

Proposed Division 1 Rule Changes — Penalty Adjustment Calculations

FOR THIS TYPE OF ADJUSTMENT	OREGON OSHA WILL CONSIDER	BASE PENALTY ADJUSTED AS FOLLOWS
<p>Good Faith Effort <i>(Applies only to all first instance violations)</i></p>	<ul style="list-style-type: none"> ● Existence of an overall safety and health program is evident. ● Safety and health policies are effectively communicated to employees. ● Efforts put forth prior to an inspection to promote safety and health in the workplace. ● Demonstrations of employee involvement in the safety and health program are apparent. ● Management’s commitment and level of involvement to safety and health is apparent. ● Analysis of worksite hazards conducted. 	<ul style="list-style-type: none"> ● Good: -20% reduction ● Average: no adjustment ● Poor: +20% increase
<p>Size <i>(Applies only to all first instance violations)</i></p>	<ul style="list-style-type: none"> ● 1-10 employees ● 11-25 ● 26-90 ● 91-130 ● 131-175 ● 176-250 ● 251 or more 	<ul style="list-style-type: none"> ● -75% reduction ● -60% reduction ● -40% reduction ● -30% reduction ● -20% reduction ● -10% reduction ● No size reduction
<p>History <i>(Applies only to all first instance violations)</i></p>	<ul style="list-style-type: none"> ● Trends in injuries and illnesses (types of WC claims) or enforcement history (previous 3 years). ● Injury and illness DART rate for company. (Below state-wide average) ● Mod or EMR rate is around 1. (A typical EMR is between 0.9 and 1.0) 	<ul style="list-style-type: none"> ● -10% reduction for positive history ● 0% for average history ● +10% increase for negative history
<p>Immediate Correction <i>(Applies only to all first instance violations)</i></p>	<ul style="list-style-type: none"> ● Immediate corrections (abatement) of violations or other unsafe conditions identified during the inspection provided that such corrective action is permanent and substantial and not temporary or superficial. 	<ul style="list-style-type: none"> ● -10% reduction

Violations and Penalties

PROPOSED DIVISION 1 - FIRST INSTANCE SERIOUS PENALTY TABLE						
<i>To be used to calculate penalty adjustments</i>						
Adjustment	Penalty in dollars					
30%	\$4,352	\$8,705	\$11,608	\$14,511	\$17,412	\$15,625**
20%	\$4,018	\$8,035	\$10,715	\$13,394	\$16,073	\$15,625**
10%	\$3,683	\$7,366	\$9,822	\$12,278	\$14,733	\$15,625**
Penalty	\$3,348	\$6,696	\$8,929	\$11,162	\$13,394	\$15,625
-10%	\$3,013	\$6,026	\$8,036	\$10,046	\$12,055	\$14,063
-20%	\$2,678	\$5,357	\$7,143	\$8,930	\$10,715	\$12,500
-30%	\$2,344	\$4,687	\$6,250	\$7,813	\$9,376	\$10,938
-40%	\$2,009	\$4,018	\$5,357	\$6,697	\$8,036	\$9,375
-50%	\$1,674	\$3,348	\$4,465	\$5,581	\$6,697	\$7,813
-60%	\$1,339	\$2,678	\$3,572	\$4,465	\$5,358	\$6,250
-70%	\$1,116*	\$2,009	\$2,679	\$3,349	\$4,018	\$4,688
-75%	\$1,116*	\$1,674	\$2,232	\$2,791	\$3,349	\$3,906
-80%	\$1,116*	\$1,339	\$1,786	\$2,232	\$2,679	\$3,125
-85%	\$1,116*	\$1,116*	\$1,339	\$1,674	\$2,009	\$2,344
-90%	\$1,116*	\$1,116*	\$1,116*	\$1,116*	\$1,339	\$1,563
-95%	\$1,116*	\$1,116*	\$1,116*	\$1,116*	\$1,116*	\$1,116*

* The minimum adjusted penalty for a serious-rated violation is \$1,116.

