



Oregon

John Kitzhaber MD, Governor

Department of Consumer and Business Services
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January 21, 2015

[Text of changes](#)
[September 18, 2014 Federal Register](#)

Oregon OSHA – Proposed Changes to Recordkeeping and Reporting Requirements in Division 1, General Administrative Rules

Public Hearings Scheduled for:

<u>Date</u>	<u>Time</u>	<u>Location</u>
February 26, 2015	10:00 am	Oregon OSHA Fremont Place, Building I 1750 NW Naito Parkway, Suite 112 Portland, OR 97209-2533
March 3, 2015	1:00 pm	Oregon OSHA Red Oaks Square 1230 NE Third Street, Suite A-115 Bend, OR 97701-4374
March 5, 2015	10:00 am	Oregon OSHA 1140 Willagillespie, Suite 42 Eugene, OR 97401-2101

Oregon OSHA must adopt rules that are at least as effective as the federal OSHA rules. On September 18, 2014, federal OSHA published a final rule that updates the list of industries that are exempt from the requirement to routinely keep OSHA injury and illness records, due to relatively low occupational injury and illness rates. The previous list of industries was based on the old Standard Industrial Classification (SIC) system and injury and illness data from the Bureau of Labor Statistics (BLS) from 1996, 1997, and 1998. The new list of industries that are exempt from routinely keeping OSHA injury and illness records is based on the North American Industry Classification System (NAICS) and injury and illness data from the Bureau of Labor Statistics (BLS) from 2007, 2008, and 2009. Note: The new rule retains the exemption for any employer with ten or fewer employees, regardless of their industry classification, from the requirement to routinely keep records.

The final rule also expands the list of severe work-related injuries that all covered employers must report to OSHA. The revised rule retains the current requirement to report all work-related fatalities within 8 hours and adds the requirement to report all work-related in-patient hospitalizations, amputations and loss of an eye within 24 hours to OSHA.

This rulemaking incorporates federal OSHA changes, but also makes additional changes:

The rules for reporting workplace incidents were moved to their own rule number, separating reporting from recordkeeping.

In addition to federal OSHA changes for reporting workplace incidents, the new requirement to report workplace amputations was revised to include any amputation or avulsion that includes bone and/or cartilage loss.

Clarifies inpatient hospitalization related to workplace illnesses and injuries.

Edits were made to enhance clarity so employers can better understand their responsibility to record workplace illnesses and injuries.

The annual summary requirements was modified for clarity and to allow for the employer to designate a representative to sign and certify that the information is correct, as long as the information is shared with a company executive.

A note was added reminding employers that, in addition to these reporting requirements, an injury involving a mechanical power press must also be reported to Oregon OSHA.

The definition of Standard industrial classification (SIC) was removed from OAR 437-001-0015 because it is no longer pertinent since the North American Industry Classification System (NAICS) is now used to classify industries.

When does this happen: Adoption tentatively will be March 2015 (effective January 2016)

To get a copy: Our web site – www.orosha.org Rules, then Proposed Rules
Or call 503-947-7449

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

Comment period closes: **March 11, 2015**

Oregon OSHA contact: **Dave McLaughlin, Central Office @ 503-947-7457;**
or email at dave.mclaughlin@oregon.gov

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

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services/Oregon OSHA

OAR 437

Agency and Division

Administrative Rules Chapter Number

Sue Joye

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Rules Coordinator

Address

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RULE CAPTION

Adopt changes to recordkeeping and reporting requirements in Division 1, General Administrative Rules.

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<u>Hearing Date</u>	<u>Time</u>	<u>Location</u>	<u>Hearings Officer</u>

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

ADOPT: OAR 437-001-0704

AMEND: OAR 437-001-0015, 437-001-0700

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

RULE SUMMARY

Oregon OSHA must adopt rules that are at least as effective as the federal OSHA rules. On September 18, 2014, federal OSHA published a final rule that updates the list of industries that are exempt from the requirement to routinely keep OSHA injury and illness records, due to relatively low occupational injury and illness rates. The previous list of industries was based on the old Standard Industrial Classification (SIC) system and injury and illness data from the Bureau of Labor Statistics (BLS) from 1996, 1997, and 1998. The new list of industries that are exempt from routinely keeping OSHA injury and illness records is based on the North American Industry Classification System (NAICS) and injury and illness data from the Bureau of Labor Statistics (BLS) from 2007, 2008, and 2009. Note: The new rule retains the exemption for any employer with ten or fewer employees, regardless of their industry classification, from the requirement to routinely keep records.

