

Oregon OSHA Proposed Changes in Division 1, General Administrative Rules

Adopt Model Rules of Procedure and Update Oregon Revised Statutes (ORS) References

May 2008

Proposed new text to be adopted/added is in **bold and underlined**.

Proposed text to be repealed/removed is in [~~brackets with line through~~].

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, 200~~6~~**8**, 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.

Stat. Auth.: ORS 654-025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 to 654.295.

Hist: OR-OSHA Admin. Order 3-1991, f. 2/25/91, ef. 2/25/91.
OR-OSHA Admin. Order 7-1992, f. 7/31/92, ef. 10/1/92.
OR-OSHA Admin. Order 2-1996, f. 6/13/96, ef. 6/13/96.
OR-OSHA Admin. Order 7-1999, f. 7/15/99, ef. 7/15/99.
OR-OSHA Admin. Order 11-2000, f. 12/12/00, ef. 12/12/00.
OR-OSHA Admin. Order 2-2002, f. 3/12/02, ef. 3/12/02.
OR-OSHA Admin. Order 6-2004, f. 12/30/04, ef. 12/30/04.
OR-OSHA Admin. Order 1-2006, f. 2/14/06, ef. 2/14/06.
OR-OSHA Admin. Order X-2008, f. X/XX/08, ef. X/XX/08.

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(~~3~~**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, f. 9-5-74, ef. 9-26-74.
WCB Admin. Order, Safety 8-1975, f. 8-5-75, ef. 9-1-75.
WCD Admin. Order, Safety 5-1978, f. 6-22-78, ef. 8-15-78.
WCD Admin. Order, Safety 7-1979, f. 8-20-79, ef. 9-1-79.
WCD Admin. Order, Safety 4-1981, f. 5-22-81, ef. 7-1-81.
WCD Admin. Order, Safety 6-1982, f. 6-28-82, ef. 8-1-82.
WCD Admin. Order, Safety 12-1982, f. 6-28-82, ef. 8-1-82.
WCD Admin. Order, Safety 3-1983, f. 1-31-83, ef. 2-1-83.
WCD Admin. Order, Safety 9-1983, f. 11-15-83, ef. 11-15-83.
WCD Admin. Order, Safety 2-1984, f. 3-2-84, ef. 3-15-84.
WCD Admin. Order, Safety 12-1984, f. 9-20-84, ef. 11-1-84.
WCD Admin. Order, Safety 9-1986, f. 10-7-86, ef. 12-1-86.
APD Admin. Order 6-1987, f. 12-23-87, ef. 1-1-88.
APD Admin. Order 5-1988, f. 5-16-88, ef. 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 on Page 1 for more complete list of amendments.)

Stat. Auth.: ORS 654.025(2) and 656.726(~~3~~4).

Stats. Implemented: ORS 654.001 to 654.295.

Hist: OR-OSHA Admin. Order 7-1992, f. 7/31/92, ef. 10/1/92.

OR-OSHA Admin. Order X-2008, f. X/XX/08, ef. X/XX/08.

437-001-0700 Recordkeeping and Reporting.

(1) Purpose. This rule requires employers to record and report work-related fatalities, injuries and illnesses.

Note: Recording or reporting a work-related injury, illness, or fatality does not assign fault to anybody, does not prove the violation of an OSHA rule, nor establish the employee's eligibility for workers' compensation or other benefits.

(2) Scope. This standard covers all employers covered by the Oregon Safe Employment Act. However, most employers do not have to keep OR-OSHA injury and illness records unless the Director informs them in writing that they must keep records. For example, employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OR-OSHA injury and illness records.

(3) Partial Exemptions.

(a) If your company never had more than ten (10) employees during the last calendar year, you do not need to keep OR-OSHA injury and illness records unless the Director informs you in writing that you must keep records. However, all employers covered by the Oregon Safe Employment Act must report to OR-OSHA any workplace fatality, the hospitalization of three or more employees, or overnight hospitalizations. (See (21) below)

(A) The partial exemption for size is based on the number of employees in the entire company.

(b) If your company had more than ten (10) employees at any time during the last calendar year, you must keep OR-OSHA injury and illness records unless your business is in a specific low hazard retail, service, finance, insurance or real estate industry in Table 1. If so, you do not need to keep OR-OSHA injury and illness records unless the government asks you to keep the records under 437-001-0700(23).

