

**Oregon OSHA  
Construction Advisory Committee  
Tuesday, August 13, 2024  
Meeting Minutes**

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Attendees:

Al Lee-Lennar	Eric Bongen	Mike Brunenkant
Amanda Davies	Eric Fullan	Mike Jacobs
Amanda Keister	Eden Berestoff	Nathan Taylor
Annmarie Earl	Forrest	Phillip Wade
Barbara Hanley	Greig Lowell	R. Goodwin
Barry Moreland	George Lundberg	Robert Miller
Bash Mumuni	Holt Andron	Ryan Leffell
Bill Haskins	Ilene Ferrell	Sean Tinker
Brad Nanke	Jake Errico	Stephanie Baird
Bryan Davis	Jamey Goodman	Stephen Cannon
Bryon Snapp	Jim Mahar	Stephen Heaven
Caleb Harris	Joe Mullens	Steve Barrett
Chris Dahl	John Frank	Tammi Stevens
Connie Graybeal	Josh Schwabauer	Ted Bunch
Craig Ley	Kirsten Adams	Thomas Price
Dale Lindstrom	Maggie Gerlicher	Tim Moore
David Davidson	Mark Spring	Troy Stroud
David Rekdahl	Mars Gracida	
David Smiley	Mary Lou Wilson	

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The meeting was called to order by Dale Lindstrom.

Thank you all for joining the hybrid meeting. Introductions of people in person were made.

**Previous Meeting Minutes.**

The July meeting minutes were approved. Requested edits were tabled and will be emailed at a later date.

**Lessons Learned & Safety Suggestions:**

A consulting company asked how other companies felt about the new Oregon OSHA citations, repeat offenders, and an increase in requests for their consulting services. They are interested in seeing how the world is reacting to the higher fines.

What OSHA is seeing in the to 25 violations report:

[Department of Consumer and Business Services : Oregon OSHA activities : Worker protection reports : State of Oregon](#)

Senate Bill 592 & 907:

[Adopted Division 1 Civil Penalty & Work Refusal Changes from Senate Bills 592 and 907 \(oregon.gov\)](#)

Looking at the Oregon OSHA top 25 violations report from the yearly reports link (above) When pull the 2024 calendar year for both safety and health in the construction industry, you can see the total initial penalties for each of the subjects. Since the new penalty structure went into effect on January 01, 2024 you can see the overall penalties rule for fall

protection, in construction (OAR 437-003-1501)(1)), has resulted in significantly higher overall penalties assessed when compared to calendar year 2023.

For calendar year 2023, Fall protection (OAR 437-003-1501(1)) had 345 citations alleged with total penalties assessed at \$909,215. Starting this January, with repeat penalties for the same rule, we are at 213 citations within the first eight months, 134 less than last year's total and we are at \$3,710,036 in assessed penalties so far. Smaller companies may be reaching out to consultants more. Those who have a strong safety program can manage the effects of SB592; however, smaller sub-contractors in framing, roofing, gutter hanging, or solar installation are running into fall protection related violations that now result in significantly higher penalties. The majority of the penalties assessed for calendar year 2024 for fall protection violations are associated with repeat violations.

A question was posed about what is the general trigger height for fall protection requirement in construction? In general, employers must provide employees protection from fall hazards at 6 feet or greater and the rule was changed from 10 feet to 6 feet in 2016. Since last Wednesday of August two individuals have died as the result of falling without fall protection in Oregon, this could have been prevented with proper fall protection.

One impact Oregon OSHA is seeing is not in the number of citations related to Senate Bill 592, but the amount of the penalty when that violation is a "repeat violation". Senate Bill 592 does not make a distinction between a repeat "serious violation" and a repeat "other-than-serious" violation. The associated penalty for a repeat "other-than-serious violations is still approximately \$11,500 An example was discussed about missing fall protection training certifications that must be documented. The minimum penalty for any category of a "repeat" citations currently is \$11,528.00.

Suggested that companies make sure safety meetings/committee are equally representative of employees and management. Don't forget to abate "other than serious" citations so that employers will not face a repeat "other-than-serious" citation with a penalty of \$11,528.00. Remember, in January 1, 2025, the current penalties will be adjusted in accordance the western region of the consumer price index.

A company asked about what is the proper certification to show that an the employee who might be exposed to fall hazards has been trained. Need to refer to the rule and what is required. The rule for construction-related activities is OAR 437-003-0503(2). The written certification shall verify compliance with OAR 437-003-503(1)(a) and must contain the employee's name or identity, date(s) of the training, and signature from the person providing the training or the signature of the employer. Oregon OSHA Education and Training offer courses with a certificate for Online courses.

