



Oregon

Kate Brown, Governor

Department of Consumer and Business Services
Oregon Occupational Safety & Health Division (Oregon OSHA)

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August 28, 2019

[Text of changes](#)
[May 14, 2019 Federal Register](#)

Oregon OSHA's Proposal to Adopt Federal SIP-IV Amendments and Oregon-Initiated Changes to Administrative, General Industry, Construction, and Maritime Activity Standards

Public Hearings Scheduled for:

<u>Date</u>	<u>Time</u>	<u>Location</u>
Sept. 23, 2019	1:30 pm	Oregon OSHA Durham Plaza 16760 SW Upper Boones Ferry Rd Tigard, OR 97224

Oregon OSHA is adopting changes to our administrative (recordkeeping), general industry, and construction standards, and updating references in the maritime activity standards in response to federal OSHA's adoption of final rules published in the May 14, 2019 Federal Register. This is Phase IV of federal OSHA's Standards Improvement Project (SIP-IV), the fourth in a series of rulemakings to improve and streamline workplace safety and health standards. Oregon's response removes or revises rules or requirements within our corresponding rules that are outdated, duplicative, or inconsistent. This rulemaking is anticipated to reduce regulatory burden and compliance costs while maintaining or enhancing worker safety and health as well as worker privacy protections.

Oregon OSHA adopted most of the federal rule changes with the exception of rules that we had previously eliminated or updated. These changes include:

- Eliminating the requirements for the use of employee social security numbers (SSN) in employee records including medical surveillance records.
- Updating and clarifying medical surveillance requirements for both general industry and construction in certain substance-specific standards:
 - To eliminate the requirement for periodic x-rays;

- To reflect current technology and medical practice for the evaluation and storage of x-rays.
- To reflect current technology and medical practice for pulmonary function testing.
- To improve the consistency of information collected on standardized forms.
- Updating methods allowed when communicating site information to 911 rescue and emergency services.
- Clarifying existing rule requirements for when hearing loss must be recorded.
- Eliminating the requirement to post load limits in certain residential structures during construction.
- Updating the references about diesel engines in underground construction.
- Harmonizing OSHA rule requirements with more recent consensus standards:
 - For signs and devices used to protect employees working near traffic; and
 - For roll-over protective structures on certain equipment.

In addition, Oregon OSHA completed several edits to our rules to restore consistency with federal OSHA's rules.

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 November 2019.

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: **October 11, 2019**

Oregon OSHA contact: **Kathleen Kincade, Central Office @ 503-947-7452
or email at Kathleen.kincade@oregon.gov**

Note: In compliance with the Americans with Disabilities Act (ADA), this publication is available in alternative formats by calling 503-378-3272.

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 437-001-0700, 437-002-0005, 437-002-0100, 437-002-0360, 437-002-1064, 437-002-2037, 437-002-2224, 437-003-0001, 437-003-0420, 437-003-1000, 437-003-3224, 437-005-0001

Rule Caption: Adopt federal SIP-IV amendments and Oregon-initiated changes to administrative, general industry, construction, and maritime activity standards.

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):

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 - For signs and devices used to protect employees working near traffic; and
 - For roll-over protective structures on certain equipment.

In addition, Oregon OSHA completed several edits to the text of our rules to restore consistency with federal OSHA's rules.

Documents Relied Upon, and where they are available:

Oregon OSHA's General Administrative (Division 1), General Industry (Division 2), and Construction (Division 3) rules, available at: <https://osha.oregon.gov/rules/Pages/default.aspx>

Division 5, Maritime Activities, with links to the Federal OSHA website, available at: <https://osha.oregon.gov/rules/final/Pages/division-5.aspx>

Federal Register / Vol. 84, No. 93 / Tuesday, May 14, 2019 / pp. 21416 – 21598 . Notice of final rules for Standards Improvement Project—Phase IV adopted by the Occupational Safety and Health Administration (OSHA), Dept. of Labor, available at: <https://www.govinfo.gov/app/details/FR-2019-05-14>

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)):

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 (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:

Oregon OSHA relied upon federal OSHA's Final Economic Analysis of the rules as presented in the May 14, 2019 Federal Register. Federal OSHA concluded that there would be no new costs for most of the revisions.

Cost Savings due to "reduced burdens of regulation" were anticipated for

- Construction employers subject to 1926.250(a)(2) that removes the requirement to post load limits for single family dwellings and wood-framed multi-family structures during construction; and for
- All employers subject to 1910.1018, 1910.1029, 1910.1045, and where the requirement for periodic Chest X-Ray was removed.

Although federal OSHA estimated that over 98 percent of the population now has "Phase II wireless service" that automatically provides location information to the emergency dispatcher when 911 is dialed, a potential cost increase was anticipated for those construction employers who, due to the rule revision, must either post the latitude and longitude of the work site or otherwise provide information that effectively communicates the location of the work site to employees who might call 911 in an emergency. Federal OSHA estimated that "the average construction employer" affected by this requirement would take 3 minutes (0.05 hour) to obtain the latitude and longitude of the worksite location, write the information on material, and then prominently post the information, as is required by 1926.50 Medical Services, at (f). It was also noted that the task of communicating relevant site information to rescue services is being made continually easier by the spread of advanced telecommunications technology, and that in the near future the existing burden should be eliminated.

Any fiscal impact should affect large and small business the same, proportionately.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: NONE ANTICIPATED.

c. Equipment, supplies, labor and increased administration required for compliance: NONE ANTICIPATED.