(c) If one or more of your company's establishments are classified in a nonexempt industry, you must keep OR-OSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under 437-001-0700(3)(a). If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt.

(4) Alternate or Duplicate Records. If you create records to comply with another government agency's injury and illness recordkeeping requirements, those records meet OR-OSHA's recordkeeping requirements if OR-OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this standard requires you to record. Contact your nearest OR-OSHA office for help in determining if your records meet OR-OSHA's requirements.

Table 1 - Partially Exempt Industries			
Employers need not keep OR-OSHA injury and illness records for any establishment in the following Standard Industrial Classification (SIC) codes, unless OR-OSHA or the Department of Consumer and Business Services asks them in writing to do so.			
SIC Code	Industry Description	SIC Code	Industry Description
525	Hardware Stores	726	Funeral Service and
542	Meat and Fish Markets	729	Crematories Miscellaneous
544	Candy, Nut, and Confectionery	731	Personal Services
545	Stores	732	Advertising Services
546	Dairy Products Stores	733	Credit Reporting and Collection
549	Retail Bakeries		Services
551	Miscellaneous Food Stores	737	Mailing, Reproduction, &
552	New and Used Car Dealers	738	Stenographic

554	Used Car Dealers	764	Services
557	Gasoline Service Stations	78	Computer and Data Processing
56	Motorcycle Dealers	791	Services
573	Apparel and Accessory Stores	792	Miscellaneous Business
58	Radio, Television, & Computer	793	Services
591	Stores	801	Reupholstery and Furniture
592	Eating and Drinking Places	802	Repair
594	Drug Stores and Proprietary	803	Motion Picture
599	Stores	804	Dance Studios, Schools, and
60	Liquor Stores	807	Halls
	Miscellaneous Shopping Goods	809	Producers, Orchestras,
61	Stores		Entertainers
	Retail Stores, Not Elsewhere	81	Bowling Centers
62	Classified	82	Offices & Clinics Of Medical
63	Depository Institutions (banks &		Doctors
64	savings	832	Offices and Clinics Of Dentists
653	institutions)	835	Offices Of Osteopathic
654	Nondepository Institutions	839	Physicians
67	(credit	841	Offices Of Other Health
722	institutions)	86	Practitioners
723	Security and Commodity	87	Medical and Dental Laboratories
724	Brokers		Health and Allied Services, Not
725	Insurance Carriers	899	Elsewhere
	Insurance Agents, Brokers, &		Classified
	Services		Legal Services
	Real Estate Agents and		Educational Services (schools,
	Managers		colleges,
	Title Abstract Offices		universities and libraries)
	Holding and Other Investment		Individual and Family Services
	Offices		Child Day Care Services
	Photographic Studios, Portrait		Social Services, Not Elsewhere
	Beauty Shops		Classified
	Barber Shops		Museums and Art Galleries
	Shoe Repair and Shoeshine		Membership Organizations
	Parlors		Engineering, Accounting,
			Research,
			Management, and Related
			Services
			Services, not elsewhere
			classified

(5) Recording Criteria and Forms. This describes the work-related injuries and illnesses that an employer must enter on the OR-OSHA records and explains the OR-OSHA forms that employers must use to record work-related fatalities, injuries, and illnesses.

(a) Each employer required to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

