

# Oregon Department of Consumers and Business Services

Oregon Occupational Safety and Health Division (OR-OSHA)

1340 Tandem Ave N Ste 160

PO Box 14513

Salem, OR 97303

Phone: 503-378-3274



## Citation and Notification of Penalty

**To:**

Michael Applebee, President

Applebee Aviation Inc

PO Box 309

Banks, OR 97106

**Inspection Number:** 317707791(93)

**Inspection Date(s):** 04/29/2015-09/23/2015

**Issuance Date:** 09/23/2015

**Optional Rpt Num:** Y6318-008-15

**Employer ID No:** 1298165-000

**Inspection Site:**

22330 NW Fisher Rd

Banks, OR 97106

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated.*

In the interest of assuring a safe and healthy workplace, the Oregon Occupational Safety and Health Division (OR-OSHA) conducted an inspection at a workplace under your control. During this inspection, violations of the Oregon Safe Employment Act and occupational health and/or safety rules were found.

This citation lists the violations and a date by which they must be corrected. If you are not able to correct the violations by the correction date, you must apply for an extension of the correction date by following the instructions outlined later in this citation. Oregon laws require that under certain conditions violations of occupational safety and health rules carry a civil penalty. If penalties have been assessed on this citation, they have been computed in conformity with Oregon Administrative Rules, Chapter 437, Division 1. If you want to appeal this citation, file your request for hearing within 30 calendar days as outlined on the reverse side of this page. If you choose not to appeal this citation, it becomes a final order 30 calendar days after receiving it. You must abate the violations referred to in this Citation by the dates listed, and pay the proposed penalties.

An effective Safety and Health program not only assures the correction of cited violations, it also requires actions to prevent violations from recurring. Through continued cooperation of employers, employees and OR-OSHA, a safe and healthful workplace for all Oregon employees can be achieved.

Michael D. Wood, Administrator  
Oregon OSHA

**COPY**

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited has (have) been abated, or for 3 working days (excluding weekends and holidays), whichever is longer.

**Penalty PAYMENT** - Penalties are due 20 days after the citation becomes final order (which is 30 days after receipt of this citation, unless appealed). Make your check or money order payable to "Department of Consumer & Business Services" (DCBS), and mail to **DCBS, Fiscal Services Section, PO Box 14610, Salem OR 97309-0445**. Please include the Inspection Number on the remittance and return a copy of the invoice with payment. OR-OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if they do not exist.

**Employer APPEAL Rights** - To appeal a citation, you must clearly state in writing that you are requesting a hearing on the citation and specify the alleged violation(s) contested and the grounds upon which you consider the citation, proposed penalty(ies), or correction period to be unlawful. The request for an appeal must be filed within **30** calendar days of receipt of the citation. An appeal is considered filed on the date of postmark, if mailed, or on the date of receipt if transmitted by other means. If mailed, the appeal letter should be sent to: **Oregon OSHA, PO BOX 14480, Salem OR 97309-0405**. You can file an appeal on-line at [www.orosha.org/appeals.html](http://www.orosha.org/appeals.html)

A request for an informal conference alone is not an appeal of a citation, and any unresolved issues discussed at an informal conference will not be forwarded for appeal unless there is a timely request for hearing filed. **If you do not request a hearing within the required time frame, this citation will become a final order that is not subject to review by any agency or court.**

**IMPORTANT NOTE:** Appealing a serious violation or the reasonableness of the correction date does not automatically extend the correction date. You may apply for an extension of the correction date through OR-OSHA or request an expedited hearing on the issue of the correction date with the Workers' Compensation Board Hearings Division (Oregon Revised Statute 654.078(6)).

**Letter of Corrective Action** - You are required to complete and mail the enclosed Letter of Corrective Action to the appropriate field office on or before the latest correction date on the citation. Please provide a detailed explanation and supporting documentation (if necessary), such as drawings or photographs of corrected violations, purchase or work orders, air sampling results, etc.

