

March 18, 2008

## **Oregon OSHA - Proposed Changes To the Personal Protective Equipment (PPE) Standard in General Industry, Construction, Agriculture, and Maritime Activities**

### ***Public Hearing Scheduled for:***

<b><u>Date</u></b>	<b><u>Time</u></b>	<b><u>Location</u></b>
April 21, 2008	9:30 am	Labor and Industries Building Basement – Conference Room F 350 Winter Street NE Salem OR 97301

Oregon OSHA proposes to adopt the Federal OSHA changes as they appear in the November 15, 2007 Federal Register, into Division 2/I, Personal Protective Equipment, Division 3/E, Personal Protective and Life Saving Equipment, and Division 5, Maritime Activities. The changes codify and clarify the employers' responsibility to provide and pay for protective equipment that is necessary for employees to perform their jobs safely.

In addition to the Federal OSHA changes, Oregon OSHA proposes to replace the existing language in Division 4/I, Protective Equipment, with language comparable to the new Federal OSHA language for clarity.

The new Federal OSHA rules state what Oregon OSHA has required, therefore we do not expect a fiscal or economic impact.

***When does this happen:*** Adoption tentatively will be early May 2008, effective May 15, 2008

***To get a copy:*** Our web site – [www.orosha.org](http://www.orosha.org) Rules/Compliance, then Proposed Rules  
Or call the OR-OSHA Resource Center at 503-947-7447

***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:*** **April 28, 2008**

***OR-OSHA contact*** **Dave McLaughlin, Central Office @ 503-947-7457;**  
**or email at [dave.j.mclaughlin@state.or.us](mailto:dave.j.mclaughlin@state.or.us)**

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 changes to Personal Protective Equipment standard in General Industry, Construction, Agriculture, and Maritime.

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

Labor & Industries Building  
350 Winter Street NE  
Basement – Conference Room F  
Salem OR 97301

April 21, 2008  
Hearing Date

9:30 AM  
Time

Location

Sue Joye  
Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

**AMEND:** OAR 437-002-0120, 437-003-0001, 437-004-1005, 437-005-0001, 437-005-0002, 437-005-0003

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

**RULE SUMMARY**

Oregon OSHA proposes to adopt the Federal OSHA changes as they appear in the November 15, 2007 Federal Register, into Division 2/I, Personal Protective Equipment, and Division 3/E, Personal Protective and Life Saving Equipment. The changes codify and clarify the employers' responsibility to provide and pay for protective equipment that is necessary for employees to perform their jobs safely.

In addition to the Federal OSHA changes, Oregon OSHA proposes to replace the existing language in Division 4/I, Protective Equipment, with language comparable to the new Federal OSHA language for clarity.

Please visit our web site [www.orosha.org](http://www.orosha.org) Click 'Rules/Compliance' 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.

/s/Michael D. Wood

Signature

April 28, 2008

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

Michael D. Wood

Printed name

3/10/08

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/OR-OSHA  
Agency and Division

OAR 437  
Administrative Rules Chapter Number

**In the Matter of:**

Amending OAR 437-002-0120, 437-003-0001, 437-004-1005, 437-005-0001, 437-005-0002, 437-005-0003.

**Rule Caption:** (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Propose changes to Personal Protective Equipment standard in General Industry, Construction, Agriculture, and Maritime.

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

**Stats. Implemented:** ORS 654.001 through 654.295

**Need for the Rule(s):**

Oregon OSHA's standards must be at least as effective as Federal OSHA, therefore we propose to adopt these changes as they appear in the November 15, 2007 Federal Register.

The proposed Division 4/I changes simplify and clarify the existing requirements.

**Documents Relied Upon, and where they are available:**

November 15, 2007 Federal Register

[http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=FEDERAL\\_REGISTER&p\\_id=20094](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTER&p_id=20094)

**Fiscal and Economic Impact, including Statement of Cost of Compliance:**

ORS 654.010 states, "Every employer shall furnish employment and a place of employment which are safe and healthful for employees therein, and shall furnish and use such devices and safeguards, and shall adopt and use such practices, means, methods, operations and processes as are reasonably necessary to render such employment and place of employment safe and healthful, and shall do every other thing reasonably necessary to protect the life, safety and health of such employees."

In 1989, an interpretation was issued in which Oregon OSHA stated, "In the absence of a labor management agreement, contract or condition of employment which states otherwise, OR-OSHA's rules regarding PPE and the terms "provided" and "furnished" are interpreted to mean, the employer must purchase or acquire at no cost to employees."

This policy has never been rescinded, and the new Federal OSHA rules state what Oregon OSHA has required, therefore we do not expect a fiscal or economic impact.

**How were small businesses involved in the development of this rule?**

Federal OSHA is required to follow the Small Business Administration's criteria for all new rules they propose and adopt.

**Administrative Rule Advisory Committee consulted?:** No.

**If not, why?:** An advisory group is not necessary for this type of rulemaking because Oregon OSHA's rules must be as effective as the Federal OSHA.

/s/Michael D. Wood  
Authorized Signer

Michael D. Wood  
Printed name

3/10/08  
Date