

Administrative Rules Five-Year Review Report

Due Date: January 2019

Rule Number: 150-316-0550

Rule Name: Special Medical Subtraction

1. Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes No

If yes, identify members.

2. Has the rule achieved its intended effect? Yes No

a. What was the intended effect? HB 3601 (2013) created the subtraction to replace the former Oregon Additional Medical Deduction for the Elderly, which, when combined with the federal deduction, allowed taxpayers, of a certain age, to deduct most of, and sometimes all, of their medical and dental expenses from Oregon taxable income. The rule is intended to provide clarification on how to split joint medical expenses and proration for the subtraction.

b. How did the rule succeed or fail in achieving this effect? This rule provides guidance for the statute regarding the circumstance when the subtraction may be taken and for how much. The ages of spouses and the associated expenses attributable to different spouses is clarified in text and examples in the rule.

3. Use the fiscal impact statement information shown in the original adoption of the rule

a. What was the estimated fiscal impact? There was no fiscal impact anticipated from this rule implementation.

b. What was the actual fiscal impact? There was no fiscal impact as a result of this rule implementation.

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown? If you check this, briefly explain why it is unknown:

3. Have subsequent changes in the law required the rule to be repealed or amended?

Yes No

If 'yes' please explain:

4. Is the rule still needed? Yes No

Explain: In 2016 over 284,000 seniors took the subtraction. Guidance is still required to describe how much of a person's medical expenses can be subtracted under what circumstances.

5. What impacts does the rule have on small businesses? None

Explain: This rule describes the circumstance when the special medical subtraction can be used and the amount of the subtraction. It has no effect on small business.

Date completed and approved by Division Policy Group: January 16, 2019

Administrative Rules Five-Year Review Report

Due Date: January 2019

Rule Number: 150-316-0605

Rule Name: Military Pay Subtraction

1. Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes No

If yes, identify members.

2. Has the rule achieved its intended effect? Yes No

a. What was the intended effect? HB 2230 (2013) consolidated existing military subtraction laws [ORS 316.680(1)(c); 316.789; and 316.791] into a single statute so that they all use the same terms and information and match the way the Department is administering the statutes. This rule replaced the rules established for the separate military subtractions. The pre-existing rules were repealed. The rule provides guidance to determine the subtraction amount for a military member based on their enlistment and discharge dates.

b. How did the rule succeed or fail in achieving this effect? This rule provides guidance for the statute regarding the circumstance when, and how much, military pay can be subtracted.

3. Use the fiscal impact statement information shown in the original adoption of the rule

a. What was the estimated fiscal impact? There was no fiscal impact anticipated from this rule implementation.

b. What was the actual fiscal impact? There was no fiscal impact as a result of this rule implementation.

c. Was the fiscal impact statement:

- Underestimated
- Overestimated
- Just about right
- Unknown? If you check this, briefly explain why it is unknown:

3. Have subsequent changes in the law required the rule to be repealed or amended?

Yes No

If 'yes' please explain:

4. Is the rule still needed? Yes No

Explain: in 2016, more than 15,000 military personnel claimed the subtraction to some degree. Guidance is still required to describe the circumstance when military pay can be subtracted, and the allowable amount of the subtraction.

5. What impacts does the rule have on small businesses? None

Explain: This rule describes the circumstance when military pay can be subtracted from income for tax calculation purposes. It has no effect on small business.

Date completed and approved by Division Policy Group: _January 16, 2019

Administrative Rules Five-Year Review Report

Due Date: July 31, 2019

Rule Number: 150-317-0640

Rule Name: Member of a Unitary Group Incorporated in a Listed Foreign Jurisdiction

1. Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes No

If yes, identify members.

2. Has the rule achieved its intended effect? Yes No

a. What was the intended effect?

The intended effect of the rule was to provide guidance for the computation of the net income or loss of a listed jurisdiction corporation, and for the prevention of double taxation or deduction of listed jurisdiction income.

b. How did the rule succeed or fail in achieving this effect?

The rule has achieved its intended effect. It succeeded by providing guidance for the computation of the net income or loss of a listed jurisdiction corporation and for the prevention of double taxation or deduction of listed jurisdiction income.

3. Use the fiscal impact statement information shown in the original adoption of the rule

a. What was the estimated fiscal impact?

According to the Statement of Need and Fiscal Impact that was filed with the original adoption of the rule, there was no anticipated fiscal or economic impact for this rule.

b. What was the actual fiscal impact?

