secondly, I would also like to comment on the rulemaking for SB 592. Local governments like ours and our neighbors have a statutorily defined budget and revenue source that cannot be increased without a vote of the people. Any increase in penalties could result in a negative outcome on the abilities for us to deliver the critically needed services we are here to provide.

I would propose OSHA consider amending their administrative rules to change the inspection procedures to a more consultative approach for statutorily authorized public employers. Education and prevention first, then penalties for severe offenders.

Thank you for your consideration,



Scott J Stanton  
Fire Chief

**APPEL Lisa \* DCBS**

---

**From:** Mark Madeira <mmadeira@tectaamerica.com>  
**Sent:** Thursday, October 19, 2023 9:14 AM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Emergency Senate Bill 592  
**Attachments:** WSRCA\_ARC\_SB592.pdf

You don't often get email from mmadeira@tectaamerica.com. [Learn why this is important](#)

I am opposed to raising OSHA fines with the intent to lower deaths. Requiring more, or offering, quality training and education is the best route to eliminate deaths in the workplace. Raising fines will end up hurting employees' moral, and in turn hurt their attitude toward safety. The goal is to increase safety awareness and the attitude towards it. OSHA can charge for the education and training. This allows the organization to still generate revenue while educating and training the workforce.

When I have a team goal, I find that fear is not the way to get the results I desire. Educating the team on what our goal is, giving them the tools and power to reach the goal, accomplishing small victories along the way, and supporting the team is how I get positive results. If OSHA truly wants to eliminate deaths in the workplace, they should be educating more and providing tools to accomplish this goal. As opposed to scaring the businesses with fines and the possibility of losing massive amounts of money.

I support and agree with the attached letter from the WSRCA and ARC. I am opposed to raising OSHA fines. In lieu of raising fines, my solution to eliminating deaths in the workplace is education and training. If fines are raised, it should be minimal, generate revenue through education and training.

Thank you,

---

**Mark Madeira** | Operations Manager



ABC Roofing, a Tecta America Company, LLC | 11305 NE Marx St. | Portland, OR 97220  
 MO: 503-956-2441 | PH: 503-786-0616 | FX: 503-786-0642 | EM: [mmadeira@tectaamerica.com](mailto:mmadeira@tectaamerica.com)







**WESTERN STATES**  
ROOFING CONTRACTORS ASSOCIATION



October 16, 2023

D-28

Via Email  
(OSHA.rulemaking@dcbs.oregon.gov)  
Department of Consumer and Business Services/Oregon OSHA  
P.O. Box 14480  
Salem, Oregon 97309

Re: Proposed Changes to Emergency Senate Bill 592: Legal Concerns and Business Impacts

To Whom it May Concern,

On behalf of the Western States Roofing Contractors Association (“WSRCA”) and the Associated Roofing Contractors of Oregon and Southwest Washington (“ARC”), we appreciate the legislature’s recognition and concern for workplace safety in Oregon.

The WSRCA is a regional roofing association with almost 1,000 contractor and associate member companies throughout the Western United States, including Oregon. WSRCA’s and ARC’s members include roofing contractors, manufacturers, manufacturing representatives, safety professionals, suppliers, distributors, insurance agents/brokers, and roofing consultants, among others. Both WSRCA and ARC aim to foster, encourage, and improve the quality of roofing and related industries through research and education.

Emergency Senate Bill 592 (“SB592”) introduces amendments to the existing Occupational Safety and Health (“OSHA”) fines and penalties in Oregon. While the bill may have been introduced to improve workplace safety, it is essential to critically evaluate its legal implications and potential adverse effects on the interests of contractors and businesses in the construction industry. This position statement aims to analyze the legal reasons why SB592 is inappropriate and the potential harm it may pose to businesses in the State.

First, one of the fundamental legal concerns with Emergency Senate Bill 592 is the potential infringement on due process and fairness. Under Section (1)(c), there is no clear guideline as to what “prior violation history” would entitle OSHA to perform a comprehensive inspection. No other state or federal OSHA is permitted to perform a comprehensive inspection based on something as simple and arbitrary as a “prior violation history.” This lack of due process exposes businesses to arbitrary enforcement actions and undermines their rights through murky, if not entirely arbitrary, legal justification standards.

Second, as alluded to above, the increased fines and penalties will disproportionately affect contractors without providing adequate mechanisms for appeal or redress. The lack of procedural safeguards and an adequate appeals process exposes businesses to arbitrary enforcement actions, undermining the intent of OSHA standards and their purpose. Employers are often dedicated to workplace safety, but employees act in ways that are outside the employers’ control or ability to correct. In such instances, punishment is rendered without consideration of the employers’ workplace operating standards, procedures, or employee training/education.