Union provided documentation that is satisfactory for proof as well. The Oregon OSHA training should be used as supplemental because it's not specified for your industry. The PowerPoints and training can be tailored for your learning management system and make sure it lines up for what is used for your industry. The onus is on the company, they need to verify the current expectations. They also provide within the course overview "for instructors" PowerPoints that you can modify after downloading.

[Oregon Occupational Safety and Health : Online courses : Online courses : State of Oregon](#)

Going from one company to another do you trust the certification card? This is a lot of liability.

Examining the certificate from the current company should be evaluated to confirm the knowledge/skill. The evaluation from the current company should be documented in writing.

The attendance roster alone is not enough for the certification. “What you have been trained on”

- Nature of the fall hazard in the work area.
- The correct procedures for erecting, maintaining, disassembling, and inspecting the fall protection system to be used.
- The use and operation of guardrail systems, personal fall arrest systems, safety net systems, warning line systems, safety monitoring systems, personal fall restraint systems, positioning devices, and other appropriate protection to be used.
- The role of each employee in the safety monitoring system when this system is used.
- The limitations on the use of mechanical equipment during the performance of roofing work.
- The correct procedures for the handling and storage of equipment and materials and the erection of overhead protection.
- The role of employees in the fall protection work plan.
- The standards contained in this subpart.

(a) The employer shall verify compliance with paragraph (a) of this section by preparing a written certification record. The written certification record shall contain the name or other identity of the employee trained, the date(s) of the training, and the signature of the person who conducted the training or the signature of the person who conducted the training or the signature of the employer. If the employer relies on training conducted by another employer or completed prior to the effective date of this section, the certification record shall indicate the date the employer determined the prior training was adequate rather than the date of actual training.

(b) The latest training certification shall be maintained.

437-003-0503 training requirement.

Another company used Train-the-trainer by Overton, they also provide training materials including checklists that you can edit. With new hires they always do a refresher on the training for competencies.

After SB592, the first “other than serious” citation is \$0 and now a repeat for an “other than serious” is now \$11,528 each repeat.

Currently millions of dollars of work are needed now a days to make up for the penalties.

These current solar companies are trying to turn and burn on these jobs and get them done in one day without fall protection.

A business spoke about creating an accident report/response plan before having to use it. There was a head on collision and having a written plan helped the employer who knew the employee personally get through the emotional time and follow the process in calling loved ones. Crisis management and how to handle it when it's someone you know.

### **Hardhats/Helmets:** Bryon Snapp

#### Hazard Exposure Discussion:

A question was asked about if vented safety helmets can be used for head protection when electricians are working with/near de-energized electrical systems. The quest arises from a publication created by federal OSHA that suggests that a Class C safety helmet cannot be used for electrical work.

Bryon stated that the employer needs to conduct a pre-task hazard analysis to determine if there is exposure to electricity and not just follow the publication which is not especially clear on the subject. Bryon gave an example of employer's posting minimum PPE requirements for a job site; however, the actual work may not necessitate the listed PPE, or the listed PPE may not be adequate. The jobsite entry sign for wearing PPE is great but may not be appropriate for all tasks taking place on the job sites. According to the federal publication, one may interpret it as Federal OSHA requiring electrical E-rated helmets. However, the installation of new electrical that has not been connected to a power source would not reasonably present a shock hazard to an electrical installing it, so where is the hazard that required the Type E level of head protection? Oregon OSHA will not be able to be allege a citation cited if the officer can't establish that the electrician is exposed to an electrical hazard.

Currently, there are Type 1 or Type 2 hard hats. Type 1 is for direct impact from above; Type 2 is top or side impact. All of the safety helmets Oregon OSHA has encountered so far have been manufacturer to the Type 2 standard. We are seeing both vented and non-vented hard hats and safety helmets. Class E are non-vented and would be necessary when the work task take an employee near energized electrical components. Companies should also see if safety helmets and hard hats that have the reverse symbol which allows them to be worn backwards or forward. If missing the symbol they need to wear it forward facing. We have not seen a safety helmet with a reverse symbol yet as they are designed for a single direction of wear.

There was a discussion about the non-vented safety helmets adding a potential heat load that may contribute to heat stress.

