

General Information

437-001-0001 Model Rules of Procedure

The Model Rules of Procedure, OAR 137-001-0005 through 137-001-0100, in effect on January 1, 2008, as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act, are adopted as the rules of procedure for rulemaking actions of the Oregon Occupational Safety and Health Division.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).

Statutes/Other Implemented: ORS 654.001 to 654.295.

History: OSHA 3-1991, filed 2/25/91, effective 2/25/91
OSHA 7-1992, filed 7/31/92, effective 10/1/92
OSHA 2-1996, filed 6/13/96, effective 6/13/96
OSHA 7-1999, filed 7/15/99, effective 7/15/99
OSHA 11-2000, filed 12/12/00, effective 12/12/00
OSHA 2-2002, filed 3/12/02, effective 3/12/02
OSHA 6-2004, filed 12/30/04, effective 12/30/04
OSHA 1-2006, filed 2/14/06, effective 2/14/06
OSHA 8-2008, filed 7/14/08, effective 7/14/08

437-001-0002 Notice to Interested Persons of Rulemaking

- (1) Except when adopting a temporary rule, in accordance with ORS 183.335(5), the Director will give prior notice of the proposed adoption, amendment, or repeal of an administrative rule by:
 - (a) Publishing notice of the proposed action in the Secretary of State's Oregon Bulletin at least 21 days prior to the effective date of the action.
 - (b) Notifying interested persons and organizations on the Division's notification lists of proposed rulemaking actions under ORS 183.335. The same information is also posted on the Oregon OSHA web site at osha.oregon.gov. The Division will send the notice to those on Oregon OSHA's e-mail notification list, and mail paper copies to those on the hard-copy notification list. Both subscription methods are available on the website listed above or by calling the Oregon OSHA Resource Center at 503-378-3272.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).

Statutes/Other Implemented: ORS 654.001 through 654.295.

History: OSHA 9-1991, filed 4/25/91, effective 4/25/91.
OSHA 7-1999, filed 7/15/99, effective 7/15/99.
OSHA 6-1994, filed 9/30/94, effective 9/30/94.
OSHA 7-2006, filed 9/6/06, effective 9/6/06.
OSHA 5-2018, filed 11/29/18, effective 12/17/18.

437-001-0005 Authority and Applicability of Rules

- (1) These rules are promulgated under the Director's authority contained in ORS 654.025(2) and ORS 656.726(4).
- (2) Adoption Procedures: These rules for the Administration of the Oregon Safe Employment Act (OAR 437, Division 1) are adopted in accordance with ORS Chapter 183 and the Director's Rules of Practice and Procedure Applicable to Rule Making Functions.
- (3) History: Prior "Rules for the Administration of the Oregon Safe Employment Act" (OAR 436, Division 46, Rules 436-46-005 through 436-46-750) were first adopted by WCB Admin. Order 19-1974; filed 6-5-74; effective 7-1-74. Amendments were made by:

WCB Admin. Order 33-1974, filed 9-5-74, effective 9-26-74.

WCB Admin. Order, Safety 8-1975, filed 8-5-75, effective 9-1-75.

WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

WCD Admin. Order, Safety 7-1979, filed 8-20-79, effective 9-1-79.

WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.

WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.

WCD Admin. Order, Safety 12-1982, filed 6-28-82, effective 8-1-82.

WCD Admin. Order, Safety 3-1983, filed 1-31-83, effective 2-1-83.

WCD Admin. Order, Safety 9-1983, filed 11-15-83, effective 11-15-83.

WCD Admin. Order, Safety 2-1984, filed 3-2-84, effective 3-15-84.

WCD Admin. Order, Safety 12-1984, filed 9-20-84, effective 11-1-84.

WCD Admin. Order, Safety 9-1986, filed 10-7-86, effective 12-1-86.

APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.

APD Admin. Order 5-1988, filed 5-16-88, effective 5-16-88.