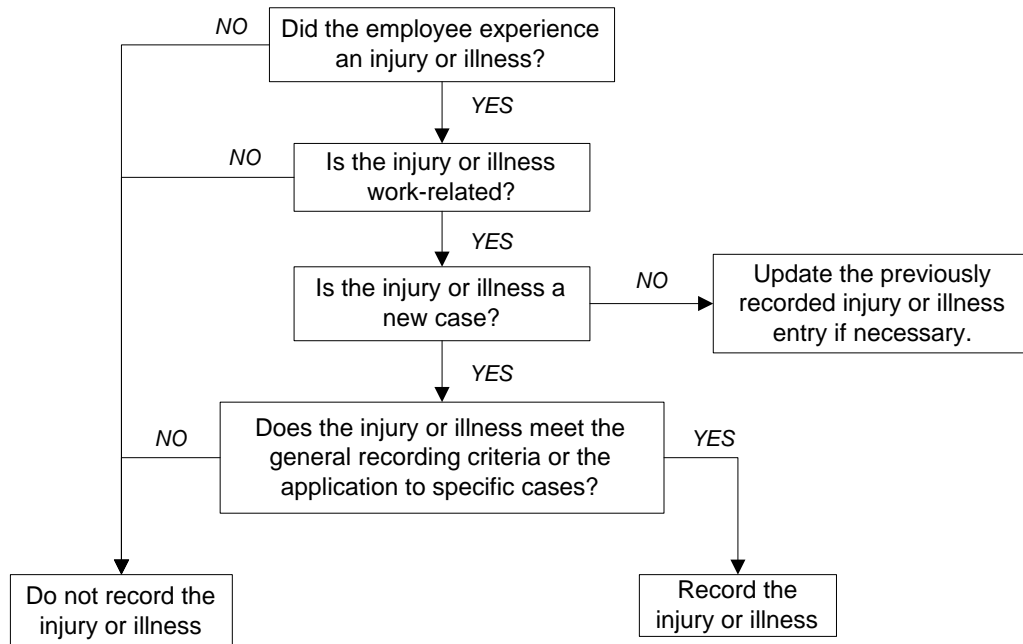
(A) is work-related; and

(B) is a new case; and

(C) meets one or more of the general recording criteria of OAR 437-001-0700(8) or the application to specific cases of OAR 437-001-0700(9) through (13).

Table 2 - Related rules	
This table indicates which sections of the rule address each topic.	
(i) Determination of work-relatedness.	See 437-001-0700(6)
(ii) Determination of a new case.	See 437-001-0700(7)
(iii) General recording criteria.	See 437-001-0700(8)
(iv) Additional criteria. (Needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases)	See 437-001-0700(9) through (13).

The decision tree for recording work-related injuries and illnesses below shows the steps involved in making this determination.



(6) Work-Related. An injury or illness is work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. You presume work-relatedness for injuries and illnesses resulting from

events or exposures occurring in the work environment, unless an exception in Table 3 specifically applies.

(a) If you are notified that a former employee has had a work related injury or illness, record the date of the incident on the appropriate OSHA 300 log for the date of the injury. If the date is not known use the last day of employment.

NOTE: OR-OSHA defines the work environment as the establishment and other locations where one or more employees work or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of their work. Injuries occurring during travel are work-related if the employee was engaged in work activities in the interest of the employer and it is not one of the exceptions in Table 4. If it is not obvious where the precipitating event occurred you must evaluate the employee's work duties and environment to decide whether events or exposures in the work environment either caused or contributed to the condition or significantly aggravated a pre-existing condition.

(b) A pre-existing injury or illness is significantly aggravated when an event or exposure in the work environment results in any of the following:

(A) Death, provided that the pre-existing injury or illness would likely not have resulted in death but for the occupational event or exposure.

(B) Loss of consciousness, provided that the pre-existing injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(C) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(D) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

Table 3
An injury or illness occurring in the work environment that falls under one of the following exceptions is not work-related, and is not recordable.
Do not record injuries and illnesses if . . .
At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
The injury or illness involves signs or symptoms that surface at work but result solely from a nonwork-related event or exposure that occurs outside the work environment.

The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case is not work-related. Note: If the employee becomes ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case is work-related.
The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee's assigned working hours.
The injury or illness is solely the result of personal grooming, self-medication for a nonwork-related condition, or is intentionally self-inflicted.
The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
The illness is the common cold or flu (Note: contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are work-related if the employee is infected at work).
The illness is a mental illness. Mental illness is not work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a work-related mental illness.

Table 4	
Do not record injuries or illnesses that occur when the employee is on travel status if they meet one of the exceptions listed below.	
If the employee . . .	You may use the following to determine if an injury or illness is work-related.
checked into a hotel or motel for one or more days.	When a traveling employee checks into a hotel, motel, or other temporary residence, they establish a "home away from home." You must evaluate the employee's activities after they check into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as you evaluate the activities of a nontraveling employee. When the employee checks into the temporary residence, they have left the work environment. When the employee begins work each day, they re-enter the work environment. If the employee has established a "home away from home" and is reporting to a fixed worksite each day, you also do not consider injuries or illnesses work-related if they occur

	while the employee is commuting between the temporary residence and the job location.
took a detour for personal reasons.	Injuries or illnesses are not work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., took a side trip for personal reasons).

