

# NOTICES OF PROPOSED RULEMAKING

**Proposed Repeals:** Rules in 918-308

**Proposed Renumberings:** Rules in 918-308

**Proposed Ren. & Amends:** Rules in 918-308

**Last Date for Comment:** 11-28-16, 5 p.m.

**Summary:** These rules amend the standards for delegation of an electrical inspection program by clarifying the Electrical and Elevator Board's standards for evaluating minimum service levels, financial viability, and compliance efforts of a proposed electrical inspection program.

**Rules Coordinator:** Holly A. Tucker

**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309-0404

**Telephone:** (503) 378-5331

.....  
**Department of Consumer and Business Services,  
Oregon Occupational Safety and Health Division  
Chapter 437**

**Rule Caption:** Adopt changes to the Worker Protection Standard in Agriculture with federal and state changes.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-29-16	11 a.m.	Pine Grove Grange 2900 Van Horn Drive Hood River, OR 97031
12-1-16	10 a.m.	Woodburn Grange 908 N Settlemier Ave. Woodburn, OR 97071
12-7-16	10 a.m.	City of Medford/City Hall Suite 340 - Alba Room 411 W 8th St. Medford, OR 97501

**Hearing Officer:** Sue Joye

**Stat. Auth.:** ORS 654.025(2), 656.726(4)

**Stats. Implemented:** ORS 654.001 through 654.295; 654.412 through 654.423; 654.750 through 654.780

**Proposed Adoptions:** 437-004-6001, 437-004-6401, 437-004-6402, 437-004-6405, 437-004-6406, 437-004-6501, 437-004-6502, 437-004-6508, 437-004-6509

**Proposed Amendments:** 437-002-0170, 437-004-6000

**Last Date for Comment:** 12-14-16, 5 p.m.

**Summary:** Oregon OSHA administers and enforces the Environmental Protection Agency's (EPA) pesticide Worker Protection Standard (WPS) as adopted in Division 4/W (Agriculture/Worker Protection Standard), OAR 437-004-6000. This standard (40 CFR 170) is being amended with most of the changes adopted at the federal level by the EPA in the November 2, 2015 Federal Register. In addition, Oregon OSHA proposes to adopt nine new Oregon Administrative Rules (OARs) that reflect specific requirements for employers in Oregon.

The new OARs:

- One giving expiration and implementation dates for the amended Division 4/W;

- Two serve to clarify compliance requirements by providing specific effective dates for training programs for both workers and handlers (EPA's rules reference an unspecified future date of publication of training materials and a notification in the Federal Register.);

- Two offer a compliance alternative to evacuation of tight, solid structures that may fall within the Application Exclusion Zone (AEZ - as defined in 170.405.) The rules include provisions for what is commonly referred to as "shelter in place." This allows occupants, under controlled circumstances, to remain in protected spaces that are within an AEZ during nearby pesticide applications. Requirements include notification, training, and additional drift-control measures for structures within these Zones;

- Two maintain Oregon OSHA's more protective requirements related to respiratory protection and emergency eye-washes while fulfilling the EPA's pesticide label requirements;

- One provides a compliance alternative for all Oregon employers who train workers, to ease the transition during the first year of the rule changes; and

- One augments the training requirements for those who provide handler training. This is due to the significant increase in subject matter that will be required in 2018 and the importance of quality pesticide handler training.

The WPS rules are also referenced, in Division 2, General Industry, at OAR 437-002-0170; and, in Division 7, Forest Activities, at OAR 437-007-0010. A rule reference in the 437-002-0170 note will be updated.

The rule changes are expected to lead to an overall reduction in incidents of unsafe pesticide exposure and to improve the occupational health of agricultural workers and pesticide handlers.

Please visit our website [osha.oregon.gov](http://osha.oregon.gov) Click 'Rule changes' in the Topics, rules, guidelines column and view our proposed rules; or, select other rule activity from the left vertical column on the Proposed Rules page.

