

# Oregon OSHA

## OSHSPA State Plan Report May 2016

**Michael Wood, Administrator**

### **I. Significant Legislative/Programmatic Changes**

#### Legislatively Mandated Rulemaking

Nothing to report.

#### Legislative Activity

Nothing to report.

#### Other Rulemaking Activity

**Fall Protection and Slide Guard Use in Construction.** In response to federal OSHA, Oregon OSHA has adopted revisions to fall protection in construction that includes changing the 10-foot general trigger height to 6 feet, effective January 1, 2017. We also adopted the elimination of the use of slide guards as a sole or primary fall protection system, effective October 1, 2017.

**Employer Knowledge.** Oregon OSHA plans to complete rulemaking that addresses the issue of employer knowledge and the role of reasonable diligence in determining whether an employer has “constructive knowledge” of a violation in the worksite.

Oregon OSHA had initial discussions with a small group of stakeholders in July and August, 2015, and reconvened on April 28, 2016, at which we shared a pre-proposal discussion draft. Another meeting is planned for May 20, 2016, with more discussion around the proposed rule language.

**Silica.** Oregon OSHA’s administrator, Michael Wood, had an internal statewide conference call (April 22, 2016) with Industrial Hygienists and other interested staff, to discuss different approaches that Oregon OSHA might take in response to the new Occupational Exposure to Respirable Crystalline Silica federal standard that was adopted March 25, 2016. Oregon OSHA is forming an advisory group that will meet the end of May 2016.

**Pesticide Worker Protection Standard.** The Environmental Protection Agency adopted changes to the Worker Protection Standard. Oregon OSHA is working with an advisory group to look at these revisions, and discuss rulemaking to update Oregon OSHA rules that contain the Worker Protection Standard. Oregon OSHA held the initial advisory group meeting on April 19, 2016 with various stakeholders attending and entering into discussion. Oregon OSHA anticipates a formal proposal in the next 3-6 months.

**Oregon OSHA is developing three legislative concepts** for probable introduction in the 2017 legislative session. The overall theme of the three legislative concepts is addressing changes in specified financial thresholds over time.

The first legislative concept would align Oregon OSHA with the Federal Civic Penalties Act of 2015, which requires an increase to the maximum serious violation penalty and maximum repeat or willful violation. It would grant the agency the authority to set maximum penalties in accordance with federal guidelines.

The second legislative concept would allow the agency to raise the Worker Memorial Scholarship fund from \$250,000 to \$1,000,000. The scholarships are allocated based on earnings by the fund and this fund has not been increased since 1993.

The final legislative concept would increase the financial threshold for construction projects to need sanitary facilities with flushing toilets and warm water basins for employees. The current threshold is \$1,000,000 and Oregon OSHA is asking that the threshold be raised to \$1,250,000 with future increases being allowed by department in rule. The statute has not changed since 1993.

*All adopted and proposed rules are available at our website <http://www.orosha.org>  
- look under Rule Activity.*

## **II. New Developments/Activities/Notable Cases**

### **Activities:**

#### **Workers Memorial Day Ceremony**

Oregon OSHA participated in two Workers Memorial Day ceremonies, one sponsored by the Northwest Oregon Labor Council in Portland and the other by the Oregon AFL-CIO, at the Fallen Workers Memorial outside the Labor and Industries Building on the Capitol Mall. Administrator Michael Wood spoke at both events, with the latter event also including remarks from Oregon AFL-CIO president Tom Chamberlain, and from Elana Pirtle-Guiney, workforce and labor policy advisor to Oregon Gov. Kate Brown. Oregon Secretary of State Jeanne Atkins read the names.

#### **Oregon OSHA participated in national safety stand-down event**

##### **Employers invited to use consultation services**

Oregon OSHA Consultation Services brought expertise on fall prevention to work sites across the state during the May 2-6, National Safety Stand-Down.

#### **Two-day workplace safety, health event**

Oregon OSHA sponsored a variety of workshops and networking opportunities, a two-day conference in Eugene brought workers, supervisors, and employers together to learn about innovative tools to strengthen the safety and health of workplaces. The March 8-9 event included

a keynote presentation by Erike Young, vice-chairman for the U.S. Technical Advisory Group for ISO 31000 on risk management and global safety manager for Google.



### **Winners of the 2016 Video Contest**

Students at Parkrose High School in Portland won \$500 first- and \$400 second-place prizes for videos they entered into a contest designed to increase awareness about workplace safety for young workers. The school also won matching amounts of prize money. Oregon OSHA is a co-sponsor of the contest. The video that garnered first place, “Voices in My Head,” depicts a young worker who, under threat of firing, is ordered to do a job he’s never done before. The worker struggles with pro-and-con voices in his head, eventually making the right – and safe – decision: His job shouldn’t cost him his future. The winning videos are available for viewing on YouTube: “Voices in My Head,” <https://youtu.be/QgxNiXTzg-w> and “#47,” <https://youtu.be/Wh4X3wzWdGI> .

### **New Hazard Alert**

Oregon OSHA published a new filbert harvesting equipment hazard alert that provides safety guidelines when operating filbert harvesting equipment. This is available at available at <http://www.orosha.org/>

### **New Fact Sheet**

Oregon OSHA published a new confined spaces-crawlspaces and attics fact sheet that discusses three characteristics that must be present in order for a space to be a confined space. This is available at available at <http://www.orosha.org/>

### **Newsletters**

Oregon OSHA publishes three newsletters: The “Resource” (a general interest publication), the “Construction Depot” (for the construction industry) and the “Forest Activities News” (for the logging and forest industry). These are available at <http://www.orosha.org/> .

The *Health and Safety Resource newsletter* is published every two months. The most recent was April 2016.

