

How does Oregon OSHA determine penalties for violations?



Oregon OSHA issues penalties for violations of its safety and health rules, which protect workers from hazards. The penalty amount depends on the type of violation.

Civil penalties are required to be updated annually based on the Consumer Price Index, West region.

Let's look at what accounts for the difference between the minimum and maximum penalty and how Oregon OSHA compliance officers determine the amount for a violation.

Types of violations

Violations are issued for workplace hazards, but before compliance officers can issue a violation, they must identify and document the hazards that employees are exposed to and those that could cause an injury or an illness. The five types are:

1. Other-than-serious
2. Serious physical harm or death
3. Repeat
4. Willful
5. Caused or contributed to a work-related fatality
 - Serious physical harm or death
 - Repeat
 - Willful

Other-than-serious violations

Other-than-serious violations are issued for hazards that would not typically result in serious physical harm. They could include injuries such as minor cuts and bruises, or violations of Oregon OSHA's recordkeeping rules.



Serious physical harm or death violations

Serious physical harm violations are issued for hazards that could result in serious physical harm or death. Serious physical harm includes injuries and illnesses that significantly reduce a worker's "physical or mental efficiency by inhibiting, either temporarily or permanently, the normal function of a body part." Essentially, it is an injury or illness that could result in a person losing time from work, or working a modified schedule that allows the person to heal. Death-rated violations are used when the typical result of the hazard would be the death of an employee. Examples:

- **Serious-rated injuries:** severe lacerations, contusions, burns, frostbite, concussions, fractures, and amputations
- **Serious-rated illnesses:** chemically induced pneumonia, pulmonary edema, chronic bronchitis, hearing loss, and dermatitis
- **Death-rated injuries:** fall from heights, electrocution, asphyxiation, and drowning
- **Death-rated illnesses:** silicosis, asbestosis, and lung cancer

Repeat violations

A repeat violation is issued after an employer is cited for a second violation that is "substantially similar" to the first violation within the previous three years; the circumstances concerning each violation determine if they are substantially similar.

Example: An employer receives a violation in 2022 for not providing construction workers, who are exposed to falls from a roof, with proper fall protection. In 2023, the same employer receives another violation for not protecting workers who are exposed to falls from a roof. Employers can be cited for multiple repeat violations.

Willful violations

A willful violation is a violation knowingly committed by an employer or supervisor. One example is an employer who refuses to provide construction workers, who are exposed to falls, with proper fall protection.

Caused or contributed to a work-related fatality violations

These violations are issued when an Oregon OSHA fatality investigation determines that a violation of an Oregon OSHA rule was a factor that caused or contributed to the death of an employee. The compliance officer will use their professional discretion to determine if the violation caused or contributed to the work-related fatality. Each caused or contributed to a work-related fatality violation can be "serious," "repeat," or "willful."

Determining penalties for violation types

Penalties for "first-instance" violations – other-than-serious and serious physical harm or death

A first-instance violation is an other-than-serious or serious physical harm or death violation that an employer receives for the first time. Two factors that compliance officers use to determine penalties for first-instance violations are the severity of a potential injury or illness and the probability that it could happen. (Some penalties are not affected by severity and probability; [see the complete list.](#))

- Penalties for first-instance other-than-serious-rated violations start with a penalty, based on the probability of the potential injury or illness as "low" or "high."
- Penalties for most first-instance serious physical harm or death violations also start with an initial penalty, which is then adjusted depending on

whether the probability of the potential injury or illness is “low,” “medium,” or “high” and whether the severity of the potential injury or illness is serious physical harm or death.

Compliance officers determine a probability rating of low, medium, or high for each violation, based on:

- The number of employees potentially exposed
- The frequency and duration of exposure
- The proximity of the employees to the point of danger
- Factors that require work under stress
- Lack of proper training and supervision, or improper workplace design
- Any other factors that may significantly affect the probability of an accident occurring

After determining a penalty based on the probability and severity of a potential injury or illness, compliance officers must also consider adjustments to the penalty based on:

- The employer’s “good faith” – evidence of the employer’s effort to provide a safe and healthful workplace
- The employer’s total number of employees statewide
- The employer’s injury and illness reporting during the past three years
- Whether the employer immediately corrects the violation during an inspection

Compliance officers must determine the amount of each adjustment, then apply the total adjustment to determine the final penalty.

Penalties for repeat violations

Penalties can be issued for repeat other than serious violations and repeat serious physical harm or death violations. Penalty amounts are determined by the probability and severity of a potential injury or illness and the employer’s number of employees. Employers with 50 or fewer employees statewide are eligible for a penalty reduction for employer size. No other penalty adjustments are available for repeat violations.

Penalties for willful violations

Penalties can be issued for willful other than serious violations and willful serious physical harm or death violations. Penalty amounts for willful serious physical harm or death violations are determined only by the probability and severity of a potential injury or illness. There are no other penalty adjustments for these violations.

Penalties for caused or contributed to a work-related fatality violations

Civil penalties are issued when the Oregon OSHA compliance officer, using their professional judgment, determines the violation caused or contributed to a work-related death of an employee. The probability and severity of the violation determine the civil penalty. Because such a violation can be “serious,” “repeat,” or “willful,” these considerations also affect the final civil penalty amount.

Oregon OSHA's penalties are adjusted annually

Oregon OSHA must adjust its penalties for violations every year based on changes in the Consumer Price Index. Oregon OSHA will publish the [Annual Adjustments to Penalties Bulletin](#), which shows the adjustments for all penalty types. These adjustments are based on the percentage change in the Consumer Price Index for All Urban Consumers, West Region (West Region CPI-U) between October of the preceding year and October of the current year. The adjustments take effect on January 1 each year.



Visit Oregon OSHA

Workers

Your employer cannot retaliate against you for reporting a workplace health or safety concern or violation. For more information about your rights, visit the Oregon OSHA website.

More information

- ✦ [Violations and penalties adjustments summary](#) – includes tables Oregon OSHA compliance officers use to adjust base penalties.
- ✦ [Consumer Price Index - West Region](#)
- ✦ [Understanding Oregon OSHA's "programmed inspections for cause"](#) – outlines the conditions that trigger a programmed inspection for cause.
- ✦ [Oregon OSHA rule obligations database](#) – Search and filter the rules by categories: Program-related, Recordkeeping, Training, Written-document, Manufacturer, Competent person, and Qualified person.
- ✦ [Education and training classes](#) – These provide information on occupational safety and health requirements in Oregon, and are free.

