



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services

Oregon Occupational Safety & Health Division (OR-OSHA)

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January 24, 2000

Reviewed: December 6, 2007

Brent Dunigan, Owner
Willamette Valley Gutter
38130 Payne Drive
Lebanon, Oregon 97355

Dear Mr. Dunigan:

This letter is in response to your December 16th letter requesting a variance to 29 CFR 1926.1053(b)(4). Your request for the variance resulted from a recent OR-OSHA inspection and subsequent issuance of a hazard letter. On January 7th Mike Mitchell, a member of my staff, contacted you by telephone and received additional information about employee use of orchard ladders for installing gutters. After review of the standard and additional information dealing with orchard ladders, it has been determined that a variance is not needed for your company to continue using orchard ladders so long as the ladders are used safely and as intended by the manufacturer.

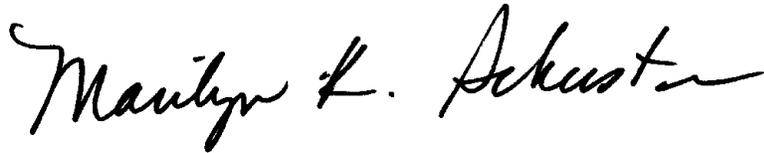
The intent of 29 CFR 1926.1053(b)(4) is to prohibit use of ladders for other than climbing or working from. Manufacturers do not intend, nor are ladders normally designed to be used for such things as scaffolding, bridging, bracing, support, or in unsafe locations or on unsuitable surfaces. Each type of ladder is designed for specific tasks, with prescribed methods of use. An orchard ladder, for instance, is intended for use on soil or turf, with each leg slightly penetrating the ground. Its tripod design makes it suitable for use on uneven ground. An orchard ladder should never be used on concrete or hard surfaces. Manufacturer's safety and use limitations should be reviewed and followed. Sources of such information include that which is provided at the time of sale, manufacturer's websites, and OR-OSHA's publication, No. 440-3083 (which was provided to you at the time of the inspection), titled "Portable Ladders, Type, Use & Care". Please disregard the last sentence on page 11 of that publication: "Orchard ladders should be used only for orchard work". It is incorrect information and will be removed in future printings.

Since the potential exists when using an orchard ladder (which is not equipped with a spreader brace) that a leg could slip out of the ground and kick out, causing the ladder to fall, you might consider using tripod 3-legged ladders (sometimes called electricians' tripod step ladders). While providing the same benefits of stability on uneven surfaces as orchard ladders, tripod 3-legged

ladders are equipped with a spreader brace to prevent the third leg from kicking out. Such ladders are commonly used on construction sites.

For further information please contact OR-OSHA's Technical Section at (503) 378-3272. You are also invited to see the OR-OSHA pages on the Internet at the above address.

Sincerely,

A handwritten signature in black ink that reads "Marilyn K. Schuster". The signature is written in a cursive style with a prominent initial 'M' and a long, sweeping underline.

Marilyn K. Schuster, Manager
Standards & Technical Resources
Oregon Occupational Safety and Health Division