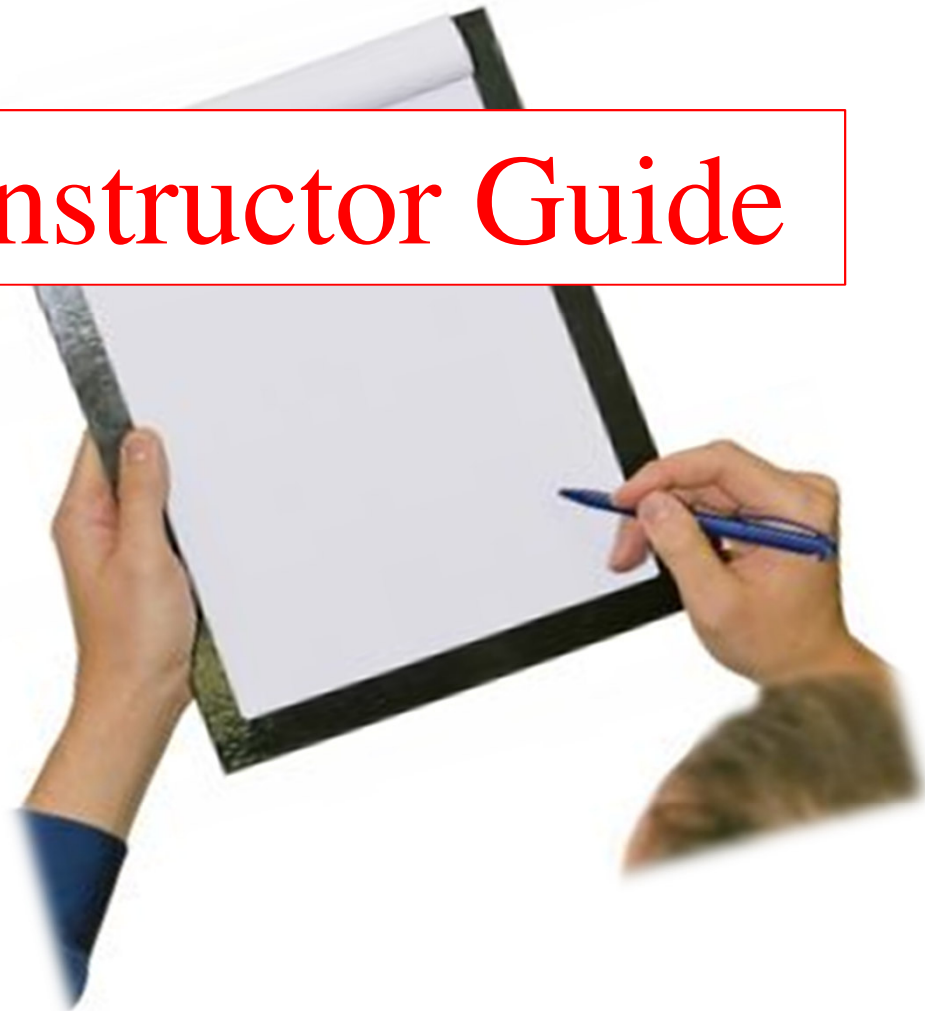


What to Expect From an Oregon OSHA Inspection

Instructor Guide



Presented by the Public Education Section
Oregon OSHA
Department of Consumer and Business Services



Oregon OSHA Public Education Mission:

We provide knowledge and tools to advance self-sufficiency in workplace safety and health

Consultative Services:

- Offers no-cost on-site assistance to help Oregon employers recognize and correct safety and health hazards.

Enforcement:

- Inspects places of employment for occupational safety and health hazards and investigates complaints and accidents.

Public Education and Conferences:

- Presents educational opportunities to employers and employees on a variety of safety and health topics throughout the state

Standards and Technical Resources:

- Develops, interprets, and provides technical advice on safety and health standards
- Publishes booklets, pamphlets, and other materials to assist in the implementation of safety and health rules

Questions?

Call us



Field Offices:

Portland	503.229.5910
Salem	503.378.3274
Eugene	541.686.7562
Medford	541.776.6030
Bend	541.388.6066
Pendleton	541.276.9175

Salem Central Office:

Toll Free number in English: 800.922.2689

Toll Free number in Spanish: 800.843.8086

Web site: www.orosha.org

Welcome!

