

# Oregon OSHA Proposes Changes to Extend Time Periods and Granting Extensions Division 1, General Administrative Rules

September 2007

Text to be repealed/removed is in [~~brackets with line through~~].

Text to be adopted/added is in **bold and underlined**.

## 437-001-0205 Citation and Notice of Penalty.

(1) If the Division concludes from the review of an inspection report that a rule or order was violated, a citation will be issued to the employer which shall:

(a) State the name of the employer, place of employment, and date of inspection. If the violation occurred on other than the inspection date, the date of the violation will be included;

(b) Describe factually the nature and location of the violation;

(c) State the type of violation, if other than general;

(d) Identify the rule or order violated;

(e) Fix a time for the correction of each violation not corrected at the time of inspection;

(f) State the penalty for each violation;

(g) Identify which, if any, penalties are suspended;

(h) State the total dollar amount of assessed penalties;

(i) Inform the employer of the right to appeal the citation, the civil penalty or the period of time fixed for correction of the violation to the Board;

(j) Inform affected employees of their right to appeal the time fixed for correction of the violation; and

(k) Notify the employer that the citation becomes a final order if an appeal is not filed within [20] **30** days of receipt of the citation by the employer.

(2) The citation shall be served on the employer by certified mail or in person.

(3) Each employee representative shall be sent a copy of all citations and notices of penalties issued.

#### 437-001-0215 Employer Response to Citation and Notice of Penalty.

(1) After receipt of a citation, the employer shall:

(a) Promptly post the citation for employees information for 3 days or until the violation is corrected, whichever occurs last;

(b) Assure that any amendments or withdrawals to a citation are posted with the original citation for 3 days or until the violation is corrected, whichever occurs last;

(c) Correct each violation by the date ordered; and

(d) If no appeal is filed, remit any penalty by the [21<sup>st</sup>] **31st** calendar day following receipt of the citation.

(2) The above requirements shall not limit an employer's appeal rights.

#### 437-001-0220 Payment of Penalties.

(1) All civil penalties become due and owing after the citation becomes a final order.

(2) If payment is not received within [40] **20** days after the order becomes final, it may be docketed as a judgment as provided by ORS 654.086(3).

## 437-001-0240 Extension of Correction Date – Application.

- (1) An employer may apply for an extension of the date for correcting a violation.
- (2) An application for extension of correction date shall be in writing to the OR-OSHA Division, 350 Winter St. NE, Salem, Oregon 97310, or received by any office of the Department.
- (3) The application for extension must include:
  - (a) The name and address of the employer;
  - (b) The location of the place of employment;
  - (c) The citation number;
  - (d) The item number of the violation for which the extension is sought;
  - (e) The reason for the request;
  - ~~[(f) Facts which show that the employer has made an effort to correct the violation by the date set for correction, but was unable to do so because of factors beyond the employer's control;]~~
  - ~~[(g) f] [All available] **Any** interim steps being taken to safeguard employees against the cited hazard during the requested extended correction period;~~
  - ~~[(h) g] The date by which the employer proposes to complete the correction; and~~
  - ~~[(i) h] A statement that a copy of the request for extension has been posted as required by OAR 437-001-0275(2) or for at least 10 days, whichever is longer, and, if appropriate, served on the authorized representative of affected employees, and certification of the date upon which such posting or service was made.~~
  - ~~[(j) i] Any employee who feels a posted request for an extension is unjust may contact the Administrator for a review of the matter.~~
- (4) The application shall be postmarked or received by the Department no later than the correction date of the violation for which the extension is requested. For good cause, the Administrator may approve exceptions to this rule.

#### 437-001-0255 Informal Conference.

(1) The Administrator shall provide an opportunity for the employer and employees to discuss informally with the Division any matter affecting occupational safety and health in the place of employment.

(2) An informal conference may be used to:

(a) Clarify statements of observed violations;

(b) Discuss safety and health requirements;

(c) Discuss abatement dates;

(d) Explain the penalty system;

(e) Improve employer/employee understanding of the Oregon Safe Employment Act;

(f) Correct errors;

(g) Narrow issues, or

(h) Negotiate a settlement agreement to resolve disputed citations. Notwithstanding any other rule in this division, proposed civil penalties may be reduced as part of a settlement agreement resolving disputed claims.

(3) An informal conference concerning a citation shall not extend the [~~20~~] **30** days allowed for filing an appeal with the Board.

(4) In those cases where an informal conference concerns a citation, the Division shall contact the employer and require them to notify the employees or their representatives of the opportunity to attend the informal conference.