OAR 436, Division 46, Rules for the Administration of the Oregon Safe Employment Act, was redesignated as OAR 437, Division 1, by APD Admin. Order 7-1988, filed 6/17/88. Its effective date remains 7/1/74.

Note: See [Historical Notes for Division 1](#) complete list of amendments.

Statutory/Other Authority: ORS 654-025(2) and 656.726(4)

Statutes/Other Implemented: ORS 654.001 to 654.295

History: OSHA 7-1992, filed 7/31/92, effective 10/1/92

OSHA 8-2008, filed 7/14/08, effective 7/14/08

OSHA 5-2018, filed 11/29/18, effective 12/17/18.

437-001-0010 Purpose and Scope of Rules

- (1) These rules provide procedures by which the Division shall implement and enforce the Director's authority and responsibilities under the Act.

- (2) The Director adopts OAR 437, Division 1, to assure, as far as possible, safe and healthful working conditions for every employee in Oregon, to preserve our human resources and to reduce the substantial burden which is created by occupational injury and disease.

Statutory/Other Authority: ORS 654.025(2) and 656.726(3)
Statutes/Other Implemented: ORS 654.001 to 654.295
History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74
WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78
APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74
OSHA 10-1990, filed 5/31/90, effective 5/31/90 (temp)
OSHA 24-1990, filed 10/10/90, effective 10/10/90 (perm)
OSHA 7-1992, filed 7/31/92, effective 10/1/92
OSHA 5-2018, filed 11/29/18, effective 12/17/18

437-001-0015 Definitions

The following definitions shall apply to OAR 437, unless the context requires otherwise:

- (1) **Abatement** – Action by an employer to comply with a cited violation of the Oregon Safe Employment Act.
- (2) **Accepted disabling claims** – Claims accepted for disabling occupational injuries or illnesses only. A disabling injury or illness entitles the worker to compensation for disability or fatality. This type of claim excludes temporary total disability suffered during the first three calendar days after the employee leaves work as a result of the injury unless the worker is an inpatient in a hospital.
- (3) **Accepted disabling claims rate** – The ratio of accepted disabling claims to annual average employment, times 100. Claims and employment figures are based upon the best knowledge of the Department at the time the rate is calculated ($ADCR = \text{Number of claims times 100 divided by the number of employees}$).
- (4) **Act** – The Oregon Safe Employment Act (ORS 654.001 to 654.295, 654.750 to 654.780, and 654.991).
- (5) **Administrator** – The Administrator of the Oregon Occupational Safety and Health Division (Oregon OSHA).
- (6) **Affected employee** – An employee who, in the course and scope of employment, may be or may have been exposed to a condition or practice described in a citation, order, application for an extension date, or variance.
- (7) **Agent of the employer** – Any supervisor or person in charge or control of the work or place of employment including, but not limited to, any manager, superintendent, foreperson, or lead worker.

- (8) **Appeal** – A written request for a hearing to contest a citation, notice or order, a proposed assessment of civil penalty, and the period of time fixed for correction of a violation, or any of these, by filing with Oregon OSHA, within 30 days after receipt of the citation, notice or order, a written request for a hearing before the Workers' Compensation Board. Such a request need not be in any particular form, but must 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.
- (9) **Audiometric zero** – The lowest sound pressure level that the average young adult with normal hearing can hear.
- (10) **Board** – The Workers' Compensation Board created by ORS 656.712.
- (11) **Catastrophe** – An accident in which two or more employees are fatally injured, or three or more employees are admitted to a hospital or to an equivalent medical facility.
- (12) **Citation** – A document issued by Oregon OSHA according to ORS 654.071 to cite a violation. A citation may include a notice of penalty and a correction order.
- (13) **Complaint** – A written or oral report from an employee, employee representative, or other person that an occupational safety or health violation may exist at a place of employment. A complaint may be classified as one of the following:
- (a) Imminent danger
 - (b) Serious
 - (c) Other than serious
- (14) **Compliance officer** – A designated Oregon OSHA employee responsible for conducting inspections or investigations; identifying possible violations and hazards; proposing citations, penalties, and correction dates; and assisting employers and employees with information to correct violations and hazards.
- (15) **Comprehensive consultation** – A consultation to cover the entire establishment and entails a physical hazard assessment evaluation and a review of records, written programs, and the employer's illness and injury prevention plan. Comprehensive consultations include a written report by the provider including findings, recommendations, and the guidance necessary to resolve the problems noted in the report.
- (16) **Comprehensive inspection** – A substantially complete inspection of the establishment. An inspection may be comprehensive even though, as a result of the exercise of professional judgment of the compliance officer, not all potentially hazardous conditions, operations, and practices within those areas are inspected. With the exception of an emphasis inspection, a programmed inspection defined in OAR 437-001-0057 is a comprehensive inspection.

