

Requesting an Appeal and an Informal Conference

437-001-0255 Requesting an Appeal and an Informal Conference

- (1) In order to appeal a citation, a written request for appeal must be filed with the Department of Consumer and Business Services and must be directed to Oregon OSHA at 350 Winter St. NE, Room 300, Salem, Oregon 97301, or with any permanently staffed office of the Workers' Compensation Board or Oregon OSHA. The appeal must be filed within 30 days of receiving a citation, notice, or order, if the employer intends to contest any proposed assessment of civil penalty, the time fixed for correction of a violation, or the violative condition cited. The request must clearly state the item(s) to be contested. An employee appeal of the time fixed for correction of a violation must also be filed within 30 days of the employer's receipt of the citation, notice, or order.
- (2) An informal conference may be requested by either the employer or employee and used to discuss informally with Oregon OSHA, any matter affecting occupational safety and health in the place of employment including, but not limited to:
 - Clarify statements of observed violations;
 - Discuss safety and health requirements;
 - Discuss abatement dates;
 - Explain the penalty system;
 - Improve employer/employee understanding of the Oregon Safe Employment Act;
 - Correct errors;
 - Narrow issues, or
 - Negotiate a settlement agreement with an employer to resolve disputed citations that have not become a final order. Notwithstanding any other rule in this division, proposed civil penalties may be reduced as part of a settlement agreement resolving disputed claims.
- (3) A request for an informal conference alone will not be considered as an appeal to the Workers' Compensation Board (although the same document may both request an informal conference and serve notice of an appeal, provided that it includes the required elements). An informal conference concerning a citation will not extend the 30 days allowed for filing an appeal with the Board.
- (4) Informal conferences scheduled to negotiate settlement agreements require that the employer notify employees or their representatives of the opportunity to attend.
- (5) When both a request for an informal conference and an appeal have been submitted, the appeal request will be forwarded to the Workers' Compensation Board to be scheduled for a formal hearing if issues are not resolved at the informal conference.

Statutory/Other Authority: ORS 654.025(2) 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.

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.

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 7-1999, filed 7/15/99, effective 7/15/99.

OSHA 10-2007, filed 12-3-07, effective 1-1-08.

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

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

437-001-0270 Discretion To Prevent a Manifest Injustice

- (1) To prevent a manifest injustice, the Administrator, at the Administrator's own discretion, or upon request from the Division or an adversely affected person, may vacate or amend a Division citation, notice, or order.
- (2) If the Administrator proposes to vacate or amend a Division citation, notice, or order, an opportunity to be heard will be given to persons, including affected employees, whose rights may be affected.
- (3) All requests for reconsideration based on a manifest injustice shall contain a statement indicating the following:
 - (a) The request has been posted as required by OAR 437-001-0275(2);
 - (b) The request has been served on the authorized representative of affected employees, if appropriate;
 - (c) The date the request was posted or service was made; and
 - (d) All affected employees have been advised of their right to comment.
- (4) No decision shall be made on a manifest injustice request until 10 days after the date of posting or service.

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

Statutes/Other Implemented: ORS 654.001 through 654.295.

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

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

WCD Admin. Order, Safety 3-1983, filed 1-31-83, effective 2-1-83.

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

OR-OSHA Admin. Order 7-2006, filed 9/6/06, effective 9/6/06.

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