

January 4, 2010

**Oregon OSHA - Proposed Changes
Federal Amendments to Consensus Standards for Personal Protective
Equipment in General Industry and Maritime Activities,
And
Oregon-initiated updates to consensus standards in
Agriculture and Forest Activities**

This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Federal OSHA revised the personal protective equipment (PPE) sections of its general industry, shipyard employment, longshoring, and marine terminals standards concerning requirements for eye- and face-protective devices, and head and foot protection.

Federal OSHA updated the references in its regulations to reflect more recent editions of the applicable national consensus standards that incorporate advances in technology. Federal OSHA requires that PPE be safely designed and constructed for the tasks performed.

Amendments to the PPE standards include a requirement that filter lenses and plates in eye-protective equipment meet a test for transmission of radiant energy such as light or infrared.

Oregon OSHA proposes to adopt the changes in general industry and maritime activities as published in the September 9, 2009 Federal Register. The updated references will also be made in Oregon OSHA's Division 4, Agriculture, and Division 7, Forest Activities.

When does this happen: Adoption tentatively will be February 2010

To get a copy: Our web site – www.orosha.org Rules/Compliance, then Proposed Rules
Or call the Oregon 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: February 1, 2010

OR-OSHA contact: Ron Haverkost, Central Office @ 503-947-7421;
or email at ronald.l.haverkost@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*

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 federal amendments to consensus standards for personal protective equipment in general industry, agriculture, maritime activities, and forest activities.

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

RULEMAKING ACTION

AMEND: OAR 437-002-0005, 437-002-0080, 437-002-0120, 437-002-0280, 437-004-1035, 437-004-1050, 437-004-1060, 437-004-2310, 437-005-0001, 437-005-0002, 437-005-0003, 437-007-0305.

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

RULE SUMMARY

This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Federal OSHA revised the personal protective equipment (PPE) sections of its general industry, shipyard employment, longshoring, and marine terminals standards concerning requirements for eye- and face-protective devices, and head and foot protection.

Federal OSHA updated the references in its regulations to reflect more recent editions of the applicable national consensus standards that incorporate advances in technology. Federal OSHA requires that PPE be safely designed and constructed for the tasks performed.

Amendments to the PPE standards include a requirement that filter lenses and plates in eye-protective equipment meet a test for transmission of radiant energy such as light or infrared.

Oregon OSHA proposes to adopt the changes in general industry and maritime activities as published in the September 9, 2009 Federal Register. The updated references will also be made in Oregon OSHA's Division 4, Agriculture, and Division 7, Forest Activities.

Please visit our web site www.orosha.org Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final rules.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

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 1, 2010

Last Day for Public Comment

Last day to submit written comments to the Rules Coordinator

Michael D. Wood
Printed name

12/14/09
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 923-2005

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/Oregon OSHA

Agency and Division

OAR 437

Administrative Rules Chapter Number

In the Matter of:

Amending OAR 437-002-0005, 437-002-0080, 437-002-0120, 437-002-0280, 437-004-1035, 437-004-1050, 437-004-1060, 437-004-2310, 437-005-0001, 437-005-0002, 437-005-0003, 437-007-0305.

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

Propose to adopt federal amendments to consensus standards for personal protective equipment in general industry, agriculture, maritime activities, and forest activities.

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

Stats. Implemented: ORS 654.001 through 654.295

Need for the Rule(s):

The incorporated American National Standards Institute (ANSI) standards are over a decade old and in some instances are two decades old. Over this period, ANSI updated all of the standards, and in one instance (ANSI Z41, standard for protective footwear), ANSI withdrew its standard when American Society for Testing and Materials (ASTM) adopted a national consensus standard for protective footwear. In response, manufacturers began making personal protective equipment (PPE) that conformed with the updated ANSI and ASTM standards. Federal OSHA estimates that these types of PPE last about two to four years.

Federal OSHA updated the references in its regulations to recognize recent editions of the applicable national consensus standards, and deleted a number of outdated editions of the national consensus standards referenced in its existing PPE standards.

Oregon OSHA's standards must be at least as effective as Federal OSHA, therefore we propose to adopt these rules as they appear in the September 9, 2009 Federal Register affecting general industry, shipyard employment, longshoring, and maritime terminals. The updated references will also be made in Oregon OSHA's Division 4, Agriculture, and Division 7, Forest Activities.

These revisions are a continuation of Federal OSHA and Oregon OSHA's efforts to update or remove references to specific consensus and industry standards located throughout their standards.

Documents Relied Upon, and where they are available:

Federal Register, September 9, 2009, volume 74, number 173, p. 46350.

http://www.osha.gov/FedReg_oshaf/FED20090909.pdf

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

This rulemaking imposes no additional costs on any private or public sector entity. Oregon OSHA's own costs in administering the rules are limited to the rulemaking itself. All state agencies as well as units of local government are affected in the sense that they are employers under the Oregon Safe Employment Act. These amendments allow employers increased flexibility in choosing personal protective equipment (PPE) for employees. The revisions do not require an employer to update or replace its PPE solely as a result of this rule if the PPE currently in use meets the existing standards.

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

The rule imposes no costs and would not have a significant impact on a substantial number of small entities.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The nature of this rulemaking does not necessitate committee input at the state level.

/s/ Michael D. Wood
Authorized Signer

Michael D. Wood
Printed name

12/14/09
Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.
ARC 925-2005