(c) Work at home. Injuries and illnesses that occur while an employee works at home, including work in a home office, is work-related if the injury or illness relates directly to the work rather than to the general home environment or setting.

(7) New Cases. An injury or illness is a “new case” if:

(a) the employee has no previous recorded injury or illness of the same type that affects the same part of the body, or

(b) the employee previously had a recorded injury or illness of the same type that affected the same part of the body but recovered completely (all signs and symptoms disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

(A) For occupational illnesses where the signs or symptoms may recur or continue in the absence of a workplace exposure, record the case only once. Examples include occupational cancer, asbestosis, byssinosis and silicosis.

NOTE: You are not required to seek the advice of a physician or other licensed health care professional. If you do seek such advice, you must follow their recommendation about whether the case is a new case or a recurrence.

(8) General Recording Criteria. An injury or illness meets the general recording criteria, and is recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must record a case if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

NOTE: OR-OSHA believes that most significant injuries and illnesses will result in one of the events listed below. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

Table 5	
Record a work-related injury or illness if it results in one or more of the following:	
(i) Death,	See 437-001-0700(8)(a)
(ii) Days away from work,	See 437-001-0700(8)(b)
(iii) Restricted work or transfer to another job,)	See 437-001-0700(8)(c)
(iv) Medical treatment beyond first aid,)	See 437-001-0700(8)(d).
(v) Loss of consciousness,	See 437-001-0700(8)(e).
(vi) A significant injury or illness diagnosed by a) physician or other licensed health care professional.	See 437-001-0700(8)(f).

(a) You must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death. You must also report any work-related fatality to OR-OSHA within 8 hours.

(b) When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.

(A) Begin counting days away on the day after the injury occurred or the illness began.

(B) End the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work. This applies regardless of whether the employee returns earlier or later than recommended. If there is no recommendation from the physician or licensed health care professional, enter the actual number of days the employee is off work.

(C) You must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Include weekend days, holidays, vacation days or other days off in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

(D) You may stop tracking of the number of calendar days away from work once the total reaches 180 days away from work and/or days of job transfer or restriction. Entering 180 in the total days away column is adequate.

(E) If the employee leaves your company for a reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, you may stop counting days away from work or days of restriction/job transfer. If the employee leaves your company because of the injury or illness, you must estimate the total number of days away or days of restriction/job transfer and enter the day count on the 300 Log.

(F) You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log that you prepare for the year in which the incident occurred. If the time off extends into a new year, estimate the number of days for that year and add that amount to the days from the year of occurrence. Do not split the days between years and enter amounts on the logs for two different years. Use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.

(c) When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column.

(A) Restricted work occurs when, as the result of a work-related injury or illness:

(i) you keep the employee from performing one or more of the routine functions of their job, or from working the full day that they would otherwise work; or

(ii) a physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of their job, or not work the full workday that they would otherwise work.

NOTE: For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(iii) A recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee's job.

(iv) A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.

(v) Record job transfer and restricted work cases in the same box on the OSHA 300 Log.

(vi) You count days of job transfer or restriction in the same way you count days away from work. The only difference is that, if you permanently assign the injured or ill employee to a job modified or permanently changed to eliminate the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is permanent. You must count at least 1-day of restricted work or job transfer for such cases.

(d) If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the employee received medical treatment but remained at work without transfer or restriction and the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, you enter a check mark in the box for other recordable cases.

NOTE: You must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(A) "Medical treatment" is the management and care of a patient to combat disease or disorder. For this rule, medical treatment does not include:

(i) visits to a physician or other licensed health care professional solely for observation or counseling;

(ii) the conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications solely for diagnostic purposes (e.g., eye drops to dilate pupils); or

(iii) "First aid" as in (B) below.

