

March 17, 2010

## Oregon OSHA - Proposed Changes to Division 4, Agriculture

### *Public Hearings Scheduled for:*

<u>Date</u>	<u>Time</u>	<u>Location</u>
April 27, 2010	11:00 am	Rockford Grange 4250 Barrett Drive Hood River, OR 97031
April 29, 2010	1:30 pm	Labor and Industries Building Basement – Conference Room F 350 Winter Street NE Salem OR 97301

These changes result from legislation, input from the regulated community and input from Oregon OSHA staff.

Changes to the Division 4 scope in **Subdivision 4/A**, cross-reference and clarify the SIC and NAICS codes to which the Division 4, Agriculture rules apply. SIC/NAICS, 0831/113210 respectively was added to clarify when tree farms are agriculture employers and when they are forest activities. Rules for inspecting workplaces and investigating time-loss injuries and illnesses were cross-referenced with the proposed changes in Subdivision 4/C. A rule duplicating the adoption of the Worker Protection Standard was eliminated. New contact information was provided for the Wage and Hour Division of the Bureau of Labor and Industries.

Changes in **Subdivision 4/C**, Safety Awareness, fulfill Oregon OSHA's responsibility under a recent legislative mandate to require all Oregon employers, regardless of size, to have either a safety committee or to hold safety meetings. The current rule, OAR 437-004-0250 will be repealed and replaced with 437-004-0251 incorporating these changes. The number of non-seasonal employees (re-defined as "employed full-time or part-time for more than three months in a calendar year") per location determine whether the employer has the option of holding safety meetings or having a safety committee. The special needs of Agricultural employers were addressed by maintaining separate safety orientation requirements for employers of seasonal workers. The definition of seasonal workers was also redefined as "employed for three or fewer months in a calendar year." Both the rules for seasonal and non-seasonal workers include requirements to overcome language barriers when communicating safety awareness information by using non-technical terms, pictures, or translators. Additional notes were added to Safety Orientation for Seasonal Workers to explain training and orientation requirements.

Changes in **Subdivision 4/K**, Medical and First Aid clarify when eye-washes and safety showers are required and also the standards for both plumbed and free-standing systems. The current rule requires that employers assure the availability of emergency medical services for injured or sick employees. The proposed rule includes language to call emergency services timely to provide treatment.

***When does this happen:*** Adoption tentatively will be May 2010

***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:*** **May 7, 2010**

***OR-OSHA contact:*** **Kathleen Kincade, Central Office @ 503-947-7452;**  
**or email at [kathleen.kincade@state.or.us](mailto: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  
Telephone

**RULE CAPTION**

Proposed changes to Division 4, Agriculture.

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

April 27, 2010	11:00 am	Rockford Grange 4250 Barrett Drive Hood River, OR 97031	Sue Joye
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Hearing Date	Time	Location	Hearings Officer
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*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

**ADOPT:** OAR 437-004-0251

**AMEND:** OAR 437-004-0002, 437-004-0003, 437-004-0099, 437-004-0240, 437-004-1305

**REPEAL:** OAR 437-004-0004, 437-004-0250

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

**RULE SUMMARY**

These changes result from legislation, input from the regulated community and input from Oregon OSHA staff.

Changes to the Division 4 scope in Subdivision 4/A, cross-reference and clarify the SIC and NAICS codes to which the Division 4, Agriculture rules apply. SIC/NAICS, 0831/113210 respectively was added to clarify when tree farms are agriculture employers and when they are forest activities. Rules for inspecting workplaces and investigating time-loss injuries and illnesses were cross-referenced with the proposed changes in Subdivision 4/C. A rule duplicating the adoption of the Worker Protection Standard was eliminated. New contact information was provided for the Wage and Hour Division of the Bureau of Labor and Industries.



## 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:** Adopting OAR 437-004-0251;  
Repealing OAR 437-004-0004, 437-004-0250; and  
Amending OAR 437-004-0002, 437-004-0003, 437-004-0099, 437-004-0240, 437-004-1305.

**Rule Caption:** Proposed changes to Division 4, Agriculture.

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

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

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

These changes result from legislation, input from the regulated community and input from Oregon OSHA staff.

Changes to the Division 4 scope in Subdivision 4/A, cross-reference and clarify the SIC and NAICS codes to which the Division 4, Agriculture rules apply. SIC/NAICS, 0831/113210 respectively was added to clarify when tree farms are agriculture employers and when they are forest activities. Rules for inspecting workplaces and investigating time-loss injuries and illnesses were cross-referenced with the proposed changes in Subdivision 4/C. A rule duplicating the adoption of the Worker Protection Standard was eliminated. New contact information was provided for the Wage and Hour Division of the Bureau of Labor and Industries.

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

OAR 437-001, General Administrative Rules

OAR 437-002, General Industry Rules

OAR 437-004, Agriculture

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

Oregon OSHA's own costs in administering the rule 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. After consulting with the small ag advisory group, Oregon OSHA has determined the following areas could have a fiscal impact to employers.

Changes to Subdivision 4/A, General Subjects: No substantive changes to the rule, no fiscal or economic impact.

Changes to Subdivision 4/C, Safety Awareness: Agricultural employers with fewer than 10 non-seasonal employees, as re-defined in the rule, at any location, will incur additional expense because they must now either hold safety meetings or have a safety committee. This may result in additional payroll expenses for those employers who previously had no obligation. The amount will vary depending on the number of employees and the wage rate.

Changes to Subdivision 4/K, Medical and First Aid: No substantive changes to the rule, no fiscal or economic impact.

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

Small business was involved by representation on the mandated Small Agriculture Employer Advisory Committee.

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

**If not, why?**

The Small Agriculture Employer Advisory Committee was the primary source of stakeholder involvement in the development of these proposals.

/s/Michael D. Wood

Authorized Signer

Michael D. Wood

Printed name

3/15/10

Date

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