Oklahoma Department of Labor

Oklahoma Occupational Health and Safety Standards Act and Administrative Rules

40 O.S. § 401, *et seq*.

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Leslie Osborn

Commissioner of Labor

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Oklahoma Occupational Health and Safety Standards Act and Administrative Rules

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Oklahoma Occupational Health and Safety Standards Act

40 O.S. § 401 Short Title

Sections 401 through 424 of this title shall be known and may be cited as the Oklahoma Occupational Health and Safety Standards Act.

40 O.S. § 402 Definitions

As used in the Oklahoma Occupational Health and Safety Standards Act:

1. "Employer" means the state and all its political subdivisions which has in its employ one or more individuals performing services for it in employment; and
2. "Employee" means a person permitted to work by an employer in employment; and
3. "Place of employment" means the plant or premises in or about which an employee is permitted to work; and
4. "Department" means the Oklahoma Department of Labor; and
5. "Commissioner" means the Commissioner of Labor; and
6. "Division" means the Health and Safety Education and Training Division; and
7. "Standard" has the same meaning as, and includes, the words "regulation", "code", and "rule"; and
8. "National consensus standards" means any occupational safety or health standard adopted under a consensus method by a nationally recognized standards-producing organization; and
9. "Employment" includes all services for pay pursuant to a contract of hire except service in agricultural employment.

40 O.S. § 403 Employer's Duties and Responsibilities

A. Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees, commensurate with the Occupational Safety and Health Act of 1970.

B. No person shall discharge, discriminate or take adverse personnel action against any employee because such employee has filed any complaint, or instituted or caused to be instituted any proceeding under or related to this act, or has testified or is about to testify in any such proceeding, or because of the exercise by such employee on behalf of himself or herself or others of any right affected by this act.

C. Within forty-eight (48) hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident in writing to

the Oklahoma City office of the Oklahoma Department of Labor, in a manner prescribed by the Department. The Commissioner of Labor may require such additional reports as he deems necessary, including the official death certificate from the Oklahoma State Department of Health.

D. No rule or standard promulgated under this act shall, or shall be deemed to, establish legal standards of conduct or legal duties, the violation of which standards or duties would constitute negligence or gross negligence in any civil proceeding.

E. Every employer having twenty-five (25) or more full- or part-time employees shall:

1. Designate an employee who shall coordinate all safety programs of the employer;
2. Provide safety classes to each type or class of employee no less than quarterly, except that public schools shall only be required to provide safety classes or instruction to their employees during the school year. Provided further, public school employees who are certified personnel and are in compliance with federal OSHA occupational safety and health standards shall be exempt from such safety classes or instruction and shall not be included in the computation of the number of employees set forth in subsection E of this section for determining the requirement of such safety classes or instruction; and
3. Cooperate with the Department of Labor including allowing any announced inspection of the premises for the purpose of determining compliance with this subsection.

The provisions of this subsection shall not apply to any hospital which is subject to the rules of the U.S. Department of Health and Human Services, Health Care Financing Administration (HCFA), as set forth in 42 CFR Parts 405, 412, 416, 417, 440, 441, 456, 482 and 489; Medicare and Medicaid Programs; Conditions of Participation for Hospitals, Final Regulations.

40 O.S. § 404 Removal or Damage of Safeguards – Failure to Obey Safety Orders

No employee shall willfully remove, displace, damage, destroy or carry off any safety device or safeguard furnished or provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person. No employee or agent of employees shall interfere with the use of any method or process adopted for the protection of any employee in such employment or place of employment, or of any other person lawfully within such place of employment, or fail to follow and obey orders necessary to protect the life, health and safety of such employees and any other person lawfully within such place of employment.

40 O.S. § 405.1 Department of Labor Administrative Penalty Revolving Fund

A. There is hereby created in the State Treasury a revolving fund for the Department of Labor to be designated the "Department of Labor Administrative Penalty Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all administrative fines collected by the Department for violations of the Oklahoma Occupational Health and Safety Standards Act and the Oklahoma Asbestos Control Act, and any rules promulgated thereto. All monies accruing to the credit of the fund, except those monies specified in subsection B of this section, are hereby directed to be transferred by the Commissioner of Labor to the State Treasurer for deposit and credit to the General Revenue Fund at the end of each fiscal year.

B. The Department of Labor shall retain up to Thirty Thousand Dollars ($30,000.00) of monies accruing to the credit of the Department of Labor Administrative Penalty Revolving Fund, derived from citations for violations of the Oklahoma Occupational Health and Safety Standards Act, per fiscal year. Said monies shall only be used in support of the act for the production and dissemination of workplace safety educational materials, for workplace safety educational presentations and training, or for the acquisition of workplace safety equipment, to be provided by the Department of Labor, at its discretion, to employers as defined in Section 402 of this title. Said monies shall not be expended for Department of Labor employee salaries or benefits or for Department of Labor administrative costs.

40 O.S. § 407 Adoption of Health and Safety Standards – Promulgation – Limitation

A. The Commissioner pursuant to the provisions of Sections 301 through 326 of Title 75 of the Oklahoma Statutes may prescribe, adopt, promulgate, amend and rescind health and safety standards, which shall be derived from national consensus standards designed for the prevention of accidents in all places of employment and for the protection of the life, health and safety of employees.

B. Authority to promulgate health and safety standards is limited to that not granted to other state departments or other legally constituted state boards or commissions.

40 O.S. § 410 Administration and Enforcement

A. The Commissioner shall administer and enforce the provisions of the Oklahoma Occupational Health and Safety Standards Act.

1. It is not intended that the Oklahoma Occupational Health and Safety Standards Act be an issue or be involved in any labor dispute, or be used or asserted to advantage in collective

bargaining by employer or employee, or by their respective representatives.

2. The Commissioner shall cause to be inspected any place of employment to ensure the presence of a functioning safety and health program which meets the requirements of Title 40 of the Oklahoma Statutes and adopted and referenced standards.