Thank you for attending. The purpose of this presentation is to introduce you to Oregon OSHA's regulatory responsibilities, services to the public, and the procedures Oregon OSHA safety and health compliance officers use to conduct workplace occupational safety and health inspections.

Oregon OSHA's mission is to assure, as far as possible, safe and healthful working conditions for every employee in Oregon, to preserve our human resources and to reduce the substantial burden which is created by occupational injury and disease.

Goals

- Explain the structure of Oregon OSHA
- Explain the Oregon OSHA inspection process

Discuss the goals of the workshop.
Talk about how to find additional information about Oregon OSHA.

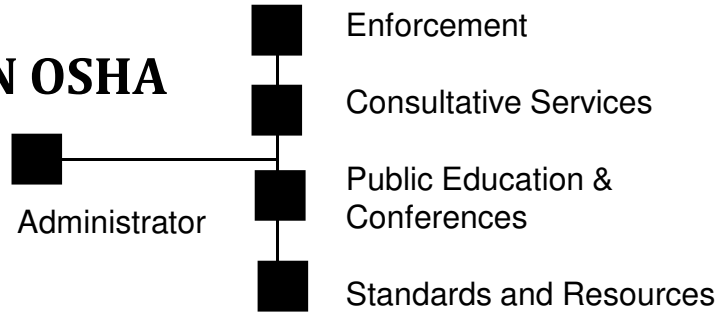
This material is designed to help you actively listen during the presentation. It contains a series of questions and "fill-in-the-blank" statements that you should complete. The answers may also be found in Oregon Revised Statutes (ORS) 654 and Oregon Administrative Rule (OAR) 437, Division 1.

www.orosha.org click - "rules/compliance"

Please Note: This material, or any other material used to inform employers of compliance requirements of Oregon OSHA standards through simplification of the regulations should not be considered a substitute for any provisions of the Oregon Safe Employment Act or for any standards issued by Oregon OSHA.

INSIDE OREGON OSHA

Don't think of Oregon OSHA as one big box!



The Oregon Safe Employment Act (OSEAct) was enacted in 1973 to ensure the occupational safety and health of Oregon's workforce. In Oregon, Oregon OSHA administers the OSEAct and enforces occupational safety and health rules establishing minimum performance standards.

Administrator

The primary function of the Administrator's Office is to administer the statewide occupational safety and health program and legislative concepts to help reduce occupational injuries and illnesses.

Spend time discussing the OSEAct, discussions of the history of occupational health and safety is also helpful. The timeline available on the OR-OSHA website will help with some fascinating history. Also the about us page is helpful.

Enforcement

Field Enforcement

Safety and health compliance officers perform work in construction, general industry, logging to measure and provide employees a safe and healthful workplace. They perform unannounced safety and health inspections of the workplaces of both public- and private-sector employers. Over 5,000 unannounced safety and health inspections each year.

Oregon OSHA has essentially four sections that work together to promote good business practices with case studies related to safety and health. These are Administration, Enforcement, Consultation and Outreach, and Policy.

Occupational Health Laboratory

Oregon OSHA operates a nationally certified Occupational Health Laboratory in Portland. This well-equipped lab analyzes samples collected by field compliance officers and consultants. Samples are analyzed and the results are used to determine whether workers are overexposed to hazardous substances.

Insurer/Self-Insured Program

This program ensures that workers' compensation insurance companies provide policyholders with loss prevention services at no charge. In addition, the program requires that self-insured employers write and implement occupational safety and health management plans.

Consultative Services

Professional safety and health consultants help employers evaluate their work environment and implement changes to enhance workplace safety and health. Staff members also help firms develop their own occupational safety and health programs. Oregon OSHA provides over 2,000 consultative visits each year.

Public Education and Conferences

An experienced staff of safety and health training specialists offers training programs, workshops and conferences on a variety of safety and health topics year-round throughout Oregon. Over 17,000 employers and employees are trained each year.

Standards and Technical Resources

Standards

This section writes and publishes Oregon OSHA's occupational safety and health rules, and helps the public understand new or revised codes. Code interpretations, hazard alerts, and technical advice are also provided.

Resource Center

Oregon OSHA's Resource Center contains a technical library, an audiovisual lending library, and workplace safety and health research assistance.

Appeals Section

The Appeals Section is an independent program within Oregon OSHA responsible for processing appealed citations. Appeals specialists conduct informal conferences with employers throughout the state. Resolution is reached in about 85% of all informal appeals.

