

Violations and Penalties

437-001-0135 Evaluation of Probability to Establish Penalties

- (1) The probability of an accident that could result in an injury or illness from a violation will be determined by the Compliance Officer and will be expressed as a probability rating.
- (2) The factors to be considered in determining a probability rating may include, as applicable:
 - (a) The number of employees exposed;
 - (b) The frequency and duration of exposure;
 - (c) The proximity of employees to the point of danger;
 - (d) Factors that require work under stress;
 - (e) Lack of proper training and supervision or improper workplace design; or
 - (f) Other factors that may significantly affect the probability of an accident occurring.
- (3) The probability rating is:
 - (a) Low – If the factors considered indicate that the likelihood an accident could occur is lower than typical;
 - (b) Medium – If the factors considered indicate that the likelihood an accident could occur is typical; or
 - (c) High – If the factors considered indicate that the likelihood an accident could occur is higher than typical.
- (4) The probability rating may be adjusted on the basis of any other relevant facts which would affect the likelihood of injury or illness.

Statutory/Other Authority: ORS 654.025(2) , 654.035 and 656.726(4).

Statutes/Other Implemented: ORS 654.001 to 654.295.

History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74.

WCB Admin. Order, Safety 8-1975, filed 8-5-75, effective 9-1-75.

WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.

WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.

APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

OSHA 8-2017, filed 12/22/17, effective 1/1/18.

OSHA 13-2021, filed 11/1/21, effective 12/1/21.

437-001-0140 Evaluation of Severity to Establish Penalties

- (1) A severity rating for each violation shall be determined by the Compliance Officer on the basis of the degree of injury or illness that is reasonably predictable. If more than one injury or illness is reasonably predictable, the Compliance Officer will determine the severity based upon the most severe injury or illness. Severity ratings will be selected from the following schedule:
 - (a) Other Than Serious – Conditions that could cause injury or illness to employees but would not include serious physical harm;
 - (b) Serious Physical Harm; or
 - (c) Death.
- (2) The severity rating may be adjusted on the basis of any other relevant facts that would affect the severity of the possible injury or illness.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).

Statutes/Other Implemented: ORS 654.001 to 654.295.

History: WCB Admin. Order, Safety 8-1975, filed 8-5-75, effective 9-1-75.

WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.

WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.

APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

OSHA 7-1992, filed 7/31/92, effective 10/1/92.

OSHA 8-2017, filed 12/22/17, effective 1/1/18.

437-001-0142 Annual Adjustment of Civil Penalties

For current civil penalty amounts, see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

- (1) Each year, the director will be responsible for publishing notice of Oregon OSHA's Annual Adjustments to Penalties Bulletin in the Oregon Bulletin or its successor. This bulletin will also be made available on the Division's website at <https://osha.oregon.gov/pages/topics/violations-and-penalties>, or its successor. This bulletin will notify the regulated community of annual adjustment in civil penalty amounts required by ORS 654.086(4) to account for the percentage change, if any, in the Consumer Price Index for All Urban Consumers, West Region, All Items (West Region CPI-U), from October to October of each year as published by the Bureau of Labor Statistics (BLS) of the United States Department of Labor or its successor. The annual adjustments will be effective January 1st of each calendar year.
- (2) Annual adjustments must be applied to the following civil penalties:

- (a) Other than serious-rated violation - maximum civil penalty amounts in OAR 437-001-0145(2)(a) and civil penalty amounts in Table 2 in OAR 437-001-0145(2)(g).
 - (b) Serious Physical Harm or Death-rated violation – minimum and maximum civil penalty amounts in OAR 437-001-0145(2)(b) and civil penalty amounts in Table 2 in OAR 437-001-0145(2)(g).
 - (c) Repeat Violation - minimum and maximum civil penalty amounts in OAR 437-001-0145(2)(c) and civil penalty amounts in Table 2 in OAR 437-001-0145(2)(c).
 - (d) Willful Violations - minimum and maximum civil penalty amounts in OAR 437-001-0145(2)(d) and civil penalty amounts in Table 1 in OAR 437-001-0175(1).
 - (e) Violations that caused or contributed to a work-related fatality - minimum and maximum civil penalty amounts in OAR 437-001-0145(2)(e) and civil penalty amounts in Table 3 in OAR 437-001-0145(3).
 - (f) Willful and repeat violations that caused or contributed to a work-related fatality - minimum and maximum civil penalty amounts in OAR 437-001-0145(2)(f) and civil penalty amounts in Table 2 in OAR 437-001-0165(2)(a) and Table 2 in OAR 437-001-0175(3).
- (3) An annual adjustment must be applied to the penalty reduction in OAR 437-001-0150(2)(b).
- (4) The civil penalty amounts adjusted under this rule will not be lower than the minimum or greater than the maximum that may be assessed under OAR 654.086 as a result of any reductions or multipliers applied. See Appendix A to OAR 437-001-0142 – Example of Oregon OSHA’s Annual Adjustments to Penalties Bulletin.