B. Subject to the provisions of subsection A of this section, authorized employees of the Department may enter and inspect places of employment, including premises and buildings under construction, demolition or repair, at all reasonable times, in order to investigate such facts, conditions, practices or matters as deemed appropriate, and to determine if any person is violating any provisions of the Oklahoma Occupational Health and Safety Standards Act or any standard promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act.

C. Upon receipt by the Department of a signed complaint of violation of any of the provisions of the Oklahoma Occupational Health and Safety Standards Act or of any standard promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act, an authorized employee shall investigate the alleged violation and inform the complainant of the result of the investigation.

D. If upon inspection or investigation, or whenever the Commissioner determines a violation of the Oklahoma Occupational Health and Safety Standards Act or of any standard, rule, or regulation promulgated pursuant to the provisions of the Oklahoma Occupational Health and Safety Standards Act has occurred, the Commissioner shall give written notice to the alleged violator specifying the cause of the determination. Such notice shall require that the violations be corrected and specify the terms of such correction or that the alleged violator appear before the Commissioner at a time and place specified in the notice and answer the charges. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection G of this section.

E. The Commissioner or his designee shall afford the alleged violator an opportunity for a fair hearing in accordance with the provisions of subsection H of this section. On the basis of the evidence produced at the hearing, the Commissioner shall make findings of fact and conclusions of law and enter an order thereon. The Commissioner shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. The order of the Commissioner shall become final and binding on all parties unless appealed to the district court as provided in Sections 301 through 326 of Title 75 of the

Oklahoma Statutes within thirty (30) days after notice has been sent to the parties.

F. Whenever the Commissioner finds that an emergency exists requiring immediate action to protect the public health or welfare pursuant to the provisions of the Oklahoma Occupational Health and Safety Standards Act, the Commissioner may without notice or hearing issue an order stating the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such an order is directed shall comply with said order immediately but on application to the Commissioner shall be afforded a hearing within ten (10) days of receipt of said notice. On the basis of such hearing, the Commissioner shall continue such order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided for in this subsection may appeal to the district court of the county in which the place of employment is located within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on said docket, except criminal cases. If compliance with said emergency order is not immediately taken, the Commissioner or his duly authorized employee may also request the district attorney of Oklahoma County, or the district attorney in any other district where service can be obtained, to file legal proceedings to enjoin the acts or practices contained in the emergency order to enforce immediate compliance with said order.

G. Except as otherwise expressly provided by law, any notice, order, or other instrument issued by or pursuant to authority of the Commissioner may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by registered mail directed to the person affected at his last-known post office address as shown by the files or records of the Commissioner. Proof of service shall be made as in the case of service of a summons or by publication in a civil action or may be made by the affidavit of the person who did the mailing. Such proof of service shall be filed in the office of the Commissioner.
Every certificate or affidavit of service made and filed as in this section provided shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

H. The hearings authorized by this section may be conducted by the Commissioner or the Commissioner may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Commissioner at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided by the provisions of Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

I. The employer to whom a health and safety order is directed shall notify the Department of his compliance therewith in a manner specified by the Department.

J. If an employer fails to comply with a health and safety order issued pursuant to this section, the Commissioner may grant an additional time for compliance therewith, modify, alter or dismiss the health and safety order or refer the matter to the Board.

40 O.S. § 412 Violations – Penalties

A. Any person failing to comply with any standard or interfering with, impeding or obstructing in any manner the administration of standards pursuant to the provisions of the Oklahoma Occupational Health and Safety Standards Act, upon conviction, shall be guilty of a misdemeanor.

B. Any person who violates any of the provisions of the Oklahoma Occupational Health and Safety Standards Act, upon conviction, shall be guilty of a misdemeanor and in addition thereto may be enjoined from continuing such violation. Each day upon which such violation occurs shall constitute a separate violation.

C. The Attorney General, on the request of the Commissioner, shall bring an action against any person violating any of the provisions of the Oklahoma Occupational Health and Safety Standards Act or violating any order or determination of the Commissioner promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act.

D. The Commissioner of Labor may promulgate rules establishing a schedule of administrative penalties and fines for violations of the Oklahoma Occupational Health and Safety Standards Act which may be in addition to or in lieu of the criminal penalties provided in this section. The promulgation of an administrative fine schedule shall grant the Commissioner authority to impose those administrative fines for any violation of the Oklahoma Occupational Health and Safety Standards Act. Funds collected as payment from a violator for administrative fines imposed for a violation of the Oklahoma Occupational Health and Safety Standards Act shall be deposited to the Department of Labor Administrative Penalty Revolving Fund created in Section 3 of this act.

40 O.S. § 413 Public Policy

The following is declared to be the public policy of the state:
Occupational accidents produce economic and social loss, impair productivity and retard the advancement of standards of living. Both humane and economic considerations recommend the establishment and implementation of effective injury control measures. A unified, continuing, professional effort

is required. A dynamic program of health and safety education and training is the best known solution to the control of occupational accidents.

40 O.S. § 414 Occupational Safety and Health Consultation Program for Private Employers

A. The Commissioner shall not assert enforcement jurisdiction pursuant to Section 401 et seq. of this title over any occupational safety or health issue with respect to which a federal standard has been issued pursuant to Section (6) of Public Law 91-596, also known as the Williams-Steiger Occupational Safety and Health Act of 1970.

B. The Commissioner shall provide competent occupational safety and health consultation, education and training for private and public employers in coordination with the Oklahoma Department of Career and Technology Education and other available community resources.

C. Such consultation shall be provided on a priority basis to those private employers which, based on their certification, have occupational injury and illness rates exceeding the national average incidence rate for private employers of similar character.

D. No such consultation shall be provided except upon written request by the private employer.

E. Except when a condition of "imminent danger" exists, no reports, communication, or other information regarding safety and health hazards discovered by the Commissioner, pursuant to the administration of Section 401 et seq. of this title, or his representative in the workplaces of private employers, shall be reported to any enforcement authority whatsoever without the prior approval of the employer.

F. The Commissioner may, in providing services to private employers upon request, refer private employers for participation in other safety and health consultation, education and training programs including but not limited to the programs authorized by Section 7(C)1 of Public Law 91-596.