### **Status of Rulemaking:** Link to rules page

<https://osha.oregon.gov/news/2024/Pages/nr2024-14.aspx>

Rulemaking is due for Ag Labor Housing by the end of the month. Currently we are working on that, and spending a lot of time in the Hazard Communication rule change within 6 months turnaround time for Federal OSHA (middle of November closure). Any

proposed rules, by Oregon OSHA, need to be posted for 45 days, so Oregon OSHA is behind by a month and a half.

Changes are getting into alignment for example MSDS to SDS (safety data sheets). Went from manufacturer to global harmonization. This gets us caught up with the 7<sup>th</sup> version.

How would it look? For the end user the training would be needed as well for the evaluation date. Mostly the Safety Data Sheets. For container labeling there will be a slight change. No relabeling but if you receive a new one then the manufacturer will need to update the labeling. The evaluation piece will be updated for employees.

Will all Safety Data Sheets need to be updated; question posed?

**Answer:** The manufacturer will update and mostly the flammable items.

SDS will need to be updated as well as new items are purchased and brought into the inventory.

Federal OSHA believes this will be implemented by next year, 2025, but delays will most likely be seen. Other states without state OSHA have been implementing this currently.

Outside manufactures, products coming in from other companies, the importers are now responsible for the changes. Will see more of this from Europe. Burden will be put on the importer.

Rules for Lead, are on the backseat, as Oregon OSHA is working on the other rules, with higher priorities.

Federal OSHA is also looking at:

- Blood leads
- Infectious diseases
- Shipyard
- Emergency response
- LOTO (lock out tag out)
- Silica
- Heat Illness
- Changes to fit test
- PPE in construction
- Industrial trucks

### **Monthly Accidents and Fatalities Report:**

If there is an accident or a fatal incident that you would like more information on let Nathan and Jeff know so we can track it and can discuss once the case is able to be discussed.

*The following is preliminary information as reported at the time of the accident intake.*

[Accidents –](#)

[Fatalities –](#)

## **Anonymous Questions:**

*If you have anything you would like to bring up at the meetings and would like to stay anonymous, let Rick McMurry, or Dale Lindstrom know, and they will bring it up for you.*

Question = Is Medical glue under first aid?

Answer: No, it is medical treatment. If the treatment is not listed in the first aid list then not first aid.

## **Round table:**

Greig Lowell invited everyone the

### **Central Oregon Occupational Safety & Health Conference**

Sept 16<sup>th</sup> & 17<sup>th</sup> in Bend.

<https://osha.oregon.gov/conferences/central-oregon/pages/index.aspx>

Advertising Oregon OSHA Consultation services. Will discuss the increased penalties. High hazard industries please request an OSHA Consultation online. It does defer you from enforcement for a while.

Please reach out to Greig Lowell: [Greig.K.LOWELL@dcbs.oregon.gov](mailto:Greig.K.LOWELL@dcbs.oregon.gov)

How do you approach higher up management about using Oregon OSHA Consultation? Try stating that they will receive “deferral from enforcement” and it’s confidential. Perfect opportunity to ask about what safety and health things to fix before being cited.

Fixed sites 60 days get a deferral from Oregon OSHA program planned scheduled inspections and mobile sites 30 days after an Oregon OSHA consultation. The deferral does not start until you receive the confidential Oregon OSHA Consultation report.

A suggestion to create a white paper on the external website to list the benefits of consultation.

Consultations and Compliance Officers do not share reports or information. Compliance Officers are trained not to view Oregon OSHA Consultation reports because of the confidentiality.

Small companies should be encouraged to pursue the Oregon OSHA SHARP status.

Promote the 3 programs offered to employers to get them on-board with Consultations:

- Challenge program
- SHARP program
- VPP – highest level

Different deferral periods.

To get employer to buy into Oregon OSHA? We don’t talk between consultation and enforcement. But if a complaint happens it doesn't defer you. Accidents, fatalities, and complaints are examples of inspection types that override the Oregon OSHA Consultation deferment and will result in an inspection.

A consultation can also be done with a bunch of subs on a site as well.

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Emphasis program for open trenches. Is there a cave-in protective structure?

The Oregon OSHA Compliance Officer can stop and look at it. If nothing obvious they can move on with no documentation. Some Compliance Officers will need to ask clarifying questions and will need to legally open an inspection first. If they want to ask any questions to support a citation it needs to be done after an inspection has been opened.

Rotating structure labels need to be posted as well.

Meeting adjourned at 10:35am.

If you have any topics that you would like Oregon OSHA to talk about to the group, please let [Alta Schafer](#) or [Rick McMurry](#) or [Dale Lindstrom](#) know.

**Next Meeting:**

September 10, 2024