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

Information about this rulemaking was taken to two stakeholder groups: 1) The Construction Advisory Committee, with members from companies of a variety of sizes, as well as industry associations, including Associated General Contractors; and 2) The Fire Service Advisory Committee. Both were given an opportunity to comment.

In addition, information about the health-related parts of the rulemaking was sent by e-mail to a group of Occupational Health Professionals who had participated in previous rule initiatives, inviting them to comment on Oregon's response to the federal-level changes.

(Applies to all)

Administrative Rule Advisory Committee consulted? YES.

If not, why?

Two advisory, stakeholder groups and other interested individuals from both general industry and the construction industry, were presented with detailed information about the affected rules and invited to review and comment on them.

 _____
Signature Printed name Date

Julie Love 8/27/19

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

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

Adopt federal SIP-IV amendments and Oregon-initiated changes to administrative, general industry, construction, and maritime activity standards.

September 23, 2019	1:30 pm	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 437-001-0700, 437-002-0005, 437-002-0100, 437-002-0360, 437-002-1064, 437-002-2037, 437-002-2224, 437-003-0001, 437-003-0420, 437-003-1000, 437-003-3224, 437-005-0001

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

RULEMAKING SUMMARY

Oregon OSHA is adopting changes to our administrative (recordkeeping), general industry, and construction standards, and updating references in the maritime activity standards in response to federal OSHA's adoption of final rules published in the May 14, 2019 Federal Register. This is Phase IV of federal OSHA's Standards Improvement Project (SIP-IV), the fourth in a series of rulemakings to improve and streamline workplace safety and health standards. Oregon's response removes or revises rules or requirements within our corresponding rules that are outdated, duplicative, or inconsistent. This rulemaking is anticipated to reduce regulatory burden and compliance costs while maintaining or enhancing worker safety and health as well as worker privacy protections.

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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)

437-001-0700 - For equivalency with 29 CFR 1904.10(b)(6), clarifies at 437-001-0700(11)(d) that general criteria at (6) apply when determining if hearing loss is recordable.

437-002-0005 – Adoption by Reference into Division 2, General Industry.

437-002-0100 - Adoption by Reference into Division 2, General Industry.

437-002-0360 - Adoption by Reference into Division 2, General Industry.

437-002-1064 – Removes requirement for use of employee Social Security Numbers (SSN) from Silica recordkeeping rule at (1)(b)(G) and (3)(a)(A). OAR applies to both General Industry and Construction exposures to Silica.

437-002-2037 – Removes requirement for use of employee SSN from Beryllium recordkeeping rule at (1)(b)(F) and (3)(b)(A).

437-002-2224 - At (12) Traffic Control, updates Oregon's Vehicle Drivers and Riders rules for general industry to reference the 2009 Edition of the Manual of Uniform Traffic Control Devices (MUTCD) -- including two revisions dated May 2012.

437-003-0001 - Adoption by Reference into Division 3, Construction.

437-003-0420 – Updates Oregon's Traffic Control rule for construction to reference the 2009 Edition of the Manual of Uniform Traffic Control Devices (MUTCD) -- including two revisions dated May 2012 – as incorporated by reference in 1926.6.

437-003-1000 – Minor text edits to Construction Air Contaminants rules to maintain equivalency with Oregon's General Industry Air Contaminants rules.

437-003-3224 – At (12) Traffic Control, updates Oregon's Vehicle Drivers and Riders rules for construction to reference the 2009 Edition of the Manual of Uniform Traffic Control Devices (MUTCD) -- including two revisions dated May 2012 – as incorporated by reference in 1926.6.

437-005-0001 – Adoption by Reference into Division 5, Maritime Activities.

Please visit the rules and laws section of our website at osha.oregon.gov/rules and select *proposed rules* in the rule making column to view our proposed rules.

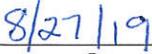
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.



Signature



Printed name



Date

October 11, 2019

Last Day for Public Comment

Last day to submit written comments to the Rules Coordinator

*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

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534)
FOR ADMINISTRATIVE RULES

AGENCY NAME: DCBS/Oregon OSHA
ADDRESS: 350 Winter Street NE
CITY/STATE: Salem OR 97301-3882
PHONE: 503-947-7449

PERMANENT: XX

HEARING DATE: Sept. 23, 2019

TEMPORARY:

EFFECTIVE DATE: Nov. 14, 2019

BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL RESULT FROM THIS PROPOSED CHANGE.

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.

IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)
See attached Notice of Proposed Rulemaking Hearing.

Description of the need for, and objectives of the rule:
See attached Notice of Proposed Rulemaking Hearing.

List of rules adopted or amended:

AMEND: OAR 437-001-0700, 437-002-0005, 437-002-0100, 437-002-0360, 437-002-1064, 437-002-2037, 437-002-2224, 437-003-0001, 437-003-0420, 437-003-1000, 437-003-3224, 437-005-0001

Materials and labor costs increase or savings:
None.

Estimated administrative construction or other costs increase or savings:
None.

Land costs increase or savings:
Oregon OSHA does not foresee any effect on land costs.

Other costs increase or savings:
Oregon OSHA does not foresee any cost increases. Cost savings are anticipated for provisions that eliminate requirements for posting of load limits during construction of residential structures.

*Typical-Single story 3 bedrooms, 1 1/2 bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

PREPARERS NAME: Kathleen Kincade
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