G. The Commissioner may, upon request, refer qualifying private employers to programs operated by the U.S. Department of Labor for recognition or for exemption from inspection by the U.S. Department of Labor Occupational Safety and Health Administration.

H. The Commissioner shall certify successful participation in the occupational safety and health consultation, education and training program pursuant to the provisions of Section 924.2 of Title 36 of the Oklahoma Statutes.

I. The Commissioner may promulgate such rules and regulations as may be necessary to implement the provisions of this section.

J. As used in this section:

1. "Private employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any state or political subdivision of a state; and
2. "Imminent danger" means any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death, or serious physical harm immediately.

40 O.S. § 416 Establishment of Staff – Duties

The Commissioner shall establish within the Department an experienced and competent staff to discharge the duties and responsibilities provided in Sections 13 through 17 of this act.

40 O.S. § 417 Employer's Annual Report – Exemptions – Summary

(1) To assure the availability of accurate, timely statistical data concerning occupational health and safety in Oklahoma, all employers as defined in Section 402 of this title shall submit reports, on a form and in a manner prescribed by the Commissioner of Labor. Reports shall include only those injuries arising from employment within the State of Oklahoma.

(2) The Department may exempt from this requirement those classes of employers for whose operations adequate records of safety experience are already available or the Department may exempt any employer from this requirement when, in the judgment of the Commissioner, the submission of annual reports by such employer is not necessary to carry out the purposes of this act and would be an undue burden upon such employer because of size, the nature of its operation or other special circumstances.

(3) The Department shall publish each year a detailed summary of the statistical data received from employers. A copy of such summary shall be available on request to each reporting establishment required to file reports of disabling work injuries and shall be made available to anyone having a legitimate interest in the subject matter of the report.

40 O.S. § 417.1 Creation of Special Occupational Health and Safety Fund

There is hereby created in the State Treasury a fund for the Department of Labor to be designated the "Special Occupational Health and Safety Fund". The fund shall be subject to legislative appropriation and shall consist of monies collected pursuant to Section 418 of Title 40 of the Oklahoma Statutes.

40 O.S. § 418 Payments to Commission – Refunds – Collection of payments – Disposition of funds

(1) Each insurance carrier writing workers' compensation insurance in this state and each self-insured employer authorized to make workers' compensation payments directly to employees shall pay to the Oklahoma Tax Commission up to a sum equal to three-fourths of one percent (3/4 of 1%) of the total workers' compensation losses, excluding medical payments and temporary total disability compensation, based on the records of the Workers' Compensation Court, paid out or payable during each quarter-year period of the calendar year, said percentage to be fixed by the Commissioner and based upon his certification that the proceeds thereof are reasonable and necessary to accomplish the objectives of Section 401 et seq. of this title. Such payments to the Oklahoma Tax Commission shall be made not later than the fifteenth day of the month following the close of the quarter-year in which compensation is paid or becomes payable. Payments made, under the provisions of this section, shall be considered losses for the purpose of computing workers' compensation rates.

(2) The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payments made under the provisions of this act.

(3) In making and entering awards for compensation, the Workers' Compensation Court shall determine and fix the amounts that shall be paid to the Oklahoma Tax Commission under the provisions of this section. The total amount so determined and fixed shall have the same force and effect as an award of the Workers' Compensation Court for compensation and all provisions relating to the collection of awards of said court shall apply to such judgments.

(4) It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for herein, and said Commission is hereby given authority to bring an action for the recovery of any delinquent and unpaid payment or payments. In the alternative, the Oklahoma Tax Commission may enforce payments by proceeding in accordance with the provisions of Section 346 of Title 85 of the Oklahoma Statutes.

(5) Except as otherwise provided in paragraph (7) of this section, the Oklahoma Tax Commission shall, monthly, as the same are collected, pay to the State Treasurer of this state, to the credit of the Special Occupational Health and Safety Fund, all monies collected under the provisions of this section. Monies shall be paid out of said Fund exclusively for the operation and administration of Section 401 et seq. of this title and for other necessary expenses of the Department of Labor pursuant to appropriations by the Oklahoma Legislature.

(6) The Commissioner shall determine the needs of the program, considering statistical data on disabling work injuries, depth and scope of the program as evidenced by the needs and demands of employers and the present, planned and anticipated budgetary needs of the program, and submit same to the Legislature.

(7) In no event shall the total fiscal year amount paid to the credit of the Special Occupational Health and Safety Fund pursuant to this section exceed the 3-year average of the total fiscal year amounts apportioned fiscal years 2015, 2016 and 2017. Any amount in excess of the 3-year average shall be placed to the credit of the General Revenue Fund.

40 O.S. § 419 Penalty

Any employer or insurance company willfully failing to comply with any of the provisions of Sections 17 and 18 is guilty of a misdemeanor.

40 O.S. § 424 Qualifications for Personnel of Department of Labor

The provisions as to qualifications of persons in positions or jobs created or provided for under provisions of Sections 401 through 423 of Title 40 of the Oklahoma Statutes, the Oklahoma Occupational Health and Safety Standards Act of 1970, shall not apply to officers or employees of the Department of Labor, it being intended that their qualifications for such positions or jobs be determined by the Commissioner of Labor.

40 O.S. § 435 Break Periods to Breast-Feed – Private Room – Reports

A. 1. An employer other than a state agency may provide reasonable unpaid break time each day to an employee who needs to breast-feed or express breast milk for her child to maintain milk supply and comfort. The break time, if possible, shall run concurrently with any break time, paid or unpaid, already provided to the employee. An employer is not required to provide break time under this section if to do so would create an undue hardship on the operations of the employer.

2. Every state agency shall allow an employee who is lactating reasonable paid break time each day to use the designated lactation room for the purpose of maintaining milk supply and comfort. B. An employer may make a reasonable effort to provide a private, secure, and sanitary room or other location in close proximity to the work area, other than a toilet stall, where an employee can express her milk or breast-feed her child.