- (17) **Consultant** – A designated Oregon OSHA employee whose responsibility is to provide a full range of occupational safety and health assistance including, but not limited to, providing employers, employees, and other agency staff with information, advice, and recommendations on maintaining safe employment or a place of employment; on correcting violations or hazards; and on applicable occupational safety and health rules, techniques, devices, methods, practices, and development of safety and health programs.
- (18) **DART** (Days Away, Restricted, or Transferred) – The number of lost workday injury and illness cases experienced by 100 full-time workers (DART rate = Number of lost workday cases times 200,000 divided by the number of employee hours worked).
- Note:** Lost workday cases include both days away from work and days of restricted time.
- (19) **Decibel** (dB) – Unit of measurement of sound level. For purposes of this rule, decibels refer to the combined average of the readings at 2000, 3000, and 4000 Hz on the audiogram.
- (20) **Department** – The Department of Consumer and Business Services.
- (21) **Director** – The Director of the Department of Consumer and Business Services, or the director's designee.
- (22) **Division** – The Oregon Occupational Safety and Health (Oregon OSHA) Division of the Department of Consumer and Business Services.
- (23) **Emphasis Program** – A special program that targets Oregon OSHA activity to industries that have a high potential for serious injuries or illnesses, according to national or state data.
- (24) **Employee** – Any individual, including a minor, whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, financial or otherwise, and who is subject to the direction and control of an employer, and includes:
- (a) Salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts, and other public corporations.
 - (b) Any person provided with workers' compensation coverage as a subject worker under ORS Chapter 656, whether by operation of law or by election.
- (25) **Employee exposure record** – A record of monitoring or measuring that contains qualitative or quantitative information indicative of employee exposures to toxic materials or harmful physical agents. This includes both individual exposure records and general research or statistical studies based on information collected from exposure records.

- (26) **Employee medical record** – A record that contains information concerning the health status of an employee or employees exposed or potentially exposed to toxic materials or harmful physical agents. These records may include, but are not limited to:
- (a) The results of medical examinations and tests;
 - (b) Any opinions or recommendations of a physician or other health professional concerning the health of an employee or employees; and
 - (c) Any employee medical complaints relating to workplace exposure. Employee medical records include both individual medical records and general research or statistical studies based on information collected from medical records.
- (27) **Employee representative** – A bargaining unit representative, or an individual selected by employees, who serves as their spokesperson.
- (28) **Employer** –
- (a) Any person who has one or more employees, or
 - (b) Any sole proprietor or member of a partnership who elects workers' compensation coverage as a subject worker according to ORS 656.128, or
 - (c) Any corporation in relation to the exposure of its corporate officers except for corporations without workers' compensation coverage under ORS 656.128 and whose only employee is the sole owner of the corporation, or
 - (d) Any successor or assignee of an employer. For purposes of this definition and ORS 654.005(5)(c), a business or enterprise is substantially the same entity as the predecessor employer if:
 - (A) A majority of the current business or enterprise is owned by the former owners or their immediate family members, and
 - (B) One or more of the following criteria exist for both the current and predecessor business or other enterprise:
 - (i) Substantially the same type of business or enterprise.
 - (ii) Similar jobs and working conditions.
 - (iii) A majority of the machinery, equipment, facility, or methods of operation.
 - (iv) Similar product or service.
 - (v) A majority of the same supervisory personnel.
 - (vi) A majority of the same officers and directors.