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

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

OAR 437
Administrative Rules Chapter Number

In the Matter of:

ADOPT: OAR 437-001-0704

AMEND: OAR 437-001-0015, 437-001-0700

Rule Caption:

Adopt changes to recordkeeping and reporting requirements in Division 1, General Administrative Rules.

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

Stats. Implemented: ORS 654.001 through 654.295

Need for the Rule(s):

Oregon OSHA must adopt rules that are at least as effective as the federal OSHA rules. On September 18, 2014, federal OSHA published a final rule that updates the list of industries that are exempt from the requirement to routinely keep OSHA injury and illness records, due to relatively low occupational injury and illness rates. The previous list of industries was based on the old Standard Industrial Classification (SIC) system and injury and illness data from the Bureau of Labor Statistics (BLS) from 1996, 1997, and 1998. The new list of industries that are exempt from routinely keeping OSHA injury and illness records is based on the North American Industry Classification System (NAICS) and injury and illness data from the Bureau of Labor Statistics (BLS) from 2007, 2008, and 2009. Note: The new rule retains the exemption for any employer with ten or fewer employees, regardless of their industry classification, from the requirement to routinely keep records.

The final rule also expands the list of severe work-related injuries that all covered employers must report to OSHA. The revised rule retains the current requirement to report all work-related fatalities within 8 hours and adds the requirement to report all work-related in-patient hospitalizations, amputations and loss of an eye within 24 hours to OSHA.

This rulemaking incorporates federal OSHA changes, but also makes additional changes:

The rules for reporting workplace incidents were moved to their own rule number, separating reporting from recordkeeping.

In addition to federal OSHA changes for reporting workplace incidents, the new requirement to report workplace amputations was revised to include any amputation or avulsion that includes bone and/or cartilage loss.

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Edits were made to enhance clarity so employers can better understand their responsibility to record workplace illnesses and injuries.

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A note was added reminding employers that, in addition to these reporting requirements, an injury involving a mechanical power press must also be reported to Oregon OSHA.

The definition of Standard industrial classification (SIC) was removed from OAR 437-001-0015 because it is no longer pertinent since the North American Industry Classification System (NAICS) is now used to classify industries.

Documents Relied Upon, and where they are available:

Federal Register / Vol. 79, No. 181 / Thursday, September 18, 2014 / Rules and Regulations:

https://www.osha.gov/FedReg_osha_pdf/FED20140918.pdf

Oregon OSHA 437-001-0700 Recordkeeping and Reporting

http://www.orosha.org/pdf/rules/division_1/437-001-0700-0742.pdf

State of Oregon Employment Department economic data

<https://www.qualityinfo.org/ed-ewind/?at=1&t1=0~4101000000~00~5~0000~00~00000~2014~02>

State of Oregon Worker's Compensation Division data

<http://www.cbs.state.or.us/imd/rasums/2055t/13web/table10.pdf>

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

Fiscal and Economic Impact:

This rulemaking has two components: recordkeeping and reporting, that affect Oregon employers in the following manner.

Recordkeeping:

This rulemaking requires certain industries to record workplace injuries and illnesses that had previously been exempt from these requirements. Additionally, some industries that have been required to record incidents will no longer need to do so.

Based on information collected by federal OSHA, there is a cost in time for employers newly-required to maintain an OSHA 300 Log. Both federal OSHA and Oregon OSHA provide free on-line training for the recordkeeping rules, and should take the user one to two hours to complete. Retraining can be necessary in situations where recordkeeping is an administrative function, these duties may be passed to other personnel or because of employee turnover. Because of this, this analysis treats training as an annual cost, which is likely to overstate the impact to some degree.

Another cost in time is for recording each incident, including the DCBS form 801. Federal OSHA estimates that it can take 30 minutes to complete the paperwork for each recordable event.

There is also an annual cost for completing the 300 Log, and certifying and posting the 300A Summary form. Federal OSHA estimates that it can take one hour to complete this task, although it may take large employers with many recordable cases longer, up to 8 hours. This task is accomplished annually.