**EXTENSION of Correction Date** - To apply for an extension for correcting a violation, submit a written request to the **office** listed on the of Corrective Action" or on-line at [www.orosha.org/appeals.html](http://www.orosha.org/appeals.html), and include:

- (1) Employer name and address.
- (2) The location of the place of employment.
- (3) The inspection number and optional report number.
- (4) The violation number for which the extension is sought.
- (5) The reason for the request.
- (6) All available interim steps being taken to safeguard employees against the cited hazard during the requested extended correction period.
- (7) The date by which you propose to complete the correction.
- (8) A statement that a copy of the request for extension has been posted as required by OAR 437-001-0275(2)(d) and (j) or for at least 10 days, whichever is longer; and, if appropriate, provided to the authorized representative of affected employees; and, certification of the date upon which the posting or service was made.

**COPY**

Your request must be postmarked or received by the Department no later than the correction date of the violation for which the extension is sought.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint with the Bureau of Labor & Industries (BOLI) no later than 90 days after the discrimination occurred.

**Notice to Employees** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date is unreasonable. The objection letter must be mailed to OR-OSHA and postmarked within 30 calendar days of the receipt by the employer of this Citation and Notification of Penalty.

**Adopting Federal Rules by Reference** - Whenever federal rules have been adopted by reference, the federal rule number has been noted in the citation. If information is needed regarding the Oregon standard, contact the OR-OSHA field office addressed at the top of the first page of this citation.

**Posting on the Internet** - Federal OSHA publishes information on all inspections and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available not sooner than 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [www.osha.gov](http://www.osha.gov). If you have any dispute with the accuracy of the information displayed, please contact this office.

If you would like to discuss this citation, call the OR-OSHA office in your area:

Portland 503-229-5910

Salem 503-378-3274

Medford 541-776-6030

Eugene 541-686-7562

Bend 541-388-6066

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**Oregon OSHA**

Oregon Department of Consumers and Business Services

Inspection Number: 317707791  
Inspection Date(s): 04/29/2015-09/23/2015  
Issuance Date: 09/23/2015



**Citation and Notification of Penalty**

Optional Rpt Num: Y6318-008-15

Company Name: Applebee Aviation Inc

Inspection Site: 22330 NW Fisher Rd, Banks, OR 97106

**Citation 1 Item 1** Type of Violation: **Serious**

ORAR 437-002-0161(5)(a): Where employees handled substances that could injure them by getting into their eyes or onto their bodies, the employer did not provide an eyewash, or shower, or both based on the hazard:

a) During the April 2015 Seneca-Jones project, employees handled the herbicide Velossa (EPA Reg 5905-579, A.I. - Hexazinone) 32 times to treat 2,450 acres. Velossa carries a "Danger" signal word which is capable of producing irreversible eye damage upon contact.

Date by Which Violation Must be Abated: 10/07/2015  
Proposed Penalty: \$875.00

**Citation 1 Item 2** Type of Violation: **Serious**

ORAR 437-007-0575(6): Compartments for workers were not kept in a clean and sanitary condition. Workers did not assist in maintaining such conditions:

a) Work practices were not in place to keep the crew cabs of both the batch truck and the 1-ton clean. When the mixer/loaders entered the cabs without prior decontamination, herbicides would be tracked into the cab from employees' hands, clothing and footwear. These such entries occurred at least, but not limited to, 59 times when the helicopter would apply immediately adjacent to the rigs on the landing.

Date by Which Violation Must be Abated: 10/07/2015  
Proposed Penalty: \$875.00

**Citation 1 Item 3** Type of Violation: **Serious**

40 CFR 170.250(a): During handling activities, the handler employer did not provide for handlers, in accordance with this section, decontamination supplies for washing off pesticides and pesticide residues:

a) For the McDaniel crew on the Seneca Jones project where mixer/loaders working with at least, but not limited to, Atrazine (Restricted Use Product) and Velossa (Danger) were not provided with ample quantities of water for washing, soap and single-use towels. The mixer/loaders used baby wipes and waterless hand sanitizer which are ineffective in removing pesticides from the skin.

Date by Which Violation Must be Abated: Immediately Upon Receipt  
Proposed Penalty: \$875.00

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for illness and/or injury.