B. An employer may make a reasonable effort to provide a private, secure, and sanitary room or other location in close proximity to the work area, other than a toilet stall, where an employee can express her milk or breast-feed her child.

C. The Department of Health shall issue periodic reports on breast-feeding rates, complaints received, and benefits reported by both working breast-feeding mothers and employers.

D. As used in this section:

1. "Employer" means a person engaged in business who has one or more employees, including the state and any political subdivision of the state;
2. "Employee" means any person engaged in service to an employer in the business of the employer;
3. "Reasonable" means any effort that would not impose an undue hardship on the operation of the employer's business; and
4. "Undue hardship" means any action that requires significant difficulty or expense when considered in relation to factors such as the size of the business, its financial resources, and the nature and structure of its operation.

Administrative Rules

380:40-1-1. Purpose

The purpose of the rules in Chapter 40 is to set forth general policies for enforcement of the inspection and citation provisions of 40 O.S. § 401 et seq., the Oklahoma Occupational Health and Safety Standards Act ("the Act"). This rule adopts regulations and national consensus standards, requirements for record keeping and updating of equipment as mandated by state law.

380:40-1-2. Applicable national standards

(a) The Federal Occupational Safety and Health Standards for General Industry (29 CFR 1910) and the Construction Industry (29 CFR 1926) shall be automatically adopted by incorporation as currently published and as hereafter may be revised in the Code of Federal Regulations subject to the following exceptions:

(1) That the definition of an "employer" as set forth in 29 CFR 1910.2(c) is deleted and the term is hereby defined in accordance with the definition in Title 40 O.S. Section 402(1) for "employer"

(2) That the Hazard Communication Standard as set forth in 29 CFR 1910.1200 is adopted by incorporation except the information and training required under 29 CFR 1910.1200(h) is required annually. The definition of "employer" and "employee" as set forth in 29 CFR 1910.1200(c) is deleted and the term is defined in accordance with the definition in Title 40 O.S. Section 402(1) for "employer" and "employee".

(3) The definition of "action level" in the General Industry Standard for asbestos (29 CFR 1910.1001(b)) is deleted.
(4) The section on permissible exposure limit (PEL) in the General Industry Standard for asbestos (29 CFR 1910.1001(c)) is deleted and hereby replaced with: Permissible exposure limit (PEL). The employer shall ensure that no employee is exposed to an airborne concentration of asbestos in excess of 0.01 fibers per cubic centimeter of air.
(5) For purposes of compliance with 29 CFR 1910.134(g)(4), it is permissible for the employer to enlist the aid of firefighters from other municipal jurisdictions, or political subdivisions, in order to ensure that enough personnel are present at the site to fulfill the requirements of the "two in, two out" rule. The employer must insure that the firefighters from the other municipal jurisdictions, or political subdivisions are in compliance with 29 CFR 1910.134.

(b) The currently published National Fire Protection Association (NFPA 1971) Standard Protective Ensemble for Structural Fire Fighting, referenced in the Federal Occupational Safety and Health Standards for General Industry (29 CFR 1910) shall be automatically adopted by incorporation as published and as may hereafter be revised in the NFPA Standards.

380:40-1-3. National standards on file

A copy of currently published standards and regulations incorporated by reference in this rule shall be on file at the Oklahoma Department of Labor Office in Oklahoma City.

380:40-1-4. Updating of equipment

Updating of personal protective equipment in accordance with NFPA Standards shall be made as existing equipment is replaced.

380:40-1-5. Recordkeeping

(a) The currently published Federal Occupational Safety and Health Standard 29 CFR 1904, et seq., shall be automatically adopted by incorporation as published in the Code of Federal Regulations and as may hereafter be revised in the Code of Federal Regulations with the following exceptions:
(1) that Subpart B (1904.1, 1904.2, 1904.3 and Appendix A), 1904.37, 1904.38, 1904.39, 1904.40, 1904.41, 1904.42, 1904.45, and, in 1904.7(b)(2), the sentence stating, "You must also report any work-related fatality to OSHA within eight (8) hours, as required by '1904.39" shall not be included;
(2) that the definition of "Act" pursuant to 29 CFR 1904 shall mean the Oklahoma Occupational Safety and Health Act of 1970 Title 40 O.S. Section 401 et seq.;

(3) that all references in 29 CFR 1904 to the Assistant Commissioner or Regional Commissioner of the Bureau of Labor Statistics be changed to Oklahoma Department of Labor;
(4) that all references in 29 CFR 1904 to OSHA No. 300 shall be changed to OK 300; all references to OSHA 300A shall be changed to OK 300A; and references to OSHA No. 301 shall be changed to OK 301;
(5) the definition of "you" in 29 CFR 1904.46 shall mean "employer" as defined in 40 O.S. 402.
(6) that 29 CFR 1904.46 Definition of Establishment (2) shall be changed to: (2) Can an establishment include more than one physical location? Yes, but only if the direct daily supervision of all staff is the responsibility of one common individual.

(b) In accordance with 40 O.S. § 417, the State and all its political subdivisions which has in its employ one or more individuals performing services for it in employment shall report to the Oklahoma Department of Labor all injury and illness related information, as requested. This information shall be submitted/reported on forms including but not limited to the OK 300, OK 300A and OK 301, and in a manner prescribed by the Oklahoma Department of Labor. This information includes, but is not limited to; amounts and types of injuries and illnesses, and injury and illness case characteristics and demographics.

(c) Employers shall notify the Department of Labor Statistical Research Unit within ninety (90) days of the closing, merging, or opening of a new facility.

380:40-1-6. Phase-in period [REVOKED]

380:40-1-7. Posting of notice

(a) Each employer shall post and keep posted a notice or notices, to be furnished by the PEOSH Division of the Oklahoma Department of Labor, informing employees of the protections and obligations provided for in the 40 O.S. § 401 et seq. and that for assistance and information, including copies of specific safety and health standards, employees should contact the PEOSH Division of the Oklahoma Department of Labor. Such notice or notices shall be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to insure that such notices are not altered, defaced, or covered by other material.

