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## New Drug Testing Rules in Oregon Follow OSHA



By **Ryan Kunkel, Carolyn Walker, Tim O'Connell** and **Jim Shore** on February 2, 2017

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Employers are probably aware that OSHA's new drug testing and anti-retaliation rule is now in effect. (See our [post here](#) discussing the rule.) However, as we [blogged previously](#), many states have their own reporting requirements, which are not required to track OSHA's rules precisely, but which must be "at least as effective" as OSHA's rules.

While many states, like Washington, are still in the early stages of revising their regulations, Oregon's new regulations will go into effect on May 1, 2017.

[Oregon's regulations](#) follow OSHA's and are summarized as follows:

- Employers must have a "reasonable" procedure for employees to report work-related injuries or illnesses. "A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness." As we discussed in a prior blog, OSHA interprets "reasonable" to exclude blanket drug testing policies. This means that policies mandating drug testing after all workplace accidents are probably not reasonable. Instead, drug testing policies should be targeted to situations in which employee drug use is likely to have contributed to the incident. For example, drugs or alcohol is not likely to contribute to the workplace injury of a bee sting, so testing in that situation would be unwarranted. But drugs or alcohol may contribute to an injury caused by a worker stumbling down a hallway before falling down some stairs; thus, testing may be appropriate.
- Employers must notify employees about the procedure.
- Employers must inform employees that they have a right to report workplace injuries and illnesses and that they will not be retaliated against for doing so.

For more discussion about OSHA's rule, see our blog posts [here](#) and [here](#). As always, our experts are happy to talk if you have any questions about the rule.

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