

**OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

PROGRAM DIRECTIVE

Program Directive: A-216

Issued: July 1, 1997

Revised May 6, 2016

SUBJECT: Citation: Paperwork and Written Program Violations

**AFFECTED CODES/
DIRECTIVES:** OSHA Instruction CPL 2.111, November 27, 1995

PURPOSE: The purpose of this instruction is to revise and clarify Oregon OSHA's policy regarding issuance of citations for violation of "paperwork" and "written program" requirements.

BACKGROUND: Oregon OSHA recognizes that in some situations, violations of certain standards which require the employer to have a written program to address a hazard, or to make a written certification (e.g., hazard communication, personal protective equipment, permit-required confined spaces, and others), are "paperwork deficiencies" rather than critically important implementation problems. In other circumstances, violations of such standards have a significant adverse impact on employee safety and health.

- A. Oregon OSHA's limited resources are focused on those activities that best promote its central mission. Unnecessary issuance of citations for minor technical violations of paperwork and written program requirements undermines the agency's efforts to promote the agency mission.
- B. The purpose of this directive is to provide guidance that will lead to consistent and effective enforcement of Oregon OSHA's standards, particularly where technical violations involve employer obligations for posting, recordkeeping and documentation of performance and have no adverse impact on worker safety and health.

- C. Application of these guidelines will require informed professional judgment on the part of Safety and Health Compliance Officers (S/HCO) and careful attention to the circumstances in the workplace that affect the impact of violations on the health and safety of workers.

SCOPE: This guidance applies Oregon OSHA wide.

APPLICATION: This instruction applies to all inspections of general industry, construction, maritime, forest activities and agriculture employers.

PROCEDURES FOR EVALUATION AND CITATION:

The "paperwork" and "written program" requirements addressed by this directive include recordkeeping, posting of the OSHA Safety and Health on the Job Poster, written program requirements in standards such as lockout-tagout, permit-required confined spaces, bloodborne pathogens, hazard communication, personal protective equipment, and other essentially similar requirements found in Oregon OSHA standards.

The following guidance is to assist Oregon OSHA staff in the determination of appropriate citations and penalties in particular circumstances. The procedures below will be followed when evaluating and citing violations of paperwork and written program requirements.

A. Failure to Post the OSHA Safety and Health on the Job Poster

What is the situation?	What should you do?	Should a citation be issued?
Failure to post the OSHA Safety and Health on the Job Poster	Provide a copy of the poster Advise the employer they must post Explain consequences for not posting Note these actions in the case file	Yes, if the employer demonstrates a disregard for their responsibilities under the OSEAct; and employees are unaware of their rights under the Act; or The employer has been previously cited or advised of posting requirement

B. Injury and Illness Records

What is the situation?	What should you do?	Should a citation be issued?
No Records Maintained	Determine if injuries or illnesses have occurred (as determined by other records or employee interviews)	If injuries have occurred and were not recorded the answer is yes, issue a citation If none have occurred, no citation issued
Records are Maintained but a specific injury or illness is not found on the OSHA 300 log	Review log for entries of specific injury or illness that should have been recorded	If a specific injury or illness is not recorded cite for failure to record
Records are Maintained but are completed with insufficient details or are inaccurate	Determine if deficiencies impair understanding of the nature of the hazards causing the injury or illness Explain to the employer the importance of using the OSHA 300 log information to identify trends and record what the employer intends to do to correct the deficiency	Cite for failure to record
Should there be penalties?	When you can document: 1) the employer has previously been informed of the requirements; or 2) the employer has deliberately deviated from the recordkeeping requirements; or 3) the employer is plainly indifferent	Issue a citation and propose penalties

C. Requirements for a written plan or certification: General Principles

The following general principles apply to issuance of citations for violation of requirements that an employer prepare a written plan or certification to address a hazard.

In each of the situations discussed below: (1) the employer is covered by a standard that requires a written plan or certification to address a hazard, (2) OSHA finds that the written plan or certification is missing or deficient, and (3) the violation is not willful.

What is the Situation?	Should a citation be issued?
1) The plan is deficient; and 2) the employer failed or is likely to fail to follow protective measures required by the standard related to the deficiency in the plan; and 3) Employees are exposed to risk of serious harm.	Issue a citation for a serious violation with penalties when all three of these conditions are present.
The plan is deficient, employer followed the proper protective measures related to the deficiency, and it is unlikely deficiency will result in failure to follow proper procedures in the future	Issue a citation for an other than serious violation with no penalties Provide the employer with literature to assist in developing a proper written plan. Inform them of possible penalties for subsequent violations.
Standard requires an evaluation of a hazard or potential hazard, no evaluation has been conducted, no hazard exists and one could not be anticipated in the future	Do not issue a citation
Employer has complied fully with a standard but has failed to make the required written certification	Do not issue a citation and inform the employer of the requirements and the possibility of a citation in the future for subsequent violations
A required written plan is deficient, there are more than one deficiency	Issue one citation for all of the plan's deficiencies. Rarely would a citation be issued for each deficiency and if it is, the penalties must not exceed penalties that would be imposed for a complete lack of a plan.

D. Requirements for a Written Plan or Certification: Examples

What is the situation?	Should a citation be issued?
No evaluation performed to identify Permit Spaces subject to the standard. No permit spaces observed	Do not issue a citation
No evaluation performed to identify permit spaces. Permit Spaces are discovered during an inspection	Issue a citation with penalties
Personal Protective Equipment (PPE) assessment has been completed, no hazards exist that require PPE , no written certification of the assessment exists	Do not issue a citation
PPE assessment has been completed, hazards requiring PPE are identified, PPE has been provided, no written certification of the assessment exists	Do not issue a citation
No PPE assessment has been conducted, no PPE has been provided, serious risks of injury exist	Issue a citation with penalties
Employer's lockout procedures allow use of control circuitry rather than acceptable energy control devices during covered servicing or maintenance procedures	Issue a citation with penalties
Employees are exposed to hazardous chemicals , employers have labeled containers, Safety Data Sheets are available, there is a chemical inventory, training requirements are met, there is no written plan	Note as minimal violation and do not issue a citation
Employees are exposed to a hazardous chemical , no information made available on safe handling, no written program or program is deficient	Group the violations and issue one citation
Employees are exposed to a hazardous substance because control measures have not been included in training, no written plan exists	Group the two violations and issue one citation
For specific guidance on consumer use of products and articles	See OAR 437-002-1910.1200
More than one violation of the Hazard Communications Standard exists	Group the violations into a single citation item

History: Issued 7-1-1997 Revised 1-25-2012, 9-20-2012, and 5-6-2016