

With Oregon OSHA's Final Rules Coming, Time to Check in on Your Safety Committee!

By Nicole Elgin

Oregon's Occupational Safety and Health Administration (OSHA) is expected to release new final rules regarding COVID-19 workplace requirements any day now. Those rules are extensive and while similar to the temporary rules it issued late in 2020, there are many key differences. The temporary rules are set to expire in early May and OSHA has stated that it expects to announce the final rules before the temporary ones expire. Because the final rules are not yet published, employers should prepare for, but cannot necessarily plan for every requirement.

In the meantime, we recommend employers take this opportunity to check in on whether their safety committees or meetings comply with Oregon's requirements. Oregon's rules on safety meetings and committees existed well before the pandemic, however this past year has highlighted that many employers do not currently have committees or meetings in place despite these long-standing requirements. Just this month, OSHA fined an Oregon business over \$35,000 for various safety violations, including failure to have a safety committee.

Safety Committee versus Safety Meetings

The first question Oregon employers must answer is whether the law requires an employer to have a safety committee or whether safety meetings will suffice. First, if your business has 10 or fewer employees, you can have a safety committee or safety meetings. For small businesses, safety meetings can save time and be more efficient than a safety committee.

If your business has more than 10 employees, you may be required to have a safety committee. If more than half of your employees report to construction sites, you can have a safety committee or safety meetings. You can also have a committee or meetings if more than half of your employees travel frequently between jobs away from your location or more than half your employees work in an office location.

However, if none of those scenarios apply to your business, you are likely required to have a safety committee. This is most common in retail and manufacturing businesses. Additionally, if your business operates in more than one location, you can have a safety committee or meeting in any location that has 10 or fewer employees. Alternatively, if your business is required to have a safety committee, you might opt to have a centralized safety committee to cover all locations. There are additional requirements for a safety committee to qualify as a centralized safety committee.

Safety Meeting Requirements

Even though the requirements for safety meetings are not as rigorous as those for safety committees, they are still substantial. First, all available employees must attend safety meetings and at least one

person present must have management authority to ensure that hazards discussed are corrected. The meetings must be held on company time and employees paid their regular rate of pay.

For construction employees, the meetings must occur at least monthly and before the start of each job that lasts more than one week. If employees do mostly office work, the meetings must be held at least quarterly. If your employees do not fall into those two groups, then the meetings must be held at least monthly. Each meeting must discuss employees' concerns about workplace safety or health conditions and accident investigations, causes, and suggested corrective measures.

If employees perform construction, utility work, or manufacturing, the company must keep minutes of all safety meetings for three years. Minutes must include the meeting date, attendees' names, safety and health issues discussed, including hazards involving tools, the work environment, and work practices. Employers can view sample templates on Oregon OSHA's website.

Other employers are technically not required to keep minutes of the meetings unless any employee is absent. Despite this rule, we recommend that even if an employer is not required to keep minutes, that the employer retain detailed notes about what was discussed in the meeting, when the meeting was held, and who attended.

At multi-employer worksites, if the company's employees all attend the prime contractor's safety meetings, the company does not have to hold separate safety meetings for its employees. However, make sure to keep the minutes from the prime contractor's safety meetings for three years as a part of your records and make sure you still meet with your employees to discuss any accidents.

Safety Committee Requirements

If your business is required to have a safety committee, it is best to review OSHA's detailed requirements for what all is required of the committee as they are too long to cover in just this article. Remember that the committee must have an equal number of employer-selected members and employee-elected members. If your company has 20 or fewer employees, the committee must have at least 2 members. If the company is more than 20 employees, the committee needs at least 4 members. The committee members each serve a minimum of one year on the committee, agree to a chairperson, and are compensated for their time. They also must be trained in accident and incident investigation principles and hazard identification.

If these rules feel extensive, you're not alone! Many businesses can take this opportunity to check in on whether their safety meetings or committees are consistent with Oregon's requirements and to help avoid a potential fine from OSHA.

For questions on compliance with these rules or other labor and employment matters, contact Barran Liebman attorney Nicole Elgin at nelgin@barran.com.