OREGON OSHA'S ENFORCEMENT RESPONSIBILITY

Oregon OSHA must provide an effective program to enforce statutes, regulations, rules, standards or orders for the protection of the life, safety and health of employees.

To carry out its responsibilities, Oregon OSHA does the following:

- Inspects places of employment
- Investigates industrial accidents, fatalities or catastrophes
- Issues citations for violations
- Identifies safety and health hazards which may or may not be violations and brings them to the attention of employers and employees
- Issues reasonable correction orders
- Assists employers and employees in safety and health matters
- Assesses and collects civil monetary penalties for violations
- Holds informal conferences with employers or employees to discuss citations, penalties or correction orders and other safety and health matters without limiting or extending the employer's appeal rights
- Grants or denies extensions of the times set by correction orders and citations.

More information may be found in Oregon Revised Statutes (ORS) Chapter 654

Oregon OSHA has very specific performance measures mandated by the Oregon legislature and Federal OSHA. The responsibilities listed here are related only to enforcement activities. A copy of the statute is helpful to reference all of the activities. Also be familiar with the Field Inspection Reference Manual (FIRM)

Listed in the Oregon OSHA strategic plan and agreement with Federal OSHA are responsibilities for consultation and education as well as required measures

PRIORITY OF INSPECTIONS

Inspections must be prioritized to predominantly focus enforcement activities upon places of employment reasonably believed to be the most unsafe. Inspections should be made according to the following priorities found in Oregon Admin

- 1. **Imminent danger** – An inspection made aware of the condition or practice.
- 2. **Fatality, catastrophe or accident** – An OSHA becomes aware of a fatality, catastro
- 3. **Complaint** – An inspection initiated when nature of the information indicates the cor submit a complaint to Oregon OSHA of pos regulation, rule, standard or order affectin employment.
- 4. **Referral** – An inspection made if safety or health violations were observed by an Oregon OSHA employee or other federal, state or local governmental representative and the nature of the information indicates the referral's probable validity.
- 5. **Programmed & Emphasis Inspections** – An inspection following the provisions in OAR 437-001-0057.
- 6. **Follow-up** – An inspection initiated when the employer requests removal of a Red Warning Notice; when a stay of correction or a variance has been denied; an extension of time has been denied; when Oregon OSHA believes the employer is not in compliance or to monitor progress towards correction of a violation; or when the employer is issued a citation with a correction order.

This list of priorities can be deceptive. The majority of the inspections that Oregon OSHA does is under #5. However the concept is that if you were planning to do #5 and you become aware of priority #1 then you stop and deal with that instead. Once you complete that inspection you would proceed to complete priority #5. (FIRM chapter 1 page 7)

Advance Notice (OAR 437-001-0060)

(True/**False**) Oregon OSHA compliance officers may give advance notice of a safety/health inspection without prior approval of the Director.

Compliance Officer Rights (ORS 654.067 and OAR 437-001-0065)

By law, compliance officers have a right to Enter and Inspect any place of employment during working hours, or at other reasonable times, within reasonable limits, and in a reasonable manner.

What action may a co
(OAR 437-001-0070)

This rule discusses the process of obtaining an inspection warrant. If a compliance officer is denied entry they will obtain a warrant from a court. Compliance officers will obtain a pre-inspection warrant for companies that have required warrants in the past. (FIRM chapter 3 page 10)

THE OPENING CONFERENCE

Compliance Officer Responsibilities (OAR 437-001-0075)

The Compliance Officer will, if possible, conduct a joint opening conference with the employer or a representative, and a representative of the employees, if any. The CO will :

- Present credentials as a means of identification;
- Explain the purpose, nature and intended scope of the inspection;
- Request the records which need to be examined;
- Obtain the name of the employer representative, and give that person the opportunity to accompany the Compliance Officer on the inspection;
- Obtain the name of the employee representative, if any, and give that person the opportunity to accompany the Compliance Officer on the inspection;
- Explain that employee participation may be accomplished through random interviews;
- Determine if there are trade secrets to be protected;
- Inform the employer that sampling may be done and photographs may be taken;
- Explain that past and present efforts will be evaluated to determine any good faith penalty adjustments.
- Explain that injury and illness history & past inspection activity will be reviewed to determine penalty adjustments for history.
- Determine what personal protective equipment is required in the place of employment and arrange to have and use such equipment; and
- Explain that a closing conference will be held with both the employer or a representative, and a representative of the employees, if any.

