



SUMMARY OF COMMENTS AND AGENCY DECISIONS - Explanation of Rulemaking

Minor Corrections

Title: Minor Corrections to Chapter 437 Rules

Department of Consumer & Business Services
Oregon Occupational Safety & Health Division

Anticipated Administrative Order Number: 1-2024

Anticipated Adopted Date: September 11, 2024

Anticipated Effective Date: September 11, 2024

1. Executive Summary

Oregon OSHA is adopting changes to the general administrative, general occupational safety and health, construction, and updating references in the maritime activity standards in response to federal OSHA's adoption of minor rule corrections published in Federal Registers and minor corrections to Oregon Administrative Rules (OAR) in Chapter 437 identified by Oregon OSHA.

This rulemaking is part of federal OSHA's ongoing Standards Improvement Project (SIP), and its purpose is to improve and streamline federal OSHA standards by removing or revising requirements that are confusing or outdated, or that duplicate, or are inconsistent with, other standards.

Minor corrections are intended to correct spelling, grammar, rule references, terminology, and include adoption of federal registries. The corrections revise rules within federal rules or Oregon's corresponding rules that are outdated, duplicative, or inconsistent. This rulemaking is anticipated to clarify regulatory requirements while maintaining or enhancing worker safety and health as well as worker privacy protections.

Oregon OSHA adopted most of the federal rule changes except for rules that had previously been removed or updated.

2. Application of Statutory Requirements

This rulemaking falls within Oregon OSHA's statutory authority, and Oregon OSHA has fulfilled all of its related obligations under [ORS 654](#) (Oregon Safe Employment Act; OSEA) and [ORS 183](#) (Administrative Procedures Act; APA).

ORS 654.003(3) "Authorize[s] the Director of the Department of Consumer and Business Services and the designees of the director to set reasonable, mandatory, occupational safety and health standards for all employments and places of employment."

This rulemaking is in response federal OSHA rulemaking for minor corrections as well as minor corrections to Oregon OSHA rules.

Oregon OSHA derives its rulemaking authority from the OSEA under [ORS 654.003](#). In Oregon, all agency rulemaking is subject to the requirements of the Administrative Procedures Act (APA) under ORS 183. [ORS 183.335](#) requires that state agencies provide adequate notice to the public of their intended rulemaking actions before a rule is adopted and goes into effect. Among other things, this notice must include a fiscal impact statement that considers if the proposed rule may have “economic effect[s]” on the public or Oregon businesses ([ORS 183.335](#)). Additionally, the APA encourages (but does not require) state agencies to convene a rulemaking advisory group (RAG) when promulgating or amending administrative rules ([ORS 183.333](#)).

All required documents for rule proposal were published with the Oregon Secretary of State on May 31, 2023. Public comments on the proposed changes were accepted until 5:00 pm on June 28, 2024. One public hearing was conducted, and no oral comments were received.

The APA requires a fiscal impact statement. No additional compliance requirements were added for the employer during this rule update. Because of this, Oregon OSHA does not foresee any economic impacts to the cost of compliance from these changes.

The APA requires Oregon OSHA to fully consider any written and oral comments. Oregon OSHA did not respond to individual public comments, but has included a general review and response to oral and written public comment in Section 5 Summary of Comments and Agency Decisions.

The rule is fully within Oregon OSHA’s statutory authority. Oregon OSHA has satisfied all applicable requirements of the APA.

3. History of the Current Rulemaking

Oregon OSHA began documenting minor rule corrections for this rule making in 2022 and incorporates corrections identified prior to April 12, 2024. Items identified in this process that have substantive rule changes were not included in this rulemaking and have been documented and will be addressed in future rule making.

Minor corrections from the following federal registers are included in this rulemaking:

Document Number: [2019-27114](#)

Document Summary: Walking-Working Surfaces, Personal Protective Equipment (Fall Protection Systems), and Special Industries (Electric Power Generation, Transmission, and Distribution); Corrections

Publication Date: 12/17/2019

Effective Date: 12/17/2019

Document Number: [2020-00207](#)

Document Summary: In this rule OSHA is correcting typographical errors, including extraneous or omitted materials and inaccurate graphics, in 27 OSHA standards and regulations. These revisions do not affect the substantive requirements or coverage of the standards, do not modify or revoke existing rights or obligations, and do not establish new rights or obligations. The purpose of these correcting amendments is to reduce regulatory burdens by correcting the inaccuracies in regulatory text and graphics. This rule revises standards in recordkeeping, construction, general industry, shipyard employment, and longshoring.

Publication Date: 02/18/2020

Effective Date: 02/18/2020

Minor corrections from the following federal registers are not included in this rulemaking and will be included in a future rulemaking updating lead rule requirements:

Document Number: [2022-13907](#)

Document Summary: OSHA is issuing a correcting amendment to the OSHA lead standard for construction to correct the inadvertent removal of regulatory text resulting from a notice of correcting amendments issued February 18, 2020.

