



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services

Oregon Occupational Safety & Health Division (OR-OSHA)

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May 1, 2000

Revised March 3, 2010

Melissa Diede
David Thurber
SAIF Corporation
400 High Street SE
Salem OR 97312

Dear Ms. Diede and Mr. Thurber:

You have inquired about the level of industrial hygiene, loss-prevention services required of workers' compensation insurance carriers by Oregon OSHA. The specific issue is whether the carriers are required, or have the duty to provide comprehensive/extensive hygiene sampling for the employers they insure.

We, at Oregon OSHA, discussed this matter internally and decided to continue our long standing policy of requiring carriers to conduct industrial hygiene sampling for their insureds or be able to provide such services through a subcontract when health hazards are suspected, but not known. On the other hand, carriers are not required to conduct extensive, ongoing exposure monitoring beyond the point of discovery or screening.

Carriers have a responsibility to determine whether a health hazard exists, or is likely to exist, and advise their insured accordingly. In order to determine if a hazard exists in a particular workplace it may be necessary for the carrier to conduct some sampling. We have not considered it the responsibility of the carrier to conduct comprehensive sampling to determine precise locations and workers exposed. For example:

1. If the nature of the workplace process or activity is such that it is reasonable to infer that a health hazard is present, or if the hazard has already been identified, the carrier is not required to conduct sampling. The carrier should advise the employer of their findings and recommend the necessary steps to preclude over exposure to workers. If sampling is requested by the insured, the carrier may recommend that they secure the services of a qualified professional.

2. If, given the nature of the workplace process or activity, it is not clear whether health hazards are present, the carrier is required to conduct sampling to confirm or eliminate the hazards. If carrier sampling confirms the existence of health hazards, they should advise the insured of their findings. If more comprehensive sampling is requested by the insured, the carrier may recommend that they secure the services of a qualified professional.

Oregon OSHA does not want to become the sole source of industrial hygiene services to a particular Oregon employer. It is not reasonable for us to expect carriers to do so either. Once a carrier, or Oregon OSHA, identifies or infers the existence of a health hazard, and communicates that to the employer, it is the employer's responsibility to seek the necessary private sector industrial hygiene services to thoroughly address the problem.

We hope this adequately answers your questions. Please feel free to contact us if you have further questions or want to discuss this matter further.

Sincerely,

Marilyn Schuster, Policy Manager

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