

April 21, 2010

## **Oregon OSHA - Proposed Changes Federal Amendments to Hexavalent Chromium in General Industry, Construction, and Maritime Activities**

This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Federal OSHA revised the notification requirements in the Hexavalent Chromium (Cr(VI)) standard in general industry, construction, and maritime activities. Employers will be required to notify employees of the results of all exposure determinations regardless of exposure levels.

Oregon OSHA proposes to adopt the changes in general industry, construction, and maritime activities as published in the March 17, 2010 Federal Register.

***When does this happen:*** Adoption tentatively will be June 2010

***To get a copy:*** Our web site – [www.orosha.org](http://www.orosha.org) Rules/Compliance, then Proposed Rules  
Or call the Oregon 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](mailto:tech.web@state.or.us)  
Fax – 503-947-7461

***Comment period closes:*** June 1, 2010

***OR-OSHA contact:*** Dave McLaughlin, Central Office @ 503-947-7457;  
or email at [dave.j.mclaughlin@state.or.us](mailto: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\***  
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 to adopt federal amendments to hexavalent chromium in general industry, construction, and maritime activities.  
15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

**AMEND:** OAR 437-002-0360, 437-003-0001, 437-005-0001.

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

**RULE SUMMARY**

This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Federal OSHA revised the notification requirements in the Hexavalent Chromium (Cr(VI)) standard in general industry, construction, and maritime activities. Employers will be required to notify employees of the results of all exposure determinations regardless of exposure levels.

Oregon OSHA proposes to adopt the changes in general industry, construction, and maritime activities as published in the March 17, 2010 Federal Register.

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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

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

June 1, 2010

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

Michael D. Wood  
Printed name

4/9/2010  
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 923-2005

**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 OAR 437-002-0360, 437-003-0001, 437-005-0001.

**Rule Caption:** (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Propose to adopt federal amendments to hexavalent chromium in general industry, construction, and maritime activities.

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

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

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

After an appeal to the February 28, 2006 final rule for Occupational Exposure to Hexavalent Chromium (Cr(VI)), Federal OSHA is amending the notification requirement to include all exposure determinations, regardless of exposure levels.

Oregon OSHA's standards must be at least as effective as Federal OSHA, therefore we propose to adopt these rules as they appear in the March 17, 2010 Federal Register affecting general industry, construction, and shipyard employment.

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

Federal Register, March 17, 2010, volume 75, number 51, p. 12681.

[http://www.osha.gov/FedReg\\_osha\\_pdf/FED20100317.pdf](http://www.osha.gov/FedReg_osha_pdf/FED20100317.pdf)

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

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.

Oregon OSHA expects this change to have only a minimal fiscal impact, if at all. The current requirement is to notify overexposed employees in writing, either individually or conspicuously posted, of the results as well as actions that the employer will take to reduce those exposures. This rulemaking adds only the notification of all sampling results, with no further action or information needed when there is no overexposure. This can be achieved as simply as posting all sampling results or making copies of the results and providing them to each employee.

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

Small business was involved with the initial Cr(IV) rulemaking, but not necessary with the nature of this rulemaking.

**Administrative Rule Advisory Committee consulted?:** No.

**If not, why?:** The nature of this rulemaking does not necessitate committee input at the state level.

/s/Michael D. Wood

Authorized Signer

Michael D. Wood

Printed name

4/9/2010

Date