Note: Not every element needs to be present for an employer to be a successor. The cumulative facts will determine the employer's status.

- (29) **Employer representative** – An individual selected by the employer, to serve as spokesperson or, in the absence of a selected spokesperson, the person in charge of the place of employment at the time of the inspection.
- (30) **Environmental exposure sampling** – Sampling of the workplace environment, performed for a variety of reasons including identifying of contaminants and their sources, determining worker exposures, and checking the effectiveness of controls.
- (31) **Establishment** – An establishment is a single physical location doing business, offering services, or having industrial operations. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas, and sanitary services; and similar operations, the establishment is the main or branch office, terminal, station, etc. that either supervise such activities or are the base for personnel to carry out these activities.
- (a) One location/multiple establishments. Normally, one business location has only one establishment. Under limited conditions, two or more separate businesses that share a single location are separate establishments. An employer may divide one location into two or more establishments only when:
- (A) Each of the establishments represents a distinctly separate business;
 - (B) Each business is engaged in a different economic activity;
 - (C) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, each business can be a separate establishment.
- (b) Multiple locations/one establishment. Only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:
- (A) The employer operates the locations as a single business operation under common management;
 - (B) The locations are all near each other; and
 - (C) The employer keeps one set of business records for all the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

- (c) Telecommuting from home. For employees who telecommute from home, the employee's home is not a business establishment, and a separate 300 Log is not required. Employees who telecommute must be linked to one of the business' establishments under 437-001-0700(15)(c).
- (32) **Farm operation** – Any operation involved in the growing or harvesting of crops or the raising of livestock or poultry.
- (33) **Filed** – A document is considered to have been filed on the date of postmark if mailed, or on the date of receipt, if transmitted by other means to Oregon OSHA, DCBS, or the WCB.
- (34) **First aid** – Any one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, or similar injuries that do not ordinarily require medical care. Such one-time treatment and subsequent observation is considered first aid even though it is provided by a physician or registered professional personnel.
- (35) **Fixed place of employment** – The entire facility maintained by an employer at one general location, and operations provided from that facility, regardless of the size or number of departments or buildings in the facility. For the purpose of determining repeat violations, fixed place of employment includes employers or owners engaged in construction activity who will be at a single worksite continuously for more than 24 months. Forest activities are excluded as are construction sites established for a period of 24 months or less.
- (36) **Hazard** – A condition, practice, or act that could result in an injury or illness to an employee.
- (37) **Health hazard** – Health hazards mean carcinogens, lead, silica, toxic metals and fumes, vapors or gases, toxic or highly corrosive liquids or chemicals, chemical sensitizers, pesticides, fungicides, solvents, biological agents, and harmful physical stress agents.
- (38) **Imminent danger** – A condition, practice, or act that exists in any place of employment and could reasonably be expected to cause death or serious physical harm immediately.
- (39) **Injury or illness** – An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, skin disease, respiratory disorder, or poisoning.
- Note:** Record injuries and illnesses only if they are new, work-related cases that meet one or more of the recording criteria.