**Rules Coordinator:** Sue C. Joye

**Address:** Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE, Salem, OR 97301-3882

**Telephone:** (503) 947-7449

.....  
**Department of Energy  
Chapter 330**

**Rule Caption:** Update and clarify definitions and requirements for Home Energy Performance Score program.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-29-16	2 p.m.	625 Marion St. NE Salem OR 97301

**Hearing Officer:** Wendy Simons

**Stat. Auth.:** ORS 469.040, 469.703, Oregon Laws 2013 Chapter 383 (House Bill 2801)

**Stats. Implemented:** ORS 469.703

**Proposed Amendments:** 330-063-0010, 330-063-0015, 330-063-0020, 330-063-0025

**Last Date for Comment:** 11-29-16, 5 p.m.

**Summary:** The primary purpose of these proposed rule amendments is to establish the U.S. Department of Energy's (U.S. DOE) Home Energy Score as the standard for home energy performance scoring in Oregon. The proposed rule changes would require that, in order to meet the state standard, a home energy performance report must include the U.S. DOE Home Energy Score, as well as an estimate of total annual energy use, by fuel type, generated by U.S. DOE's Home Energy Scoring Tool. A home energy performance report may also contain a home energy performance score generated by another entity, as long as that score meets certain requirements and has been reviewed by a stakeholder panel and approved by the director of the Oregon Department of Energy. The proposed rules would require home energy performance reports to use average annual retail fuel prices provided by the Oregon Department of Energy in calculating estimates of annual home energy costs. Finally, the proposed rule would require home energy assessors to complete training in the software used to produce the U.S. DOE's Home Energy Score, and to obtain a professional credential recognized by U.S. DOE as a prerequisite to qualify as a Home Energy Score assessor.

**Rules Coordinator:** Elizabeth Ross

**Address:** Department of Energy, 625 Marion St. NE, Salem, OR 97301

**Telephone:** (503) 378-8534

.....  
**Rule Caption:** Postpones operative date of minimum energy efficiency standards for embedded small battery chargers.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-30-16	2 p.m.	625 Marion NE Salem OR 97301

**Hearing Officer:** Wendy Simons

**Stat. Auth.:** ORS 469.040, 469.261

**Stats. Implemented:** ORS 469.229-469.261

**Proposed Amendments:** 330-092-0015

# NOTICES OF PROPOSED RULEMAKING

**Last Date for Comment:** 11-30-16, 5 p.m.

**Summary:** The primary purpose of these proposed rule amendments is to postpone for one year the operative date of minimum energy efficiency standards for certain small battery charger systems not sold at retail. The charger systems affected by the postponement are contained completely within a larger product, and provide power for data storage or for continuity within volatile cache or memory systems as well as maintaining information for system use, but are not capable of powering full operation of the product when AC mains power is not present. The proposed rule amendments also update the operative dates for other types of battery charger systems to match the effective dates in statute.

**Rules Coordinator:** Elizabeth Ross

**Address:** Department of Energy, 625 Marion St. NE, Salem, OR 97301

**Telephone:** (503) 378-8534

.....  
**Department of Environmental Quality**  
**Chapter 340**

**Rule Caption:** SB 263 Materials Management

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
11-17-16	6 p.m.	DEQ Headquarters 700 NE Multnomah St., Rm. 610 Portland, OR 97232

**Hearing Officer:** Holly Stirnkorb

**Stat. Auth.:** 459.045, 459.995, 459A.005-.085, 459A.025, 459A.045, 459A.100-120, 459A.650-.685, 459A.675, 468.020, 468.065

**Other Auth.:** Ch. 584 OL 1995Senate Bill 263 (Chapter 534, 2015 Laws)

**Stats. Implemented:** 459.015, 459.250, 459A, 459A.005, 459A.007, 459A.008, 459A.010, 459A.015, 459A.020, 459A.025, 459A.029, 459A.030, 459A.035, 459A.040, 459A.050, 459A.055, 459A.065, 459A.070, 459A.075, 459A.080, 459A.085, 459A.100, 459A.110, 459A.115, 459A.120, 459A.515, 459A.520, 459A.550, 459A.575, 459A.650-.665, 459A.655, 459A.660, 459A.665, 459A.700-740, 646.808

