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, experience modification rates, worker's compensation premiums and claims information 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.

380:40-1-16. 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.
(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.

380:40-1-21. 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. 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.

380:40-1-24. Fines (NEW)

(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:

<table>
<thead>
<tr>
<th>Violation Type</th>
<th>Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Other than serious</td>
<td>$500.00</td>
</tr>
<tr>
<td>Willful</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>
(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.