Third, in addition to stifling business growth, the fear of severe penalties may deter contractors from investing in innovative safety solutions or adopting new technologies that could enhance workplace safety. This reluctance to invest in advancements may hinder the overall progress of the construction industry, jeopardizing both safety and economic growth.

Fourth, the substantial increase of punitive measures and fine amounts will disproportionately impact small businesses and contractors and may lead to higher operational costs across the construction industry. In an industry already experiencing significant hardship due to inflation and supply chain issues, Emergency SB592 threatens to stifle economic growth and job creation in the State.

Fifth, the requirement that the State perform a comprehensive inspection in the event of a fatality, or 3 or more willful/repeat violations is not reasonably related to any safety purpose and may likely lead to a waste of state resources. For example, there is no exception for a Contractor that has demonstrated sufficient abatement during an inspection – a comprehensive inspection is still mandated. This excessive requirement, based not on workplace safety but on increased oversight, would drain Oregon's financial resources and time.

Finally, Oregon OSHA failed to consult with industry stakeholders in the formulation of Emergency SB592. Collaborative efforts between legislators and businesses are essential to creating effective and fair regulatory frameworks. The absence of such collaboration raises questions about the bill's practicality and its alignment with the needs and realities of the construction industry. While workplace safety is undeniably crucial, a balanced approach that considers the concerns of contractors is necessary.

In conclusion, the Emergency Senate Bill 592 raises legitimate concerns and will negatively impact the business interests of contractors and their employees. Oregon can achieve a regulatory framework that promotes safety without unduly burdening the construction industry, but only by incorporating procedural safeguards and fostering collaboration with industry partners. We, therefore, ask you to reconsider and revise the proposed changes to Emergency Senate Bill 592.

Respectfully,



Michael Wakerling  
Western States Roofing Contractors Association  
President



Stan Robinson  
Associated Roofing Contractors of Oregon and Southwest Washington  
President



**WESTERN STATES**  
ROOFING CONTRACTORS ASSOCIATION



## APPEL Lisa \* DCBS

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**From:** Christina Washburn <cwashburn@tectamerica.com>  
**Sent:** Thursday, October 19, 2023 9:29 AM D-29  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Emergency Senate Bill 592  
**Attachments:** WSRCA\_ARC\_SB592.pdf

You don't often get email from cwashburn@tectamerica.com. [Learn why this is important](#)

To Whom It May Concern

I am opposed to raising OSHA fines with the intent to lower deaths. Requiring more, or offering, quality training and education is the best route to eliminate deaths in the workplace. Raising fines will end up hurting employees' moral, and in turn hurt their attitude toward safety. The goal is to increase safety awareness and the attitude towards it. OSHA can charge for the education and training. This allows the organization to still generate revenue while educating and training the workforce.

When I have a team goal, I find that fear is not the way to get the results I desire. Educating the team on what our goal is, giving them the tools and power to reach the goal, accomplishing small victories along the way, and supporting the team is how I get positive results. If OSHA truly wants to eliminate deaths in the workplace, they should be educating more and providing tools to accomplish this goal. As opposed to scaring the businesses with fines and the possibility of losing massive amounts of money.

I support and agree with the attached letter from the WSRCA and ARC. I am opposed to raising OSHA fines. In lieu of raising fines, my solution to eliminating deaths in the workplace is education and training. If fines are raised, it should be minimal, generate revenue through education and training.

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Christina Washburn | Project Support Specialist



A  TECTA AMERICA COMPANY, LLC

ABC Roofing, a Tecta America Company, LLC | 11305 NE Marx St. Portland, OR 97220

PH: 503.786.0616 | FX: 503-786-0642 | EM: [cwashburn@tectamerica.com](mailto:cwashburn@tectamerica.com)





**WESTERN STATES**  
ROOFING CONTRACTORS ASSOCIATION



October 16, 2023

D-29

Via Email  
(OSHA.rulemaking@dcbs.oregon.gov)  
Department of Consumer and Business Services/Oregon OSHA  
P.O. Box 14480  
Salem, Oregon 97309

Re: Proposed Changes to Emergency Senate Bill 592: Legal Concerns and Business Impacts

To Whom it May Concern,

On behalf of the Western States Roofing Contractors Association (“WSRCA”) and the Associated Roofing Contractors of Oregon and Southwest Washington (“ARC”), we appreciate the legislature’s recognition and concern for workplace safety in Oregon.