**Proposed Adoptions:** 340-090-0041, 340-090-0042, 340-090-0068

**Proposed Amendments:** 340-090-0005, 340-090-0010, 340-090-0015, 340-090-0020, 340-090-0030, 340-090-0040, 340-090-0050, 340-090-0060, 340-090-0070, 340-090-0080, 340-090-0090, 340-090-0100, 340-090-0110, 340-090-0120, 340-090-0130, 340-090-0140, 340-090-0150, 340-090-0180, 340-090-0190, 340-090-0310, 340-090-0320, 340-090-0330, 340-090-0340, 340-090-0350, 340-090-0360, 340-090-0370, 340-090-0380, 340-090-0390, 340-090-0400, 340-090-0410, 340-090-0420, 340-090-0430, 340-090-0510

**Proposed Repeals:** 340-090-0045

**Last Date for Comment:** 11-30-16, 4 p.m.

**Summary:** DEQ proposes the following changes to OAR 340, division 090 that will:

- Revise wastesheds' voluntary recovery goals, which the proposed rules would clarify are no longer mandatory or a basis for DEQ enforcement.

- Describe DEQ's methodology for measuring progress towards SB 263's statewide food waste, plastic, and carpet recovery goals.

- Add SB 263's four new recycling program elements, increasing to thirteen the options available to local governments.

- Amend the expanded education and promotion program element to include a contamination reduction education plan. The plan would require local governments that use this element to also determine contamination levels in collected recyclables and take educational action to reduce contamination.

- Update minimum numbers of recycling program elements required for certain cities. For each city with a minimum number of recycling program elements, the county administered area between the city's limits and urban growth boundary, or, within Metro, the

area outside the city's limits but within Metro, would also need a recycling program with the city's minimum number of elements.

- Add SB 263's seven new waste prevention education and reuse program elements and require program element minimums ranging from three to five elements, depending.

- Remove DEQ rules' references to the discontinued Two Percent Recovery Rate Credit programs ("Two Percent Credit Programs").

- Revise rules allowing local governments to implement alternative programs to meet their minimum recycling requirements and, where applicable, waste prevention and reuse program requirements. The proposed rules would allow a local government using a DEQ-approved alternative program the adaptability of meeting either the lesser of its recovery goal or recovery levels comparable to similar communities.

- "Clean up" OAR 340-90 to make Division 90 consistent with the SB 263-based proposed rules.

**Rules Coordinator:** Meyer Goldstein

**Address:** Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204

**Telephone:** (503) 229-6478

.....  
**Department of Fish and Wildlife**  
**Chapter 635**

**Rule Caption:** Oregon State List of Threatened and Endangered Species Amended

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
12-2-16	8 a.m.	ODFW Headquarters Commission Rm. 4034 Fairview Industrial Dr. SE Salem OR 97302

**Hearing Officer:** Oregon Fish and Wildlife Commission

**Stat. Auth.:** ORS 496.004, 496.171, 496.172, 496.182, 496.192, 498.026

**Stats. Implemented:** ORS 496.004, 496.171, 496.172, 496.182, 496.192, 498.026

**Proposed Adoptions:** Rules in 635-100

**Proposed Amendments:** Rules in 635-100

**Proposed Repeals:** Rules in 635-100

**Last Date for Comment:** 12-2-16, Close of Hearing

**Summary:** The amended rules will remove Borax Lake Chub (*Gila boraxobius*) and Foskett Spring Speckled Dace (*Rhinichthys osculus* ssp.) from the Oregon State List of Threatened and Endangered Species.

**Rules Coordinator:** Michelle Tate

**Address:** Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

**Telephone:** (503) 947-6044

.....  
**Rule Caption:** Amendments to Rules for Commercial and Recreational Groundfish Fisheries.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
12-2-16	8 a.m.	ODFW Headquarters Commission Rm. 4034 Fairview Industrial Dr. SE Salem, OR 97302

**Hearing Officer:** Oregon Fish and Wildlife Commission

**Stat. Auth.:** ORS 496.138, 496.146, 496.162, 497.121, 506.036, 506.109, 506.119, 506.129

**Stats. Implemented:** ORS 496.004, 496.009, 496.162, 506.109, 506.129, 508.957

**Proposed Adoptions:** Rules in 635-004, 039

**Proposed Amendments:** Rules in 635-004, 039

**Proposed Repeals:** Rules in 635-004, 039

**Last Date for Comment:** 12-2-16, Close of Hearing

**Summary:** The amended rules will establish annual groundfish management measures and harvest limits for 2017 commercial and sport groundfish fisheries. Housekeeping and technical corrections to the regulations may occur to ensure rule interpretation consistency.