(b) Reproductions or facsimiles of such State posters shall constitute compliance with the posting requirements where such reproductions or facsimiles of such State posters shall constitute compliance with the posting requirements where such reproductions or facsimiles are at

least 8 ½ inches by 11 inches, and the printing size is at least 10 pt. Whenever the size of the poster increases, the size of the print shall also increase accordingly. The caption or heading on the poster shall be in large type, not less than 32 pt.

(c) "Establishment" means a single physical location where agency business is conducted or where services or operations are performed. Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate physical establishment, and a separate notice or notices shall be posted in each such establishment. Where employer are engaged in activities which are physically dispersed, such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, the notice or notices required by this section shall be posted at the location to which employees report each day. Where employees do not usually work at, or report to, a single establishment, such as technicians, engineers, etc., notices shall be posted at the location from which the employees operate to carry out their activities. In all cases, such notice or notices shall be posted in accordance with the requirements of paragraph (a) of this section.

(d) Any employer failing to comply with the provisions of this section shall be subject to citation in accordance with the provisions of 40 O.S. § 410(D).

380:40-1-8. Authority for inspection

Employees designated by the Oklahoma Department of Labor as PEOSH Inspectors are authorized by the Commissioner of Labor to enter without delay and at reasonable times any plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, vehicles, apparatus, devices, equipment and materials therein; to question privately any employer or employee; and to review records required by 40 O.S. § 401 et seq. and regulations referenced in this chapter, and other records which are directly related to the purpose of the inspection.

380:40-1-9. Objection to inspection

(a) Upon a refusal to permit the PEOSH Inspector, in exercise of this official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employer, operator, agent, or employee, in accordance with 380:40-1-8 or to permit a representative of employees to accompany the PEOSH Inspector during the physical inspection of any workplace in accordance with 380:40-1-12(a), the

PEOSH Inspector shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raises. The PEOSH Inspector shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the Director, PEOSH Division, hereafter referred to as "Director." If in the Director's opinion, such refusal is without good cause, the same shall be considered a violation of the Act and these Rules, and may subject the employer to citation. The Director shall consult with the Legal Division, who shall take appropriate action, including obtaining an emergency Order from the Commissioner, pursuant to 40 O.S. § 410(F), if necessary.

(b) A subpoena or Order of the Commissioner, may be obtained in advance of an attempted inspection or investigation if, in the judgment of the Director and the Legal Division, circumstances exist which make such pre-inspection process necessary. Some examples of circumstances in which it may be necessary to seek such an Order in advance of an attempted to inspect or investigate include (but are not limited to):

(1) When the employer's past practice either implicitly or explicitly puts the Oklahoma Department of Labor on notice that an inspection will not be allowed, absent specific Order of the Commissioner;

(2) When an inspection is scheduled far from the local office and procuring a subpoena or other Order of the Commissioner prior to leaving to conduct the inspection would avoid, in case of refusal of entry, the expenditure of significant time and resources to return to the office, obtain an Order, and return to the work site;

(3) When an inspection includes the use of special equipment or when the presence of an expert or experts is needed in order to properly conduct the inspection, and procuring an Order prior to an attempt to inspect would alleviate the difficulties or costs encountered in coordinating the availability of such equipment or expert.

(c) For purposes of this section, the term "Order of the Commissioner" shall mean the institution of any appropriate action, including subpoena or "ex parte" application for an Emergency Order or its equivalent.

(d) Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action, citation, or penalty under the Act. PEOSH Inspectors are not authorized to grant any such waiver.

380:40-1-10. Advance notice of inspections

(a) Advance notice of inspections may not be given, except in the following situations:
   (1) In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible:
   (2) in circumstances where the inspection can most effectively be conducted after regular business hours where special preparations are necessary for an inspection;
   (3) where necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and
   (4) in other circumstances where the Director determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

(b) In the situations described in paragraph (a) of this section, advance notice of inspections may be given only if authorized by the Director, except that in cases of apparent imminent danger, advance notice may be given by the PEOSH Inspector without such authorization if the Director is not immediately available. When advance notice is given, it shall be the employer's responsibility promptly to notify the authorized representative of employees of the inspection, if the identity of such representative is known to the employer. Upon the request of the employer, the PEOSH Inspector will inform the authorized representative of employees of the inspection, provided that the employer furnishes the PEOSH Inspector with the identity of such representative and with such other information as is necessary to enable him promptly to inform such representative of the inspection. An employer who fails to comply with obligations under this paragraph promptly to inform the authorized representative of employees of the inspection or to furnish such information as is necessary to enable the PEOSH Inspector promptly to inform such representative of the inspection, may be subject to citation pursuant to the provisions of 40 O.S. § 410 (D).

380:40-1-11. Conduct of inspections

(a) Inspections shall take place at such times and in such places of employment as the Director or the PEOSH Inspector may direct. At the beginning of an inspection, PEOSH Inspectors shall present their credentials to the owner, operator, or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records they wish to review. However, such designation of records shall not preclude access to additional records as necessary.

(b) PEOSH Inspectors shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, operator, agent or employee of an establishment. As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devises to employees in order to monitor their exposures.

(c) In taking photographs and samples, PEOSH Inspectors shall take reasonable precautions to insure that such actions with flash, spark-producing, or other equipment would not be hazardous. PEOSH Inspectors shall comply with all employer safety and health rules and practices at the establishment being inspected, and they shall wear and use appropriate protective clothing and equipment.

(d) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.

(e) At the conclusion of an inspection, the PEOSH Inspectors shall confer with the employer or representative and informally notify them of any apparent safety or health violations disclosed by the inspection. During such conference, the employer shall be afforded an opportunity to bring to the attention of the PEOSH Inspector any pertinent information regarding conditions in the workplace.

380:40-1-12. Representatives of employers and employees

(a) PEOSH Inspectors shall be in charge of inspections and questioning of persons. A representative of the employer and an authorized employee representative shall be given an opportunity to accompany the PEOSH Inspector during the physical inspection an any workplace for the purpose of aiding such inspection. Different employer and employee representatives may accompany the PEOSH Inspector during each different phase of an inspection provided that it does not interfere with the conduct of the inspection.