**COPY**

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**Oregon OSHA**

Oregon Department of Consumers and Business Services

Inspection Number: 317707791  
Inspection Date(s): 04/29/2015-09/23/2015  
Issuance Date: 09/23/2015



**Citation and Notification of Penalty**

Optional Rpt Num: Y6318-008-15

Company Name: Applebee Aviation Inc

Inspection Site: 22330 NW Fisher Rd, Banks, OR 97106

**Citation 1 Item 4a** Type of Violation: **Serious**

40 CFR 170.232(a)(1): The handler employer did not assure that before the handler performed any handling activity, the handler either had read the product labeling or had been informed in a manner the handler could understand of all labeling requirements related to safe use of the pesticide, such as signal words, human hazard precautions, personal protective equipment requirements, first aid instructions, environmental precautions, and any additional precautions pertaining to the handling activity performed:

- a) For at least, but not limited to, the batch truck driver who did not receive information regarding personal protective equipment, decontamination procedures or emergency procedures, prior to starting work. As he developed symptoms, he sought out information on the various herbicides being used.

Date by Which Violation Must be Abated:	10/07/2015
Proposed Penalty:	\$875.00

**Citation 1 Item 4b** Type of Violation: **Serious**

40 CFR 170.230(c)(1): General pesticide safety information was not presented to handlers either orally from written materials or audiovisually:

- a) For the two mixer/loaders of the McDaniel crew preparing pesticides for aerial application on the Seneca Jones forestry project. The mixer/loaders had not been provided with any training materials on the Worker Protection Standard for pesticide handlers.

Date by Which Violation Must be Abated:	09/30/2015
Proposed Penalty:	\$0.00

**Citation 1 Item 5** Type of Violation: **Serious**

40 CFR 170.240(c): When personal protective equipment was specified by the labeling of any pesticide for any handling activity, the handler employer did not provide the appropriate personal protective equipment in clean and operating condition to the handler:

- a) Employees performing mixing/loading activities to support the aerial forestry applications of at least, but not limited to, Velossa, Clean Slate, Atrazine (various brands), Weedone and Agri Star 2,4 D LV6 were not provided with the personal protective equipment specified by the product labeling.

Date by Which Violation Must be Abated:	Immediately Upon Receipt
Proposed Penalty:	\$875.00

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Oregon Department of Consumers and Business Services

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**Citation and Notification of Penalty**

Optional Rpt Num: Y6318-008-15

Company Name: Applebee Aviation Inc

Inspection Site: 22330 NW Fisher Rd, Banks, OR 97106

**Citation 1 Item 6** Type of Violation: **Serious**

40 CFR 170.240(c)(5)(i): Gloves were not of the type specified on the pesticide product labeling:

- a) Employees wore black exam gloves when mixing/loading at least, but not limited to, Agri Star 2,4 D LV6 and Atrazine 4L (Sipcam) which both required Category E gloves. Appropriate Category E gloves are Nitrile Rubber, Neoprene Rubber, Polyvinyl chloride (PVC) and Viton, all greater than or equal to 14 mils in thickness or Barrier Laminate.

Date by Which Violation Must be Abated:	Immediately Upon Receipt
Proposed Penalty:	\$875.00

**Citation 1 Item 7** Type of Violation: **Serious**

40 CFR 170.240(c)(8): When a chemical-resistant apron was specified by the product labeling, an apron that covered the front of the body from mid-chest to the knees was not worn:

- a) By the mixer/loaders on the McDaniel crew for the Seneca Jones project which was required by at least the product labels of Atrazine 4L (Mana); Atrazine 4L (Sipcam); Atrazine 4L (Drexel); Agri Star 2,4 D LV6, and Weedone 2,4 D.

Date by Which Violation Must be Abated:	Immediately Upon Receipt
Proposed Penalty:	\$875.00

**Citation 1 Item 8** Type of Violation: **Serious**

40 CFR 170.240(c)(7): When protective eyewear was specified by the product labeling, goggles, face shields, safety glasses with front, brow, and temple protection, or full-face respirators were not worn:

- a) When using Velossa which is a "Danger" level pesticide capable of producing eye damage, employees did not wear chemical-splash goggles, or safety glasses with a face shield.

