

TITLE 380. DEPARTMENT OF LABOR
CHAPTER 40. OKLAHOMA OCCUPATIONAL HEALTH AND SAFETY STANDARDS
ACT RULES

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 ~~deleted and the Hazard Communication Standard adopted in the Oklahoma Department of Labor Rules shall apply.~~ 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.

380:40-1-7. Posting of notice

(a) Each employer shall post and keep posted a notice or notices, to be furnished by the PEOSH Unit 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 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 ~~14~~ 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 ~~36~~ 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 employ with the provisions of this section shall be subject to citation in accordance with the provisions of 40 O.S. § 410(D).

380:40-1-20. 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 unit 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 article XXIX fire departments or Title 19 Chapter 21 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.

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 a ~~full-service consultation~~ 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.** Pursuant to the enactment of Senate Bill 1X on June 6, 2005, this section and subsection provide 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.