Note: Appendix A is an example of information that will be included in Oregon OSHA’s Annual Adjustments to Penalties Bulletin.

Appendix A Example of Oregon OSHA’s Annual Adjustments to Penalties Bulletin

Bulletin Number:
Published:
Effective:

**Oregon OSHA’s Annual Adjustments to Penalties Bulletin
 ORS 654.086(3), OAR 437-001-0142**

To: All Interested Parties

Summary: This bulletin supersedes the civil penalties adopted by Administrative Order 3-2023.

As provided for in ORS 654.086(3), Oregon OSHA shall adjust the amount of civil penalties to account for the percentage increase or decrease, if any, in the Consumer Price Index for All Urban Consumers, West Region, All Items (West Region CPI-U), as published by the Bureau of Labor Statistics (BLS) of the United States Department of Labor. On DATE, the BLS published a % increase.

West Region CPI-U:

BLS reference data location: <https://data.bls.gov/timeseries/CUUR0400SA0>

Date published BLS West Region CPI-U:

Month	Year	West Region CPI-U Index Data
October		
October		

Percentage Adjustment	
Annual Adjustment Factor	

Oregon OSHA is required to calculate the annual adjustment based on the West Region CPI-U. Annual inflation adjustments are based on the percent change between the West Region CPI-U in October of the preceding year and October of the current year. The percent change is the cost-of-living adjustment multiplier for the following year. In order to compute the annual adjustment, the Agency multiplied the most recent penalty amount for each applicable penalty by the multiplier and rounded to the nearest dollar.

More information about Oregon OSHA's violations and civil penalties can be found at: <https://osha.oregon.gov/Pages/topics/violations-and-penalties.aspx>

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The civil penalties in this bulletin apply to citations assessed under ORS 654.086 for inspections opened between January 1, through December 31,. See tables on the following pages.

Penalty Table – Penalty Range By Type and Classification of Violation

Type	Minimum	Maximum
Other Than Serious		
Serious Physical Harm or Death		
Repeat		
Willful		
Serious that Caused or Contributed to the Death of Employee		
Repeat that Caused or Contributed to the Death of Employee		
Willful that Caused or Contributed to the Death of Employee		

First-instance violation: An employer’s first violation cited within the previous three years of a particular statute, regulation, rule, standard, or order.

Other Than Serious (OAR 437-001-0145)

Probability	Low	High	The civil penalty amount for an initial other than serious violation is not annually adjusted.
Initial Penalty			

Serious Violation Types (OAR 437-001-0145)

Severity	Serious Physical Harm			Death		
	Low	Medium	High	Low	Medium	High
Probability						
Initial Penalty						

Bulletin Number:
Published:
Effective:

Repeat violation: An employer’s second or subsequent violation involving a substantially similar violation as the earlier violation or violations, cited within the previous three years.

Repeat Violation Types (OAR 437-001-0165)

Civil Penalty	Severity			Civil penalties for the 4th and greater repeat violations are assigned with the Administrator’s discretion.
	Other than Serious			
	First	Second	Third	

Repeat Violation Types (OAR 437-001-0165)

Civil Penalty	Probability	Severity					
		Serious Physical Harm			Death		
		First	Second	Third	First	Second	Third
	Low						
	Medium						
High							

Repeat Size Reduction for 1-50 employees (OAR 437-001-0150)

Type	Serious Violation Types
Reduction	

Willful violation: A violation committed knowingly by an employer or supervisory employee who, having a free will or choice, intentionally or knowingly disobeys or recklessly disregards the requirements of a statute, regulation, rule, standard, or order.

Willful Violation Types (OAR 437-001-0175)

Civil Penalty	Other than Serious	Probability	Severity	
			Serious Physical Harm	Death
		Low		
		Medium		
		High		

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Caused or contributed to a work-related fatality violation: The workplace death of an employee that was attributed to a violation or in which the violation was a related factor, as determined by the compliance officer.

**Serious that Caused or Contributed to the Death of an Employee Violation Types
(OAR 437-001-0145)**

Severity	Serious Physical Harm			Death		
	Low	Medium	High	Low	Medium	High
Civil Penalty						

**Repeat that Caused or Contributed to Death of Employee Violation Types
(OAR 437-001-0165)**

Civil Penalty	Other than Serious	Probability	Severity	
			Serious Physical Harm	Death
		Low		
		Medium		
		High		

**Willful that Caused or Contributed the Death of Employee Violation Types
(OAR 437-001-0175)**

Civil Penalty	Other than Serious	Probability	Severity	
			Serious Physical Harm	Death
		Low		
		Medium		
		High		

If you have questions about this bulletin, call Oregon OSHA at 503-378-3272 or 800-922-2689.

