



Oregon

John Kitzhaber MD, Governor

Department of Consumer and Business Services
Oregon Occupational Safety & Health Division (OR-OSHA)
350 Winter Street NE, Room 430
PO Box 14480
Salem, OR 97309-0405
Phone: 503-378-3272
Toll Free: 1-800-922-2689
Fax: 503-947-7461
www.orosha.org

April 4, 2012

Chad Harvey
Department Manager – Risk Management
5300 Meadows Road, Suite 200
Lake Oswego, OR 97035

Dear Chad,

This is in response to your letter dated February 6, 2012 requesting clarification on the compliance of OAR 437-001-1055 and OAR 437-001-1060. You will find Oregon OSHA's response following each question and background to the question.

Question #1: What constitutes a Loss Prevention Program; and, how does it compare to the Safety Program requirements as required in the standards, as necessary for compliance in the Comprehensive Inspection?

Background to Question #1: Many of our clients don't use the term "Loss Prevention" within their safety program. Some of the terms that our clients use are: Safety Program; Risk Management; & Accident Prevention. Also, the "language" in their documentation uses these terms rather than "Loss Prevention". Question #1 is intended to obtain a written interpretation of the "Loss Prevention Effort" as supported in the 11 points of OAR 437-001-1060. The requirements within OAR 437-001-1060 are no different than those of a non-self-insured employer under the Comprehensive Inspection (with the exception of the (8) Ergonomic efforts).

Oregon OSHA Response to Question #1: As I'm sure you are aware, a Loss Prevention Program is not defined in Division 1. However, "loss prevention" certainly encompasses safety and health components. What an employer, or a client in your case, calls their program is inconsequential. What Oregon OSHA is looking for are efforts to identify and control safety and health hazards. At a minimum, those efforts are listed in 437-001-1060.

Question #2: Are self-insured employers required to have specific written proof of compliance to the elements within OAR 437-001-1060 outside of their existing policies and procedures that show compliance in the Comprehensive inspection?

Background to Question #2: The elements found in OAR 437-001-1060(1) – (10) should be evidenced in the comprehensive inspection without requiring additional and specific documentation. For the purposes of #11, compliance with that one falls under the group, as administrated by Empire Pacific Risk Management.

Oregon OSHA Response to Question #2: No, there is not a written record summary or proof of compliance document required for the elements listed in OAR 437-001-1060. During the inspection process, compliance officers may ask for records, e.g., OSHA 300 logs or 801s for recordable injuries or safety committee records but this would be a component of the comprehensive inspection.

Question #3: Are individual locations within an organization required to maintain a "Loss Prevention Effort" that is independent of each other and the corporate office, within this OAR 437-001-1060?

Background of Question #3: In Group Self-Insurance, not every manager at every location will understand the difference of their insurance options. The option of how a particular firm selects their coverage is independent of their existing safety programs and procedures. 1055 (2) ... requires all managers and workplace locations to be aware of the availability and process for requesting assistance. In a group self-insurance program, that process in most cases is internal and is directed through upper management to request assistance from the group, if not addressed internally. Nearly all safety and health concerns are addressed at the corporate level and/or corporate headquarters to ensure consistency throughout all locations. This improves the ability to address safety and health concerns for all employees (stressing consistency at all locations while allowing a corporate office to maintain 'Top Management Commitment' and involvement).

Oregon OSHA Response to Question #3: It is acceptable for a Corporation to establish and implement a corporate wide written occupational health and safety loss prevention program that applies to each establishment. What compliance officers look for is how the loss prevention program is communicated and implemented at each establishment/location and whether hazards are identified and controlled.

Question #4: Clarification is necessary on OAR 437-001-1060 (10) – Annual Evaluation of Loss Prevention Activities. What does the annual evaluation need to include? Who can conduct the evaluation? Does it have to be documented and what constitutes documentation? Where must the documentation be maintained? **Comment: In our experience, there have been varying interpretations of this rule, by enforcement officers. Please elaborate, so we can assist our clients?**

Background of Question #4: In a corporate structure as outlined above, the corporate office does their own assessments and evaluations of the locations on varying levels. That would include: policies & procedures; monitoring loss data and performance; annual updating safety programs as required within the safety committee rules; and specific operational reviews and updates. Most firms would interpret that this is done on all kinds of levels and struggle to prove compliance in the OAR 437-001-1060 (10).

Oregon OSHA Response to Question # 4: OAR 437-001-1060(10) requires an annual evaluation. It does not require that evaluation to be in writing, therefore a document is not required. It is also silent about who can do the evaluation. The annual evaluation of the employer's loss prevention activities equates to what are the location's (establishment's) safety and health issues, what has been put in place to prevent injuries and illness, and are these prevention efforts in compliance with safety and health standards. How the evaluation takes place and the complexity of the evaluation is up to the entity.

Question #5: How should OAR 437-001-1055 & 1060 be enforced? Should it be its own separate inspection or synonymous with the Comprehensive inspection?

Background of Question #5: Many of our members have had these standards enforced separate from the Comprehensive Inspection. These self-insured requirements have little difference from what is evaluated in the Comprehensive Inspection. Enforcement officers should gain enough knowledge and evidence within the Comprehensive Inspection to prove compliance with this section.

Oregon OSHA Response to Question #5: The Compliance Office should evaluate compliance with the self insured rules in 437-001-1055 & 1060 in conjunction with a comprehensive inspection. It should not appear to the employer that Oregon OSHA is doing two separate inspections although any cited violations would be given separate inspection numbers.

I hope these responses answer your questions. Please contact me at 503-378-3272 if I can be of further assistance.

Sincerely

Peggy Munsell
Standards and Appeals Manager
Oregon OSHA