(B) First aid is:

Table 6			
(A)	Using a nonprescription medication at nonprescription strength (for medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a nonprescription medication at prescription strength is medical treatment for recordkeeping purposes);	(H)	Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;
(B)	Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine,	(I)	Using eye patches;

	is medical treatment);		
(C)	Cleaning, flushing or soaking wounds on the surface of the skin;	(J)	Removing foreign bodies from the eye using only irrigation or a cotton swab;
(D)	Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc. are medical treatment);	(K)	Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;
(E)	Using hot or cold therapy;	(L)	Using finger guards;
(F)	Using any nonrigid means of support, such as elastic bandages, wraps, nonrigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are medical treatment for recordkeeping purposes);	(M)	Using massages (physical therapy or chiropractic treatment are medical treatment for record- keeping purposes); or
(G)	Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.).	(N)	Drinking fluids for relief of heat stress.
This is a complete list of all first aid treatments for this standard. These treatments are considered first aid regardless of the professional status of the person providing the treatment.			

(e) You must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time they remain unconscious.

(f) Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of occurrence.

(9) Needlestick and Sharps Injury Recording Criteria.

(a) When an injury is diagnosed later as an infectious bloodborne disease, you must update the classification on the 300 log to reflect the new status or classification.

(b) You must record all work-related needlestick injuries and cuts from sharp objects contaminated with another person's blood or other potentially infectious material (as defined by OAR 437-002-1910.1030). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, do not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in OAR 437-001-0700(14)(a) through (14)(i).

NOTE: If you have an exposure incident that is not a needlestick, you must still record it if it results in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, or diagnosis of a significant injury or illness, such as HIV, hepatitis B, or hepatitis C.

(10) Medical Removal Recording Criteria. If another OR-OSHA standard requires the medical removal of an employee, you must record the case on the OSHA 300 Log.

(a) You must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, you must enter the case on the OSHA 300 Log by checking the “poisoning” column.

(A) If the case involves voluntary medical removal before reaching the medical removal levels required by an OR-OSHA standard, do not record the case on the OSHA 300 Log.

(11) Occupational Hearing Loss Recording Criteria.

(a) Hearing loss must be recorded on the OSHA 300 Log by checking the hearing loss column when:

(A) An annual audiogram reveals a Standard Threshold Shift (STS) in either or both ears; and

(B) The hearing level in the same ear is 25 dB above audiometric zero.

Note: For the ease of the reader the definitions for STS and audiometric zero are provided here.

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.

Audiometric Zero – The lowest sound pressure level that the average, young adult with normal hearing can hear.

(b) In determining whether an STS has occurred, you may correct for the age of the employee. Use the appropriate table in Appendix A to determine the age adjustment. If the STS is 10 dB or more after the age correction, it still meets the criteria for recordability.

(c) If you retest the employee’s hearing within 30 days of the first test, and the retest does not confirm the recordable STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the recordable STS, you must record the hearing loss case within 7 calendar days of the retest. If subsequent audiometric testing performed under

the testing requirements of the noise standard (OAR 437-002-1910.95) indicates that an STS is not persistent, you may erase, delete, or line-out the recorded entry.

(d) If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, the case is not work-related. Do not record it on the OSHA 300 Log.

(12) Tuberculosis Reporting Criteria. If any of your employees has an occupational exposure to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the OSHA 300 Log by checking the “respiratory condition” column.

(a) Do not record a pre-employment positive skin test because the exposure was not in your workplace.

(b) Line out or erase a recorded case if you prove that:

(A) the worker lives in a household with a person diagnosed with active TB;

(B) the Public Health Department identifies the worker as a contact of an individual with a case of active TB unrelated to the workplace; or

(C) a medical investigation shows that the employee’s infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

(13) Removed.

(14) Forms.

(a) You must use OSHA 300, 300-A, and DCBS Form 801 or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is the Log of Work-Related Injuries and Illnesses, the 300-A is the Summary of Work-Related Injuries and Illnesses, and the DCBS Form 801 or equivalent is the Worker’s and Employer’s Report of Occupational Injury or Disease.

(A) Even if you are exempt from recordkeeping, you must have at each establishment, a copy of DCBS Form 801 or equivalent for each occupational injury or illness that may result in a compensable claim.

(B) You must enter information about your business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA 300-A at the end of the year.