(Administrator - Printed name)

(Administrator - Signature)

Date

437-001-0145 Penalty for Other than Serious, Serious, or Caused or Contributed to a Work-Related Fatality Violation

For current civil penalty amounts see [Oregon OSHA's Annual Adjustment to Penalties Bulletin](#).

- (1) A civil penalty must be assessed for any serious physical harm or death-rated violation and may be assessed for any other than serious-rated violation as determined by the intersection of the probability rating and severity rating in accordance with Table 2 in subsection (2)(g) or Table 3 in subsection (3) of this rule, as adjusted annually in accordance with OAR 437-001-0142. For a violation where probability and severity are not appropriate considerations, a civil penalty may be assessed by considering the facts of the violation.
- (2) All civil penalties will not be reduced below the following minimum or exceed the following maximum amounts, as adjusted annually in accordance with OAR 437-001-0142, except for a civil penalty for a repeat serious violation that caused or contributed to a work-related fatality, which may be reduced based on employer size at the discretion of the administrator if the employer agrees to comply with additional abatement measures during the appeal process:
 - (a) Other than serious-rated violation: \$0 minimum and \$15,625 maximum.
 - (b) Serious Physical Harm or Death-rated violation: \$1,116 minimum and \$15,625 maximum.
 - (c) Repeat Violation: \$11,162 minimum and \$156,259 maximum.
 - (d) Willful Violation: \$11,162 minimum and \$156,259 maximum.
 - (e) Serious Violation that Caused or Contributed to a Work-Related Fatality: \$20,000 minimum and \$50,000 maximum.
 - (f) Willful or Repeat Violation that Caused or Contributed to a Work-Related Fatality: \$50,000 minimum and \$250,000 maximum.
 - (g) As follows in Table 1 Updated Annually in Oregon OSHA's Annual Adjustments to Penalties Bulletin– Penalty Range by Violation Type.

Table 1 - Civil Penalty Ranges by Type/Classification of Violation*

Type/Classification of Violation	Minimum	Maximum
Other Than Serious-rated	\$0	\$15,625
Serious Physical Harm or Death-rated	\$1,116	\$15,625
Repeat	\$11,162	\$156,259
Willful	\$11,162	\$156,259
Serious - Caused or Contributed to a Work-Related Fatality	\$20,000	\$50,000
Repeat - Caused or Contributed to a Work-Related Fatality	\$50,000	\$250,000
Willful - Caused or Contributed to a Work-Related Fatality	\$50,000	\$250,000

*Updated Annually in Oregon OSHA's Annual Adjustments to Penalties Bulletin

Table 2 - Civil Penalties for Serious and Other Than Serious-rated Violations*

Type	Severity	Probability	First-instance Penalty
Other Than Serious	Other Than Serious	Low	\$0
Other Than Serious	Other Than Serious	High	\$300
Serious	Serious Physical Harm	Low	\$3,348
Serious	Serious Physical Harm	Medium	\$6,696
Serious	Serious Physical Harm	High	\$8,929
Serious	Death	Low	\$11,162
Serious	Death	Medium	\$13,394
Serious	Death	High	\$15,625

*Serious and Death violation types are updated annually in Oregon OSHA's Annual Adjustments to Penalties Bulletin.

*Other Than Serious violation types are not adjusted annually.

- (3) When evidence demonstrates that a Serious Physical Harm or Death-rated violation caused or contributed to a work-related fatality that is required to be reported under OAR 437-001-0704(3), the civil penalty assessed will be based on the civil penalty structure for caused or contributed to a work-related fatality as determined by the intersection of the probability rating and severity rating in accordance with Table 2 in subsection (2)(g) or Table 3 in subsection (3) of this rule, as adjusted annually in accordance with OAR 437-001-0142.

Table 3 - Civil Penalties for Serious Violation that Caused or Contributed to a Work-Related Fatality*

Severity	Probability	First-instance Penalty
Serious Physical Harm	Low	\$20,000
Serious Physical Harm	Medium	\$23,000
Serious Physical Harm	High	\$26,000
Death	Low	\$30,000
Death	Medium	\$37,000
Death	High	\$43,000

*Updated Annually in Oregon OSHA's Annual Adjustments to Penalties Bulletin

- (4) Civil penalties for combined violations will be determined by taking the number of violations into account when assessing probability. Severity will be determined by identifying the most severe reasonably predictable injury or illness that could occur.
- (5) The civil penalty for grouped violations of different rules is determined based on the probability and severity determined for the entire group.
- (6) At the discretion of the Administrator, a civil penalty may be issued for any first-instance violation up to the maximum civil penalty amount in accordance with OAR 437-001-0145(2) as adjusted annually in accordance with OAR 437-001-0142.
- (7) Civil penalty amounts for all first-instance other than serious-rated violations that caused or contributed to a work-related fatality shall be assessed at the discretion of the Administrator in accordance with OAR 437-001-0145(2)(a), as adjusted annually in accordance with OAR 437-001-0142.

