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SUBDIVISION A

GENERAL

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333).

§1926.1 Purpose and Scope.

437-003-0003 Purpose. *The purpose of these rules is to prescribe minimum safety and health requirements for employees engaged in construction work, including demolition, blasting and use of explosives, and power transmission distribution and maintenance work.*

Stat. Auth.: ORS 654.025(2) and ORS 656.726(3).
Hist: APD Admin. Order 8-1989, f. 7/7/89, ef. 7/7/89.

437-003-0005 Additional Applicability. *If a specific type of equipment, process or practice is not limited to the construction industry, the provisions contained in other Divisions of OAR 437, Oregon Occupational Safety and Health Code, shall apply.*

Stat. Auth.: ORS 654.025(2) and ORS 656.726(3).
Hist: APD Admin. Order 8-1989, f. 7/7/89, ef. 7/7/89.

(a) This part sets forth the safety and health standards promulgated by the Secretary of Labor under section 107 of the Contract Work Hours and Safety Standards Act. The standards are published in Subpart C of this part and following subparts.

(b) Subpart B of this part contains statements of general policy and interpretations of section 107 of the Contract Work Hours and Safety Standards Act having general applicability.

Stat. Auth.: ORS 654.025(2) and 656.726(3).
Hist: APD Admin. Order 4-1989, f. 3/31/89, ef. 5/1/89 (temp).
APD Admin. Order 8-1989, f. 7/7/89, ef. 7/7/89 (perm).

437-003-0006 General Oregon Definitions. *For the purposes of administration of the Oregon Safe Employment Act, the following terms mean:*

(1) “Act” means the Oregon Safe Employment Act, ORS 654.

(2) “Agency” means the Oregon Occupational Safety and Health Division, Department of Insurance and Finance.

- (3) *“Assistant Secretary” means the Administrator of the Oregon Occupational Safety and Health Division or designated representative.*
- (4) *“Assistant Secretary of Labor for Occupational Safety and Health” means the Administrator of the Oregon Occupational Safety and Health Division or designated representative.*
- (5) *“Office of the Solicitor of Labor” means Legal Counsel for the Oregon Occupational Safety and Health Division.*
- (6) *“Occupational Safety and Health Administration” or “OSHA” means the Oregon Occupational Safety and Health Division, Department of Insurance and Finance.*
- (7) *“Standards” mean any occupational safety and health standard which has been adopted and promulgated by a nationally-recognized standards-producing organization, the federal government, or the state of Oregon and shall have the same meaning as, and include, the terms “code(s)” and “rule(s)”.*
- (8) *“Administrative Rules” means Chapter 437, Division 1, Rules for the Administration of the Oregon Safe Employment Act, and Oregon Revised Statutes (ORS), Chapter 183.*

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

Hist: APD Admin. Order 8-1989, f. 7/7/89, ef. 7/7/89.

§1926.2 Variances from Safety and Health Standards.

(a) Variances from standards which are, or may be, published in this part may be granted under the same circumstances whereunder variances may be granted under section 6(b)(A) or 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 65). The procedures for the granting of variances and for related relief under this part are those published in Part 1905 of this title.

(b) Any requests for variances under this section shall also be considered requests for variances under the Williams-Steiger Occupational Safety and Health Act of 1970, and any requests for variances under Williams-Steiger Occupational Safety and Health Act with respect to construction safety or health standards shall be considered to be also variances under the Construction Safety Act. Any variance from a construction safety or health standard which is contained in this part and which is incorporated by reference in Part 1910 of this title shall be deemed a variance from the standard under both the Construction Safety Act and the Williams-Steiger Occupational Safety and Health Act of 1970.

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

Hist: APD Admin. Order 4-1989, f. 3/31/89, ef. 5/1/89 (temp).

APD Admin. Order 8-1989, f. 7/7/89, ef. 7/7/89 (perm).

§1926.3 Inspections – Right of Entry.

(a) It shall be a condition of each contract which is subject to section 107 of the Contract Work Hours and Safety Standards Act that the Secretary of Labor or any authorized representative shall have a right of entry to any site of contract performance for the following purposes:

- (1) To inspect or investigate the matter of compliance with the safety and health standards contained in Subpart C of this part and following subparts; and
- (2) To carry out the duties of the Secretary under section 107(b) of the Act.

(b) For the purpose of carrying out his investigative duties under the Act, the Secretary of Labor may, by agreement, use with or without reimbursement the services, personnel, and facilities of any State or Federal agency. Any agreements with States under this section shall be similar to those provided for under the Walsh-Healey Public Contracts Act under 41 CFR Part 50-205.

Stat. Auth.: ORS 654.025(2) and 656.726(3).
Hist: APD Admin. Order 4-1989, f. 3/31/89, ef. 5/1/89 (temp).
APD Admin. Order 8-1989, f. 7/7/89, ef. 7/7/89 (perm).

§1926.4 Rules of Practice for Administrative Adjudications for Enforcement of Safety and Health Standards.

437-003-0007 Additional Rules of Practice for Administrative Adjudications. *In addition to and not in lieu of administrative and legal actions outlined in 29 CFR 1926.4, the State of Oregon will use the provisions of ORS Chapter 183, Chapter 654 and OAR 437, Division 1, to administer this code.*

Stat. Auth.: ORS 654.025(2) and ORS 656.726(3).
Hist: APD Admin. Order 8-1989, f. 7/7/89, ef. 7/7/89.

(a) The rules of practice for administrative adjudications for the enforcement of the safety and health standards contained in Subpart C of this part and the following subparts shall be the same as those published in Part 6 of this title with respect to safety and health violations of the Service Contract Act of 1965 (69 Stat. 1035), except as provided in paragraph (b) of this section.

(b) In the case of debarment, the findings required by section 107(d) of the Act shall be made by the hearing examiner or the Assistant Secretary of Labor for Occupational Safety and Health, as the case may be. Whenever, as provided in section 107(d)(2), a contractor requests termination of debarment before the end of the 3-year period prescribed in that section, the request shall be filed in writing with the Assistant Secretary of Labor for Occupational Safety and Health who shall publish a notice in the Federal Register that the request has been received and afford interested persons an opportunity to be heard upon the request, and thereafter the provisions of Part 6 of this title shall apply with respect to prehearing conferences, hearings and related matters, and decisions and orders.

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

Hist: APD Admin. Order 4-1989, f. 3/31/89, ef. 5/1/89 (temp).
APD Admin. Order 8-1989, f. 7/7/89, ef. 7/7/89 (perm).

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