Publication Date: 06/30/2022

Effective Date: 06/30/2022

Document Number: [2022-13995](#)

Document Summary: Safety and Health Regulations for Construction

Publication Date: 06/29/2022

Effective Date: 06/29/2022

OARs with minor changes include 437-001-0142, 437-001-0170, 437-001-0171, 437-001-0180, 437-001-0201, 437-001-0203, 437-001-0700, 437-001-0765, 437-002-0134 and the addition of a reference to Division 2/RR to Division 3/CC.

Minor correction rulemaking was introduced to the Construction Advisory Committee at their meeting on April 9, 2024. No other advisory committees had prescheduled meetings before April 18, 2024, when the text of changes was sent to all standing advisory committees including the Construction Advisory Committee, Fire Service Advisory Committee, and Agricultural Labor Housing Committee. Due to a technical error with the e-mail message, Forest Service Advisory Committee was sent the text of changes on April 24, 2024. Members were asked for comments and feedback before May 8, 2024.

4. Description of Changes to the Proposed Rules as Adopted

Minor corrections made that are not specific to a rule include:

Previous Text	Changed Text	Reason For Change
NOTE	Note	standardize formatting
division	Division	standardize formatting
Rule part and sub-part numbering	Variable	standardize formatting
Capitalization	Variable	standardize formatting
1910 and 1926	Variable	Updates to federal CFR
Material Safety Data Sheets (MSDS)	Safety Data Sheets (SDS)	Terminology Change

The following rules were updated to include an adoption by reference to federal OSHA federal registers:

- OAR 437-002-0005
- OAR 437-002-0020
- OAR 437-002-0120
- OAR 437-002-0360
- OAR 437-003-0001
- OAR 437-005-0001
- OAR 437-005-0003

OAR 437-001-0765 Safety Committees and Safety Meetings

Employers engaged in fire service activities are required to also follow the requirements in OAR 437-002-0182(8). OAR 437-001-0765 previously required employers to follow OAR 437-002-0182(7). OR OSHA Administrative Order 4-2015, filed 10/23/2015, effective 07/01/2016 modified the numbering in OAR 437-002-0182. No changes to the requirements were made in this rulemaking.

OAR 437-001-0142 Annual Adjustment of Civil Penalties

OAR 437-001-0142(2)(c) includes a correction to a rule reference number from OAR 437-001-0145(2)(c) to OAR 437-001-0165(3). Rule reference correction to OR OSHA Administrative Order, filed 11/22/2023, effective 01/01/2024. No changes to the requirements were made in this rulemaking.

OAR 437-001-0142(2)(f) includes a correction to a rule reference number from OAR 437-001-0165(2)(a) to OAR 437-001-0165(3) and OAR 437-001-0175(3) to OAR 437-001-0175(2). OR OSHA Administrative Order 3-2023, filed 11/22/2023, effective 01/01/2024 rule reference correction. No changes to the requirements were made in this rulemaking.

OAR 437-001-0142 Appendix A – Example of Oregon OSHA’s Annual Adjustments to Penalties Bulletin includes a terminology correction for standardization of rule language from the Death of Employee to a Work-Related Fatality. Terminology correction to OR OSHA Administrative Order 3-2023, filed 11/22/2023, effective 01/01/2024. No changes to the requirements were made in this rulemaking.

OAR 437-001-0170 Determination of Penalty – Failure to Report an Occupational Fatality, Catastrophe, or Accident

OAR 437-001-0170 includes the removal of serious-rated to reflect the violation may be cited as an other than serious or a serious type violation. Maximum penalty for an other than serious or serious violation type are the same. Terminology correction to OR OSHA Administrative Order 3-2023, filed 11/22/2023, effective 01/01/2024. No changes to the requirements were made in this rulemaking.

OAR 437-001-0171 Determination of Penalty – Failure to Register a Farm Labor Camp/Facility

OAR 437-001-0171 includes the removal of serious-rated to reflect the violation may be cited as an other than serious or a serious type violation. Maximum penalty for an other than serious or serious violation type are the same. Terminology correction to OR OSHA Administrative Order 3-2023, filed 11/22/2023, effective 01/01/2024. No changes to the requirements were made in this rulemaking.

OAR 437-001-0180 Determination of Penalty – Relating to Red Warning Notice

OAR 437-001-0180 includes the removal of serious-rated to reflect the violation may be cited as an other than serious or a serious type violation. Maximum penalty for an other than serious or serious violation type are the same. Terminology correction to OR OSHA Administrative Order 3-2023, filed 11/22/2023, effective 01/01/2024. No changes to the requirements were made in this rulemaking.

OAR 437-001-0201 Determination of Penalty – Relating to Field Sanitation

OAR 437-001-0201 includes the removal of serious-rated to reflect the violation may be cited as an other than serious or a serious type violation. Maximum penalty for an other than serious or serious violation type are the same. Terminology correction to OR OSHA Administrative Order 3-2023, filed 11/22/2023, effective 01/01/2024. No changes to the requirements were made in this rulemaking.