N
e
w

(True/False) When the holding of an opening conference prevents timely evaluation of the workplace, the CO must first conduct a full comprehensive opening conference.

This list is the basis for the opening conference form that is used by compliance officers during the inspection process. If a situation arises where the compliance officer feels that immediate intervention is required they will conduct an abbreviated opening. This includes presenting credentials, and explaining the purpose of the inspection. The remainder of the opening conference can be conducted as soon as practical. (Firm chapter 3 page 14)

REVIEWING SAFETY DOCUMENTS

The compliance officer will ask to review safety program documents during the inspection. The review may include but is not limited to:

Records:

- OSHA 300 Log
- Accident Investigation Reports
- Safety Committee Meeting Minutes
- Emergency Medical Plan
- Training records

Discuss these records and why these are important to the inspection process. What information these contain.

Programs:

- Hazard Communication
- Exposure Control Program
- Lockout/Tagout
- Permit Required Confined Space
- Others

Discuss these programs and why these are important to the inspection process. What information these may contain. Brainstorm with the class for other programs they have at their sites.

What is the compliance officer looking for in each of these records?

THE WALKAROUND INSPECTION

What are the general areas of focus?

General hazardous conditions or practices compliance officers inspect during the walkaround inspection will include but are not limited to:

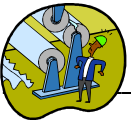


Housekeeping

Have the class brainstorm about where they find each of these areas of focus. Explain each and be prepared to give examples. Try to avoid the “normal” examples. Be creative and show that these may be found in a variety of places.



Workstation Design/Ergonomics



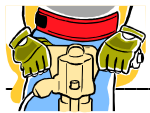
Machine Guarding



Electrical Hazards



Chemical Exposures



Personal Protective Equipment



Tools



Vehicles



Work Practices

THE CLOSING CONFERENCE

At the closing conference, the compliance officer will inform the employer of Alleged violations.

It is very important that the employer presents all pertinent information regarding alleged violations at the closing conference.

(True) False) A citation will be issued for alleged violations even if they are corrected at the time of the inspection.

PROBABILITY RATINGS (OAR 437-001-0135)

- **LOW** – If the factors considered indicate it would be unlikely that an accident could occur;
- **MEDIUM** – If the factors considered indicate it would be likely that an accident could occur; or
- **HIGH** – If the factors considered indicate it would be very likely that an accident could occur.

Penalties are calculated based on circumstances and based on the documented factors by the compliance officer. Severity is based on the most reasonably predictable injury or illness. There are times where a compliance officer will be investigating a fatality and the most reasonable injury is broken bones. The opposite can also be true. (FIRM chapter 2 page 8)

The probability rating may be adjusted on the basis of any other relevant facts which would affect the likelihood of injury or illness.

Factors Oregon OSHA considers in determining a probability rating:

- The **number of employees** exposed;
- The **frequency and duration** of exposure;
- The **proximity** of employees to the point of danger;
- Factors, which require work under **stress**;
- **Lack of proper training and supervision or improper workplace design**; or
- **Other factors** which may significantly affect the degree of probability of an accident occurring.

Oregon OSHA severity ratings (OAR 437-001-0140)

A severity rating for each violation is determined by the Compliance Officer on the basis of the degree of injury or illness which 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 are selected from the following schedule:

- **Other Than Serious** - Conditions that could cause injury or illness to employees but would not include serious physical harm;
- **Serious Physical Harm** - Injuries that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently the normal function of a part of the body. Illnesses that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently the normal function of a part of the body.
- **Death** - The severity rating may be adjusted on the basis of any other relevant facts which would affect the severity of the possible injury or illness.

Effective
July 1, 2012

Prob-ability	Severity	Prob-ability	Severity
			Serious
		Serious Physical Harm	Death
	\$300		\$2,100
	\$500		\$3,500
	\$1,250		\$7,000
			X 2
			X 5
			X 10
		4 th Repeat	X 15
		5 th Repeat	X 20
		6 th Repeat	Discretion of Administrator

Penalties amounts and repeat amounts changed July 1, 2012

A good time to re-confirm that penalties have a basis in fact and are not pulled out of thin air.

