

December 19, 2007

## **Oregon OSHA - Proposed Changes To Division 7/H, Forest Activities/Machine Protective Structures**

***Public Hearing Scheduled for:***

<u>Date</u>	<u>Time</u>	<u>Location</u>
January 31, 2008	9:00 am	Labor and Industries Building Second Floor – Conference Room 260 350 Winter Street NE Salem OR 97301

Oregon OSHA proposes to make revisions to Division 7, Forest Activities, Subdivision H, Machines Used in Forest Activities, rules OAR 437-007-0775 and 437-007-0780, which will:

1. Extend the implementation date from July 1, 2009, to July 1, 2014 for excavator based machine protective structures required by OAR 437-007-0780.
2. Develop a new rule, OAR 437-007-0775(15) exempting construction machines from protective structure requirement if they only perform road construction activities.

***When does this happen:*** Adoption tentatively will be February 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:*** February 19, 2008

***OR-OSHA contact*** Mike Lulay, Central Office @ 503-947-7431;  
or email at [mike.lulay@state.or.us](mailto:mike.lulay@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 Division 7, Forest Activities/Machine Protective Structures.  
**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

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

January 31, 2008  
Hearing Date

9:00 AM  
Time

Location

Sue Joye  
Hearings Officer

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

**RULEMAKING ACTION**

**AMEND:** OAR 437-007-0775, 437-007-0780

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 make revisions to Division 7, Forest Activities, Subdivision H, Machines Used in Forest Activities, rules OAR 437-007-0775 and 437-007-0780, which will:

1. Extend the implementation date from July 1, 2009, to July 1, 2014 for excavator based machine protective structures required by OAR 437-007-0780.
2. Develop a new rule, OAR 437-007-0775(15) exempting construction excavator based machines from protective structure requirement if they only perform road construction activities.

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

February 19, 2008

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

Michael D. Wood  
Printed name

12/14/2007  
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

**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 437-007-0775, 437-0070780

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

Propose changes to Division 7, Forest Activities/Machine Protective Structures.

**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 proposes to make revisions to Division 7, Forest Activities, Subdivision H, Machines Used in Forest Activities, rules OAR 437-007-0775 and 437-007-0780, which will:

1. Extend the implementation date from July 1, 2009, to July 1, 2014 for excavator based machine protective structures required by OAR 437-007-0780.
2. Develop a new rule, OAR 437-007-0775(15) exempting construction excavator based machines from protective structure requirement if they only perform road construction activities.

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

OAR 437, Division 7/H, Forest Activities/Machines Used in Forest Activities

Society of Automotive Engineers' (SAE) documents

SAE J231-1981(FOPS)

SAE J397 APRIL-1988 (DLV for ROPS & FOPS)

SAE J1040 APRIL-1988 (ROPS)

SAE J1040 MAY-1994 (ROPS)

SAE J1084 APRIL-1980 (object penetration)

SAE J1356 FEB88 (front & top guards)

SAE J1116 MAR99 (machine identification)

International Organization for Standards (ISO) documents:

ISO 3471:1994(labels)

ISO 12177 (labels)

ISO 8083:1989 (FOPS)

ISO 8084:1993 (operator protective structure)

ISO 12117(E):1997 (formulae)

ISO 3411:1995 (operator space in the cab)

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

1. Extending the OAR 437-007-0780 July 1, 2007 implementation date

The Forest Activities machine “tip-over” protective structures revision should not result in costs that impact State agencies or local governments.

Based on the Associated Oregon Loggers survey dated May 2, 2007, approximately 232 excavator based machines are equipped with “tip-over” protective structures required by OAR 437-007-0780.

Extending the implementation date from July 1, 2009 to July 1, 2014 for “tip-over” protective structures should have very little impact on the value of a 10 year old machine.

Extending the July 1, 2009 “tip-over” protective structure implementation date will defer the estimated cost of \$35,000 per machine until July 1, 2014 to retrofit any machine that it’s owner chooses to continue using on slopes of 20 % or more.

Machines that do not meet the July 1, 2014 implementation date will be restricted to forest activities on prepared surfaces that have a slope of less than 20%.

2. Exempting machines used only for road construction from protective structure requirement.

Exempting machines performing only road construction activities from the OAR 437-007-0775 protective structures requirements will not result in a cost impact to employers, State agencies or local governments.

It will provide a potential cost savings in that an employer can shift older equipment to other uses rather than needing to invest in new equipment.

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

Small businesses are represented on the Forest Activities Advisory Committee.

**Administrative Rule Advisory Committee consulted?:** Yes.

**If not, why?:** Oregon OSHA’s Forest Activities Advisory Committee formed a subcommittee with representatives from labor, private and government land owners, governmental agencies, equipment manufacturers, and employer associations. The meetings to review and discuss the existing machine protective structure regulation were conducted in the Spring, Summer and Fall of 2007.

<i>/s/Michael D. Wood</i>	Michael D. Wood	12/14/2007
Authorized Signer	Printed name	Date