

Oregon OSHA
OSHSPA State Plan Report
September 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 late 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 has reconvened stakeholder meetings in the Spring and Fall of 2019. Stakeholders are considering pre-draft language, and Oregon OSHA staff are making changes based on stakeholder suggestions before proposal.

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 continues to meet 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.

Oregon OSHA adopted these rule changes as proposed (with no public comment received), as AO 2-2019, Adopted and effective June 24, 2019.

Crane Operator Certification. Federal OSHA has adopted a crane operator certification rule update. Oregon OSHA will be proposing 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. One public hearing was held with no comments, and four written comments were received. Oregon OSHA considered public comments that included requests for more time before enforcement. Oregon OSHA adopted the Crane Operator Certification rules as proposed, as AO 1-2019, adopted and effective May 9, 2019. However, Oregon OSHA released an enforcement memorandum stating the agency will not begin enforcing the new rules until January 1, 2020.

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. This rulemaking is ongoing, and due to requests from stakeholders, a small, separate fiscal impact advisory committee has been put together to allow stakeholders to examine the potential fiscal impact of this rulemaking.

Penalties. Oregon OSHA reviews its penalty rules yearly to determine compliance with federal penalties and determine if Oregon OSHA’s penalties are as effective or more effective than the federal penalty amounts. This year, Oregon OSHA determined it will initiate rulemaking to increase penalty amounts to better align the agency with federal OSHA. Due to requests from stakeholders, a small fiscal impact advisory committee has been put together to allow stakeholders to examine the potential fiscal impact of this rulemaking. This rulemaking is ongoing.

Non-Structural, Non-Wildland Firefighting. During the 2019 legislative session, Representatives began discussions with Oregon OSHA regarding rules for employees who have limited resources and may not have the level of equipment available as traditional firefighters because of the rural communities that they serve. The agency and stakeholders are looking to balance protections for these workers with the reality that these workers are often in rural areas, and work with fire suppression equipment that is donated and older than equipment contained in urban fire departments. Oregon OSHA began the rulemaking process by consulting a small stakeholder task force group in early 2019, and now the agency is consulting with stakeholders within the Fire Service Advisory Committee as well. Pre-proposal draft language will continue to be considered as rulemaking continues.

Standards Improvement Project (SIP) IV. Federal OSHA published a final rule for their SIP IV on May 14, 2019. Oregon OSHA is currently reviewing its rules and plans on proposing the changes that federal OSHA has adopted. Changes include removing outdated information, removing requirements for employers to gather employee social security numbers, and updating terminology and references to the ILO classification guidelines in Asbestos standards.

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 new publications.

Fall protection trigger heights for general industry: Lists fall protection trigger heights for walking and working surfaces at general industry workplaces. Published in Spanish and English.

Fall protection in construction: requirements for competent persons: Describes a competent person for fall protection in construction activities and explains the requirements in Division 3, Subdivision M that apply to them. Published in Spanish and English.

It's not just dust! What you should know about silicosis and crystalline silica: Describes the hazards of crystalline silica, what causes silicosis, and how to prevent it. Published in Spanish.

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

Oregon OSHA News Releases: *Workplace safety, health training grants available:* The agency is accepting grant applications for the creation of innovative on-the-job safety and health training programs. Applications are due Oct. 4.

Oregon OSHA offers employers new online fall protection training: The course defines what fall protection means; walks viewers through fall protection options; delves into equipment inspection and maintenance; and shows viewers how to begin using fall protection.

Prevent heat illness for workers in hot weather: Oregon OSHA urges employers to prevent heat illness for workers by learning the signs of heat exhaustion and what precautions to take.

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:

On March 30, 2018, an employee at Advanced Earth Stabilization was crushed at a construction site in Portland, by a skid steer. The company specializes in deep foundation support, excavation, and site preparation.

The worker, age 36, and foreman arrived at 8 a.m. at a construction site on North Mississippi Avenue. The two Advanced Earth Stabilization employees were installing foundation support anchors called helical piers with a Takeuchi TL12V2 skid steer to provide support for a new foundation. At 2:30 p.m., the foreman told the worker to stop working and take a break. The foreman said the project was almost done and they needed to install only one more helical pier. Then, he left to use the bathroom at the restaurant next door. When the foreman returned, he noticed a bystander yelling and pointing to the skid steer.