See [Division 1 – Civil Penalty & Work Refusal Changes from Senate Bills 592 and 907 Summary of Comments and Agency Decision](#) for additional explanation of changes to civil penalties.

Statutory/Other Authority: ORS 654.025(2) , 654.035 and 656.726(4).

Statutes/Other Implemented: ORS 654.001 through 654.295.

History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74.

WCB Admin. Order, Safety 8-1975, filed 8-5-75, effective 9-1-75.

WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.

WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.

WCD Admin. Order, Safety 12-1982, filed 9-20-84, effective 11-1-84.

APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.

APD Admin. Order 5-1988, filed 5-16-88, effective 5-16-88.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

OSHA 7-1992, filed 7/31/92, effective 10/1/92.

OSHA 7-1995, filed 7/5/95, effective 7/5/95.

OSHA 2-2012, filed 5/11/12, effective 7/1/12.

OSHA 8-2017, filed 12/22/17, effective 1/1/18.

OSHA 5-2018, filed 11/29/18, effective 12/17/18.
 OSHA 13-2021, filed 11/1/21, effective 12/1/21.
 OSHA 3-2023, f. 11/22/2023, effective 1/1/2024.

437-001-0150 Civil Penalty Adjustments

For current civil penalty amounts see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

- (1) Civil penalty amounts may be modified by applying penalty adjustments as outlined in Table 1 – Penalty Adjustments. Not all civil penalties are eligible to be adjusted. If eligible for adjustments, at their discretion, a compliance officer may make adjustments at the time of inspection based on history, good faith, and immediate correction.

Table 1 - Penalty Adjustments

Violation Type	Size	History	Good Faith	Immediate Correction
Other than Serious	Yes	Yes	Yes	Yes
Serious	Yes	Yes	Yes	Yes
Repeat	1-50 Employees, Statewide Peak Employment	No	No	No
Willful	No	No	No	No
Caused or contributed to Work-Related Fatality	No	No	No	No
Failure to Abate	Based on Original Violation Eligibility	No	No	No

- (2) Size adjustments:
- (a) Are made based on statewide peak employment for the employer as defined in Table 2 except as provided in subsection (b):

Table 2 - Penalty Adjustment – Employer Size

Number of employees	Percent reduction
1-10	75
11-25	60
26-90	40
91-130	30
131-175	20
176-250	10
251 or more	No adjustment

- (b) For employers with 50 or fewer employees, a reduction of \$7,000 is available for Serious Physical Harm or Death-rated repeat violations that did not cause or contribute to a work-related fatality. The reduction is adjusted annually in accordance with OAR 437-001-0142.
 - (c) Size reductions are not available for a violation that caused or contributed to a work-related fatality, except for a civil penalty for a repeat serious violation that caused or contributed to a work-related fatality, which may be reduced based on employer size at the discretion of the administrator if the employer agrees to comply with additional abatement measures during the appeal process.
- (3) History adjustments will be based on injuries and illnesses (and trends) during the previous three years, including available information from both Workers' Compensation Board data and Bureau of Labor Statistics. This assessment will also include a review of the employer's violation history within the past three years. The compliance officer may make the following adjustment:
- (a) 10% reduction of the first-instance penalty if the compliance officer determines that the information demonstrates a positive history overall;
 - (b) No change in the first-instance penalty if the compliance officer determines that history is what would be expected of a typical employer; or
 - (c) 10% increase of the first-instance penalty if the compliance officer determines that the information demonstrates a negative history overall.
- (4) Good faith adjustments will be determined by, but not limited to, review of certain criteria as follows:
- (a) Evidence of an overall safety and health program.
 - (b) Effective communication of safety and health policies.
 - (c) Promotion of safety and health prior to the inspection.