(b) The representative(s) authorized by employees shall be an employee(s) of the employer. However, if in the judgment of the PEOSH Inspector, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany them during the inspection.

(c) PEOSH Inspectors are authorized to deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection.

380:40-1-13. Consultation with employees

PEOSH Inspectors may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, employees shall be afforded an opportunity to bring any violation of the Act which they have reason to believe exists in the workplace to the attention of the PEOSH Inspector.

380:40-1-14. Complaints by employees

(a) Any employee or representative of employees who believe that a violation of the Act exists in any workplace where such employee is employed may request an inspection of such workplace by giving notice of the alleged violation to the Oklahoma Department of Labor. Any such notice shall be submitted in writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy shall be provided to the employer or his agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy. Any complaint that is received unsigned or in any other manner, including but not limited to; by telephone, e-mail, or verbally by any other person than that which is listed above, the Oklahoma Department of Labor may determine in what manner it will be addressed. The Oklahoma Department of Labor may determine to conduct an inspection, determine that an inspection is not warranted, or may fax or mail a notification of alleged hazards to the employer.

(b) If upon receipt of such notification, it is determined that the complaint meets the requirements set forth in paragraph (a) of this section, and that there are reasonable grounds to believe that the alleged violation exists, the Director shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists. Inspections under this section shall not be limited to matters referred to in the complaint.

(c) Prior to or during any inspection of a workplace, any employee or representative of employees employed in such workplace may notify the PEOSH Inspector in writing, of any violation of the Act which they have reason to believe exists in such workplace. Any such notice shall comply with the requirements of paragraph (a) of this section.

(d) If it is determined by the Oklahoma Department of Labor that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a compliant, the complaining party shall be notified in writing of such determination. The complaining party may obtain review of such

determination by submitting a written statement of position with the Commissioner and, at the same time, providing the employer with a copy of such statement by certified mail. The employer may submit an opposing written statement of position to the Commissioner and, at the same time, provide the complaining party with a copy of such statement. Upon the request of the complaining party or the employer, the Commissioner, may hold an informal conference in which the complaining party and the employer may orally present their views. After considering all written and oral views presented, the Commissioner shall affirm, modify, or reverse the determination of the Director and furnish the complaining party and the employer a written notification of this decision and the reasons therefore. The decision of the Commissioner shall be final and not subject to further review.

(e) If it is determined that an inspection is not warranted because the requirements of this section have not been met, the complaining party shall be notified in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of subsection (a) above.

(f) If it is determined by the Oklahoma Department of Labor that an inspection is not warranted due to a non-serious issue in the complaint, a notification of alleged hazards may be faxed or mailed to the employer. The employer shall respond to ODOL in writing within 10 working days of receipt of notification of alleged hazards. The employer is required to post the notification of alleged hazards in a prominent place for employees to see, and notice of the posting shall be signed by the employer and returned to the Oklahoma Department of Labor.

380:40-1-15. Imminent danger

Whenever and as soon as a PEOSH Inspector concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by the Act, the affected employees and employers shall be informed of the danger and that a civil action is recommended to restrain such conditions or practices and for other appropriate relief in accordance with the provisions of the Act. Appropriate citations may be issued with respect to an imminent danger when though, after being informed of such danger by the PEOSH Inspector the employer immediately eliminates the imminence of the danger and initiates steps to abate such danger.

380:40-1-16. Citations

(a) Upon determination that the employer has violated a standard, rule or order promulgated pursuant to the Act, or of any substantive rule

published in this chapter, the PEOSH Inspector shall issue to the employer a citation.

(b) An appropriate citation shall be issued even though after being informed of an alleged violation by the PEOSH Inspector, the employer immediately abates, or initiates steps to abate, such alleged violation. No citation may be issued under this section after the expiration of 6 months following the occurrence of any alleged violation except for violations discovered during the course of, or related to, investigations into employee fatalities, or if a delay in issuance of a citation is caused by parties other than the Department of Labor.

(c) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of the Act, standard, rule, or regulation, alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.

(d) No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger.

(e) Violations of the Act shall be classified as follows:

(1) Serious: a condition creating substantial probability that death or serious physical harm could result. The condition is the result of one or more practices, means, methods, operations, or processes that have been adopted or are in use, unless the employer did not, and could not with the exercise of reasonable diligence, know of the condition that is the basis of the violation.

(2) Other than serious: the most serious injury or illness that would be the likely result of the violation cannot reasonably be predicted to cause death or serious physical harm to exposed employees, but does have a direct and immediate relationship to the employees' safety and health.

(3) Willful: a violation in which the employer either knowingly failed to comply with a legal requirement (purposeful disregard) or acted with plain indifference to employee safety.

(4) Repeated: the employer has been cited previously for the same or a substantially similar condition within the past five years.

(5) Regulatory: the violation involves posting requirements or injury and illness recordkeeping requirements.

380:40-1-17. Request for extensions of abatement date(s)

(a) An employer may file a request for extension of abatement date(s) when a good faith effort to comply with the abatement requirements of a citation has been attempted, but such abatement has not been completed because of factors beyond the employers reasonable control.

(b) A request for extension of abatement date(s) shall be in writing and shall include the following information:
   (1) All steps taken by the employer, and the dates of such action, in an effort to achieve compliance during the prescribed abatement period.
   (2) The specific additional abatement time necessary in order to achieve compliance.
   (3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.
   (4) available interim steps are being taken to safeguard the employees against the cited hazard during the abatement period.

(c) A request for extension of abatement date(s) shall be filed with the PEOSH Division of the Oklahoma Department of Labor no later than the close of the next working day following the date on which abatement was originally required. A later filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

380:40-1-18. Failure to correct a violation for which a citation has been issued

(a) If an inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for correction, the employer may be commanded to appear before the Commissioner or her designee for hearing on the citation. The Director shall notify the employer by certified mail of the time and place of such hearing.