** The maximum adjusted penalty amount for a serious-rated violation is \$15,625

PROPOSED DIVISION 1 - FIRST INSTANCE PENALTY TABLE		
Other than serious-rated violation		
Probability	Severity	
	Other than serious	
Low	\$0	
High	\$300	
Serious-rated violation		
Probability	Severity	
	Serious Physical Harm	Death
Low	\$3,348	\$11,162
Medium	\$6,696	\$13,394
High	\$8,929	\$15,625

PROPOSED DIVISION 1 - EMPLOYER SIZE ADJUSTMENT TABLE	
Number of employees	Adjustment reduction
1-10	-75%
11-25	-60%
26-90	-40%
91-130	-30%
131-175	-20%
176-250	-10%
251 or more	No Size Adjustment

Proposed Division 1 - Size adjustments are based on state-wide peak employment and only apply to first instance violations.



Oregon OSHA proposed changes to its penalty rules in response to SB 592 on 8/31/23, this sheet summarizes the proposed changes.

For more information on the rulemaking, please visit: osha.oregon.gov/rules/making/Pages/proposed.aspx

Public comment is open through 11/3/23 at 5 pm, submit comments to OSHA.rulemaking@dcbs.oregon.gov

PROPOSED DIVISION 1 - REPEAT TABLE		
Repeat occurrence	Other than serious	Serious
1 st repeat	\$11,162	x 4
2 nd repeat	\$11,162	x 6
3 rd repeat	\$11,162	x 8
Additional repeats	Discretion of Administrator	

Minimum Repeat Penalty of \$11,162
Maximum Penalty of \$156,259

PROPOSED DIVISION 1 - REPEAT TABLE 50 OR FEWER EMPLOYEES								
Other than serious-rated violation		Serious-rated violation						
Probability	Severity	Probability	Severity			Death		
	Other than serious		Serious Physical Harm			Death		
			First	Second	Third	First	Second	Third
All	\$11,162	Low	\$11,162*	\$13,088	\$19,784	\$37,648	\$59,972	\$82,296
		Medium	\$19,784	\$33,176	\$46,568	\$46,576	\$73,364	\$100,152
		High	\$28,716	\$46,574	\$64,432	\$55,500	\$86,750	\$118,000

PROPOSED DIVISION 1 - REPEAT TABLE 51 OR GREATER EMPLOYEES								
Other than serious-rated violation		Serious-rated violation						
Probability	Severity	Probability	Severity			Death		
	Other than serious		Serious Physical Harm			Death		
			First	Second	Third	First	Second	Third
All	\$11,162	Low	\$13,392	\$20,088	\$26,784	\$44,648	\$66,972	\$89,296
		Medium	\$26,784	\$40,176	\$53,568	\$53,576	\$80,364	\$107,152
		High	\$35,716	\$53,574	\$71,432	\$62,500	\$93,750	\$125,000

*The minimum adjusted penalty for a repeat violation is \$11,162.

PROPOSED DIVISION 1 - REPEAT THAT CAUSED OR CONTRIBUTED TO A WORK RELATED FATALITY		
Other than serious-rated violation		
All	\$50,000	
Serious-rated violation		
Probability	Severity	
	Serious Physical Harm	Death
Low	\$55,000	\$160,000
Medium	\$85,000	\$185,000
High	\$115,000	\$235,000



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PROPOSED DIVISION 1 - WILLFUL TABLE		
Other than serious-rated violation		
First	\$11,162	
Additional repeats	Discretion of Administrator	
Serious-rated violation		
Probability	Severity	
	Serious Physical Harm	Death
Low	\$25,000	\$75,000
Medium	\$35,000	\$100,000
High	\$50,000	\$130,000

Minimum Willful Penalty of \$11,162

PROPOSED DIVISION 1 - WILLFUL THAT CAUSED OR CONTRIBUTED TO A WORK RELATED FATALITY		
Other than serious-rated violation		
All	\$50,000	
Serious-rated violation		
Probability	Severity	
	Serious Physical Harm	Death
Low	\$65,000	\$170,000
Medium	\$95,000	\$195,000
High	\$125,000	\$245,000

PROPOSED DIVISION 1 - SERIOUS THAT CAUSED OR CONTRIBUTED TO A WORK RELATED FATALITY		
Probability	Severity	
	Serious Physical Harm	Death
Low	\$20,000	\$30,000
Medium	\$23,000	\$37,000
High	\$26,000	\$43,000

For complete proposal rule requirements, see OAR 437-001-0135 through 437-001-0203.