

December 19, 2007

## Oregon OSHA - Proposed Changes To Division 1, General Administrative Rules Safety Committees - With House Bill 2222

### *Public Hearing Scheduled for:*

<u>Date</u>	<u>Time</u>	<u>Location</u>
January 23, 2008	12:00 noon	Deschutes Public Library Brooks Room 601 NW Wall Street Bend OR 97701
February 4, 2008	10:00 am	Associated General Contractors (AGC) 9450 SW Commerce Circle, Suite 200 Wilsonville OR 97070
February 6, 2008	9:30 am	Labor and Industries Building Second Floor – Conference Room 260 350 Winter Street NE Salem OR 97301
February 8, 2008	1:00 pm	Roxy Ann Grange 1850 Spring Street Medford OR 97504

Oregon OSHA proposes to adopt new Oregon Administrative Rules for safety committees and safety meetings as required by House Bill 2222 passed into law by the 2007 Oregon Legislature. The changes to the existing rule, OAR 437-001-0765, are titled Rules for Workplace Safety Committees and Safety Meetings. All employers are affected by this new rule because it applies to every public and private employer operating in the state of Oregon subject to OR-OSHA jurisdiction.

Detailed requirements for establishing and administering safety committees or for holding safety meetings are specified in the rule. Criteria for determining which option an employer may choose are outlined in the body of the rule.

The rules for establishing and administering safety committees have minimal changes. There will exist an entirely new set of rules for holding safety meetings for employers who meet the specified criteria.

The rule will continue to allow for centralized and innovative safety committees under certain circumstances. Many of the 838 current innovative safety committees will no longer be classified as innovative once the employer is able to exercise the additional options for safety meetings.

***When does this happen:*** Adoption tentatively will be February 2008

***To get a copy:*** Our web site – [www.orosha.org](http://www.orosha.org) Rules/Compliance, then Proposed Rules  
Or call the OR-OSHA Resource Center at 503-947-7447

***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](mailto:tech.web@state.or.us)  
Fax – 503-947-7461

***Comment period closes:*** February 19, 2008

***OR-OSHA contact*** Ron Haverkost, Central Office @ 503-947-7421;  
or email at [Ronald.I.haverkost@state.or.us](mailto:Ronald.I.haverkost@state.or.us)

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  
Agency and Division

OAR 437  
Administrative Rules Chapter Number

Sue Joye                      350 Winter Street NE Salem OR 97301-3882  
Rules Coordinator                      Address

503-947-7449  
Telephone

**RULE CAPTION**

Proposed changes to Division 1, Safety Committees with House Bill 2222.

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

<u>January 23, 2008</u> Hearing Date	<u>12:00 noon</u> Time	<u>Deschutes Public Library Brooks Room 601 NW Wall Street Bend OR 97701</u> Location	<u>OR-OSHA Staff</u> Hearings Officer
<u>February 4, 2008</u> Hearing Date	<u>10:00 AM</u> Time	<u>Associated General Contractors (AGC) 9450 SW Commerce Circle, Suite 200 Wilsonville OR 97070</u> Location	<u>Sue Joye</u> Hearings Officer
<u>February 6, 2008</u> Hearing Date	<u>9:30 AM</u> Time	<u>Labor &amp; Industries Building Second Floor – Room 260 350 Winter Street NE Salem OR 97301</u> Location	<u>Sue Joye</u> Hearings Officer
<u>February 8, 2008</u> Hearing Date	<u>1:00 PM</u> Time	<u>Roxy Ann Grange 1850 Spring Street Medford OR 97504</u> Location	<u>Sue Joye</u> Hearings Officer

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

**RULEMAKING ACTION**

**AMEND:** OAR 437-001-0765

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

**RULE SUMMARY**

Oregon OSHA proposes to amend Oregon Administrative Rules for Workplace Safety Committees. The proposed rule change will require every public and private employer subject to OR-OSHA jurisdiction to establish and administer a safety committee or conduct safety meetings. The changes will apply to Division 1 General Administrative Rules OAR 437-001-0765 Rules for Workplace Safety Committees. The changes are required as a result of the passing of House Bill 2222 by the 2007 Regular Session. House Bill 2222 also amended ORS 654.176 and 654.182.

**ORS 654.176** was amended to read:

654.176. To promote health and safety in places of employment in this state, **every public or private employer shall**, in accordance with rules adopted pursuant to ORS 654.182, establish and administer a safety committee or hold safety meetings.

All language contained in ORS 654.176 (1)(a), (b), (b)(A) and (b)(B) was removed.

**ORS 654.182** was amended in the following areas:

654.182. (1) In carrying out ORS 654.176, the Director of the Department of Consumer and Business Services shall **adopt rules that** include, but are not limited to, provisions that:

**(f) Prescribing alternate forms of safety committees and safety meetings to meet the special needs of small employers, agricultural employers and employers with mobile worksites.**

These legislative changes remove the specific and detailed requirements for the formation and conduct of safety committees and authorize Oregon OSHA to develop rules that provide options for small employers. These proposed rules maintain most of the existing safety committee requirements for larger employers. For employers with 10 or fewer employees, mobile worksites, or with primarily office environments, they will now have the option to hold safety meetings with a significant reduction in paperwork burden.

Please visit our web site [www.orosha.org](http://www.orosha.org) Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final rules.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

February 19, 2008

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

/s/Michael D. Wood

Signature

Michael D. Wood

Printed name

12/14/2007

Date

\*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday. ARC 920-2005

## 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/OR-OSHA  
Agency and Division

OAR 437  
Administrative Rules Chapter Number

**In the Matter of:** Amending OAR 437-001-0765.

**Rule Caption:** (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Proposed changes to Division 1, Safety Committees with House Bill 2222.

