



Feb. 11, 2022

The Honorable Senator Akasha Lawrence Spence, Co-Chair
The Honorable Representative David Gomberg, Co-Chair
Interim Joint Committee on Ways and Means
Subcommittee on Transportation and Economic Development
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairpersons:

During the Agency presentation to the Joint Subcommittee on Transportation and Economic Development on Feb. 8, 2022, questions were raised regarding COVID-related citations issued by the Agency.

Since the beginning of the pandemic, Oregon OSHA's enforcement work has included addressing COVID requirements in workplaces, as well as non-COVID health and safety standards. It has done so through both inspections and non-inspection investigations (frequently addressing multiple and similar COVID complaints concerning the same jobsite), including complaint evaluation and follow-up. The following summarizes our work:

- Since March 2020, the division has received a total of 38,766 complaints. For perspective, the division typically receives about 2,000 complaints annually. Of those total complaints, 31,635 were related to COVID, while 7,131 were non-COVID.
- Since March 2020, the division has conducted a total of 2,583 inspections. Of those total inspections, 729 were related to COVID, while 1,854 were non-COVID. The inspections included enforcement visits where the division examined COVID protocols as part of an inspection process that also evaluated non-COVID hazards.
- The 729 COVID inspections included formal enforcement visits where the division addressed at least one complaint allegation that was related to COVID-19. It also includes enforcement visits where the division examined COVID protocols as part of an inspection that otherwise addressed non-COVID hazards.
- Since March 2020, the division has issued at least¹ 227 citations for COVID violations. Those citations were the result of the 729 COVID inspections.

¹Citations related to COVID-19 restrictions must be identified and tracked manually, at least in part, making the number less exact than would otherwise be the case; it is possible that some citations have been inadvertently omitted from the count.

- Of the estimated 227 citations issued involving COVID violations, approximately 51 involved willful violations. Since the pandemic began, the division has not issued willful violations for non-COVID-related matters. Before the pandemic, the division issued citations involving willful violations an average of two to four annually. A willful violation exists when an employer has demonstrated either an intentional or purposeful disregard for the requirements of the Oregon Safe Employment Act or a plain indifference to employee safety and health.
- Of the 729 COVID inspections, approximately 59 percent involved citations. That percentage encompasses citations involving only non-COVID violations, even though COVID protocols were also addressed.
- An estimated two-thirds of the citations issued for COVID violations were never appealed by the employer. Of the one-third that were appealed, the overwhelming majority involved willful violations and make up the largest amount of assessed penalties.
- The estimated 227 COVID-related citations issued amount to an approximate total of \$941,000 in initial penalties. Of the approximate 51 citations involving willful violations, the estimated total initial penalties were \$811,000.
- Of the 2,583 total inspections conducted since March 2020, the division has issued citations with initial penalties totaling approximately \$3.2 million.
- It is important to note that the listed penalty amounts reflect only initial penalties. Contested cases and settlements can affect final penalty outcomes.

In addition, attached is a document detailing data from March 2020 through year-to-date on Oregon OSHA activity related to complaints, inspections, and compliance for both COVID and non-COVID activities.

Again, thank you for the opportunity to present, and I welcome any additional questions you may have.

Sincerely,



Andrew R. Stolfi
Director

Department of Consumer and Business Services