

OAR Chapter 437: Rules for the Administration of the Oregon Safe Employment Act <https://osha.oregon.gov/OSHARules/div1/div1.pdf>

437-001-0015 Definitions

(63) **Violation** – The breach of a person’s duty to comply with an Oregon occupational safety or health statute, regulation, rule, standard, or order.

(a) Specific classifications of violations are:

(A) **Serious violation** – A violation where there is substantial probability that death or serious physical harm could result from an existing condition or from one or more practices, means, methods, operations, or processes that have been adopted or are in use in a place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know about the violation;

(B) **Other than serious violation**– A violation that is other than a serious or minimal violation; and

(C) **Minimal violation** – A violation that does not have a direct or immediate relationship to the safety or health of employees.

(b) Specific types of the above classifications are:

(A) **Willful violation** – A violation that is 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.

(B) **Unabated violation** – A violation that has not been fully corrected by the date ordered.

(C) **Repeat violation** –

(i) An employer’s second or subsequent violation involving a substantially similar violation as the earlier violation or violations.

(ii) In these rules, repeat, repeated and repeatedly are used synonymously.

(D) **First-instance violation**– An employer’s first violation of a particular statute, regulation, rule, standard, or order.

(E) **Egregious** – Those conditions that normally constitute a flagrant violation of the Oregon Safe Employment Act, or Oregon OSHA standards, or regulations such that each instance of the violation is cited separately.

437-001- 0055 Priority of Inspections

Inspections will be prioritized to predominantly focus enforcement activities on places of employment reasonably believed to be the most unsafe. Inspections should generally be made according to the following priorities:

- (1) **Imminent danger** – An inspection should be made as soon as possible after the Division becomes aware of the condition, practice, or act that could reasonably be expected to immediately cause death or serious physical harm.
- (2) **Fatality, catastrophe, or accident** – An inspection, if appropriate, should be made as soon as possible after the Division becomes aware of a fatality, catastrophe, or accident.
- (3) **Complaint** – An inspection may be initiated when the Division receives a complaint, based on the nature and credibility of the allegations.
- (4) **Referral** – An inspection may be made if safety or health violations were observed and referred by a Division employee; federal, state, or local government representative; or the media, based on the nature and credibility of the allegations.
- (5) **Programmed Inspections** – An inspection may be made by following the provisions in OAR 437 -001-0057.
- (6) **Follow-up** – An inspection may be initiated when one or more of the following exists:
 - (a) The employer requests removal of a red warning notice.
 - (b) A variance has been denied.
 - (c) An extension of time has been denied.
 - (d) The Division believes the employer may not be in compliance with a previously cited violation, or needs monitoring as they progress towards correction of a violation.
 - (e) The employer is issued an order for one or more violations that if cited could be considered serious.

437-001-0145 Penalty for Other than Serious or Serious Violation

(2) Penalty adjustments will be made based on an employer's size for all violations. Additional adjustments for an employer's compliance history, injury and illness history, demonstrated good faith efforts, and corrective action taken at the time of the inspection will be determined by the Compliance Officer and assessed as follows:

(a) Size adjustments – based on state wide peak employment:

Table 2 - Penalty size adjustments

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) History adjustments 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.