

Oregon OSHA
OSHSPA State Plan Report
May 2019

Michael Wood, Administrator

I. Significant Legislative/Programmatic Changes

Legislatively Mandated Rulemaking: Nothing to report.

Legislative Activity: Nothing to report.

Other Rulemaking Activity:

Permissible Exposure Limits (PELs). In March 2017, Oregon OSHA selected lead and manganese from the PEL advisory group's list of suggested candidates as the first two of approximately four to six candidates to undergo a PEL reduction through the rulemaking process. These substances were selected because of their broad exposure to workers in Oregon across a wide range of industries. Both lead and manganese rulemakings have formed separate advisory committees who are meeting and beginning the rulemaking process.

Lead- Oregon OSHA's Lead rulemaking stakeholder meetings are continuing, and potential rule language is being drafted. Oregon OSHA is working with WA-DOSH in this rulemaking as they are addressing the same issue at the same time. The rules may be different, but stakeholders and technical specialists involved are going to both Oregon and Washington rulemakings. Oregon OSHA expects to reconvene stakeholder meetings in 2019, where stakeholders will consider pre-proposal draft language regarding this rulemaking.

Manganese- Oregon OSHA's Manganese rulemaking stakeholder meetings are ongoing, and the Advisory Committee has expanded to include additional stakeholders from affected industries that will be considering the economic impact of any proposed rule changes. Oregon OSHA expects to reconvene stakeholder meetings in the Spring of 2019, where stakeholders will consider pre-proposal draft language regarding this rulemaking.

Agricultural Labor Housing. Oregon OSHA has begun the process of consulting stakeholders regarding updating and improving rules around agricultural labor housing (ALH). Oregon OSHA has put together a stakeholder group with the core consisting of the small agricultural employer advisory committee, as well as members of other interested parties, including worker advocates. The ALH advisory committee had their first meeting in November 2018, and plans to continue meeting throughout 2019.

Electronic Recordkeeping. Federal OSHA adopted amendments to their electronic injury and illness tracking and reporting rule. Federal OSHA removed the requirement to electronically submit to OSHA information from the OSHA Form 300 and OSHA Form 301 for establishments with 250 or more employees that are required to routinely keep injury and illness records. Covered establishments are only required to electronically submit information from the OSHA Form 300A. Federal OSHA also adopted a requirement for employer to electronically submit

their Employer Identification Number (EIN) with their electronic data. Oregon OSHA plans to propose rulemaking to keep the electronic recordkeeping rules in line with federal OSHA.

Crane Operator Certification. Federal OSHA has adopted a crane operator certification rule update. Oregon OSHA proposed language similar to the changes made by federal OSHA, and likely will propose repealing our Oregon initiated rule around crane operator certification in light of the federal final rule. A side by side between the newly adopted federal rules and the current Oregon rules was distributed to stakeholders in multiple committee groups, as well as a draft of pre-proposal language for the rule. One public hearing was held with no comments, and four written comments were received. Oregon OSHA is currently considering public comments, and will make a decision regarding adoption before May 9, 2019.

Employer Knowledge. Oregon OSHA plans to propose 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. A small group of stakeholders met in the summer of 2015 and in the spring of 2016, that reconvened in 2017. This rulemaking has been resurrected and new pre-proposal draft language is being presented to stakeholders throughout the Winter of 2018-2019 as stakeholder groups continue meeting.

Exterior Only Fire Fighting. A bill was introduced during the 2019 legislative session by Representative Lynn Findley relating to “frontier firefighting” that would prescribe the type of training that employees would be required to undergo in rural settings where non-traditional fire suppression is conducted, or may be conducted during employment. Oregon OSHA has reviewed the elements of the bill and has decided to undergo rulemaking on “Exterior Only Fire Fighting” to clarify the level of training that would be required in this rural setting. A small work group representing the fire suppression community has met twice to work on this rulemaking.

All adopted and proposed rules are available at our website <http://www.osha.oregon.gov> - look under Rules and Laws.

II. New Developments/Activities/Notable Cases Activities:

New Publication

Oregon OSHA published three “*Application Exclusion Zone*” information sheets in English and Spanish: An Overview of the AEZ, Steps To Take For An AEZ, and Oregon OSHA’s Worker Protection Standard with specific Oregon requirements under the Worker Protection Standard.

Fall Protection for setting and bracing wood trusses and rafters-in Spanish: Describes how to eliminate or minimize fall hazards for workers who set and brace wood trusses and rafters.