To the best of the department's knowledge, there was no fiscal impact.

c. Was the fiscal impact statement:

Underestimated
 Overestimated
 Just about right
 Unknown? If you check this, briefly explain why it is unknown:

3. Have subsequent changes in the law required the rule to be repealed or amended?

Yes No

If 'yes' please explain:

SB 1529 (2018) repeals Oregon's listed jurisdiction provisions, which are contained in ORS 317.716, for tax years beginning on or after January 1, 2017. However, the rule is still needed for tax years 2014-2016 for audit purposes, as well as for returns that may still be filed by taxpayers. That is why Program is not planning to repeal the rule until it is no longer needed.

4. Is the rule still needed? Yes No

Explain:

SB 1529 (2018) repeals Oregon's listed jurisdiction provisions, which are contained in ORS 317.716, for tax years beginning on or after January 1, 2017. However, the rule is still needed for tax years 2014-2016 for audit purposes, as well as for returns that may still be filed by taxpayers.

5. What impacts does the rule have on small businesses?

Explain:

To the best of the department's knowledge, this rule did not have any impact on small businesses.

Date completed and approved by Division Policy Group: 9-11-2018

ORS 183.405(1) requires a report within 5 years of the adoption of a new administrative rule. This form is to be completed and approved by the Division Policy Group responsible for administration of the program.

The analysis and form need to be completed within five years of the date a new rule was adopted by the agency. The adoption date is shown on the Certificate of Permanent Rule Filing and may also be found in the history statement of a rule.

If the rule has been amended since its original adoption, use the information contained in the most recent fiscal impact estimate to complete this section.

Email the completed form to the Agency Rules Coordinator on or before the due date shown on page 1.

Department of Public Safety Standards and Training

OAR 5-Year Review

(ORS 183.405)

Rule Number: **259-008-0069**

Date Adopted: **2/29/2012**

Date Review Due: **2/29/2017**

Advisory Committee Used? yes no

If yes, Members: **Police Policy Committee
Executive Committee of the Board on Public Safety
Standards & Training**

Date Review Information/Form Provided: **PPC 5/15/2018
Board 7/26/2018**

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

SB 412 was enacted in 2011 to provide tribal law enforcement officers and their tribal law enforcement agencies the ability to be recognized and certified as police officers in the State of Oregon. This rule was adopted to establish the standards that the tribal law enforcement agency and the tribal law enforcement officer must follow in order to obtain DPSST certification.

b. How did the rule succeed or fail in achieving this effect?

The adopted rule successfully outlined the requirements for a tribal law enforcement agency to be compliant with the requirements of SB 412 and for the tribal law enforcement agency's officer to obtain certification and retain eligibility for certification.

2. Was the fiscal impact:

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

No fiscal impact was identified.

b. What was the actual fiscal impact?

No information has been collected or submitted related to a fiscal impact to comply with this rule.

c. If the answer to question 2 is unknown, briefly explain why.

No fiscal impact was identified at the time of the rule filing. Tribal law enforcement agencies participate in the requirements of SB 412 voluntarily.

3. Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain. yes no

4. Is the rule still needed? Explain. yes no

The rule remains applicable for providing the requirements that a tribal law enforcement agency and a tribal law enforcement officer must satisfy in order to be certified by DPSST as an Oregon police officer.

Department of Public Safety Standards and Training

OAR 5-Year Review

(ORS 183.405)

Rule Number: **259-060-0025, 259-060-0030 & 259-060-0145**

Date Adopted: **11/1/2012**

Date Review Due: **11/1/2017**

Advisory Committee Used? yes no

If yes, Members: **Private Security and Investigators Policy Committee
Board on Public Safety Standards & Training**

Date Review Information/Form Provided: **PSIPC 6/5/2018
Board 7/26/2018**

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

The adoption of OAR 259-060-0025 was intended to consolidate and make clear the application for certification and licensure process. Prior to the rule's adoption the relevant language was scattered throughout the rule division.

The adoption of OAR 259-060-0030 was intended to consolidate and make clear the requirements for temporary work permits and reciprocity. Prior to the rule's adoption the relevant language was scattered throughout the rule division.

The adoption of OAR 259-060-0145 was intended to clarify the crowd management exemptions from licensure found in statute.

All three of these rule changes were completed as a part of the review and revision of the complete rule set in OAR chapter 259 division 60 for private security providers.

b. How did the rule succeed or fail in achieving this effect?

The three adopted rules were part of a larger effort conducted by the Private Security and Investigator Policy Committee to review the current rules and work to develop new, legally defensible language which would more clearly identify the expectations and responsibilities of private security providers as well as clarify DPSST processes. While the adoption of 259-060-0025 and 259-060-0030 was more driven to provide more organization within the rule division, the adoption of 259-060-0145 was developed to clarify the requirements for crowd management.

2. Was the fiscal impact:

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

No fiscal impact was identified.

b. What was the actual fiscal impact?