Date by Which Violation Must be Abated:	Immediately Upon Receipt
Proposed Penalty:	\$875.00

**Citation 1 Item 9** Type of Violation: **Serious**

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

- a) As there was no written Hazard Communication Program for the Applebee Aviation Inc employees

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**Citation and Notification of Penalty**

Optional Rpt Num: Y6318-008-15

Company Name: Applebee Aviation Inc

Inspection Site: 22330 NW Fisher Rd, Banks, OR 97106

involved in at least forestry herbicide applications for the Seneca Jones project. Employees worked with at least Atrazine, Velossa (Hexazinone), Clean Slate (Clopyralid), Agri Star 2,4 D LV6 and jet fuel.

b) As employees did not receive effective information and training about proper work practices, personal protective equipment, or emergency procedures as demonstrated by poor work practices and poor chemical handling practices using at least Atrazine and Velossa for the Seneca Jones project. Employees were not trained to prevent tracking pesticides from mixing/loading activities into the cab on their hands, clothing and footwear.

c) As employees were not provided effective information and training about the physical and health effects for the various herbicides including at least, but not limited to, Atrazine, Velossa and Clean Slate prior to starting work with the chemicals. Safety Data Sheets for the herbicides were not available in the remote locations.

Date by Which Violation Must be Abated: 10/21/2015  
Proposed Penalty: \$875.00

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for illness and/or injury.

**Citation 1 Item 10a** Type of Violation: **Serious**

OAR 437-007-0145(1): The employer did not review and evaluate their safety and health program annually:

a) That covered the employees performing herbicide applications for at least, but not limited to, the Seneca Jones forestry project. There had been no written findings of evaluations that included the methods and procedures to identify and revise program deficiencies. These findings would then be maintained for 3 years.

Date by Which Violation Must be Abated: 10/21/2015  
Proposed Penalty: \$875.00

**Citation 1 Item 10b** Type of Violation: **Serious**

OAR 437-007-0135(1): The employer or their authorized representative did not implement a procedure for monthly safety inspections of all worksites, vehicles, machines, equipment, and work practices:

a) For at least the McDaniel crew working the Seneca Jones project that involved the aerial application of herbicides.

Date by Which Violation Must be Abated: 10/07/2015  
Proposed Penalty: \$0.00

**COPY**

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**Oregon OSHA**

Oregon Department of Consumers and Business Services

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**Issuance Date:** 09/23/2015



**Citation and Notification of Penalty**

**Optional Rpt Num:** Y6318-008-15

**Company Name:** Applebee Aviation Inc

**Inspection Site:** 22330 NW Fisher Rd, Banks, OR 97106

**Citation 2 Item 11 Type of Violation: **Other than Serious****

OAR 437-001-0700(14)(a): The employer did not use OSHA 300, 300-A, and DCBS Form 801 or equivalent forms, for recordable injuries and illnesses:

a) OSHA 300-A forms were not filled out for the calendar years 2012, 2013 and 2014 until August 2015.

**THIS VIOLATION WAS COMPLIED WITH AT THE TIME OF INSPECTION.**

**Proposed Penalty: \$100.00**

**Total Proposed Penalties: \$8,850.00**

**COPY**

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Oregon  
Kate Brown, Governor

Department of Consumer and Business Services  
Oregon Occupational Safety & Health Division (OR-OSHA)  
350 Winter Street NE, Room 430  
PO Box 14480  
Salem, OR 97309-0405  
Phone: 503-378-3272  
Toll Free: 1-800-922-2689  
Fax: 503-947-7461  
www.orosha.org

Applebee Aviation Inc  
PO Box 309  
Banks, OR 97106

**Inspection Number:** 317707791(93)  
**Optional Report Number:** Y6318-008-15  
**Employer Number:** 1298165-000  
**Inspection Date(s):** 04/29/2015-09/23/2015

The Oregon Occupational Safety and Health Division (OR-OSHA) conducted an inspection of your workplace located at 22330 NW Fisher Rd, Banks, OR 97106. The inspection was to determine if safety or health hazards were present which could cause injury or illness to your employees. Violations of safety and/or health rules were found during this inspection and the citation is enclosed.

In addition, the OR-OSHA representative noted certain conditions which are listed in the following page, which could cause injuries and/or illnesses. Although it is not mandatory to correct them at this time, if the work process, operation, exposure, etc., changes, these conditions could be cited as violations during future inspections. By initiating corrective measures, you could reduce the high cost of human suffering associated with work-related injuries and illnesses.

There may be other hazards present which were not apparent at the time of the inspection. If you need assistance in identifying and/or eliminating health or safety hazards consultative and training services are available to you at no cost through OR-OSHA by calling (503) 378-3272.

Your continuing effort to identify and eliminate work-related hazards is appreciated.

