



Oregon

Kate Brown, Governor

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[Text of changes](#)

May 24, 2018

Oregon OSHA – Proposed Silica Medical Evaluation Clarification and Timeline Clarification

Public Hearings Scheduled for:

<u>Date</u>	<u>Time</u>	<u>Location</u>
June 18, 2018	10:00 am	Oregon OSHA Durham Plaza 16760 SW Upper Boones Ferry Rd Suite 200 Tigard, OR 97224

Oregon OSHA adopted the rules for silica Sept. 23, 2016, with an effective date of July 1, 2018. At that time, Oregon OSHA decided to incorporate the General Industry standard and the Construction standard into one rule. Oregon OSHA was notified that the criteria requiring medical monitoring in the new Oregon standard (OAR 437-002-1062) could be read to require construction workers who were exposed to the action level for 30 or more days per year to have medical monitoring done. This was not Oregon OSHA's intent, as that requirement does not exist in the federal OSHA requirements. This rulemaking is to clarify the criteria for medical monitoring for the construction industry. Additionally, there are certain delayed provisions that affect the medical monitoring requirements, and language was included to help employers understand when those deferrals apply and when they end.

Please visit our web site osha.oregon.gov Click 'Rules and laws' in the Common resources column and view our proposed rules, or select other rule activity from this page.

When does this happen: Adoption tentatively will be in July 2018.

To get a copy: Our web site – osha.oregon.gov Rules and laws, then, Proposed rules
Or call 503-947-7449

To comment: Department of Consumer and Business Services/Oregon OSHA
350 Winter Street NE
Salem OR 97301-3882
E-mail – tech.web@oregon.gov
Fax – 503-947-7461

Comment period closes: June 29, 2018

Oregon OSHA contact: **Dave McLaughlin, Central Office @ 503-947-7457**
or email at dave.mclaughlin@oregon.gov

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

Heather Case 350 Winter Street NE Salem OR 97301-3882
Rules Coordinator Address

503-947-7449
Telephone

RULE CAPTION

Silica Medical Evaluation Clarification and Timeline Clarification.

June 18, 2018	10:00 am	Oregon OSHA Durham Plaza 16760 SW Upper Boones Ferry Road Suite 200 Tigard, OR 97224	Heather Case
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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

Amend: OAR 437-002-1062

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

RULEMAKING SUMMARY

Oregon OSHA adopted the rules for silica Sept. 23, 2016, with an effective date of July 1, 2018. At that time, Oregon OSHA decided to incorporate the General Industry standard and the Construction standard into one rule. Oregon OSHA was notified that the criteria requiring medical monitoring in the new Oregon standard (OAR 437-002-1062) could be read to require construction workers who were exposed to the action level for 30 or more days per year to have medical monitoring done. This was not Oregon OSHA's intent, as that requirement does not exist in the federal OSHA requirements. This rulemaking is to clarify the criteria for medical monitoring for the construction industry. Additionally, there are certain delayed provisions that affect the medical monitoring requirements, and language was included to help employers understand when those deferrals apply and when they end.

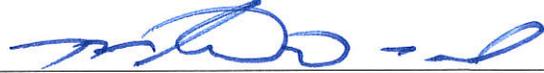
INDIVIDUAL RULE SUMMARY (By rule number)

Provide a brief summary of the rule (if new adoption), or a brief summary of changes made to the rule (if amending)

437-002-1062: Separated requirements for medical monitoring by construction or construction-like activity versus no construction activity. Clarified deferral dates of compliance.

Please visit our website osha.oregon.gov Click 'Rules and laws' in the common resources column and view our proposed rules or select other rule activity from the left vertical column on the proposed rules page.

The Department of Consumer and Business Services 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 businesses.



Signature

June 29, 2018

Last Day for Public Comment

Last day to submit written comments to the Rules Coordinator

Michael D. Wood 5/24/18

Printed name

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/Oregon OSHA
Agency and Division

OAR 437
Administrative Rules Chapter Number

In the Matter of:

Amending: 437-002-1062

Rule Caption: Silica Medical Evaluation Clarification and Timeline Clarification.

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

Stats. Implemented: ORS 654.001 through 654.295; 654.412 through 654.423; 654.760 through 654.780

Need for the Rule(s): Oregon OSHA adopted the rules for silica Sept. 23, 2016, with an effective date of July 1 2018. At that time, Oregon OSHA decided to incorporate the General Industry standard and the Construction standard into one rule. Oregon OSHA was notified that the criteria requiring medical monitoring in the new Oregon standard (OAR 437-002-1062) could be read to require construction workers who were exposed to the action level for 30 or more days per year to have medical monitoring done. This was not Oregon OSHA's intention, as that requirement does not exist in the federal OSHA requirements. This rulemaking is to clarify the criteria for medical monitoring for the construction industry. Additionally, there are certain delayed provisions that affect the medical monitoring requirements, and language was included to help employers understand when those deferrals apply and when they end.

Documents Relied Upon, and where they are available:

OAR 437-002-1053 through OAR 437-002-1065
29 CFR 1926.1153

Fiscal and Economic Impact:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government, and the public (ORS 183.335(2)(b)(E)):

All state agencies and local government units are affected by the rules in the sense that they are employers under the Oregon Safe Employment Act (OSEAct).

The public as a whole will be affected only to the degree that members of the public are employers and employees.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

This rulemaking is anticipated to only affect construction employers. According to the Oregon Employment Department data, there are currently 13,562 construction employers in the state of Oregon. Because this rule eliminates a potential compliance requirement on construction employers, the cost of compliance on small businesses from this rulemaking will be zero.

b. Projected reporting, recordkeeping, and other administrative activities required for compliance, including costs of professional services:

There are no anticipated costs associated with this rulemaking.

c. Equipment, supplies, labor and increased administration required for compliance:

There are no anticipated costs associated with this rulemaking.

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

Oregon OSHA consulted with their Partnership group and the Construction Advisory Committee multiple times, both of which contain representatives of small businesses.

Administrative Rule Advisory Committee consulted?: Yes, the Partnership group and the Construction Advisory Committee were consulted in connection with this rulemaking.

If not, why?:

 Michael A. Wood 5/24/2018
Signature Printed name Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007