- (40) **Inspection** – An official examination of a place of employment by a compliance officer to determine if an employer is in compliance with the Act.
- (a) Programmed. Inspections conducted under the provisions of OAR 437-001-0057.
 - (b) Unprogrammed.
 - (A) **Follow-up inspection** – An inspection to determine if a previously identified violation has been corrected.
 - (B) **Complaint inspection** – An inspection made in response to a complaint.
 - (C) **Accident investigation** – A systematic appraisal of an accident sequence to determine causal factors, corrective actions and preventative measures.
 - (D) **Referral inspection** – An inspection made in response to a referral.
- (41) **Letter of corrective action** – A letter stating the corrective action(s) taken by the employer to comply with the violation(s) that were not corrected at the time of the inspection.
- (42) **Lost workdays** – The actual number of days after, but not including, the day of injury or illness when the employee would have worked, but could not perform all or any part of their normal assignment during all or any part of the employee's next regular workday or shift because of the occupational injury or illness.
- (43) **Medical treatment** – Treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel, nor does it include treatment ordinarily considered diagnostic or preventative in nature.
- (44) **MOD (Experience Rating Modification Factor)** – Experience rating recognizes the differences among individual insureds with respect to safety and loss prevention. It compares the experience of individual insureds with the average insured in the same classification. The differences are reflected by an experience rating modification, based on individual payroll and loss records, that may result in an increase, decrease, or no change in premium.
- (45) **North American Industry Classification System (NAICS)** – A classification system developed by the Executive Office of the President/Office of Management and Budget, for use in classifying establishments by the type of activity in which they are engaged. Each establishment is assigned an industry code for its major activity.
- (46) **Order to correct** – A written Oregon OSHA order that directs an employer to abate a violation within a given period of time.

- (47) **Owner** – Every person having ownership, control, or custody of any place of employment or of the construction, repair, or maintenance of any place of employment.
- (48) **Partial inspection** – An inspection with focus limited to certain potentially hazardous areas, operations, conditions, or practices at the establishment. The inspection may include review of injury and illness records and any required programs relative to the inspection.
- (49) **Person** – One or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons, and includes the state, state agencies, counties, municipal corporations, school districts, and other public corporations or subdivisions.
- (50) **Personal exposure samples** – Measurement of contaminants or physical agents to characterize the environment in the breathing or hearing zone of individual workers in order to evaluate their specific work exposures. Personal samplers are placed on the worker to obtain either one continuous sample covering a portion of the workday or consecutive samples covering a stated time period.
- (51) **Physician or other licensed health care professional** – A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows them to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.
- (52) **Place of employment** –
- (a) Includes every place that is fixed or movable; indoors, outdoors, or underground; and the premises and structures appurtenant thereto.
 - (b) Includes every place where an employee works or intends to work either temporarily or permanently.
 - (c) Includes every place where there is any process, operation, or activity related, either directly or indirectly, to an employer's industry, trade, business, or occupation, including a labor camp provided by an employer for their employees or by another person engaged in providing living quarters or shelters for employees.
 - (d) Does not include any place where the only employment involves nonsubject workers employed in or around a private home.
 - (e) Does not include any corporate farm where the only employment involves the farm's family members, including parents, spouses, sisters, brothers, daughters, sons, daughters-in-law, sons-in-law, nieces, nephews, or grandchildren.
- (53) **Record** – Any recorded information regardless of its physical form or character.

- (54) **Recordable occupational injuries or illnesses** – Any occupational injuries or illnesses that result in:
- (a) Fatalities, regardless of the time between the injury and death, or the length of the illness;
 - (b) Lost workday cases, other than fatalities, that prevent the employee from performing their normal assignment during any part of the employee's next regular, or any subsequent workday or shift; or
 - (c) Nonfatal cases without lost workdays that result in transferring to another job or terminating employment, require medical treatment (other than first aid), or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses that are reported to the employer but are not classified as fatalities or lost workday cases.
- (55) **Referral** – A notification made to the responsible agency of safety or health violations observed by an Oregon OSHA employee, other federal, state or local government representatives, or the media.
- (56) **Rule** – Any agency directive, standard, regulation or statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of the agency and that is adopted according to the Administrative Procedures Act. The term includes the amendment or repeal of a prior rule, but does not include, unless a hearing is required by statute, internal management directives, regulations, or statements that do not substantially affect the interests of the public.
- (57) **Scheduling list** – An electronic or paper list of places of employment or employers scheduled for inspection.
- (58) **Serious physical harm:**
- (a) Injuries that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently, the normal function of a part of the body. Examples of such injuries are amputations, fractures (both simple and compound) of bones, cuts involving significant bleeding or extensive suturing, disabling burns, concussions, internal injuries, and other cases of comparable severity.
 - (b) Illnesses that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently, the normal function of a part of the body, even though the effects may be cured by halting exposure to the cause or by medical treatment. Examples of such illnesses are cancer, pneumoconiosis, narcosis, or occupational infections (caused by biological agents), and other cases of comparable severity.