Ronald Haverkost

OR-OSHA Salem Field Office  
1340 Tandem Ave N Ste 160  
PO Box 14513  
Salem, OR 97303

## NOTICE

Employer Name: Applebee Aviation Inc  
Employer ID No: 1298165-000  
Inspection Number: 317707791(93)  
Optional Rpt Num: Y6318-008-15

THE FOLLOWING IS A LIST OF CONDITIONS WHICH COULD CAUSE WORK-RELATED INJURIES OR ILLNESSES TO EMPLOYEES. ALTHOUGH NOT MANDATORY AT THIS TIME THE OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION ENCOURAGES YOU TO INITIATE CORRECTIVE MEASURES FOR THESE PROBLEM AREAS IN THE INTEREST OF REDUCING THE HIGH COST AND HUMAN SUFFERING ASSOCIATED WITH WORK-RELATED INJURIES AND ILLNESSES.

Item 01 Washing pesticide contaminated clothing in hotel laundry mat.

During the inspection of your operations, information was obtained during employee interviews that it is common practice, while on away jobs, to stay in hotels and utilize the hotel's self-serve laundry mat.

It is expected that all clothing worn while handling or applying pesticides is contaminated. Because others staying in the hotel may also use the same laundry services, it is highly recommended your employees adopt the following procedures to minimize exposing unsuspecting individuals to pesticide contamination when they launder their clothing after your employees wash their pesticide contaminated laundry.

- Handle all contaminated clothing with gloves.
- Wash clothing daily.
- Wash separately from family wash.
- Rinse or soak first.
- Use **hot** water.
- Use heavy duty liquid detergent.
- Wash a few items at a time.
- Use highest water level.
- Use longest wash time **and** line dry.

**After washing – run machine through a complete cycle with detergent.**

While the guidelines for line drying may not be feasible in the hotel setting, the last bolded item when using community laundry services is crucial. If outside laundry services are used, the Worker Protection Standard requires that you provide that service with notification that the clothing is contaminated with pesticides, the hazards associated with the pesticides and the steps they can take to protect their employees. If you have questions, please contact Oregon OSHA's consultative services section or your worker's compensation carrier.



**Oregon**  
Kate Brown, Governor

Department of Consumer and Business Services  
Oregon Occupational Safety & Health Division (OR-OSHA)  
350 Winter Street NE, Room 430  
PO Box 14480  
Salem, OR 97309-0405  
Phone: 503-378-3272  
Toll Free: 1-800-922-2689  
Fax: 503-947-7461  
[www.orosha.org](http://www.orosha.org)

Applebee Aviation Inc  
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In addition, the OR-OSHA representative noted certain conditions which are listed in the following page, which could cause injuries and/or illnesses. Although it is not mandatory to correct them at this time, if the work process, operation, exposure, etc., changes, these conditions could be cited as violations during future inspections. By initiating corrective measures, you could reduce the high cost of human suffering associated with work-related injuries and illnesses.

There may be other hazards present which were not apparent at the time of the inspection. If you need assistance in identifying and/or eliminating health or safety hazards consultative and training services are available to you at no cost through OR-OSHA by calling (503) 378-3272.

Your continuing effort to identify and eliminate work-related hazards is appreciated.

Ronald Haverkost

OR-OSHA Salem Field Office  
1340 Tandem Ave N Ste 160  
PO Box 14513  
Salem, OR 97303

## NOTICE

**Employer Name:** Applebee Aviation Inc  
**Employer ID No:** 1298165-000  
**Inspection Number:** 317707791(93)  
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### Item 02 Failure to report hospitalizations

Rule: OAR 437-001-0700(21)(c) requires that overnight hospitalizations be reported to Oregon OSHA within 24 hours after occurrence or employer knowledge.

During the inspection of your operations, your injury and illness claims were reviewed. On November 14, 2011, there was a hospitalization resulting from a helicopter crash in Woodburn, Oregon that was not reported.

Failure to report that hospitalization is not currently being cited due to the incident being outside the two year window allowed for recordkeeping violations. Had this been identified within that time frame, the penalty would have started at \$2,500.

In addition, please be advised that beginning January 2016, amputations like that which occurred in January, 2013 would also need to be reported within 24 hours, whether the individual spent the night in the hospital or not.

If you have a additional questions, please contact Oregon OSHA's consultative services or your workers' compensation carrier.