- (d) Employees are clearly involved in the safety and health program.
- (e) Management's commitment at all levels is apparent.
- (f) Worksite hazard analysis is conducted.
- (g) Employees and managers alike are held accountable for safety and health.
- (h) The compliance officer may make good faith adjustments as follows:
 - (A) 20% reduction of the first-instance penalty if the compliance officer determines that the information demonstrates a better than average effort to comply with the law and rules;
 - (B) No adjustment in the first-instance penalty if the compliance officer determines that the information demonstrates an employer's good faith effort is average; or
 - (C) 20% increase of the first-instance penalty if the compliance officer determines that the information demonstrates a poorer than average effort to comply with the law and rules.
- (5) Immediate correction of violations or other unsafe conditions that are identified during the inspection. Corrective action must be substantial and not temporary or superficial. A 10% reduction of the first-instance penalty may be provided for immediate correction as determined by the compliance officer.
- (6) Penalty adjustments will not result in a penalty amount less than the mandatory minimum civil penalty or greater than the maximum civil penalty as published in OAR 437-001-0145(2) as adjusted annually in accordance with OAR 437-001-0145.

Statutory/Other Authority: ORS 654.025(2) & 656.726(4).
Statutes/Other Implemented: ORS 654.001 - 654.295.
History: OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0155 Determination of Penalty – Failure to Correct

For current civil penalty amounts see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

- (1) A citation must be issued for an employer's failure to correct a previously cited violation.
- (2) Civil penalties assessed for a failure to correct a previously cited violation will not exceed the maximum penalty per day in OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142.

- (a) Such penalties may be assessed for each workday, or part of a day, that the violation is not corrected and it results in continued exposure after the ordered correction date; and
 - (b) Such penalties must be determined by considering the probability and severity of the original violation, the efforts of the employer to correct the violation, and factors that delayed the correction of the violation.
- (3) Failure to correct violations are not eligible for penalty reductions for history, good faith, or immediate correction. A size reduction may be applied in accordance with OAR 437-001-0150(2) based on the original violation classification.
- (4) The civil penalty for failure to correct an other than serious violation may not be less than \$50 per day. For all other violations, the civil penalty will be within the minimum and maximum penalty per day as adjusted annually in accordance with OAR 437-001-0142.

Statutory/Other Authority: ORS 654.025(2) , 654.035 and 656.726(4).

Statutes/Other Implemented: ORS 654.001 to 654.295.

History: WCB Admin. Order 19-1974, filed 6-5-74 ef. 7-1-74.

WCB Admin. Order 8-1975, filed 8-5-75, effective 9-1-75.

WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.

WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.

APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

OSHA 7-1992, filed 7/31/92, effective 10/1/92.

OSHA 8-2017, filed 12/22/17, effective 1/1/18.

OSHA 13-2021, filed 11/1/21, effective 12/1/21.

OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0160 Penalty Criteria – Repeat Violation

For current civil penalty amounts see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

- (1) Civil penalty amounts as defined in OAR 437-001-0145(2) are adjusted and published annually in Oregon OSHA's Annual Adjustments to Penalties Bulletin. All penalties shall not be reduced below the minimum or exceed the maximum amounts, except for a civil penalty for a repeat serious violation that caused or contributed to a work-related fatality, which may be reduced based on employer size at the discretion of the administrator if the employer agrees to comply with additional abatement measures during the appeal process.
- (2) Repeat violation criteria:

- (a) An employer's second or subsequent violation involving a substantially similar violation, cited within the previous three years, will be cited as a repeat violation as described below.
- (b) When citing an identical standard for a violation of a previously cited statute, regulation, rule, standard, or order it will be presumed to be a repeat violation. That presumption can be disproven only if the circumstances clearly demonstrate that the violation is not substantially similar to a previously cited violation.

Example: Previously a citation was issued for a violation of 1910.212(a)(1) for not guarding in-going nip points. A recent inspection of the same establishment revealed a citation of 1910.212(a)(1) for not guarding against flying chips and sparks. Although the same standard was cited, the hazardous conditions are clearly not substantially similar and a repeat violation would not be appropriate.

- (3) When citing a different standard, in some circumstances, substantially similar conditions can be demonstrated. In such cases, if the violations found are substantially similar a repeat violation would be appropriate even though the standards are different.

Example #1: Previously a citation was issued for a failure to install appropriate scaffold guardrails under the Division 3 Construction standards. A recent inspection of the same employer found a violation for a failure to install appropriate scaffold guardrails, but this time the operation involved activities covered by the Division 2 General Industry standard. Although two different standards are cited, the violations are substantially similar and would therefore be treated as a repeat.

Example #2: Previously a citation was issued for failure to have a respirator program in a Division 2 General Industry situation where exposure to asbestos would require one. A recent inspection of the same employer found a violation for not requiring employees to wear respirators while performing lead related tasks in the Lead, Division 3 Construction standard that requires respiratory protection. Although two different standards are cited, the violations are substantially similar and would therefore be treated as a repeat.