No information has been collected or submitted related to a fiscal impact to comply with this rule.

c. If the answer to question 2 is unknown, briefly explain why.

n/a

3. Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain. yes no

While each rule has been amended since adoption, the amendments were not caused by changes to statute. The changes were related to improving clarity, revising processes, and completing punctuation/typographical housekeeping corrections.

4. Is the rule still needed? Explain. yes no

The requirements and processes contained within in each rule remain relevant and purposeful to the administration of the private security certification and licensure program and in maintaining certification and licensure standards for private security providers.

Department of Public Safety Standards and Training

OAR 5-Year Review

(ORS 183.405)

Rule Number: **259-061-0018**

Date Adopted: **7/1/2012**

Date Review Due: **7/2/2017**

Advisory Committee Used? yes no

If yes, Members: **Private Security and Investigators Policy Committee
Board on Public Safety Standards & Training**

Date Review Information/Form Provided: **PSIPC 6/5/2018
Board 7/26/2018**

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

This rule was adopted to clarify the licensure exemption found in ORS 703.411 stating that "A person who is employed exclusively by one employer in connection with the affairs of that employer".

b. How did the rule succeed or fail in achieving this effect?

The adopted rule successfully codified Department of Justice advice that explained the exemption to be a person who has one, exclusive employer and who conducts business on behalf of that employer only.

2. Was the fiscal impact:

underestimated

overestimated

just about right

_____ unknown

a. What was the estimated fiscal impact?

No fiscal impact was identified.

b. What was the actual fiscal impact?

No information has been collected or submitted related to a fiscal impact to comply with this rule.

c. If the answer to question 2 is unknown, briefly explain why.

n/a

3. Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain. yes no

This rule was amended in 2016 based on legislative action through HB3487 relating to a requirement for private investigators to include their license number in advertisements and subsequent discussions to require investigators to include their legal name and license number in their contracts. The scope of the rule was changed from "prohibited acts" to "investigator responsibilities".

4. Is the rule still needed? Explain. yes no

The rule continues to provide clarifications regarding licensure exemptions and has been expanded to include additional exemption clarifications beyond the original purpose for adoption. Additionally through subsequent revisions, the rule supports statutory requirements for following the investigator professional conduct requirements.

**Review of Agency Rules
Adopted Since 1/1/06**

Rule Number(s): 291-078-0026, 291-078-0031

Date Adopted: February 2013

Date Review Due: June 2018

Completed by and Date Completed: Denise Sitler, 6/12/2018

Advisory Committee Used? yes no

If yes, identify members. Members must be provided a copy of this completed form.

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect? Implementation of a new statewide risk assessment tool and approach to offender case mgmt

b. How did the rule succeed or fail in achieving this effect? We continue to use the PSC/Proxy tools as our primary initial risk assessment instruments

2. Was the fiscal impact statement (check one)

- under estimated
- overestimated
- just about right
- unknown

a. What was the estimated fiscal impact? None

b. What was the actual fiscal impact? Unknown

c. If the answer to question 2 is unknown, briefly explain why. Its unknown if the use of the tool drove a larger CC budget or if risk was ultimately reduced by more accurate risk scores and therefore case mgmt resulting in reduced future crimes.

3. Have subsequent changes in the law required the rule be repealed or amended? No

If yes, explain

4. Is the rule still needed? yes no

Explain This rule is used to provide consistency and structure on how counties apply community case mgmt. statewide

**Review of Agency Rules
Adopted Since 1/1/06**

Rule Number(s): 291-097-0220, 291-097-0225, 291-097-0230, 291-097-0235, 291-097-0245

Date Adopted: June 1, 2013

Date Review Due: June 18, 2018

Completed by and Date Completed: Dianne Erickson, June 18, 2018

Advisory Committee Used? yes no

If yes, identify members. Members must be provided a copy of this completed form.

1. **Did the rule achieve its intended effect?** yes no

a. **What was the intended effect?** To further clarify changes made to ORS 421.121 with regards to 30% earned time credits.

b. **How did the rule succeed or fail in achieving this effect?** It provides the needed information to understand when a sentence is eligible or not eligible for 30% earned time credits.

2. **Was the fiscal impact statement (check one)**

under estimated

overestimated

just about right

unknown

a. **What was the estimated fiscal impact?** No anticipated fiscal impact on state agencies, local governments or the general public.

b. **What was the actual fiscal impact?** Unknown

c. **If the answer to question 2 is unknown, briefly explain why.** I do not have access to the data to answer fiscal questions.

3. **Have subsequent changes in the law required the rule be repealed or amended?** No

If yes, explain

4. **Is the rule still needed?** yes no

Explain: The updates to the rule are crime date driven and we still have inmates with these crime dates in DOC custody. These rules are still applicable.

