

In this issue of the Construction Depot: *The 502 Committee* addresses fall-protection challenges in stick-framed construction. ■ *Rod Comstock* tells you how OR-OSHA's training workshops can help bring new employees up to speed on workplace safety and health, and *Don Harris* highlights the benefits of checking out a safety-training video from the OR-OSHA AV Library. ■ Do you have to comply with OR-OSHA rules if you're an independent construction contractor? *Ron Preece* covers criteria you need to consider. ■ Finally, a reminder: *Be aware of asbestos* if you do remodeling work. It's still a concern for construction workers.

The 502 Committee wants to hear from you

By Rocky Shampang
OR-OSHA Safety Compliance Officer

When employees are exposed to a fall hazard, employers are required to ensure that fall-protection systems are provided, installed, and implemented according to the criteria in 29 CFR 1926.502. Employees can be protected from fall hazards by one or more of these systems in almost all construction situations. However, these systems are more adaptable to some construction processes than others.

OR-OSHA has established the 502 Committee to evaluate construction processes and identify which fall protection systems are compatible with the work being performed. Where it may not be feasible to implement one of the fall-protection systems listed in 29 CFR 1926.502, the committee will identify alternative work procedures, construction methods, or fall-protection measures to minimize the risk of a fall.

The 502 Committee includes OR-OSHA and industry representatives who will develop a process-oriented fall-protection guide to be published in sections, as each process is evaluated. The first task is to examine the fall-protection challenges

associated with setting wood trusses. Then the committee will address the fall-protection challenges presented by leading-edge work in stick-framed construction.

Fall-protection challenges associated with setting wood trusses:

- When can trusses be used as fall-arrest anchors?
- How to provide fall protection for workers cutting rafter tails.
- How to provide fall protection for workers who must go out on the truss to align and attach bracing.
- Can interior-hung carpenter's bracket scaffolding be used by workers who are receiving and attaching the truss to the top plate, cutting rafter tails, and nailing freeze blocks?
- What's the safest method for moving trusses from their landing on the top plate to their final attachment point?

The 502 Committee welcomes your comments and suggestions.

502 Committee representatives

Bob Bryant
OR-OSHA

Bob Harris
Marion-Polk Building
Industry Association

Ellis Brasch
OR-OSHA

George Vorhauer
OR-OSHA

Marilyn Schuster
OR-OSHA

Michelle Potter
Walsh Construction

Paul Allen
Breden Homes

Rocky Shampang
OR-OSHA

Rod Comstock
OR-OSHA

Ron Haverkost
OR-OSHA

Employee training

By Rod Comstock,
OR-OSHA Public Education Manager

This is the time of year we traditionally see more activity in the construction industry. It may mean that your company is bringing on new employees to help keep up with the work you've acquired. Most contractors want to hire employees who have the skills to do the job. However, some additional training is usually required, including how to do the job safely.



The message from this 1946 cartoon is still relevant.

From "Safer Oregon," Volume 3, No. 4,
Accident Prevention Division, April, 1946

protection and excavation safety. If our scheduled workshops don't fit your schedule, contact us for more flexible onsite training. The OR-OSHA publication *Be Trained: A guide to OR-OSHA's safety & health training requirements* (#3311) can help you determine what training your employees need and is available on our Web site, www.orosha.org.

If you want train your own staff, send a representative to OR-OSHA's Train the Trainer or Effective Safety Training workshops and we will show you how. All our workshop materials can be downloaded from our Web site with the instructors guide and overheads. If you have Spanish-speaking employees, PESO gives you tools to teach subjects in both English and Spanish; there are 11 modules that cover construction topics for excavations, fall protection, health, portable ladders, and scaffolds.

May 12 is Safety Break for Oregon, a great opportunity for some refresher safety training with your experienced construction workers. All of our training materials, workshops, Internet courses, and publications can be found on our Web site, www.orosha.org; click on the education link. Or call 1-888-292-5247, Option 2 for information.

Oregon OSHA would like to help. We offer 35 no cost safety and health workshops that cover technical subjects such as fall

Second annual safety break for Oregon: May 12

This one-day event — a partnership between OR-OSHA and Oregon employers — raises awareness and highlights the value of workplace safety in preventing injuries and illnesses.

This year's Safety Break for Oregon is a part of a larger education and outreach campaign from the Department of Consumer and Business Services called "Safe Jobs, Smart Business." The purpose of the campaign is to help employers plan for working safely and to reduce the costs that result from serious workplace accidents.



"One-third of serious workplace injuries in Oregon occur to workers who have been working at a job for less than one year," said Kevin Weeks, public information officer for OR-OSHA. "Ten percent of the seriously injured workers had not even made it 30 days on the job before being injured. Providing adequate training and supervision before a new employee starts working helps reduce the odds that employees will become seriously injured. Productivity and safety go hand in hand."

For more information about Safety Break for Oregon, contact Kevin Weeks, (503) 947-7428.

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Construction contracting in Oregon

By Ron Preece, OR-OSHA Technical Specialist

Although you may have an exemption or special classification with one government organization, that doesn't necessarily mean that you have the same status with other agencies. Such is the case with Oregon OSHA, the Construction Contractors Board, and construction contractors. Regardless of your status with the Construction Contractors Board you may still fall under Oregon OSHA rules.

Generally, independent contractors are not employees of a contracting agent. Therefore, businesses that hire only independent contractors normally are not employers under the Oregon Safe Employment Act (OSEAct). There are times when there can be an employer/employee relationship between independent contractors.