(b) At the hearing, the employer will be given an opportunity to show cause why the employer has failed to correct the violation(s), or to show that the citation was invalid, or that the alleged violation(s) do not in fact exist.

380:40-1-19. Abatement verification

(a) **Abatement certification.**
   (1) Within ten (10) calendar days after the abatement date, the employer must certify to the Oklahoma Department of Labor-PEOSH Division that each cited violation has been abated.
   (2) The employer's certification that abatement is complete must include, for each cited violation, the date and method of abatement.

(b) **Abatement documentation.**

(1) The Oklahoma Department of Labor may require along with the information on abatement certification, additional documentation demonstrating that abatement is complete.
(2) Additional documentation may include, but is not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records.

(c) **Abatement plans.**
(1) The Oklahoma Department of Labor may require an employer to submit an abatement plan for each cited violation when the time permitted for abatement is more than ninety (90) calendar days. If an abatement plan is required, the citation must so indicate.
(2) The employer must submit an abatement plan for each cited violation within twenty-five (25) calendar days from the final date when the citation indicates that such a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, where necessary, how employees will be protected from exposure to be the condition in the interim until abatement is complete.

(d) **Progress reports.**
(1) An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:
(A) That periodic progress reports are required and the citation items for which they are required;
(B) The date on which an initial progress report must be submitted, which may be no sooner than thirty (30) calendar days after submission of an abatement plan;
(C) Whether additional progress reports are required; and
(2) The date(s) on which additional progress reports must be submitted.

(e) **Transmitting abatement documents.**
(1) The employer must include, in each submission required by this section, the following information:
(A) The employer's name and address;
(B) The citation and item numbers to which the submission relates;
(C) A statement that the information submitted is accurate; and
(D) The signature of the employer or the employer's authorized representative.
(2) The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the

date the Agency receives the document is the date of submission.

380:40-1-20. Consultation procedures for public sector

(a) Experiences with OSHA consultation in the private sector have shown that employers who make a management commitment to safety and health and involve employees in the development and implementation of a safety and health program show far greater results toward the long term reduction of accidents, injuries and illnesses in the workplace. The Oklahoma Department of Labor recognizes that voluntary compliance and a pro-active approach to safety and health with emphasis on a holistic safety and health program is more effective than traditional enforcement methods. Therefore, it is the intent of the PEOSH Division to not only enforce safety standards and regulations, but to assist public employers with voluntarily implementing effective safety and health programs.

(b) PEOSH Inspectors, at the request of the employer, may conduct on-site consultation visits for the purposes of providing information, literature and guidance to the employer on requirement or safety and health standards, implementation of safety and health program elements, record keeping assistance and written program requirements. However, if during a consultation visit, a PEOSH Inspector identifies violation(s) of the referenced federal standards, national consensus standards, or state law, a citation shall be issued in accordance with section 380:40-1-16.

380:40-1-21. Authority over volunteers

Volunteer fire departments that exist as a subdivision of a larger municipal organization are within Oklahoma Department of Labor jurisdiction if that larger municipal organization employs one or more paid workers. In such cases, the inspection and enforcement jurisdiction of ODOL extends to all duties performed by any worker or volunteer on behalf of the Volunteer Fire Department. For purposes of this Chapter, "fire department" means any duly constituted fire department operating under the authority of Title 11 fire departments or Title 19 fire protection districts meeting the definition of employer. Industrial fire brigades are excluded from this definition. However, fire departments and industrial fire brigades are covered by regulations of other agencies. For purposes of injury and illness recordkeeping and the Public Sector Survey, injuries occurring to those employees who are classified as volunteers are not recordable and are not included in the survey.

380:40-1-22. Safety programs

(a) Definitions

(1) "Safety training" means instruction in safety and/or health and includes, but is not limited to videos, audio tapes, books, brochures, handouts, slides, classroom instruction or lectures, and in-service training such as tailgate sessions.
(2) "Safety coordinator" means an employee who has been designated by an employer to coordinate all safety programs of the employer.
(3) "Safety programs" means those employer activities that:
  (A) Implement management, leadership, and employee involvement;
  (B) Implement procedures for identifying and controlling workplace hazards;
  (C) Develop and communicate safety plans, rules and work procedures; and
  (D) Conduct or provide for training for all employees in safe and healthful work practices.
(4) "Type or class of employee" means the occupation, activity, standard industry designation or other characteristic of employees that has a bearing on the nature or extent of workplace hazards to which they are or may be exposed.

(b) The safety coordinator shall be designated by letter, memorandum, job description or other notice. Duties must include responsibility for the four key elements of a safety program described in 380:40-1-22(3). Employers may designate more than one employee to assist by fulfilling specific functions, but the safety coordinator must have ultimate responsibility for implementing the safety programs. Additionally, this employee may be assigned other job duties deemed necessary by the employer which are not related to being the safety coordinator.

(c) Written safety programs shall be developed which are appropriate to the worksite(s) and the nature of hazards encountered by the employees and which meet requirements of the standards adopted in 380:40. This includes all required program reviews and documentation required by these standards.

(d) Appropriate safety training shall be provided to all employees, including management, no less than quarterly. Documentation of training shall include, but not be limited to, date(s), location, course information, course provider/trainer and a list of employees in attendance. Any additional information required by any specific standard shall also be included. Provisions must be made to arrange for make-up sessions for those employees who were not able to attend the scheduled training.

380:40-1-23. Safety Pays OSHA Consultation Services-Private Sector

(a) **Purpose.** Pursuant to 40 O.S. § 414 et seq., the Occupational Safety and Health Consultation Program for private employers is designed to provide comprehensive safety and health services to Oklahoma employers in accordance with Title 29 of the U.S. Code of Federal Regulations, Part 1908, Consultation Agreements, the current U.S. DOL, OSHA Consultation Policies and Procedures Manual ("CPPM"), and in compliance with Section (6) of Public Law 91-596, also known as the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C.A. § 655), and the Consultation and Cooperative Agreements pursuant to Section 21(d) of 29 U.S.C. § 656. This Consultation Program is independent of federal enforcement, and the services are provided at no cost to the employer. The program services are supported by Federal and State Funds. ODOL is able to provide this consultation service in accordance with 29 CFR 1908 through the Cooperative Agreement to further the goal of preventing the occurrence of injuries and illnesses which may result from exposure to hazardous workplace conditions and from hazardous work practices. Private employers who qualify and successfully complete the Safety Pays OSHA Consultation Services may be eligible for a tax exemption of One Thousand Dollars ($1,000.00) for the tax year in which the program is successfully completed.