- (59) **Standard threshold shift (STS)** – A change in hearing threshold relative to the baseline audiogram of an average of 10 dB or more in either ear.
- (60) **Substantially similar** – As it relates to a repeat violation, a second violation that is closely related in substance or form to a previous violation.
- (61) **Suspended penalty** – A penalty that is determined but not assessed.
- (62) **Variance** – The written authority given by Oregon OSHA to an employer permitting the use of a specific alternative means or method to comply with the intent of a rule. Specific types of variances are:
- (a) **Permanent** – A variance that remains in effect until modified or revoked according to OAR 437-001-0430;
 - (b) **Temporary** – A variance granted for a stated period of time to permit the employer to achieve compliance with a new rule;
 - (c) **Research** – A variance granted for a stated period of time to allow industrial or governmental research designed to demonstrate or validate new and improved safety or health techniques or products; and
 - (d) **Interim order** – The temporary authority for an employer to use an alternative means or method by which the employer effectively safeguards the safety and health of employees until final action can be taken on the variance request.
- (63) **Violation** – The breach of a person’s duty to comply with an Oregon occupational safety or health statute, regulation, rule, standard, or order.
- (a) Specific classifications of violations are:
 - (A) **Serious violation** – A violation where there is substantial probability that death or serious physical harm could result from an existing condition or from one or more practices, means, methods, operations, or processes that have been adopted or are in use in a place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know about the violation;
 - (B) **Other than serious violation** – A violation that is other than a serious or minimal violation; and
 - (C) **Minimal violation** – A violation that does not have a direct or immediate relationship to the safety or health of employees.
 - (b) Specific types of the above classifications are:

- (A) **Willful violation** – A violation that 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 statute, regulation, rule, standard, or order.
- (B) **Unabated violation** – A violation that has not been fully corrected by the date ordered.
- (C) **Repeat violation** –
 - (i) An employer’s second or subsequent violation involving a substantially similar violation as the earlier violation or violations, cited within the previous three years, will be cited as a repeat violation under the criteria in OAR 437-001-0160(3)(a).
 - (ii) In these rules, repeat, repeated, and repeatedly are used synonymously.
- (D) **First-instance violation** – An employer’s first violation cited within the previous three years of a particular statute, regulation, rule, standard, or order.
- (E) **Egregious** – Those conditions that normally constitute a flagrant violation of the Oregon Safe Employment Act, or Oregon OSHA standards, or regulations such that each instance of the violation is cited separately.
- (c) **Combined violation** – Multiple violations of the same statute, regulation, rule, standard, or order within an establishment that have been combined as one violation to indicate an overall lack of compliance with a safety or health statute, regulation, rule, standard, or order.
- (d) **Grouped violation** – Multiple violations of different statutes, regulations, rules, standards, or orders within an establishment that have been combined as one violation:
 - (A) To indicate an increase in the severity or probability of the violation, or
 - (B) Recordkeeping and posting requirements involving the same document, or
 - (C) The violations are so closely related as to constitute a single hazardous condition.
- (e) **Caused or contributed to a work-related fatality violation** – The workplace death of an employee that was attributed to a violation or in which the violation was a related factor, as determined by the compliance officer.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).

Statutes/Other Implemented: ORS 654.001 through 654.326, 654.412 through .423, 654.991.

