

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration
300 Fifth Avenue, Suite 1280
Seattle, Washington 98104



October 2, 2015

Michael Wood, Administrator
Department of Consumer and Business Services
Oregon Occupational Safety and Health Division (OR-OSHA)
350 Winter Street NE, Room 430
Salem, OR 97309-0405

Mr. Wood:

This letter is a follow-up to our meeting on June 2, 2015, regarding Oregon OSHA's Fall Protection Standards, Oregon Administrative Rule (OAR) 437-003-1501 and OAR 437-003-3502. As you are aware, OSHA reinstated its original residential fall protection requirements in December 2010 (Compliance Guidance for Residential Construction (STD 03-1-002)). As currently written, Oregon OSHA's fall protection requirements cannot be considered at least as effective as the Occupational Safety and Health Administration's (OSHA) requirements. As we stated in our letter dated June 3, 2013, there are two specific areas of concern in which the State Plan's standard differs significantly from OSHA's policy and standard:

- 1) Oregon has a general ten-foot trigger height for fall protection in construction¹, which is not consistent with OSHA's six foot trigger height for fall protection in construction.
- 2) Oregon permits the use of slide guards as an acceptable fall protection method for some types of residential construction. However, OSHA requirements permit alternative fall protection measures to be used only if "the employer can demonstrate that it is infeasible or creates a greater hazard to use" the specified methods of conventional fall protection. In contrast, the Oregon standard does not require employers to demonstrate infeasibility or the creation of a greater hazard prior to implementing alternative means of fall protection contained in OAR 437-003-3502.

In the interest of providing Oregon's workers the same, or greater, level of protection as afforded under OSHA's program, we ask that you work with us in a timely manner to fully address the key issues highlighted above and any other issues that may come to light in the course of further discussions. OSHA supports Oregon OSHA's effort to take this matter to its regulated community. As you know, this issue has been under discussion for several years. While we recognize that the rulemaking process in Oregon can be lengthy, we ask the state to initiate this process at its earliest opportunity.

¹ OSHA acknowledges that Oregon does require fall protection at a height of six feet for holes, wall openings, established floors, mezzanines, balconies, walkways and excavations. (OAR 437-003-1501)

If you have any questions regarding this matter, please do not hesitate to contact Cecil Tipton, Portland Area Director at 503-231-2112, or A.J. Reid, State Programs Manager at 206-757-6692. If you would like to discuss this matter further with me, I may be reached at 206-757-6700.

Thank you for your continued cooperation in working to ensure the safety and health of workers in Oregon.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ken Nishiyama', is written over the typed name.

KEN NISHIYAMA ATHA
Regional Administrator

cc: Galen Blanton, Deputy Regional Administrator
Dave Baker, Assistant Regional Administrator for Cooperative and State Programs
A.J. Reid, State Programs Manager
Cecil Tipton, Portland Area Director