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March 15, 2006

## Proposed Changes in Agriculture Respiratory Protection Standard

### *Public Hearing Scheduled for:*

<u>Date</u>	<u>Time</u>	<u>Location</u>
May 4, 2006	10:00 am	Labor and Industries Building Second Floor – Room 260 350 Winter Street NE Salem OR 97301-3882

Oregon OSHA proposes to repeal OAR 437-004-1040, the current respiratory standard in Division 4/I, Agriculture/Protective Equipment, and adopt OAR 437-004-1041, a new respiratory protection standard.

The Respiratory Protection Standard was reworded for clarity and plain language, and to bring the rules up to Division 2/I standards having one rule for all respirator users.

### **Summary of changes:**

- There are new requirements for voluntary use of respirators. You must provide respirator users with the information contained in Appendix D, and have a medical evaluation required for respirators with the exception of filtering face-pieces, and have cleaning, storing and maintenance procedures in the program.
- There is a requirement for annual fit-testing of required use of respirators.
- There is a change from annual medical evaluations to a medical evaluation before the first fit-test.
- New appendix **A**, **B1**, **B2** and **D** were added for procedures on Fit testing (A), user seal check (B1) and proper cleaning (B2) the medical questionnaire was moved to (C) and Voluntary use information (D). The mandatory appendices **C** and **D** are also in Spanish.
- There is a section on interior structural firefighting requiring the two in two out rules.
- Training is required annually.
- A change out schedule for canisters and cartridges is required.

***When does this happen:*** Adoption tentatively will be May 2006

***To get a copy:*** Our web site – [www.orosha.org](http://www.orosha.org) Rules & Laws, then Proposed Rules

***To comment:*** Department of Consumer and Business Services/Oregon OSHA  
350 Winter Street NE  
Salem OR 97301-3882  
E-mail – [tech.web@state.or.us](mailto:tech.web@state.or.us)  
Fax – 503-947-7461

***Comment period closes:*** May 12, 2006

***OR-OSHA contact:*** Trena VanDeHey, Central Office @ 503-947-7452

Note: In compliance with the Americans with Disabilities Act (ADA), this publication is available in alternative formats by calling 503-378-3272.

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services/Oregon OSHA  
Agency and Division

OAR 437  
Administrative Rules Chapter Number

Sue Joye                      350 Winter Street NE Salem OR 97301-3882  
Rules Coordinator                      Address

503-947-7449  
Telephone

**RULE CAPTION**

Propose to adopt new Respiratory Protection standard in Agriculture.  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

<u>May 4, 2006</u> Hearing Date	<u>10:00 AM</u> Time	<u>350 Winter Street NE Second Floor - Room 260 Salem OR 97301-3882</u> Location	<u>Sue Joye</u> Hearings Officer
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*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

**ADOPT:** OAR 437-004-1041

**REPEAL:** OAR 437-004-1040

<u>ORS 654.025(2) and 656.726(4)</u> Stat. Auth.	<hr/> Other Authority
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<u>ORS 654.001 through 654.295</u> Stats. Implemented	<hr/>
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**RULE SUMMARY**

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Please visit our web site [www.orosha.org](http://www.orosha.org) Click 'Rules & Laws' in the left vertical column and view our proposed, adopted, and final rules.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

May 12, 2006

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

/s/ Michael D. Wood

Signature

Michael D. Wood

Printed name

March 14, 2006

Date

\*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.

ARC 920-2005

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services/Oregon OSHA  
Agency and Division

OAR 437  
Administrative Rules Chapter Number

In the Matter of: Adopting OAR 437-004-1041 and Repealing OAR 437-004-1040.

Rule Caption: Propose to adopt new Respiratory Protection standard in Agriculture.

Statutory Authority: ORS 654.025(2) and 656.726(4)

Stats. Implemented: ORS 654.001 through 654.295

Need for the Rule(s): The Respiratory Protection Standard was reworded for clarity and plain language, and to bring the rules up to Division 2/I standards having one rule for all respirator users.

Documents Relied Upon, and where they are available:

Division 4/I, Agriculture/Personal Protective Equipment – OAR 437-004-1040

[http://www.cbs.state.or.us/external/osha/pdf/rules/division\\_4/div4i.pdf](http://www.cbs.state.or.us/external/osha/pdf/rules/division_4/div4i.pdf)

Division 2/I, General Occupational Safety & Health Rules/Personal Protective Equipment – OAR 437-002-1910.134

[http://www.cbs.state.or.us/external/osha/pdf/rules/division\\_2/1910-134.pdf](http://www.cbs.state.or.us/external/osha/pdf/rules/division_2/1910-134.pdf)

OR-OSHA Program Directive A-233, Respiratory Protection: General Guidelines

<http://www.cbs.state.or.us/external/osha/pdf/pds/pd-233.pdf>

Federal Register Preamble for Respiratory Protection, 1/3/98

[http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=FEDERAL\\_REGISTER&p\\_id=13749](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTER&p_id=13749)

Fiscal and Economic Impact, including Statement of Cost of Compliance: There is no anticipated fiscal impact associated with these rules except the following:

437-004-1041(3)(c)(B) and 437-004-1041(5) could cost employers a one time expense of \$12 to \$28 dollars for the medical questionnaire to be reviewed by the PLHCP for each employee that would be required to wear a respirator and \$36 to \$75 dollars for the follow-up physical examination if required by the PLHCP. This would be a reduction in cost as the previous 437-004-1040 required annual evaluations.

437-004-1041(6) Qualitative Fit-testing kits for annual fit-testing would be a one time expense of \$45 to \$300 depending on the type of kit purchased. If employees are sent to a PLHCP for fit-tests, costs could be \$16 to \$50 per employee. This would not be an increase as fit-testing was required in the previous 437-004-1040 rule.

How were small businesses involved in the development of this rule? Small business representation was through the Small Agriculture Employer Advisory Committee.

Administrative Rule Advisory Committee consulted?: Yes. These rules were reviewed by the Small Agricultural Employer Advisory Committee by mail and electronic mail. Sufficient time was allotted for comment.

If not, why?:

/s/ Michael D. Wood

Authorized Signer

Michael D. Wood

Printed name

March 14, 2006

Date