Table 1 below outlines the list of industries and number of industries that will be newly required to record workplace injuries and illnesses, along with the number of Oregon employers within those industries, and the number of accepted disabling claims for each industry. While it should be noted that not all disabling claims are recordable, and some recordable events are not compensable events, a claim that has been accepted as disabling is almost certain to be a recordable event on the OSHA 300 Log. Because many accepted non-disabling claims are also likely to be recordable, the number of disabling claims is likely to understate the number of recordable events. Based on data from the Worker's Compensation Division, the ratio between accepted disabling claims and accepted non-disabling claims is approximately 2.18.

Table 2 below outlines the list of industries and number of industries that will be newly exempt from recording workplace injuries and illnesses, along with the number of Oregon employers within those industries, and the number of accepted disabling claims for each industry. The limitations of the data in Table 1 are also true for Table 2.

Table 1: Industries Newly Required to Keep Records

Industry	Number of employers 2 nd Quarter 2014 ¹	Number of Accepted Disabling Claims 2014 ²
3118 Bakeries and tortilla manufacturing	240	110
4411 Automobile dealers	229	131
4413 Automotive parts, accessories, and tire stores	789	115
4441 Building material and supplies dealers	749	170
4452 Specialty food stores	424	34
4453 Beer, wine, and liquor stores	253	NA
4539 Other miscellaneous store retailers	678	34
4543 Direct selling establishments	172	27
5311 Lessors of real estate	1926	57
5313 Activities related to real estate	1833	79
5324 Commercial and industrial machinery and equipment rental and leasing	135	6
5419 Other professional, scientific, and technical services	1344	NA
5612 Facilities support services	96	NA
5617 Services to buildings and dwellings	3035	422
5619 Other support services	501	NA
6219 Other ambulatory health care services	85	45
6241 Individual and family services	910	102
6242 Community food and housing, and emergency and other relief services	278	8
7111 Performing arts companies	155	24 ³
7113 Promoters of performing arts, sports, and similar events	113	24 ³
7121 Museums, historical sites, and similar institutions	112	17
7139 Other amusement and recreation industries	1028	NA
7223 Special food services	549	50
8129 Other personal services	409	NA
Totals	16,043	1,674

When one applies the 2.18 ratio to the 1,674 claims, the total number of accepted claims is 3,649.

¹ Data is from the State of Oregon economic data available at <https://www.qualityinfo.org/ed-ewind/?at=1&t1=0~410100000~00~5~0000~00~00000~2014~02>

² Data is from the Accepted disabling claims by industry (NAICS) and accident or exposure event, Oregon 2013 available at <http://www.cbs.state.or.us/imd/rasums/2055t/13web/table10.pdf>

³ Data available is combined for NAICS code 711

Table 2: Industries Newly-Exempt from Recordkeeping

Industry	Number of employers 2 nd Quarter 2014 ⁴	Number of Accepted Disabling Claims 2014 ⁵
4412 Other Motor Vehicle Dealers	242	36
4431 Electronics and Appliance Stores	756 ⁶	57
4461 Health and Personal Care Stores	871	57
4471 Gasoline Stations	928	88
4511 Sporting Goods, Hobby, and Musical Instrument Stores	882	48
4532 Office Supplies, Stationary, and Gift Stores	440	23
4812 Nonscheduled Air Transportation	46	10
4861 Pipeline Transportation of Crude Oil	5	1
4869 Other Pipeline Transportation	2	1
4879 Scenic and Sightseeing Transportation, Other	5	0
4885 Freight Transportation Arrangement	267	8
5111 Newspaper, Periodical, Book, and Directory Publishers	380	37
5122 Sound Recording Industries	46	11
5151 Radio and Television Broadcasting	132	29
5172 Wireless Telecommunications Carriers (except Satellite)	42	78 ⁷
5179 Other Telecommunications	48	* ⁴
5191 Other Information Services	56	2
5221 Depository Credit Intermediation	1462	60
5239 Other Financial Investment Activities	37	6
5241 Insurance Carriers	289	56
5259 Other Investment Pools and Funds	22	13
5413 Architectural, Engineering, and Related Services	1698	46
5416 Management, Scientific, and Technical Consulting Services	3363	NA
5418 Advertising and Related Services	699	26
5511 Management of Companies and Enterprises	1181 ⁸	33
5614 Business Support Services	597	39
5615 Travel Arrangement and Reservation Services	244	69
5616 Investigation and Security Services	347	58
6116 Other Schools and Instruction	727	33
7213 Rooming and Boarding Houses	62	1
8112 Electronic and Precision Equipment Repair and Maintenance	220	NA
8114 Personal and Household Goods Repair and Maintenance	261	NA
8122 Death Care Services	169	NA
8134 Civic and Social Organizations	340	13
8139 Business, Professional, Labor, Political, and Similar Organizations	1039	13
Totals	16,842	1,281

