

Oklahoma Department of Labor's-Public Employees Occupational Safety and Health Division

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Announcement of new rules: Governor Fallin signed into law new rules affecting Public Sector employers across the State of Oklahoma. Effective September 15, 2017, Public Sector **employers** who violate Oklahoma Department of Labor's, Oklahoma Occupational Health and Safety Standards Act and Administrative Rules, 40 O.S. § 401, et seq., OAC 380:40 face potential citations and **fin**es.

What generates an inspection? Imminent danger, fatalities & catastrophes, formal employee complaints, referrals, scheduled inspections, site specific target list, non-responders, and high incident rates.

380:40-1-16 (a) Upon determination that the employer has violated a standard, rule or order promulgated pursuant to the Act, or of any substantive rule published in this chapter, the PEOSH Inspector shall issue the employer a citation.

380:40-1-24. Fines In addition to citations issued under OAC 380:40-1-16, the Commissioner of Labor, or his or her designee, may issue an administrative fine for any and all violations of the Oklahoma Occupational Health and Safety Standards Act.

- (a) An appropriate citation **shall be issued** even though after being informed of an alleged violation by the PEOSH Inspector, the employer immediately abates, or initiates steps to abate, such alleged violation. No citation may be issued under this section after the expiration of 6 months following the occurrence of any alleged violation.
- (c) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of the Act, standard, rule, or regulation, alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.
- (b) (d) No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger.
- (c) (e) **Violations of the Act shall be classified as follows:**
- (d) (1) **Serious:** a condition creating substantial probability that death or serious physical harm could result. The condition is the result of one or more practices, means, methods, operations, or processes that have been adopted or are in use, unless the employer did not, and could not with the exercise of reasonable diligence, know of the condition that is the basis of the violation.
- (e) (2) **Other than serious:** the most serious injury or illness that would be the likely result of the violation cannot reasonably be predicted to cause death or serious physical harm to exposed employees, but does have a direct and immediate relationship to the employees' safety and health.
- (f) (3) **Willful:** a violation in which the employer either knowingly failed to comply with a legal requirement (purposeful disregard) or acted with plain indifference to employee safety.
- (g) (4) **Repeated:** the employer has been cited previously for the same or a substantially similar condition within the past five years.
- (h) (5) **Regulatory:** the violation involves posting requirements or injury and illness recordkeeping requirements.

All monies collected for violations of the Oklahoma Occupational Health and Safety Standards Act shall be deposited to the Department of Labor Administrative Penalty Revolving Fund for transfer to the General Revenue Fund. **The following schedule of fines shall apply on a per-violation, per-day basis:**

- (1) Serious: \$1,000.00
- (2) Other than serious: \$500.00
- (3) Willful: \$5,000.00
- (4) Repeated: \$5,000.00
- (5) Regulatory: \$500.00

(b) Payment for the fines set forth in subsection (a) of this section shall be due within thirty (30) days of issuance of a citation by the Commissioner or designee. Any person wishing to contest any of the aforementioned fines shall, within thirty (30) days of issuance of the fine or fines, petition the Commissioner or designee, in writing, for an administrative hearing. If requested, the hearing shall then be scheduled by the Commissioner or designee as provided in the Administrative Procedures Act.

(c) Employers who voluntarily request an onsite inspection shall not be subject to monetary penalties for hazards identified during the course of the voluntary inspection, provided that such hazards are corrected within the timeframes established during the consultation visit.

(d) Funds collected as payment from a violator for administrative fines imposed for violation of the Oklahoma Occupational Health and Safety Standards Act shall not be retained by the Department of Labor, but shall be deposited to the Department of Labor Administrative Penalty Revolving Fund for transfer to the General Revenue Fund.