- (4) Where a previously cited violation is under appeal and not yet final:
 - (a) The second violation will be cited as a repeat violation; and
 - (b) Such citation will state that the earlier violation is under appeal and the repeat classification of the current violation will be rescinded if the earlier violation does not become final.
- (5) At fixed places of employment, "high probability serious" and "death" rated violations will be issued as repeat violations at all of an employer's places of employment in the state. Repeat violations for all other violation types will be limited to the cited place of employment.

- (6) At nonfixed places of employment, repeat violations will be based on earlier violations occurring anywhere within the state. Where the Administrator, or designee, determines in his or her discretion that the span of control and nature of activity for a portion of the state is more readily comparable to fixed location activity, repeat violations will be handled in a manner consistent with fixed places of employment.
- (7) At the discretion of the Administrator, a civil penalty may be issued for any repeat violation and for any repeat violation that caused or contributed to a work-related fatality up to the maximum penalty amount in accordance with OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142.

Statutory/Other Authority: ORS 654.025(2) , 654.035 and 656.726(4).

Statutes/Other Implemented: ORS 654.001 through 654.295.

History: WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.

WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

APD Admin. Order 7-1989, filed 5-1-89, effective 5-1-89 (temp).

APD Admin. Order 10-1989, filed 7-7-89, effective 7-7-89 (perm).

OSHA 7-1992, filed 7/31/92, effective 10/1/92.

OSHA 6-1994, filed 9/30/94, effective 9/30/94.

OSHA 2-2009, filed 1/27/09, ef . 2/3/09.

OSHA 7-1992, filed 7/31/92, effective 10/1/92.

OSHA 2-2012, filed 5/11/12, effective 7/1/12.

OSHA 5-2018, filed 11/29/18, effective 12/17/18.

OSHA 13-2021, filed 11/1/21, effective 12/1/21.

OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0165 Determination of Penalty – Repeat Violation

For current civil penalty amounts see [Oregon OSHA’s Annual Adjustments to Penalties Bulletin](#).

- (1) A civil penalty must be assessed for each serious repeat violation. The civil penalty for a serious repeat violation is determined by multiplying the penalty for the current violation (Table 2 of 437-001-0145(2)) by the following factors without any reductions applied:

Table 1 - Penalties for Repeat Violations

1 st repeat	X 4
2 nd repeat	X 6
3 rd repeat	X 8
Additional repeats	Discretion of Administrator

- (2) A civil penalty must be assessed for each other than serious repeat violation. The civil penalty for an other than serious repeat violation will be the minimum for repeat violations under OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142.
- (3) A civil penalty must be assessed for each repeat violation that caused or contributed to a work-related fatality. The civil penalty for a repeat violation that caused or contributed to a work-related fatality is determined by the intersection of the probability rating and severity rating in accordance with Table 2 below, as adjusted annually in accordance with OAR 437-001-0142:

Table 2 - Civil Penalties for Repeat Violations that Caused or Contributed to a Work-Related Fatality*

Type	Severity	Probability	Civil Penalty
Other Than Serious	Other Than Serious	Low/High	\$50,000
Serious	Serious Physical Harm	Low	\$55,000
Serious	Serious Physical Harm	Medium	\$85,000
Serious	Serious Physical Harm	High	\$115,000
Serious	Death	Low	\$160,000
Serious	Death	Medium	\$185,000
Serious	Death	High	\$235,000

*Updated Annually in Oregon OSHA's Annual Adjustments to Penalties Bulletin

- (4) The civil penalty for a repeat serious rated violation will not be less than the minimum or greater than the maximum under OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142.
- (5) The civil penalty for a repeat serious rated violation that caused or contributed to a work-related fatality, will not be less than the minimum or greater than the maximum under OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142, except when the civil penalty is reduced based on employer size at the discretion of the administrator if the employer agrees to comply with additional abatement measures during the appeal process.
- (6) The civil penalty for a repeat other than serious rated violation will not be less than the minimum or greater than the maximum under OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142.
- (7) At the discretion of the Administrator, a civil penalty may be issued for any repeat violation and for any repeat violation that caused or contributed to a work-related fatality up to the maximum penalty amount in accordance with OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142.

