

March 16, 2009

Oregon OSHA - Proposed Changes To Personal Protective Equipment (PPE) in General Industry, Construction, and Maritime

Public Hearing Scheduled for:

<u>Date</u>	<u>Time</u>	<u>Location</u>
April 29, 2009	2:30 pm	Labor and Industries Building Second Floor – Room 260 350 Winter Street NE Salem OR 97301

In this rulemaking, Oregon OSHA is amending its standards to add language clarifying that the personal protective equipment (PPE) and training requirements impose a compliance duty to each and every employee covered by the standards and that noncompliance may expose the employer to liability on a per-employee basis. The amendments consist of new paragraphs added to the introductory sections of the affected rules and changes to the language of some existing respirator and training requirements.

These Federal OSHA changes are in general industry, construction, and maritime and were published in the December 12, 2008 Federal Register.

When does this happen: Adoption tentatively will be May 2009

To get a copy: Our web site – 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
Fax – 503-947-7461

Comment period closes: May 4, 2009

OR-OSHA contact: Kathleen Kincade, Central Office @ 503-947-7452;
or email at kathleen.kincade@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
Rules Coordinator

350 Winter Street NE Salem OR 97301-3882
Address

503-947-7449
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RULE CAPTION

Proposed changes to Personal Protective Equipment (PPE) rules in general industry, construction and maritime.

Labor and Industries Building
Second Floor – Room 260
350 Winter Street NE
Salem OR 97301

April 29, 2009
Hearing Date

2:30 pm
Time

Salem OR 97301
Location

Sue Joye
Hearings Officer

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

RULEMAKING ACTION

AMEND: OAR 437-002-0005, 437-002-0080, 437-002-0120, 437-002-0180, 437-002-0360, 437-003-0001, 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

In this rulemaking, Oregon OSHA is amending its standards to add language clarifying that the personal protective equipment (PPE) and training requirements impose a compliance duty to each and every employee covered by the standards and that noncompliance may expose the employer to liability on a per-employee basis. The amendments consist of new paragraphs added to the introductory sections of the affected rules and changes to the language of some existing respirator and training requirements.

These Federal OSHA changes are in general industry, construction, and maritime and were published in the December 12, 2008 Federal Register.

Please visit our web site 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/Joan M. Fraser
Signature

May 4, 2009

Last Day for Public Comment

Last day to submit written comments to the Rules Coordinator

Joan M. Fraser
Printed name

3/12/2009
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.

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

OAR 437

Agency and Division

Administrative Rules Chapter Number

In the Matter of: Amending OAR 437-002-0005, 437-002-0080, 437-002-0120, 437-002-0180, 437-002-0360, 437-003-0001, 437-005-0001, 437-005-0002, 437-005-0003.

Rule Caption:

Proposed changes to Personal Protective Equipment (PPE) rules in general industry, construction, 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 clarifications as they appear in the December 12, 2008 Federal Register. Federal OSHA took this action in response to recent decisions of the Occupational Safety and Health Review Commission. The amendments clarify that the standards apply to each employee. This final federal rule became effective on January 12, 2009.

Documents Relied Upon, and where they are available:

Federal Register published December 12, 2008, pp. 75568 – 75589

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTER&p_id=21370

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

None anticipated. (Per 73 FR, 75568, Summary) "The amendments add no new compliance obligations. Employers are not required to provide any new type of PPE or training, to provide PPE or training to any employee not already covered by the existing requirements, or to provide PPE or training in a different manner than that already required." The agency met its burden of showing significant risk, feasibility and cost effectiveness in promulgating the existing PPE and training requirements.

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

On August 19, 2008, Federal OSHA proposed to amend the respirator and training provisions in the standards in Parts 1910 through 1926. OSHA received approximately 50 comments on the proposal, and, in response to several requests, held a hearing on October 6, 2008. Following the notice and comment period, an informal rulemaking hearing, and careful Agency deliberation, Federal OSHA found that its preliminary conclusions were appropriate and issued this final standard clarifying employers' responsibilities to provide required PPE and training to each and every one of their employees.

Administrative Rule Advisory Committee consulted? Yes.

If not, why?

The Construction Advisory Committee and a number of other public forums were informed of the Federal OSHA amendments and invited to comment.

/s/Joan M. Fraser
Authorized Signer

Joan M. Fraser
Printed name

3/12/2009
Date