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

**Stats. Implemented:** ORS 654.001 through 654.295

**Need for the Rule(s):**

House Bill 2222 requires Oregon OSHA to amend the current safety committee rules to include all public and private employers in this state with the purpose of bringing workers and management together in a non-adversarial, cooperative effort to effectively promote safety and health in each workplace.

**Documents Relied Upon, and where they are available:**

Oregon Safe Employment Act, Chapter 654 Occupational Safety and Health 2005 Edition.  
Workers' Compensation Law Chapter 656 Workers' Compensation 2005 Edition  
74th Oregon Legislative Assembly--2007 Regular Session; House Bill 2222  
Research conducted and documents used may be found in the OR-OSHA Resource Center.

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

According to Oregon Employment Department, Oregon Labor Market Information System (OLMIS), of more than 1.6 million wage records reported by Oregon's private employers in 2006, approximately 33% had an average wage of less than \$10 per hour and worked in low paying industries such as gasoline stations, food and drink services, sporting goods, book and music stores and other miscellaneous store retailers; 41% of jobs paid between \$10 and \$20 per hour while 14% paid between \$20 and \$30 per hour; 15% had an average wage of \$30 per hour or more.

The 14% with higher wages were workers in utilities, paper manufacturing, computer and electronics production, providing internet services, wholesale electronics and financial investment industries.

The fiscal and economic impact of these amendments will vary depending upon the size of the employer and the option chosen as jobs at all wage levels are held across all industries. According to the most recent Employment Division data most firms in Oregon employ fewer than five workers. Companies that are currently required to establish and administer a safety committee will have little to no fiscal or economic impact unless they decide to exercise the option for conducting safety meetings requiring that all available employees be in attendance. The safety committee rules have been amended mostly for clarity. In terms of intent, the safety committee rules are mostly unchanged.

The safety committee rules are amended to give employers the option to hold safety meetings if a majority of their employees report to construction work sites, a majority of their employees move frequently from place to place, their staff is mostly engaged in office work or they have employees at satellite or auxiliary offices with 10 or fewer employees at a location.

According to the Oregon Employment Division small businesses, employing fewer than ten employees, represent 80% of Oregon employers which accounts for 16% of the total workforce in Oregon. Many of these businesses that were previously not required to do anything, will now need to establish and administer safety committees or hold safety meetings. In the past, some small employers needed to and some did not with the requirement changing yearly.

For those employers who were administering safety committees in the past, there will be little impact if they continue the status quo. All other employers will be impacted to varying degrees by the amendments to this rule. Financial impacts to those choosing safety meetings may include, wages of available employees in attendance which do not directly contribute to the productivity levels of a company, costs attributed to providing training on hazard identification to a larger number of employees and costs associated with documenting requirements such as paper and distribution, etc.

Small employers that choose to hold safety meetings will have a maximum monthly cost of approximately \$600 annually for low-wage industries identified by the Oregon Employment Division. This is based on a 30 minute meeting of all available employees with an average wage of \$10 dollars per hour.

10 employees x \$10pr. hr. x .5 hrs x 12mos. = \$600. An average cost for a ½ hour meeting for a company based on five employees would be \$300 annually.

The following figures represent approximate costs for construction employers who previously were not required to establish safety committees. Construction employers typically pay from \$10-\$30 per hour, with a median wage per hour at \$20. Construction employers, on average, are small employers with fewer than ten employees. Using the same basic calculation 10 employees x \$20 pr. hr. x .5 hrs x 12 months= \$1,200 as the annual cost for a 1/2 hour meeting. Construction employers must have an additional meeting prior to the start of those jobs that last more than a week, which would not necessarily increase the costs. The meeting prior to the start of the project would take the place of that month's meeting. Language that requires a meeting at least monthly thereafter for the duration of the job may or may not represent additional costs using the same formula used above.

The fiscal and economic impact for those employers choosing to hold safety meetings that are not engaged in the construction, utilities or manufacturing industries will be the time spent for the meeting and the requirement for all available employees to attend. The figures will vary depending upon the wage levels of the employees and the time spent in the meetings. Across all industries, based on size of employer, the average annual costs for having meetings will be \$600 for 30-minute meetings.

Documentation or record keeping costs will not change from their current requirements for safety committees. Those companies that currently conduct safety committee meetings who opt to conduct safety meetings will have less cost based on minimal record keeping costs for requirements under safety meetings although more lost production time as a result of including all available staff.

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

Oregon OSHA convened an advisory committee, specifically for this rule making effort, that reached across a wide spectrum of industries. Representatives included members of a number of manufacturing businesses, the construction industry, City/County Services, small businesses, temporary/leasing agencies, and union leaders. Specific organizations or associations represented residential building, electrical contractors, local government, dental offices and injured workers. These organizations represent businesses both small and large. A special emphasis was put in the proposed safety meeting rule to make it less of a burden on those employers that have had no requirement for safety and health meetings thus far. The emphasis was to have no documentation requirements ***for employers with no employees engaged in construction, utility work, or manufacturing, no safety meeting records are needed provided that all affected employees attend the meetings.*** The standard will provide more flexible and efficient options for stakeholders, including small businesses, while improving safety for employees.

**Administrative Rule Advisory Committee consulted? Yes.**

**If not, why?**

Mentioned above.

/s/Michael D. Wood  
Authorized Signer

Michael D. Wood  
Printed name

12/14/2007  
Date