When one applies the 2.18 ratio to the 1,281 claims, the total number of accepted claims is 2,792.

⁴ Data is from the State of Oregon economic data available at <https://www.qualityinfo.org/ed-ewind/?at=1&t1=0~410100000~00~5~0000~00~00000~2014~02>

⁵ Data is from the Accepted disabling claims by industry (NAICS) and accident or exposure event, Oregon 2013 available at <http://www.cbs.state.or.us/imd/rasums/2055t/13web/table10.pdf>

⁶ Data is only available for NAICS code 443

⁷ Data is for NAICS code 517

⁸ NAICS code 55 consists only of subsectors within 5511

The number of establishments that would be newly required to maintain the OSHA 300 Log is 799 fewer than the number of establishments that need to record this data now and would be exempt in this rulemaking.

However, there are 857 more events that would likely need to be recorded on the OSHA 300 Log under this rulemaking.

Based on the economic data available at <https://www.qualityinfo.org/>, the average wage of a Human Resource Manager, who would be most likely tasked with the recordkeeping responsibilities, is \$48 per hour. Assuming loading costs (such as costs not typically reflected in wage data, such as benefits, worker's compensation insurance, vacation leave, and sick leave) of 100%, the average hourly cost would be \$96.

Table 3 below outlines the annual cost for recording events for newly-required employers and newly-exempt employers, using 30 minutes of employee time at \$96 per hour.

Table 3: Annual cost of Recording Incidents (events)

	Number of Claims	Number of Hours	Annual Cost
Newly-required employers	3,649 (disabling claims table 1 ratio adjustment)	1,825	\$175,200
Newly-exempt employers	2,792 (accepted claims table 2 ratio adjustment)	1,396	\$134,016
		Annual increase	\$ 41, 184

Based on this data, the total cost of recording incidents represents an annual increase for all affected Oregon employers of \$41,184.

Table 4 below outlines the annual cost for training, completing the OSHA 300 Log, and certifying and posting the 300A Summary form for newly-required employers and newly-exempt employers, using 3 hours of employee time at \$96 per hour for a total of \$288 per employer.

Table 4: Annual Costs for Training and Paperwork

	Total Number of Employers	Total Annual Cost
Newly-required employers	16,043 (table 1)	\$4,620,384
Newly-exempt employers	16,842 (table 2)	\$4,850,496
	Annual cost reduction	\$230,112

The annual costs for training, completing the OSHA 300 Log, and certifying and posting the 300A Summary form under this rulemaking is \$230,112 (table 4) less than the current costs. When one factors in the \$41,184 (table 3) cost for recording incidents, the rulemaking for recording workplace injuries and illnesses represents a cost savings of \$188,928.

Reporting:

This rulemaking expands the workplace incidents that employers must report to Oregon OSHA. Under the current rule, employers must report workplace fatalities, catastrophes, and incidents that result in overnight hospitalization.

Under this rulemaking, employers would still be required to report workplace fatalities and catastrophes, and in-patient hospitalizations but also expands the requirement to include all incidents that result in amputations and avulsions that result in bone and/or cartilage loss, and incidents that result in the loss of an eye.

Table 5 below is amputation data from worker's compensation data. This data includes avulsions that involve bone and/or cartilage loss.