Some of the highlights in this issue are:



- Deschutes Brewery - Doing the right thing.
- Administrator's Message: The message remains. The work is important, and we can do better!
- To encourage and assist: The surprising history of the voluntary approach to safety and health in Oregon.
- Safety Notes: Four carpenters injured when temporary framework supporting trusses collapsed.
- Going the Distance: Meet the health and safety manager for Portland Parks and Recreation.

Some of the highlights in the issue are:

- Fatal traumatic brain injuries in the construction industry
- Employee involvement: Then and now
- Construction Q&A: Lateral load requirements for fall protection anchors
- Thai docs, Oregon OSHA, OHSU tour new Cooper Mountain High School construction site
- ACCOSH to discuss Safety and Health Program Management Guidelines for the construction industry

The *Forest Activities News* is published when significant and or interesting logging/forest activities arise. The most recent was February 2015.

### **Notable Case:**



#### **Oregon OSHA Consultation investigating coffee processing sites in Portland, OR**

It all started back in 2006 when the International Brotherhood of Teamsters and the United Food and Commercial Workers petitioned OSHA to protect workers from the health effects of inhaling diacetyl vapors from butter-flavored popcorn.

Now the issue is diacetyl and coffee processing. Diacetyl and 2,3-pentanedione are naturally produced and released during the coffee roasting process, but that's not good news for workers who do the processing. NIOSH reported on the issue in 2013 and the Milwaukie Wisconsin Journal Sentinel published a 2015 investigative report.

Since then, everyone from NPR to Lung Disease News has been writing about coffee processing and worker health – and it's still a front-burner issue, especially here in Oregon where fresh-roasted coffee is very popular.

It was also an issue that Oregon OSHA consultants **Steve Eversmeyer** and **Jeff Jackson** had been thinking about. So in the fall of 2015 they lined up three Portland-area coffee local roasters to find out if any of the companies' employees were overexposed.

The ACGIH and NIOSH have recommended exposure limits for diacetyl, and NIOSH also has limits for 2,3-Pentandione. Steve and Jeff used the NIOSH limits for their research.

Steve and Jeff monitored employees at all three companies and air samples for respirable particulates were collected at two facilities; they checked roasters, packers, grinders, green coffee bean loaders, and baristas.

Most employees were monitored for one full shift; in one case, multiple shifts were monitored. Short-term exposure samples were also collected for most tasks. Almost 100 samples have been collected to date.

The potential for overexposures to diacetyl and 2,3-pentanedione was consistent at the three companies regardless of the employee's task, the source of beans, or the batch size. The short-term exposure samples showed overexposures for diacetyl and 2,3-pentanedione – and, when combined, higher additive exposures.

Not all employees and not all results were over the recommended limits, however. But there were enough higher exposures to warrant additional monitoring and to implement the NIOSH recommended controls.

Only one company made flavored coffee and only one of its employees – the flavor tech – had significantly higher exposures to 2,3-pentandione. Some of the barrels of flavoring had lung hazard warnings on them; however, the manufacturer said they did not use diacetyl in the flavoring – but they were silent regarding the use of 2,3-pentandione.

Follow-up phone calls and emails were made to the two largest companies. According to their staff, all of the employees who might have been exposed to the chemicals received pulmonary or lung function tests and no one showed any evidence of decreased lung function. This is consistent with informal interviews done during exposure monitoring; regardless of tenure, all of the employees stated they felt fine and had not experienced unexplained shortness of breath or similar symptoms.

### **Recent or Upcoming Occupational Safety and Health Conferences**

Blue Mountain Occupational Safety & Health Conference  
Pendleton Convention Center  
Pendleton, OR  
June 6 – 7, 2016

Southern Oregon Occupational Safety & Health Conference  
Ashland Hills Hotel & Suites  
Ashland, OR  
October 11-13, 2016

Central Oregon Occupational Safety & Health Conference, Riverhouse on the Deschutes  
Bend, OR  
September 20 & 21, 2016

**Questions?**  
Contact the Conference Section at  
(503) 378-3272  
or toll-free in Oregon at  
(888) 292-5247, option 1.  
or send e-mail to:  
[oregon.conferences@state.or.us](mailto:oregon.conferences@state.or.us)

**III. Areas of Concern:** Nothing new to report.

**Continued on the next page.**

#### **IV. Information Sought from Other State Programs:**

From Tennessee: Contact person: Steve Hawkins, TOSHA Administrator, [Steve.Hawkins@tn.gov](mailto:Steve.Hawkins@tn.gov)

- Is your program able to fine, hire, and retain bilingual (Spanish) compliance officers?

Oregon reply: Oregon has five Spanish speaking compliance officers out of 78 positions. We recruit most of our positions with a preference to Spanish speakers and the employees get a pay differential for it.

- Does your state always perform a comprehensive inspection when a workplace fatality occurs?

Oregon reply: No, Oregon OSHA does not perform a comprehensive inspection for all workplace fatalities.

From South Carolina: Contacts: Dottie Ison, Administrator, SC OSHA [dottie.ison@lir.sc.gov](mailto:dottie.ison@lir.sc.gov)

- Has any one used drones on inspections to document conditions? If so, what has been their experience?

Oregon reply: No, Oregon OSHA has never used drones on an inspection.

**V. Administrative Changes:** Julie Love accepted the position of Oregon OSHA Deputy Administrator on April 1, 2016, replacing Marilyn Schuster who retired.

**VI. Contact Information:** Phone: (503) 378-3272, Fax: (503) 947-7461  
Internet: [www.orosha.org](http://www.orosha.org), Federal Liaison: Pamela Lundsten, [pamela.g.lundsten@state.or.us](mailto:pamela.g.lundsten@state.or.us)