Whether you are an employer depends on the facts of each case. The courts use the following "economic realities" test:

- Whom do the workers consider their employer?
- Who pays the workers?
- Who has the responsibility to control the workers?
- Does the employer have the power to control the workers?
- Does the employer have the power to hire, fire, or modify the conditions of employment?
- How are the workers' wages established?

While no single factor decides it, consideration of all of them gives a picture of the relationship at issue.

Normally, when two or more independent contractors work on the same job, doing the same process, OR-OSHA rules apply even if the contractors are normally exempt as partnerships or corporations. The reason is that they usually, even if uninten-

tionally, develop an employer/employee relationship as evidenced by the following:

- The base contract is usually with only one of the contractors.
- One contractor buys the materials for the job.
- Normally one of the contractors is in charge and/or responsible for the completion and quality of the job.
- Contractors coordinate their schedules so they are on the job at the same time.
- Often they share equipment.
- The two contractors work together on the same task or in the same area.
- Final payment for the job is made to one contractor who then pays the other.

Partnerships. ORS 656.027(23)(a) says that if a partnership is registered with the Landscape or Construction Contractors boards and all partners are members of the same family — parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grandchildren — they may elect to be nonsubject workers and therefore exempt from OR-OSHA rules, unless they elect workers' compensation coverage.

If not all partners are members of the same family, the maximum number that are exempt from workers' compensation coverage are two partners or one partner for each 10 partnership employees. If the law does not require the partners to have workers' compensation coverage and they do not elect to cover themselves, they do not come under OR-OSHA jurisdiction.

Corporate officers. If you are an employer based on the criteria in this article, being incorporated will not exempt you from OR-OSHA jurisdiction.

Asbestos: Know your risk of exposure

According to Penny Wolf-McCormick, OR-OSHA health enforcement manager, asbestos should be a concern for construction workers, especially those who do remodeling work. Many workers — even those who may be aware of asbestos hazards — underestimate their risk of exposure.

In the construction industry, asbestos is found in installed products such as shingles, floor tiles, cement pipe and sheet-roofing felts, insulation, ceiling tiles, fire-resistant drywall, and acoustical products. Because few new asbestos-containing products are installed these days, most worker exposures occur during asbestos removal and building renovation and maintenance. Asbestos fibers enter the body by inhalation or ingestion of airborne particles that become embedded in the tissues of the respiratory or digestive systems. Exposure to asbestos can cause disabling or fatal diseases such as asbestosis, an emphysema-like condition; lung cancer; mesothelioma, a cancerous tumor that spreads rapidly in the cells of membranes covering the lungs and body organs; and gastrointestinal cancer. The symptoms of these diseases generally do not appear for 20 years or more after exposure.

Workers who are concerned about asbestos exposure in the workplace should discuss the situation with other employees, their employee health and safety representative, and their employers. Workers should use the protective equipment provided by their employers and follow their employer's safe work practices and procedures. OR-OSHA's asbestos safety and health requirements for construction employers are covered in *1926.1101, Subdivision 3/Z, Toxic and Hazardous Substances*.

Other OR-OSHA publications on asbestos, available at www.orosha.org or from the OR-OSHA Resource Center:

- *Asbestos Standard for the Construction Industry* (#2129)
- *Asbestos exposures — what building owners need to know* (#3022)

Video library sees surge in construction-related requests

by Don Harris, AV Librarian for Oregon OSHA

I sometimes wonder if the OR-OSHA AV Library isn't a barometer of sorts for Oregon's economy at large. These days, I hope it is just that.

With 70 titles, construction is by far the largest category among more than 800 safety videos available for loan through Oregon OSHA. In this first quarter of 2004, construction-related videos have ranked second in terms of topics most frequently requested, outpaced only by those titles covering safety awareness in general. In fact, demand for fall-protection videos reached such a level during the month of March that we had only *one* English-language title still in stock — a comprehensive 2.5 hour seminar which had to be cued up to the actual "safety video" portion. Not all that long ago, construction had dropped to fifth place in overall circulation . . . but maybe times are changing!

Despite the numbers, there's one thing about the construction industry that never changes: Construction is a hazardous business! As those involved in the industry know all too well,

it's not the kind of work one can learn to do safely merely by reading a book. While written resources are invaluable, many construction-related tasks are learned by observation and then practice.

The OR-OSHA AV Library can be a great help when it comes to the "observation" component of worker training. The few minutes it takes to watch a safety video provide an invaluable opportunity for new and experienced workers to observe possible hazards in a non-hazardous setting. The information gained in those few minutes might even help to save a life.

If you've never borrowed from the OR-OSHA AV Library before, now is a good time to start! You'll be surprised how easy it is — and how cost effective. For further information, contact the AV library, (800) 922-2689, or send e-mail to don.j.harris@state.or.us.

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Department of Consumer and Business Services director

Cory Streisinger

Oregon OSHA administrator

Peter De Luca

Construction Depot editor

Ellis Brasch

Designer and illustrator

Patricia Young

DCBS editor

Dian Cox

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*If you have questions about the information in **Construction Depot**, please contact Ellis Brasch ellis.k.brasch@state.or.us or call (503) 947-7399.*

For general information, technical answers or information about Oregon OSHA services, please call (503) 378-3272 or toll-free within Oregon, (800) 922-2689.

For a color version of *Construction Depot* and related occupational-safety-and-health information, visit the OR-OSHA Web site, www.orosha.org.