Table 5: Amputations by Body Part - Oregon ADC Counts 2003-2013

Year accepted	Finger	Toe	Arm	Hand	Leg	Foot	Other lower (multiple, unspec.)	Other upper (multiple, unspec.)	Head (ear, nose, etc)	Totals
2003	172	3	0	1	0	0	0	0	0	176
2004	195	1	0	0	0	0	0	1	0	197
2005	175	2	2	1	0	0	0	0	0	180
2006	190	0	1	0	2	0	1	0	0	194
2007	163	1	3	1	0	0	0	0	0	168
2008 ¹	159	2	1	0	0	0	1	0	0	163
2009	91	2	0	0	1	0	0	0	1	95
2010	107	3	0	0	0	0	0	0	0	110
2011	98	0	1	0	0	0	0	1	0	100
2012	101	2	1	0	0	0	0	0	0	104
2013 ²	138	3	0	3	1	4	0	0	0	149
Totals	1589	19	9	6	4	4	2	2	1	1636

¹ The drop in counts from 2008 is likely due to the increase in use of multiple codes, not an actual decrease in amputations.

² Starting in 2013, WCD Operations is coding individual accepted conditions. This will likely result in an increase in amputation counts due to the resulting ability to identify them.

DCBS, CSD, IT&R - 10/13/14

Programmer notes: 2012 and prior= OIICS 1.0, (Nature =0311, 0319 for amputations) and (Nature = 035, Part = 032 for eye enucleations). After 2013, Nature condition = 1311, 1319. There were no eye enucleations as of this report date for the time period indicated.

There were no reports of eye loss in the system, although that may be because of how worker's compensation codes eye loss. In the avulsion data from worker's compensation, there were four events from 2009 through 2013, although this reflects all avulsions in the area of the head, which also includes nose, mouth, eyes, and ears, and there is no easy way to determine if any of those incidents represent an eye loss. With so few incidents, however, it is unlikely that the number of cases in Oregon will be statistically meaningful in light of the number of cases that already need to be reported, both currently and with the new reporting requirements of this rulemaking.

While Oregon OSHA requires employers to report overnight hospitalizations, many incidents resulting in an amputation or avulsion do not result in an overnight hospitalization. This requirement will increase the number of accident reports by an estimated average of 164 events per year. The average amount of time it takes to report an incident is approximately 10-15 minutes. Using the same wage data as above, this would represent a cost in time of \$24 per report, and a total of \$3,936 per year.

Since Oregon OSHA already requires employers to report incidents that result in an overnight hospitalization, we are anticipating that the requirement to report all incidents that result in in-patient hospitalization will only increase the number of reportable incidents by 20%. Based on the data collected from DCBS form 801, there are an average of 542 incidents that result in an overnight hospitalization, although these are not necessarily all events that would need to be reported, as it includes injuries and illnesses where treatment was necessary some time after the incident or diagnosis, such as back surgery.

However, presuming that all of these 542 events were reportable events, the 20% increase this rulemaking represents an increase of 108 events, resulting in a cost in time of \$2,592.

An increase in the number of reportable incidents will increase the number of accident investigations conducted by Oregon OSHA. However, this will not represent an additional cost to employers overall as Oregon OSHA's enforcement resources will not change due to the rulemaking.

A note was also added referring to additional reporting requirements for injuries relating to mechanical power presses. There is no additional cost associated with this, as it is already required by 1910.217. This note was added simply as a reminder to employers who may be affected by this additional reporting requirement.

The total anticipated annual economic impact of the changes to reporting workplace incidents is \$6,528 (\$3,936 + \$2,592).

Conclusion:

The positive economic impact of the rules for recordkeeping is estimated to be \$188,928, and the negative economic impact of the rules for reporting is estimated to be \$6,528, making the overall impact of this rulemaking an annual estimated net cost savings of \$182,400.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

Costs incurred by Oregon OSHA represent similar costs associated with the promulgation, implementation and administration of a rule.

All state agencies are affected by the rules in the sense that they are employers under the Oregon Safe Employment Act (OSEAct).

The public as a whole will be affected only to the degree that members of the public are employers and employees.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Based on the generally accepted understanding that small businesses make up the majority of Oregon employers (typically 90%), this rule does have the potential to impact all small business employers in Oregon.

Any fiscal impact should affect large and small business the same proportionately.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

All economic impacts of this rule are recordkeeping and administrative.

c. Equipment, supplies, labor and increased administration required for compliance:

All economic impacts of this rule are administrative.

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

A stakeholder group from a variety of businesses and business organizations was formed.

Administrative Rule Advisory Committee consulted? Yes.

If not, why?

/s/Michael D. Wood

Authorized Signer

Michael D. Wood

Printed name

1/15/2015

Date

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