Text of proposed changes
Supplementary data for Silica

October 23, 2007

Oregon OSHA - Proposed Changes To Silica and Corrections to Air Contaminants In General Industry and Construction

Public Hearing Scheduled for:

Date	**Time**	**Location**
November 28, 2007	9:00 am	Labor and Industries Building Basement – Conference Room E 350 Winter Street NE Salem OR 97301

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/m3). 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.

When does this happen: Adoption tentatively will be mid-December 2007

To get a copy: Our web site – www.orosha.org Rules/Compliance, then Proposed Rules
Or call the OR-OSHA Resource Center at 503-947-7447

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

Comment period closes: **December 3, 2007**

OR-OSHA contact: **Dave McLaughlin, Central Office @ 503-947-7457;**
or email at dave.j.mclaughlin@state.or.us

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 — OAR 437
Agency and Division — Administrative Rules Chapter Number

Sue Joye — 350 Winter Street NE Salem OR 97301-3882 — 503-947-7449
Rules Coordinator — Address — 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.

Hearing Date	Time	Location	Hearings Officer
November 28, 2007	9:00 AM	Labor & Industries Building 350 Winter Street NE Basement – Conference Room E Salem OR 97301	Sue Joye

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/m3). 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.

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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 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 — OAR 437

Agency and Division — 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

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 — Michael D. Wood — *10/5/07*

Authorized Signer — Printed name — Date