History: WCB Admin. Order, 19-1974, filed 6-5-74, effective 7-1-74.
 WCB Admin. Order, Safety 8-1975, filed 8-5-75, effective 9-1-75.
 WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.
 WCD Admin. Order, Safety 7-1979, filed 8-20-79, effective 9-1-79.
 WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.
 WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.
 WCD Admin. Order, Safety 9-1983, filed 11-15-83, effective 11-15-83.
 WCD Admin. Order, Safety 2-1984, filed 3-2-84, effective 3-15-84.
 WCD Admin. Order, Safety 12-1984, filed 9-20-84, effective 11-1-84.
 WCD Admin. Order, Safety 9-1986, filed 10-7-86, effective 12-1-86.
 APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.
 APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.
 OSHA 10-1990, filed 5/31/90, effective 5/31/90 (temp).
 OSHA 24-1990, filed 10/10/90, effective 10/10/90 (perm).
 OSHA 7-1992, filed 7/31/92, effective 10/1/92.
 OSHA 6-1994, filed 9/30/94, effective 9/30/94.
 OSHA 2-1996, filed 6/13/96, effective 6/13/96.
 OSHA 5-1998, filed 10/15/98, effective 10/15/98.
 OSHA 7-1999, filed 7/15/99, effective 7/15/99.
 OSHA 11-1999, filed 10/20/99, effective 10/20/99 (temp).
 OSHA 4-2000, filed 4/14/00, effective 4/15/00.
 OSHA 11-2001, filed 9/14/01, effective 1/1/02.
 OSHA 7-2002, filed 11/15/02, effective 11/15/02.
 OSHA 6-2003, filed 11/26/03, effective 11/26/03.
 OSHA 7-2006, filed 9/6/06, effective 9/6/06.
 OSHA 5-2007, filed 9/5/07, effective 9/5/07 (temp).
 OSHA 1-2008, filed 2/22/08, effective 3/1/08 (perm).
 OSHA 2-2009, filed 1/27/09, effective 2/3/09.
 OSHA 10-2009, filed 10/5/09, effective 10/5/09.
 OSHA 2-2012, filed 5/11/12, effective 7/1/12.
 OSHA 2-2015, filed 3/18/15, effective 1/1/16.
 OSHA 5-2018, filed 11/29/18, effective 12/17/18.
 OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0020 Authority to Administer

- (1) The Administrator is hereby granted authority to do whatever is reasonably necessary or incidental to accomplish the purposes of the Act and these rules.
- (2) The Administrator shall administer the Voluntary Compliance Program separately from the enforcement activities. The Voluntary Compliance Program includes but is not limited to education, consultations, demonstration programs, and research.
- (3) The Administrator shall name employees or classifications of employees who shall have authority to carry out the voluntary compliance and the enforcement provisions of the Oregon Safe Employment Act.
- (4) The official acts of the Administrator in administering and enforcing the Oregon Safe Employment Act, and the acts of those designated by the Administrator, shall be considered the official acts of the Director.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).
 Statutes/Other Implemented: ORS 654.001 to 654.295.
 History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74.

WCB Admin. Order, Safety 8-1975, filed 8-5-75, effective 9-1-75.
WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.
WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.
APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.
APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.
OSHA 5-2018, filed 11/29/18, effective 12/17/18.

437-001-0025 Liberal Construction

The Act, other rules adopted thereunder, and these rules shall be liberally construed to accomplish the preventative purposes expressed in the Act.

Statutory/Other Authority: ORS 654.025(2) and 656.726(3).
Statutes/Other Implemented: ORS 654.001 to 654.295.
History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74.
WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.
APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

437-001-0030 Use of Gender and Number

For the purpose of these rules, each gender includes the other gender, the singular includes the plural and the plural includes the singular.

Statutory/Other Authority: ORS 654.025(2) and 656.726(3).
Statutes/Other Implemented: ORS 654.001 through 654.295.
History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74.
WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.
APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.
OSHA 7-1999, filed 7/15/99, effective 7/15/99

437-001-0035 Occupational Safety and Health Rules

- (1) The Division shall propose occupational safety and health rules for adoption by the Administrator under the authority delegated by the Director. Proposed rules shall be:
 - (a) Reasonable;
 - (b) Mandatory;
 - (c) Designed to protect the life, safety and health of employees; and
 - (d) At least as effective as occupational safety and health rules adopted by the U.S. Department of Labor.