Statutory/Other Authority: ORS 654.025(2) , 654.035 and 656.726(4).
Statutes/Other Implemented: ORS 654.001 through 654.295.
History: WCB Admin. Order 19-1974, filed 6-5-74, effective 7-1-74.
WCB Admin. Order 33-1974, filed 9-5-74, effective 9-26-74.
WCB Admin. Order, Safety 8-1975, filed 8-5-75, effective 9-1-75.
WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.
WCD Admin. Order, Safety 4-1981, filed 5-22-81, effective 7-1-81.
WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.
APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.
APD Admin. Order 7-1989, filed 5-1-89, effective 5-1-89 (temp).
APD Admin. Order 10-1989, filed 7-7-89, effective 7-7-89 (perm).
OSHA 7-1992, filed 7/31/92, effective 10/1/92.
OSHA 2-2012, filed 5/11/12, effective 7/1/12.
OSHA 8-2017, filed 12/22/17, effective 1/1/18.
OSHA 13-2021, filed 11/1/21, effective 12/1/21.
OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0170 Determination of Penalty – Failure to Report an Occupational Fatality, Catastrophe, or Accident

For current civil penalty amounts see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

If an employer fails to report an occupational fatality, catastrophe, or accident as provided in OAR 437-001-0704, a penalty of not less than \$250 and not greater than the maximum penalty for a serious-rated violation in accordance with OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142, shall be assessed.

Statutory/Other Authority: ORS 654.025(2) , 654.035 and 656.726(4).
Statutes/Other Implemented: ORS 654.001 through 654.295.
History: WCD Admin. Order, Safety 4-1981, filed 5-22-81 ef. 7-1-81.
APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.
APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.
OSHA 7-1992, filed 7/31/92, effective 10/1/92.
OSHA 7-2002, filed 11/15/02, effective 11/15/02.
OSHA 8-2017, filed 12/22/17, effective 1/1/18.
OSHA 13-2021, filed 11/1/21, effective 12/1/21.
OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0171 Determination of Penalty – Failure to Register a Farm Labor Camp/Facility

For current civil penalty amounts see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

If an operator, employer, or contractor fails to register a Farm Labor Camp or facility with Oregon OSHA as required in Division 4/J, OAR 437-004-1120(5)(b), a penalty of not less than \$250 and not greater than the maximum penalty for a serious-rated violation in accordance with OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142, shall be assessed.

Statutory/Other Authority: ORS 654.025(2) , 654.035 and 656.726(4).

Statutes/Other Implemented: ORS 315.164, 658.750, 658.755, 658.780, 658.785, 658.805, 658.810 and 658.825.

History: OSHA 10-1995, filed 11/29/95, effective 11/29/95.

OSHA 6-2003, filed 11/26/03, effective 11/26/03.

OSHA 8-2017, filed 12/22/17, effective 1/1/18.

OSHA 5-2018, filed 11/29/18, effective 12/17/18.

OSHA 13-2021, filed 11/1/21, effective 12/1/21.

OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0175 Determination of Penalty – Willful or Egregious Violation

For current civil penalty amounts see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

- (1) A civil penalty must be assessed for each willful violation. The civil penalty for a willful violation is determined by the intersection of the probability rating and severity rating in accordance with Table 1 below, as adjusted annually in accordance with OAR 437-001-0142:

Table 1 – Civil Penalties for Willful Violation*

Type	Severity	Probability	Civil Penalty
Other Than Serious	Other Than Serious	Low/High	\$11,162
Serious	Serious Physical Harm	Low	\$25,000
Serious	Serious Physical Harm	Medium	\$35,000
Serious	Serious Physical Harm	High	\$50,000
Serious	Death	Low	\$75,000
Serious	Death	Medium	\$100,000
Serious	Death	High	\$130,000

*Updated Annually in Oregon OSHA's Annual Adjustments to Penalties Bulletin

- (2) A civil penalty must be assessed for each willful violation that caused or contributed to a work-related fatality. The civil penalty for a willful violation that caused or contributed to a work-related fatality is determined by the intersection of the probability rating and severity rating in accordance with Table 2 below, as adjusted annually in accordance with OAR 437-001-0142:

Table 2 – Civil Penalties for Willful Violation that Caused or Contributed to a Work-Related Fatality*

Type	Severity	Probability	Civil Penalty
Other Than serious	Other Than Serious	Low/High	\$50,000
Serious	Serious Physical Harm	Low	\$60,000
Serious	Serious Physical Harm	Medium	\$95,000
Serious	Serious Physical Harm	High	\$125,000
Serious	Death	Low	\$175,000
Serious	Death	Medium	\$190,000
Serious	Death	High	\$240,000

*Updated Annually in Oregon OSHA’s Annual Adjustments to Penalties Bulletin

- (3) Willful violations that caused or contributed to a work-related fatality are not eligible for employer size reductions.
- (4) At the discretion of the Administrator, a civil penalty may be issued for any willful violation and for any willful violation that caused or contributed to a work-related fatality up to the maximum penalty amount in accordance with OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142.
- (5) For egregious violations, the Administrator may assess a separate civil penalty for each instance of a violation under section (1) or (2) of this rule.

Statutory/Other Authority: ORS 654.025(2) , 654.035 and 656.726(4).

Statutes/Other Implemented: ORS 654.001 through 654.295.

