



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

503-947-7449  
Telephone

**RULE CAPTION**

Propose changes to Silica and corrections to air contaminants in General Industry and Construction.  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Labor & Industries Building  
350 Winter Street NE  
Basement – Conference Room E  
Salem OR 97301

November 28, 2007    9:00 AM  
Hearing Date                      Time

Location

Sue Joye  
Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

**AMEND:** OAR 437-002-0382, 437-003-1000

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

**RULE SUMMARY**

Oregon OSHA proposes to change the permissible limit for airborne concentrations of respirable silica to a fixed limit of 0.05 milligrams per cubic meter (mg/m<sup>3</sup>). The formula and footnote (e) for Silica in Table Z-3 in the Air Contaminants standards in general industry and construction will also be amended. Both of these changes reflect better scientific processes for determining airborne respirable exposures, and the calculation used to determine exposures continues to cause confusion.

Crystalline silica, also known as quartz, is a natural constituent of the earth's crust and is a basic component of sand and granite. However, airborne exposures to silica can lead to silicosis. Silicosis is a disease of the lungs that can cause fibrosis or scar tissue formations in the lungs that reduce the lung's ability to work to extract oxygen from the air.

Data was evaluated from silica samples collected by Oregon OSHA consultants and compliance officers, as well as data provided by SAIF and AGC. This represented 17 years of data and 1355 individual samples. 40 of these samples, approximately 3 percent, that were below the current PEL would be over the new PEL. However, at least 16 of those were at establishments that had operations that exceeded the current PEL for silica by other samples.

Changes will also be made in the Z-1 table in air contaminants for accuracy, correction, and uniformity.

Oregon OSHA proposes to adopt these changes into general industry and construction.

Please visit our web site [www.orosha.org](http://www.orosha.org) Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final 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.

/s/Michael D. Wood  
Signature

December 3, 2007

**Last Day for Public Comment**  
Last day to submit written comments to the Rules Coordinator

Michael D. Wood                      10/5/07  
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

Secretary of State  
**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/OR-OSHA  
Agency and Division

OAR 437  
Administrative Rules Chapter Number

**In the Matter of:** Amending OAR 437-002-0382, 437-003-1000.

**Rule Caption:** (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)  
Propose changes to Silica and corrections to air contaminants in General Industry and Construction.

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

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

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

This rule revises the permissible airborne limit for silica from a calculation based on the percentage of free silica in a given material to a specific limit. This change is to provide a limit that is less confusing than the current limit.

Changes will also be made in the Z-1 table in air contaminants for accuracy, correction, and uniformity.

Oregon OSHA proposes to adopt these changes into general industry and construction.

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

OAR 437-002-0382, Division 2/Z

OAR 437-003-1000, Division 3/Z

[http://www.cbs.state.or.us/osha/rules\\_laws.html](http://www.cbs.state.or.us/osha/rules_laws.html)

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

This change is designed to have as little impact as possible, however, based on historical sampling data, this change may affect 3 percent of Oregon employers who may not have had a respiratory protection program and would now need one. In these cases, the average cost of a respirator is approximately \$20 per employee, and the average cost of replaceable filters is \$8 per pair. The cost of having a medical review of the medical questionnaire can run from \$12 to \$40 per employee. The cost of a medical evaluation can run from \$50 to \$160 per employee, although it should be noted that a medical review is not an annual requirement.

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

Oregon OSHA worked with SAIF and Associated General Contractors (AGC) to evaluate how this change may affect small businesses.

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

**If not, why?**

Construction Advisory Committee.

/s/Michael D. Wood  
Authorized Signer

Michael D. Wood  
Printed name

10/5/07  
Date