The worker was pinned between the skid steer cab and the lift arms' cross member. The foreman ran over to the machine, raised the lift arms, and pulled the worker out. A physician's assistant and several bystanders attended to the victim until first responders arrived, but he was pronounced dead at the scene.

No one saw what happened; however, a security video camera from a nearby business captured the incident. Apparently, the victim was trying to release the pressure from a pin that connected the skid steer's helical head attachment to the helical pier with the skid steer's lift arms. But there was not enough

pressure from the skid steer's lift arms to disconnect the attachment, so the victim decided to get out of the cab and operate the skid steer while he was between the lift arms' cross member.

When he got out of the operator's seat, he raised the safety arm bar, which engages a lock and stops the engine. As long as the safety arm bar is raised, the machine is locked; however, if any controls are touched when the safety arm bar is lowered, the machine can suddenly move.

Standing in front of the cab, the victim lowered the safety bar, which engaged all of the functions of the skid steer. But a hydraulic hose that connected the hydraulic pump to the helical head attachment was wrapped around a control lever in the cab, which pulled the control lever forward. The skid steer's lift arms lowered and pinned the victim between the cab and the cross member connecting the skid steer's lift arms.

No one knew why the hydraulic hose was wrapped around the control lever; the most plausible explanation was that worker had placed the hose around the lever to keep it from being run over by the skid steer.

Findings

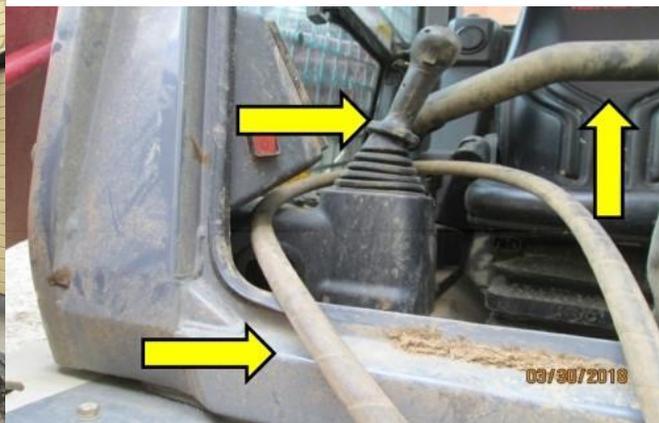
- The victim attempted to operate the skid steer while he was standing outside the cab, between the lift arm's front frame rail cross member; no other employees were present at the site at the time of the incident.
- Advanced Earth Stabilization's policy and the working procedures for operating the helical hydraulic attachment and installing helical piers required that at least two employees stayed the on site at all times during the workday. Only the victim was onsite when the incident happened.
- The thread bolt used to connect and stabilize the hydraulic attachment was worn and bent, and the hydraulic hoses sleeves were also worn, raising the possibility of a failure and malfunction of the attachment.
- Advanced Earth Stabilization held regular safety meetings but they were not documented for future use.

Violations

- *Employers' responsibilities, 437-001-0760(1)(a)*: The employer did not ensure that workers were properly instructed and supervised in the safe operation of any machinery, tools, equipment, process, or practices that they were authorized to use or apply. Penalty: \$500.
- *Safety meetings, 437-001-0765(13)*: The employer did not document, make available, and keep for three years a written record of each safety meeting. No penalty.



Takeuchi TL12V2 skid steer with helical attachment. Arrow Points to the spot where the victim was pinned between the lift arms' cross member and the cab.



Horizontal arrows point to hydraulic hose wrapped around the skid steer's control lever. Vertical arrow shows the skid steer's safety arm bar engaged in lowered position.

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 replied to North Carolina's inquiry at the OSHSPA May 2019 meeting. The question posed was, "Are your CSHOs and other professional staff subject to testify in 3rd party litigation matters." Oregon OSHA responded that, "Oregon OSHA has CSHOs and other professional staff testify in 3rd party litigation matters 4 to 6 times a year."

V. Administrative Changes: Danae Hammitt, the Oregon OSHA Administrative Services Manager returned from leave in July 2019. The Oregon OSHA Acting Administrative Services Manager, Sterling Cobb returned to his previous duties as an Oregon OSHA Senior Safety Compliance officer.

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