(C) You must complete a DCBS Form 801 or equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(D) You must enter each recordable injury or illness on the OSHA 300 Log and DCBS Form 801 or equivalent within 7 calendar days of receiving information that a recordable injury or illness has occurred.

(E) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the DCBS Form 801, or supplement an insurance form by adding any additional information required by OSHA.

(F) Use a computer to keep your records if it can produce equivalent forms when needed.

(G) If you have a “privacy concern case,” do not enter the employee’s name on the OSHA 300 Log. Instead, enter “privacy case” in the space normally used for the employee’s name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative has access to the OSHA 300 Log. You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(H) The following injuries or illnesses are privacy concern cases:

- (i) An injury or illness to an intimate body part or the reproductive system;
- (ii) An injury or illness resulting from a sexual assault;
- (iii) Mental illnesses;
- (iv) HIV infection, hepatitis, or tuberculosis;
- (v) Needlestick injuries and cuts from sharp objects contaminated with another person’s blood or other potentially infectious material; and
- (vi) Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.

NOTE: This is a complete list of all injuries and illnesses that are privacy concern cases.

(I) If you reasonably believe that information describing the privacy concern case may be personally identifiable even though the employee’s name is omitted, use discretion in describing the injury or illness on both the OSHA 300 and DCBS 801

Forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, describe a sexual assault case as “injury from assault,” or an injury to a reproductive organ could be described as “lower abdominal injury.”

(J) If you voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives, you must remove or hide the employees’ names and other personally identifying information, except for the following cases:

- (i) To an auditor or consultant hired by the employer to evaluate the safety and health program;
- (ii) To the extent necessary for processing a claim for workers’ compensation or other insurance benefits; or
- (iii) To a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR.164.512.

(b) In addition, health care employers as defined in ORS 654.412~~[001 to 654.295]~~ must record assaults against employees on the Health Care Assault Log. See OAR 437-001-0706.

(15) Multiple Business Establishments. You must keep a separate OSHA 300 Log for each establishment that you expect to operate for 1-year or longer.

(a) You may keep one OSHA 300 Log that covers all of your short-term establishments. You may also include the short-term establishments’ recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.

(b) You may keep the records for an establishment at your headquarters or other central location if you can:

(A) transmit information about the injuries and illnesses from the establishment to the central location within 7 calendar days of receiving information that a recordable injury or illness has occurred; and

(B) produce and send the records from the central location to the establishment within the time frames required by OAR 437-001-0700(20) and OAR 437-001-0700(22) when you are required to provide records to a government representative, employees, former employees or employee representatives.

(c) You must link each employee with one of your establishments, for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short-term establishment.

(d) If the injury or illness occurs at one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment where the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the OSHA 300 Log at the establishment where the employee normally works.

(16) Covered Employees. You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(a) Record the injuries and illnesses to workers from temporary help agencies or employee leasing services only if you supervise these employees on a day-to-day basis.

(b) If a contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.

(c) You and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once: either on your OSHA 300 Log (if you provide day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

(17) Annual Summary and Posting Requirements. At the end of each calendar year, you must:

(a) review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any problems;

(b) use the OSHA 300A or equivalent form to create an annual summary of injuries and illnesses from the OSHA 300 Log;

(c) certify that one of the following examined the OSHA 300 log and believe, based on knowledge of the process by which the information was recorded, that it is correct and complete.

(A) The highest ranking manager at the location where the log is compiled.

(B) If there is no management at the compiling location, any manager with jurisdiction over that location.

(d) You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced or covered by other material.

(d) You must post the summary no later than February 1 of the year following the year covered by the records and keep it posted until April 30.

(18) Paperwork Retention and Updating. You must save the OSHA 300 Log, the privacy case list (if any), the annual summary, and the DCBS Form 801 or equivalent forms for 5 years following the end of the calendar year that they cover.

(a) During the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

NOTE: For more information on retention of medical and exposure records, see OAR 437-002-1910.1020.

(19) Change of Business Ownership. If your business changes ownership, you must record and report work-related injuries and illnesses only for the time you owned the establishment. You must transfer the records to the new owner. The new owner must save all records of the establishment kept by the prior owner, but need not update or correct the records of the prior owner.

(20) Employee Involvement. You must involve your employees and their representatives in the recordkeeping system.