(b) **Program Eligibility.** An employer must meet the employer eligibility criteria pursuant to the CPPM in order to qualify for certain recognition and incentive programs in connection with the consultation services. These programs are geared for small businesses, in high-hazard industries. Due to frequent Federal updates and revisions, it is best to contact ODOL OSHA Consultation Division to verify the most up-to-date specific eligibility requirements.

(c) **On-Site Consultation Services.** Consultation visits will be performed in accordance with 29 CFR 1908 and the current US DOL Consultation Policies and Procedures Manual. Onsite consultation visits will be performed based on the scope of the employers request for services. The employer may limit, expand the scope of, or terminate the visit at anytime. The visit shall be followed by a written report to the employer with evaluations and recommendations to improve the health and safety of the employees. A follow-up consultation visit may be required in some cases, depending on the identified hazard and/or the particular recognition and incentive program being followed. The on-site consultation visits have a structured format which include:

(1) an opening conference;
(2) a survey of the physical workplace;
(3) safety and health program assessment;

(4) an employee exposure monitoring as necessary; and
(5) a closing conference.

(d) **Confidentiality.** Information obtained as a result of a consultation visit shall be confidential. The identity of employers requesting onsite consultation, as well as the file of the consultant's visit shall not be provided to anyone except the employer for whom it was prepared, and the limited exceptions listed in 29 CFR 1908.7.

(e) **Recognition and Incentive Programs.** By participating and successfully completing the requirements of the applicable recognition and/or incentive program, employers may be eligible to qualify for the following beneficial programs:

(1) **SHARP.** ODOL administers the Safety and Health Achievement Recognition Program ("SHARP") in accordance with the 21(d) Consultation Cooperative Agreement, as stated in the OSHA Act, and as outlined in the current CPPM. Employers who meet the eligibility criteria and on-going program requirements may be removed from Federal OSHA's Programmed Inspection Schedule for a period of not less than one year.

(2) **WCPR.** ODOL administers the state sponsored Worker's Compensation Premium Reduction Program ("WCPR") pursuant to the provisions of Title 40 O.S. § 414(H) and Title 36 O.S. § 924.2. For further explanation of WCPR and the specific eligibility requirements, see 80:41.

(f) **Tax Exemption.** Title 68 O.S. § 2358 provides for an exemption from taxable income in the amount of One Thousand Dollars ($1,000.00) for the tax year in which eligible employers successfully complete the Safety Pays OSHA Consultation Services provided by ODOL. Oklahoma employers meeting the eligibility requirements for consultation services prescribed by the current CPPM, that request and successfully complete a full-service consultation visit (safety, health, or both) and meet the conditions of the opening conference agreement may be eligible for the $1,000.00 tax exemption for the physical location covered by the request for consultation services. The tax exemption will be awarded for the year the full-service consultation service was successfully completed. Upon this successful completion a letter will be provided from the ODOL Consultation Division to the employer confirming this successful completion. This letter will serve as the official notification that the employer has met the requirements for the full-service consultation service and is eligible for the tax exemption through the Oklahoma Tax Commission.

(g) **Promoting and Managing Consultation Services.** Pursuant to 29 CFR 1908.5(a) ODOL shall be responsible for encouraging employers to request consultative assistance and shall publicize the availability of its consultation service and the scope of the services available. The

agency will promote the availability of consultation services to employers through a variety of methods and techniques, including broad-based media campaigns. Outreach activities will be designed to recognize and target unique circumstances relevant to Oklahoma and reach those employers who will benefit most from the consultation service. Outreach methods may include, but are not limited to the following:

(1) Speeches or presentations;
(2) Direct solicitation of employers;
(3) Public presentations (trade shows, association meetings, etc.);
(4) Television and Radio talk shows;
(5) Cooperative training seminars;
(6) Roundtable discussions;
(7) Safety and health conferences and conventions;
(8) Participation in association meetings;
(9) Publications;
(10) Websites.

380:40-1-24. Fines

(a) In addition to citations issued under OAC 380:40-1-16, the Commissioner of Labor, or his or her designee, may issue an administrative fine for any and all violations of the Oklahoma Occupational Health and Safety Standards Act. All monies collected for violations of the Oklahoma Occupational Health and Safety Standards Act shall be deposited to the Department of Labor Administrative Penalty Revolving Fund for transfer to the General Revenue Fund. The following schedule of fines shall apply on a per-violation, per-day basis:

(1) Serious: up to $1,000.00
(2) Other than serious: up to $500.00
(3) Willful: up to $5,000.00
(4) Repeated: up to $5,000.00
(5) Regulatory: up to $500.00

(b) Payment for the fines set forth in subsection (a) of this section shall be due within thirty (30) days of issuance of a citation by the Commissioner or designee. Any person wishing to contest any of the aforementioned fines shall, within thirty (30) days of issuance of the fine or fines, petition the Commissioner or designee, in writing, for an administrative hearing. If requested, the hearing shall then be scheduled by the Commissioner or designee as provided in the Administrative Procedures Act.

(c) Employers who voluntarily request an onsite inspection shall not be subject to monetary penalties for hazards identified during the course

of the voluntary inspection, provided that such hazards are corrected within the timeframes established during the consultation visit.

(d) Funds collected as payment from a violator for administrative fines imposed for violation of the Oklahoma Occupational Health and Safety Standards Act shall not be retained by the Department of Labor, but shall be deposited to the Department of Labor Administrative Penalty Revolving Fund for transfer to the General Revenue Fund.