A discussion of repeat violations and how the increase happens. Also that repeats are based on the cited rule. Also it is important to note that a citation can be issued for a repeat even when the initial citation is under appeal. (FIRM chapter 7 page 10 and OAR 437-001-0160)

Willful Violation Minimum: \$5,000 Maximum: \$70,000, normally calculated

For serious violations the failure to abate begins immediately after the correction date has passed. Other than Serious begins after the citation has become a final order. The penalties are calculated daily beginning the day after the correction date. Penalties may be adjusted if there is a good faith effort to correct the item. In Oregon the correction dates remain in effect for serious violations even though an appeal has been filed. The item must be corrected to avoid additional penalties. Abatement assistance may be requested from the compliance officer.

(True) / (False) The employer may receive separate correspondence (hazard letter) detailing any nonviolation or no exposure hazards. (OAR 437-001-0099)

(True) / (False) The employer must correct any serious violations by the date listed on the citation. (437-001-0230)

Effective
July 1, 2012

ALL NEW PAGE

Penalty Adjustments

SIZE

A penalty reduction ranging from 0 percent to 60 percent will be provided based on state-wide peak employment (in the last 12 months).

Employees	Percent reduction
1-25	60%
26-90	40%
91-130	30%
131-175	20%
176-250	10%
251 or more	No adjustment

This is a good place to discuss Safety and Health management if you haven't already. Good faith effort is a new reduction as of July 1, 2012. The others have changed amounts and calculations.

Note: Penalty adjustments will be made based on an employer's safety and health program, except failure to correct.

Penalty adjustments are made based on the individual inspection circumstances. (FIRM chapter 7 page 2)

Additional adjustments will be determined by the Compliance Officer.

HISTORY

A penalty reduction **or** penalty increase ranging from minus 10 percent to plus 10 percent will be based on injuries and illnesses (and trends) during the previous three years, including available information from both Workers' Compensation data and Bureau of Labor Statistics. This assessment will also include a review of the employer's violation history within the past 3 years.

GOOD FAITH

A penalty reduction **or** penalty increase ranging from minus 20 percent to plus 20 percent will be based on a review of, including but not limited to, the following criteria:

- Evidence of an overall safety and health program.
- Effective communication of safety and health policies.
- Promotion of safety and health prior to the inspection.
- Employees are clearly involved in the safety and health program.
- Management's commitment at all levels is apparent.
- Worksite hazard analysis is conducted.
- Employees and managers alike are held accountable for safety and health.

CORRECTIVE ACTION

A penalty reduction of 10 percent will be provided for immediate corrections of violations or other unsafe conditions identified during the inspection provided that such corrective action is substantial and not temporary or superficial.

The adjusted penalty for a serious violation will not be less than \$100.

Discrimination Complaints (OAR 437-001-0295)

An employee or prospective employee may file a complaint if the employee believes discrimination has occurred when:

- The employee opposes a practice forbidden by, or refuses to engage in a practice forbidden by the Oregon Safe Employment Act; or
- The employee refuses in good faith to be subjected to imminent danger provided the employer refused to correct the hazard or it was not possible to notify the employer of the danger and the employee has notified Oregon OSHA or other appropriate agency, of the hazard, unless excused on the basis of insufficient time or opportunity as stated in OAR 839-003-0025, Bureau of Labor and Industries(BOLI) rules

Give some examples of employee “*protected activities*” as defined in Oregon safety and health rules.

Examples: Brainstorm with the class. Employer refused to provide required PPE, required employee to work in a confined space without adequate ventilation, employer changes an employee’s shift from day shift to graveyard because they filed a complaint with Oregon OSHA.

AFTER THE INSPECTION

After receipt of a citation, the employer must (OAR 437-001-0215)

- Promptly post the citation for employees information for three days or until the violation is corrected, whichever occurs last
- Assure that any amendments or withdrawals to a citation are posted with the original citation for three days or until the violation is corrected, whichever occurs last;
- Correct each violation by the date ordered; and
- If no appeal is filed, remit any penalty by the 31st calendar day following receipt of the citation

Other posting requirements are found in OAR 437-001-0275

Payment of Penalties (OAR 437-001-0231)

All civil penalties become due and owing after the citation becomes a final order. If payment is not received within 20 days after the order becomes final, it may be docketed as a judgment as provided by ORS 654.086(3).

How does Oregon OSHA verify correction of violations? (OAR 437-001-0231)

When an employer receives a citation for a violation, the compliance officer will issue a Letter of Corrective Action. When the compliance officer returns with at the time of the inspection, abatement

(True) (False) The compliance officer may return to verify that the alleged violations are corrected. (OAR 437-001-0231)

Approximately 10% of the inspections done by compliance officer's should be follow up inspections. These should be conducted within 30 days of the last correction date. There may be other reasons to conduct a follow up as well. (FIRM chapter 1 page 12)

(True) (False) Employers may request a return visit by the compliance officer to assist in obtaining compliance.