The WSRCA is a regional roofing association with almost 1,000 contractor and associate member companies throughout the Western United States, including Oregon. WSRCA’s and ARC’s members include roofing contractors, manufacturers, manufacturing representatives, safety professionals, suppliers, distributors, insurance agents/brokers, and roofing consultants, among others. Both WSRCA and ARC aim to foster, encourage, and improve the quality of roofing and related industries through research and education.

Emergency Senate Bill 592 (“SB592”) introduces amendments to the existing Occupational Safety and Health (“OSHA”) fines and penalties in Oregon. While the bill may have been introduced to improve workplace safety, it is essential to critically evaluate its legal implications and potential adverse effects on the interests of contractors and businesses in the construction industry. This position statement aims to analyze the legal reasons why SB592 is inappropriate and the potential harm it may pose to businesses in the State.

First, one of the fundamental legal concerns with Emergency Senate Bill 592 is the potential infringement on due process and fairness. Under Section (1)(c), there is no clear guideline as to what “prior violation history” would entitle OSHA to perform a comprehensive inspection. No other state or federal OSHA is permitted to perform a comprehensive inspection based on something as simple and arbitrary as a “prior violation history.” This lack of due process exposes businesses to arbitrary enforcement actions and undermines their rights through murky, if not entirely arbitrary, legal justification standards.

Second, as alluded to above, the increased fines and penalties will disproportionately affect contractors without providing adequate mechanisms for appeal or redress. The lack of procedural safeguards and an adequate appeals process exposes businesses to arbitrary enforcement actions, undermining the intent of OSHA standards and their purpose. Employers are often dedicated to workplace safety, but employees act in ways that are outside the employers’ control or ability to correct. In such instances, punishment is rendered without consideration of the employers’ workplace operating standards, procedures, or employee training/education.

Third, in addition to stifling business growth, the fear of severe penalties may deter contractors from investing in innovative safety solutions or adopting new technologies that could enhance workplace safety. This reluctance to invest in advancements may hinder the overall progress of the construction industry, jeopardizing both safety and economic growth.

Fourth, the substantial increase of punitive measures and fine amounts will disproportionately impact small businesses and contractors and may lead to higher operational costs across the construction industry. In an industry already experiencing significant hardship due to inflation and supply chain issues, Emergency SB592 threatens to stifle economic growth and job creation in the State.

Fifth, the requirement that the State perform a comprehensive inspection in the event of a fatality, or 3 or more willful/repeat violations is not reasonably related to any safety purpose and may likely lead to a waste of state resources. For example, there is no exception for a Contractor that has demonstrated sufficient abatement during an inspection – a comprehensive inspection is still mandated. This excessive requirement, based not on workplace safety but on increased oversight, would drain Oregon's financial resources and time.

Finally, Oregon OSHA failed to consult with industry stakeholders in the formulation of Emergency SB592. Collaborative efforts between legislators and businesses are essential to creating effective and fair regulatory frameworks. The absence of such collaboration raises questions about the bill's practicality and its alignment with the needs and realities of the construction industry. While workplace safety is undeniably crucial, a balanced approach that considers the concerns of contractors is necessary.

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Respectfully,



Michael Wakerling  
Western States Roofing Contractors Association  
President



Stan Robinson  
Associated Roofing Contractors of Oregon and Southwest Washington  
President



**WESTERN STATES**  
ROOFING CONTRACTORS ASSOCIATION



## APPEL Lisa \* DCBS

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**From:** Anna Parrott <AParrott@tectaamerica.com>  
**Sent:** Thursday, October 19, 2023 9:43 AM  
**To:** RULEMAKING Osha \* DCBS  
**Subject:** Emergency Senate Bill 592  
**Attachments:** WSRCA\_ARC\_SB592.pdf

D-30

You don't often get email from aparrott@tectaamerica.com. [Learn why this is important](#)

Hello,

Please see the attached letter, as I am against the raising of fines in order to increase workplace safety and prevent deaths. This action will **not** produce the desired outcome.

The only way to change attitudes and actions is through education, not by increased penalization.

**Anna Parrott | She/Her | Service Coordinator**

ABC Roofing, a Tecta America Company, LLC  
11305 NE Marx St. | Portland, OR 97220  
O: 503-786-0616 | C: 503-939-1093





**WESTERN STATES**  
ROOFING CONTRACTORS ASSOCIATION



October 16, 2023

D-30

Via Email  
(OSHA.rulemaking@dcbs.oregon.gov)  
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