- (2) In proposing rules for adoption, the Division may consider recommendations from national standards-setting organizations, the U.S. Department of Labor, National Institute of Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), employers, employees, employee representatives, and the Division's occupational safety and health experience.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).

Statutes/Other Implemented: ORS 654.001 through 654.295.

History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74.

WCB Admin. Order, Safety 8-1975, filed 8-5-75, effective 9-1-75.

WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

OSHA 7-1999, filed 7/15/99, effective 7/15/99.

OSHA 5-2018, filed 11/29/18, effective 12/17/18.

437-001-0045 Adoption, Amendment, or Repeal of Rules

- (1) Rules will be adopted, amended, or repealed in accordance with ORS Chapter 183 and the Director's rules of practice and procedure applicable to rulemaking functions.
- (2) Any person may request the adoption, amendment, or repeal of a rule.
- (3) A request for adoption, amendment, or repeal of a rule shall:
 - (a) Be in writing, addressed to the Administrator, Oregon OSHA, Labor and Industries Building, Salem, Oregon 97301;
 - (b) Identify the rule proposed for adoption, amendment, or repeal and include reasons for the change.
- (4) Upon receipt of the request the Division shall, within 90 days, either deny the request or initiate rulemaking proceedings.
- (5) If the request to adopt, amend, or repeal a rule is denied, the Division shall state its reasons for the denial in writing. A copy shall be mailed to the person making the request and all other persons upon whom a copy of the request was served.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).

Statutes/Other Implemented: ORS 654.001 to 654.295.

History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74.

WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

OSHA 5-2018, filed 11/29/18, effective 12/17/18.

437-001-0047 Voluntary Compliance Program, General

- (1) The Division shall provide a coordinated program to encourage voluntary compliance with occupational health and safety laws, rules and codes and to promote more effective workplace health and safety programs.
- (2) The program shall be designed to assist employers achieve voluntary compliance and shall be administered to preclude issuance of citations and penalties except when an employer fails to correct serious violations identified.
- (3) The program shall include but is not limited to:
 - (a) Health and safety consultative services;
 - (b) Worker and employer training and education;
 - (c) Research projects including: Causes and prevention of industrial accidents and diseases; trends demonstrating the need for licensing, certification, or new or revised rules;
 - (d) Demonstration projects utilizing new or innovative processes or procedures to assist workers and employers in preventing occupational injury or disease, whatever the cause;
 - (e) Publication and general distribution of training and accident prevention materials.

Statutory/Other Authority: ORS 654.025(2) and 656.726(3).

Statutes/Other Implemented: ORS 654.001 to 654.295.

History: APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

437-001-0050 Enforcement Program, General

The Division shall provide an effective program to enforce statutes, regulations, rules, standards, or orders for the protection of the life, safety, and health of employees. This program shall include, but is not limited to:

- (1) The inspection of places of employment;
- (2) The investigation of industrial accidents, fatalities, or catastrophes;
- (3) Issuing citations for violations;
- (4) Identifying safety and health hazards that may or may not be violations and bringing them to the attention of employers and employees;
- (5) Issuing reasonable correction orders;
- (6) Assisting employers and employees in safety and health matters;

- (7) Assessing and collecting civil monetary penalties for violations;
- (8) Holding informal conferences with employers or employees to discuss citations, penalties, or correction orders and other safety and health matters without limiting or extending the employer's appeal rights; and
- (9) Granting or denying extensions of the times set by correction orders.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).

Statutes/Other Implemented: ORS 654.001 to 654.295.

History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74.

WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.

WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.

APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

OSHA 5-2018, filed 11/29/18, effective 12/17/18.