Safety monitoring for roofing work-fact sheet: Explains the requirements for using safety monitor systems rather than mechanical systems to warn roofers when they are six feet or more above a lower level and in danger of falling.

These are available at <https://osha.oregon.gov/pubs/Pages/index.aspx>.

Oregon OSHA News Releases: *Northwest safety event offers training to protect workers:* The three-day event on May 14-16 is produced by the non-profit Region X Voluntary Protection Programs Participants’ Association for all industries and worksites, even if they are not part of

the Voluntary Protection Program (VPP), which encourages companies to protect workers by going well beyond minimum safety requirements.

Oregon OSHA Offers Employers New Online Training Suite: Oregon OSHA translated into Spanish three courses – Safety Meetings and Committees, Accident Investigation, and Hazard Identification – and housed all of them in a central location: the new [Safety Committee Suite web page](#). Oregon OSHA urges employers to blend the training offered by the [Safety Committee Suite](#) with policies and practices that are specific to their workplaces. This will increase the effectiveness of the training and help ensure all requirements are met.

Oregon Young Worker Health and Safety Coalition: - *Oregon Young Employee Safety, O[yes]* Students at Parkrose High School in Portland won \$500 for their first-place video titled “The Safety Bros” in an annual safety video contest that promotes young worker safety and the importance of speaking up. The top three entries will take home cash prizes ranging from \$300 to \$500, and students will earn a matching amount for their school. All of the winning videos, as well as the other finalists, are available for viewing on YouTube: https://www.youtube.com/watch?v=Z5_HsiPb_rc&list=PLM75uPd4sBhx05JwZDmjYieJiG49qjsDx

2019 Oregon Governor’s Occupational Safety and Health (GOSH) Conference: Thirty forklift drivers from across the Pacific Northwest had a chance to show their skills at the biennial Columbia Forklift Challenge, which has become a signature event at the GOSH Conference. This year’s event held March 4-7 required drivers to demonstrate a full complement of forklift-handling skills and compete for \$1500 in prize money. In addition, fourteen leaders in on-the-job safety and health were honored with awards at the conference.

Workers Memorial Ceremony: Oregon workers who died on the job were honored with a ceremony on April 26. The memorial service, coordinated by Oregon OSHA and the Oregon AFL-CIO, featured remarks from Oregon Governor Kate Brown.

Newsletters: Oregon OSHA publishes two newsletters: The “Resource” (a general interest publication which includes construction) is published every two months, and the “Forest Activities News” (for the logging and forest industry) is an occasional newsletter from Oregon OSHA covering topics of interest to the logging and forest activities employers. These are available at <http://www.osha.oregon.gov>.

Notable Case:

Description of the Accident:

A lighting technician, age 26, and five other Premier Automation Contractors employees arrived at the Jo-Ann fabric and craft store on Sep. 26, 2018, in Hillsboro, at 7:30 p.m. to begin a two-day lighting renovation project. This location was the 9th store of the 12 that were part of the Oregon contract, and the employer is expected to be working at Jo-Ann fabrics stores throughout the country on this upgrade.

Five months ago Premier Automation Contractors, a staffing agency, had acquired Harvest Electric Company with the intention of adding an electrical contracting service to their existing business.

Three of the six employees on the crew had also worked for Harvest; however, none of the employees had ever received training on electrical hazards from either employer. When asked if he had ever been taught about electrical hazards, one of the crew said all he needed to know about was “neutrals and hots, you just tie them together” and [this is] “not rocket science.”

Their personal electrical protective equipment included a single pair of insulated linemen’s pliers that one of the crew bought for himself – but he believed that his coworkers would laugh at him for using them.

After they arrived at the store, the crew started checking their materials, prepping the new lighting drivers, assembling the scaffolds, locating the scissor lifts, and talking to the store manager about the project.

The project involved removing the store's fluorescent lights and replacing them with 512 new LED lights. The crew would split up at different ends of the store and work toward one another until they were done.

On projects such as this one, the crew did not de-energize circuits, shut off electrical breakers, or use lockout/tagout procedures. They assumed that quick disconnects (which reduce the risk of electrocution when repairs were made) were already installed at each light ballast's wiring. If a quick disconnect was not installed, they would cut the energized wires individually and then install one.

The crew also acknowledged bypassing the store's timer, which controlled night, day, and emergency lighting. One employee was in charge of manually pressing a button to bypass the timer and energize the store's lighting. They did this throughout the night to check their work and see if any lights did not turn back on.