(a) Inform each employee of how they are to report an injury or illness to you.

(b) Provide limited access to your injury and illness records for your employees and their representatives.

(A) Your employees, former employees, their personal representatives, and their authorized collective bargaining representatives have the right to access the OSHA injury and illness records, with some limitations, as below.

(i) A personal representative is anybody designated in writing by the employee or former employee. It also is the legal representative of a deceased or legally incapacitated employee.

(c) When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an

establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

(A) You must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, do not record the employee's name on the OSHA 300 Log for certain "privacy concern cases."

(d) When an employee, former employee, or personal representative asks for a copy of the DCBS Form 801 or equivalent describing an injury or illness to that employee or former employee, you must give the requester a copy of the DCBS Form 801 or equivalent containing that information by the end of the next business day.

(e) When an authorized employee representative asks for copies of the DCBS Form 801 or equivalent for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7 calendar days. You are only required to give the authorized employee representative information from the releasable part of the DCBS Form 801 or equivalent section titled "Tell us about the case" or a similar section. You must remove all other information from the copy of the DCBS Form 801 or equivalent form that you give to the authorized employee representative.

(f) You may not charge for these copies the first time. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

(21) Reporting Fatalities and Hospitalizations to Oregon OSHA. You must report the following to Oregon OSHA at 1-800-922-2689 or 503-378-3272 within the given time limits:

(a) Fatalities 8 hours after occurrence or employer knowledge

You must report a fatality caused by a heart attack at work. You must report a fatality resulting from motor vehicle accidents that happen during the employees work shift. The local OR-OSHA field office safety or health manager will decide whether to investigate the incident, depending on the circumstances of the heart attack or motor vehicle accident. Report a fatality only if it occurs within 30 days of the accident.

(b) Catastrophe 8 hours after occurrence or employer knowledge.

For the ease of the reader the Definition for Catastrophe is – An accident in which two or more employees are fatally injured, or three or more employees are admitted to a hospital or an equivalent medical facility.

(c) Overnight Hospitalization 24 hours after occurrence or employer knowledge of one or more employees.

Overnight hospitalization is for medical treatment only. Hospitalization for observation is not reportable, nor is emergency room treatment. You must report injuries related to a heart attack or motor vehicle accident as well as other work related injuries.

Report overnight hospitalizations to the nearest Oregon OSHA field office (Portland, Salem, Bend, Eugene or Medford).

NOTE: Oregon OSHA Field Office locations, telephone and Fax numbers are:

Salem Central Office 350 Winter Street NE, Room 430 Salem OR 97301-3882 (503) 378-3272 Toll Free: (800) 922-2689 Fax: (503) 947-7461	Eugene 1140 Willagillespie, Suite 42 Eugene OR 97401-2101 (541) 686-7562 Fax: (541) 686-7933	Medford 1840 Barnett Road, Suite D Medford OR 97504- 8250 (541) 776-6030 Fax: (541) 776-6246
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Portland Fremont Place, Building I 1750 NW Naito Parkway, Suite 112 Portland OR 97209-2533 (503) 229-5910 Fax: (503) 229-6492	Bend Red Oaks Square 1230 NE Third Street, Suite A-115 Bend OR 97701-4374 (541) 388-6066 Fax: (541) 388-6203	Pendleton 721 SE Third Street, Suite 306 Pendleton OR 97801- 3056 (541) 276-9175 Fax: (541) 276-6869
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Salem
1340 Tandem Avenue NE,
Suite 160
Salem OR 97309-0417
(503) 378-3274
Fax: (503) 378-4921

(d) Effective date. The effective date for reporting of a fatality resulting from motor vehicle accidents that happen during the employees work shift is January 1, 2007.

(22) Providing Records to Government Representatives. When an authorized government representative asks for the records you keep in compliance with this standard, you must provide copies of the records within 4 business hours.

(a) Authorized government representatives are:

(A) a representative of the Oregon Department of Consumer and Business Services.

(B) a representative of the Secretary of Labor conducting an inspection or investigation under the Act.

(C) a representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health - NIOSH) conducting an investigation under Section 20(b) of the Act.