History: WCB Admin. Order, Safety 8-1975, filed 8-5-75, effective 9-1-75.

WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

OSHA 7-1992, filed 7/31/92, effective 10/1/92.

OSHA 2-2012, filed 5/11/12, effective 7/1/12.

OSHA 8-2017, filed 12/22/17, effective 1/1/18.

OSHA 13-2021, filed 11/1/21, effective 12/1/21.

OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0176 Determination of Penalty – Failure to Notify Employees of Advance Notice

The Administrator, after considering the related facts, may assess a penalty not to exceed \$1000 for each violation of the employer’s failure to give notification by posting to employees of advanced notice.

Statutory/Other Authority: ORS 654.025(2) and 656.726(3).

Statutes/Other Implemented: ORS 654.001 to 654.295.

History: WCD Admin. Order, Safety 6-1982, filed 6-28-82, effective 8-1-82.
APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

437-001-0180 Determination of Penalty – Relating to Red Warning Notice

For current civil penalty amounts see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

Any employer who violates or directs another to violate OAR 437-001-0096(3) or (4) shall be assessed a civil penalty of not less than \$250 and not more than maximum penalty for a serious-rated violation in accordance with OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142.

Statutory/Other Authority: ORS 654.025(2) , 654.035 and 656.726(3).
Statutes/Other Implemented: ORS 654.001 to 654.295.
History: WCD Admin. Order, Safety 5-1978, filed 6-22-78, effective 8-15-78.
APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.
APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.
OSHA 13-2021, filed 11/1/21, effective 12/1/21.
OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0201 Determination of Penalty – Relating to Field Sanitation

For current civil penalty amounts see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

The Administrator shall assess a minimum civil penalty of not less than \$250 and not greater than the maximum penalty for a serious-rated violation in accordance with OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142, to employers of workers who are engaged in field activities for the growing and harvesting of food crops intended for human consumption, who substantially fail to comply with OAR 437-004-1110 in Division 4, Agriculture.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).
Statutes/Other Implemented: ORS 654.001 through 654.295.
History: WCD Admin. Order, Safety 9-1986, filed 10-7-86, effective 12-1-86.
APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.
APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.
OSHA 7-1999, filed 7/15/99, effective 7/15/99.
OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

437-001-0203 Determination of Penalty – Relating to Violations Which Have No Probability and Severity

For current civil penalty amounts see [Oregon OSHA's Annual Adjustments to Penalties Bulletin](#).

- (1) Safety and Health Protection on the Job Poster – If the employer has not displayed the poster, a minimum penalty of \$100 may be assessed.
- (2) Annual Summary – If an employer fails to post the summary portion of the OSHA 300 Form no later than February 1 of the year following the year covered by the records and keep it posted until April 30 in accordance with 437-001-0700(17)(e), a minimum penalty of \$200 may be assessed.
- (3) Citation – If an employer fails to post the citation after receipt, a minimum penalty of \$200 may be assessed.
- (4) OSHA 300 and DCBS 801 Forms – If the employer does not maintain the Log and Summary of Occupational Injuries and Illnesses, OSHA 300 Form, and the Supplementary Record, DCBS Form 801 or equivalent, a minimum penalty of \$100 may be assessed for each OSHA form not maintained.
- (5) Access to Records – If the employer fails upon request to provide records for inspection and copying by any authorized representative of Oregon OSHA or by any employee, former employee, or authorized representative of employees, a minimum penalty of \$100 may be assessed for each form not made available.
- (6) Flush Toilets/Warm Water Hand Washing Facilities – If an employer fails to provide flush toilets or warm water hand washing facilities on a construction site according to OAR 437-003-0020 in 437, division 3, Construction, a penalty of not less than \$200, nor more than the maximum other than serious civil penalty in accordance with OAR 437-001-0145(2), as adjusted annually in accordance with OAR 437-001-0142, shall be assessed.

Note: Forms referenced are available from the agency.

Statutory/Other Authority: ORS 654.025(2) and 656.726(4).

Statutes/Other Implemented: ORS 654.001-654.295.

History: APD Admin. Order 6-1987, filed 12-23-87, effective 1-1-88.

APD Admin. Order 7-1988, filed 6-17-88, effective 7-1-74.

OSHA 7-1992, filed 7/31/92, effective 10/1/92.

OSHA 9-1995, filed 11/29/95, effective 11/29/95.

OSHA 11-2001, filed 9/14/01, effective 1/1/02.

OSHA 6-2003, filed 11/26/03, effective 11/26/03.

OSHA 9-2008, filed 9/19/08, effective 1/1/09.

OSHA 5-2018, filed 11/29/18, effective 12/17/18.

OSHA 3-2023, filed 11/22/2023, effective 1/1/2024.