The crew took a break after working for a few hours, then continued working until 12:00 a.m. when they took another break. Everything was going as planned when they took their final break at 2 a.m.

At 3:15 a.m. the victim was nine lights into his row and working towards his coworker. The lead worker noticed that one of the lighting technicians were catching up to the victim and wondered why the victim had slowed down.

When he looked closer, the lead worker noticed was sitting on the scaffold platform and not moving. He thought that he was pretending to take a nap and told him to wake up. When he did not respond, the crew ran over to him to find out what happened.

The another other lead worker, climbed up the scaffold and started CPR, while first lead worker called 911.

First responders arrived and continued CPR, then lowered the victim off the scaffold and onto the floor; he was pronounced dead at 4:12 a.m. The light fixture that he had been working on was still energized and did not have a quick disconnect.

The crew cleaned up the area after the first responders removed the victim's body; then one of the workers climbed the scaffold and continued working on the energized light fixture as if nothing had happened.

Findings

- Premier Automation Contractors provided no safety training to their employees. The company's owner and the director of operations both said they thought the Harvest Electric employees were already trained in safety. There were no records documenting safety training for any of the employees.
- Premier Automation Contractors had no written safety procedures for installing and retrofitting lighting. The electrical division project manager confirmed that there were no written procedures for lighting conversions or retrofits.
- Premier Automation Contractors did not provide employees with appropriate personal protection equipment or expect them to use it.
- Employees who worked at mobile sites (such as Jo-Ann's fabric and craft store) were not effectively supervised. Employees said they never saw management representatives other than the onsite lead workers come to the mobile sites in Oregon or audit the sites.
- Both supervisors misidentified the site's voltage and system phase input power and failed to recognize how dangerous it was; neither supervisor knew the correct voltage or electrical phases.

- The crew did not use lockout/tagout procedures to control hazardous electrical energy. One of the lead workers said he only uses lockout/tagout when he shut off a circuit – but since he never shuts off circuits, he never uses lockout/tagout.
- The crew altered the fatality scene and continued working with energized wires after the victims' body was removed.
- Premier Automation Contractors did not have a valid CCB license, did not have a valid workers compensation policy, and did not have a license to do electrical work in Oregon.

Violations

- *1926.416(a)(1), General requirements, protection of employees:* Employees were permitted to work near electric power circuits and were not protected against electric shock. Penalty: \$12,675.
- *437-001-0760(7)(a), Rules for all workplaces, inspections:* All places of employment were not inspected by a qualified person or persons. Penalty: \$3,125.
- *437-003-0134(1), PPE hazard assessment:* The employer did not assess the workplace to determine if hazards were present, or were likely to be present, which necessitated the use of personal protective equipment. Penalty: \$3,125.
- *437-001-0053, Preserving physical evidence:* Employers, their representatives, or others disturbed the scene of a fatality or catastrophe. Penalty: \$1,500.
- *1926.21(b)(2), Safety training and education:* The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment. Penalty: \$3,125.

Conference dates and locations can be found at:

<http://osha.oregon.gov/conferences/Pages/index.aspx>

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

III. Areas of Concern: Nothing new to report.

IV. Information Sought from Other State Programs: Oregon OSHA recently received a petition from a stakeholder group requesting a change to the Traffic Control rules by applying the hierarchy of controls to the decision of using flaggers in construction zones. The petitioner indicated that they have also requested this change of the Federal Highway Administration and possibly other state plans. Oregon OSHA is interested in knowing if other states are exploring this change, or if there is already this type of requirement in the current traffic control requirements. A link to the petition can be found at:

<https://osha.oregon.gov/rules/advisory/Documents/Notice-with-Petition-Flagger-Traffic-Control-April2019.pdf>

V. Administrative Changes: Sterling Cobb is the Oregon OSHA Acting Administrative Services Manager until Danae Hammitt returns.

Dave McLaughlin has accepted the permanent Standards and Technical Manager position. This position has responsibility for managing the technical section, the resource center, and internal education section. Dave has been with Oregon OSHA for 27 years with 5 years' experience as a Compliance Officer and the remaining 23 years as a Technical Specialist. Dave has been serving as the acting Standards and Technical Manager for the last couple of months. Dave's official start date in this permanent position is May 1, 2019.

VI. Contact Information: Phone: (503) 378-3272, Fax: (503) 947-7461, Internet: www.osha.oregon.gov, Federal Liaison: Pamela Lundsten, pamela.g.lundsten@oregon.gov