OAR 437-001-0203 Determination of Penalty — Relating to Violations Which Have No Probability and Severity

OAR 437-001-0203(6) includes a typographical correction from division to Division. OR OSHA Administrative Order 3-2023, filed 11/22/2023, effective 01/0/2024. No changes to the requirements were made in this rulemaking.

OAR 437-001-0700 Recording Workplace Injuries and Illnesses

OAR 437-001-0700(24)(a) addition of “except 6111 Elementary and Secondary Schools, 6116 Other Schools and Instruction, and 6117 Educational Support Services” for clarification that employers in these NAICS codes are required to maintain a 300 log of injuries and illnesses by Oregon OSHA but *not* by federal OSHA, and clarifies that employers in these NAICS codes are not required to provide electronic recordkeeping via the Injury Tracking Application. Terminology clarification to OR OSHA Administrative Order 4-2023, filed 12/21/2023, effective 01/01/2024. No changes to the requirements were made in this rulemaking.

OAR 437-001-0700(24)(h) addition of “or” intended to clarify that the rule applies to employers that meet the requirements in (a), (b) or (c) of OAR 437-001-0700(24). Terminology clarification to OR OSHA Administrative Order 4-2023, filed 12/21/2023, effective 01/01/2024. No changes to the requirements were made in this rulemaking.

OAR 437-002-0134 Personal Protective Equipment

OAR 437-002-0134(8)(g) correct typographical error of “incompliance” to “in compliance.” Typographical error OR OSHA Administrative Order 4-2011, filed 12/08/2011, effective 12/08/2011. No changes to the requirements were made in this rulemaking.

OAR 437-003-0134 Personal Protective Equipment

OAR 437-003-0134(5) removal of (a) and correction of (b) to include “When fall protection systems are required by another standard the employer must ensure that fall protection systems are provided, installed, and implemented according to the criteria in 1926.502, and 437-003-0502, 437-003-1502 and 437-003-2502 in Division 3/M, Construction/Fall Protection. Editorial error from OR OSHA Administrative Order 4-2016 rulemaking that inadvertently used old language in filing, this corrects language to what was intended from OR OSHA Administrative Order 1-2016 and also corrects errors in references to federal standards. No changes to the requirements were made in this rulemaking.

OAR 437-003-0134(10)(b) correction of rule number from 1926 to 1910. Editorial error from OR OSHA Administrative Order-3-2016 adopted 07/07/2017, effective 03/12/2018 and 04-2016 adopted 07/31/2017, effective 03/12/2018 corrects errors in references to federal standards

1926.1400 Cranes and Derricks in Construction

Addition of “Note: In 1926.1400(c)(4), the Oregon OSHA reference is Division 2/RR instead of the federal OSHA reference of subpart V of this part.” Addition provides direction to employers when completing general industry work with a crane or derrick. No changes to the requirements were made in this rulemaking.

OAR 437-004-0380 Manually Propelled Mobile Ladder Stands and Scaffolds (Towers)

Employers engaged in agricultural activity are required to also follow the requirements 1910.27. Previously employers were required to follow 1910.29. 1910.29 was repealed and replaced the 1910.27. OR OSHA Administrative Order 2-2017, filed 05/16/17, effective. 11/01/17 modified the rule reference number. No changes to the requirements were made in this rulemaking.

OAR 437-004-1041 Respiratory Protection

OAR 437-004-1041(5)(d) typographical correction from represent to representatives. OR OSHA Administrative Order 3-2006, filed 06/07/2006, effective 03/01/2007. No changes to the requirements were made in this rulemaking.

437-004-1041 Appendix A typographical corrections from OR OSHA Administrative Order 3-2006, filed 06/07/2006, effective 03/01/2007 to the following:

(2)(b)(8)(iii)(D) change Overall to Overall; (3) change procedures to procedure; (3)(b)(2) change appendix to Appendix; (3)(b)(4)(a) change appendix to Appendix; (3)(b)(4)(b) change appendix to Appendix; (3)(b)(5)(a) change appendix to Appendix; (3)(b)(5)(b) change appendix to Appendix; (3)(b)(7)(a) change appendix to Appendix; and (3)(b)(7)(b) change appendix to Appendix. No changes to the requirements were made in this rulemaking.

OAR 437-004-0141 Apéndice C de OAR 437-004-1041, Protección de la Respiración
CUESTIONARIO PARA EVALUACION MEDICA RESPIRATORIA

(OBLIGATORIO) translation correction from OR OSHA Administrative Order 1-2020, amend filed 02/13/2020, effective 02/13/2020. No changes to the requirements were made in this rulemaking.

Adoption of federal OSHA minor corrections and adoption by reference of:

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5. Summary of Comments and Agency Decisions

Oregon OSHA held one public hearing on this rulemaking on June 20, 2024, via Zoom and received no comments at that hearing.

The comment period ended on June 28, 2024. The division received no written comments concerning this rulemaking through the comment period.

6. Conclusion

Oregon OSHA adopted these minor corrections rule changes as proposed with the changes identified in the proposed rule language and identified in section 5 of this document.