This was discussed a few pages earlier in the failure to abate penalty discussion.

What are the three levels of appeal available to the employer?

1. The Informal Conference. Cases not achieving resolution at this level of appeal are referred to...
2. The Workers' Compensation Hearings Division for a Formal hearing.
3. Opinions and orders from the Board can be appealed to the Oregon Court of Appeals.

The informal conference (OAR 437-001-0255)

Oregon OSHA provides an opportunity for the employer and employees to discuss informally any matter affecting occupational safety and health in their workplace. An informal conference may be used 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~~
- Negotiate a settlement agreement with an employer to resolve disputed citations that have not become a final order.

The employer must request the appeal within 30 days of the receipt of the citation.

IMPORTANT! 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.

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.

Exercise #1: "Now it's YOUR turn!"

YOU be the Oregon OSHA Compliance Officer!

You will be inspecting the "Up'ncoming, Inc." company. Up'ncoming employs 23 people, most of whom have been with the company for several years, although a few have been hired within the last 6 months. As you begin your inspection, you notice several plastic jugs in different areas of the worksite, none of which has a label. The jugs contain liquids which are of many colors and hues. It is obvious to you that there is either a total lack of a Hazard Communication Program, or one that has serious problems.

What questions would you ask employees/employers in order to determine how serious the situation is?

Employees:

Employers:

NOW: Assign a probability rating and a severity rating. Then check the Penalty Schedule and assign a Penalty Amount.

PROBABILITY



- Low probability?*
- Medium probability?*
- High probability?*

SEVERITY



- Other than serious severity?*
- Serious physical harm?*
- Death?*

\$ _____?

Exercise #2

Part of your inspection tour includes the offices of Up'ncoming, Inc. Because of what you found in other areas of the plant, you check for unlabeled chemicals in the vicinity of the lunch area, copy machine, and restrooms. Finding none, you continue with the inspection. In the kitchen you find a 25 foot extension cord that is being used to plug in a coffee maker. The cord goes from the coffee maker, behind the refrigerator, and around a corner of the room to a receptacle that makes it necessary for workers to step over it in order to get to the lunch tables. You make it clear to the company safety director that using a cord in this way is a violation of the standard.

Again, your task is to determine probability and severity. What questions would you ask employees/employers in order to determine how serious the situation is?

Employees:

Employers:

NOW: Assign a probability rating and a severity rating. Then check the Penalty Schedule and assign a Penalty Amount.

PROBABILITY



- Low probability?*
- Medium probability?*
- High probability?*

SEVERITY



- Other than serious severity?*
- Serious physical harm?*
- Death?*

\$ _____ ?

Exercise #3

While inspecting the Loading Dock area, you notice an employee using a 10 ft. wooden stepladder. The employee is standing on the top step of the ladder, tightening a bolt on one of the overhead doors.

The surface on which the ladder is standing is concrete, which is dry and smooth. The Safety Director, who is accompanying you on the inspection, immediately asks the employee to come down off the ladder, which he does. The Loading Dock foreman arrives and has a little training session with the employee, after which a longer ladder is found and the job is finished safely.

You now have to make a decision. Knowing that using a ladder in this way is a violation of the Oregon Administrative Rules, you must consider the Probability of an accident occurring. Consider the condition of the ladder (it is in good shape) and the surface condition (smooth and dry).

Your task now is to determine what kinds of injuries would result if the employee were to fall. Also, what is the Probability of his falling? And, then, assign a Penalty amount.

NOW: Assign a probability rating and a severity rating. Then check the Penalty Schedule and assign a Penalty Amount.

PROBABILITY



- Low probability?***
- Medium probability?***
- High probability?***

SEVERITY



- Other than serious severity?***
- Serious physical harm?***
- Death?***

\$_____?

Web Resources

www.oro sha.org

www.oro sha.org/az_index.html

www.oro sha.org/enforcement.html

www.oro sha.org/consultation.html

www.oro sha.org/education.html

www.oro sha.org/rules_laws.html



In Compliance with the Americans with Disabilities Act (ADA), this publication is available in alternative formats by calling the OR-OSHA Public Relations Manager at (503) 378-3272 (V/TTY).