(23) Requests from the Bureau of Labor Statistics or DCBS. If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, or a request for data from the Oregon Department of Consumer and Business Services, you must promptly complete the form and return it following the instructions on the survey form.

(24) Prohibition against discrimination. Oregon Revised Statute 654.062(5) prohibits discrimination against an employee for reporting a work-related fatality, injury or illness. It also protects the employee who files a safety and health complaint, asks for access to this rule, records, or otherwise exercises any rights afforded by law or rule.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: WCB Admin. Order 19-1974, f. 6-5-74, ef. 7-1-74.
WCD Admin. Order, Safety 7-1979, f. 8-20-79, ef. 9-1-79.
WCD Admin. Order, Safety 4-1981, f. 5-22-81, ef. 7-1-81.
APD Admin. Order 7-1988, f. 6-17-88, ef. 7-1-74.
OR-OSHA Admin. Order 11-2001, f. 9/14/01, ef. 1/1/02.
OR-OSHA Admin. Order 2-2002, f. 3/12/02, ef. 3/12/02.
OR-OSHA Admin. Order 7-2002, f. 11/15/02, ef. 11/15/02.
OR-OSHA Admin. Order 6-2003, f. 11/26/03, ef. 11/26/03.
OR-OSHA Admin. Order 7-2006, f. 9/6/06, ef. 9/6/06.
OR-OSHA Admin. Order 11-2007, f. 12/21/07, ef. 1/1/08.
OR-OSHA Admin. Order X-2008, f. X/XX/08, ef. X/XX/08.

437-001-0706 Recordkeeping for Health Care Assaults.

(1) Purpose. This rule implements the amendments to the Oregon State Employment Act, ORS 654.**412 through 654.423**~~[001 to 654.295]~~, providing specific provisions for the recordkeeping and reporting requirements of health care assaults, and additional recordkeeping requirements as authorized under ORS 654.025(2) and ORS 656.726(4)(a).

(2) Scope and Definitions. This rule applies to health care employers and home health care services provided by health care employers. Health care employers only include hospitals and ambulatory surgical centers, which are defined in ORS 442.015:

"Hospital" means a facility with an organized medical staff, with permanent facilities that include inpatient beds and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for but not limited to acutely ill patients and accident victims, to provide treatment for the mentally ill or to provide treatment in special inpatient care facilities.

"Ambulatory surgical center" means a facility that performs outpatient surgery not routinely or customarily performed in a physician's or dentist's office, and is able to meet health facility licensure requirements.

(3) Health care assault recordkeeping and reporting. In addition to existing general recordkeeping requirements in OAR 437-001-0700, Recordkeeping and Reporting, health care employers must use the Health Care Assault Log, or equivalent, to record assaults.

(a) See ORS 654.**412 through 654.423**~~[001 through 654.295]~~ for details required to be recorded. Appendix A of 437-001-0706 provides instructions for completing the form.

(b) The Health Care Assault Log for 2008 (January 1, 2008 – December 31, 2008) must be transmitted to Oregon OSHA by January 31, 2009.

Electronic reporting: oshahealth@state.or.us This is the preferred method.

Paper reporting: Oregon OSHA, Attention Health Care Assault reporting, PO Box 14480, Salem, OR 97309-0405. If email and/or electronic reporting are not available at your location, send the completed log to this address.

(c) The Hospital Administrator, or highest-level officer of the facility, must sign the first page of the Health Care Assault Log, certifying all information contained is true, accurate, and complete. This sheet, with signature, must be sent to Oregon OSHA either in hard-copy, or as a scanned electronic document.

(d) If the incident results in a serious injury or fatality, it must be immediately reported to Oregon OSHA, and recorded on the OSHA 300 Log. See OAR 437-001-0700.

(4) Other recordkeeping information. The following sections of OAR 437-001-0700 apply to health care assault recordkeeping and reporting:

Section (6) Work-relatedness

Section (14)(b) Forms

Section (15) Multiple Business Establishments

Section (16) Covered Employees

Section (19) Change of Business Ownership

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.**412**~~[004]~~ through 654.**423**~~[295]~~.

Hist: OR-OSHA Admin. Order 11-2007, f. 12/21/07, ef. 1/1/08.

OR-OSHA Admin. Order X-2008, f. X/XX/08, ef. X/XX/08.