**Review of Agency Rules
Adopted Since 1/1/06**

Rule Number(s):

291-180-0252 Standards for Interstate Transfer of Adult Offenders
291-180-0262 Travel Permits

Date Adopted: 12/7/11

Date Review Due: 12/7/16

Completed by and Date Completed: 10/31/2018

Advisory Committee Used? yes no

If yes, identify members. Members must be provided a copy of this completed form.

Name	Title	Representing
Stromberg, Jeremiah	Chair	Commissioner
Patterson, Mark	Vice-Chair	DCA
Melissa McNabb	Secretary	Support
Berry, Brad		District Attorney
Judge Kelly Skye		Judicial
Lushenko, Fran		Governor's Appointment
Chrisemer, Annette		Victim Representative
Senator Floyd Prozanski		Senate Appointment
Bergin, Tom		OSSA
Fowler, Heather		OACCD, Multnomah Co PO
Potter, Tina		OACCD, Tri County PO
Greer, Jake		OACCD, Lake Co Director
Moawad, Heidi		Governor's Appointment

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect? The Interstate Commission for Adult Offender Supervision (ICAOS) regularly updates and amends the national rules. The department fully participates in the ICAOS. This rulemaking was necessary so the department could adopt the national rules by reference rather than doing a comprehensive rule revision every time the national rules were revised.

b. How did the rule succeed or fail in achieving this effect? It adopted national rules by reference so the DOC rules would be current with the national rules.

2. Was the fiscal impact statement (check one)

- under estimated
 overestimated
 just about right

___unknown

a. What was the estimated fiscal impact? None

b. What was the actual fiscal impact? None

c. If the answer to question 2 is unknown, briefly explain why.

3. Have subsequent changes in the law required the rule be repealed or amended?

If yes, explain

Yes, as the national rules have been revised since this rulemaking, the department has needed to revise its rules to align with the national rules.

4. Is the rule still needed? yes no

Explain The department still fully participates in the Interstate Commission for Adult Offender Supervision.

**Review of Agency Rules
Adopted Since 1/1/06**

Rule Number(s): 291-207-0100 DMV/DOC Drivers License

Date Adopted: 01/01/13

Date Review Due: 01/01/18

Completed by and Date Completed: Parrish VanWert 11/07/17

Advisory Committee Used? yes no

If yes, identify members. Members must be provided a copy of this completed form.

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect? *For DMV and ODOC to develop an effective process in delivering an ID or replacement ID/DL to releasing offenders.*

b. How did the rule succeed or fail in achieving this effect? *DMV is issuing nearly 100% of those qualifying for an ID or replacement ID/DL.*

2. Was the fiscal impact statement (check one)

under estimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

None

b. What was the actual fiscal impact?

None

c. If the answer to question 2 is unknown, briefly explain why.

3. Have subsequent changes in the law required the rule be repealed or amended?

No

If yes, explain

4. Is the rule still needed? yes no

Explain: The rule is needed to maintain consistency in process/policy between DMV and ODOC regarding State issued identification.



Rule Review Report

Rule: OAR 330-110-0012	Date rule adopted: 3/7/2014 Date rule effective: 3/7/2014
Reviewed By: Program Staff	Division: EDS
Date Reviewed: 11/14/2018	Program Area: Loan Program

Was this a new rule adopted January 1, 2006 or after? No Yes

Does not apply to rules already in existence as of January 1, 2006, or for which notice was delivered to the Secretary of State before January 1, 2006.

If rule review required, are there exclusions that apply, under ORS 183.405:

- Adopted to implement court orders or the settlement of civil proceedings
- Adopt federal laws or rules by reference
- Adopted to implement legislatively approved fee changes
- Adopted to correct errors or omissions
- No Exclusions

Was there an Advisory Committee? No Yes, provide a report on the review of this rule

Rule and Process Review

Plain Language: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Operation of Program: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Statutory References Changes: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Changes:
Mandatory Report Requirements: <input checked="" type="checkbox"/> None <input type="checkbox"/> :
ODOE Policies: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Forms: <input type="checkbox"/> Good <input type="checkbox"/> Needs work: N/A

Has the rule had the intended effect? Yes

What was the intended effect? The rule formalized the SELPAC recruitment and appointment process and set committee term limits.

How did the rule succeed or fail in achieving this effect? Since the rule became effective in 2014, ODOE has utilized the process to appoint three new members to the committee.

Was the anticipated fiscal impact of the rule underestimated or overestimated? No.

What was the estimated fiscal impact? No impact.

What was the actual fiscal impact? No impact.

Do subsequent changes in the law require that the rule be repealed or amended? No

Is there a continued need for the rule? Yes.

Notes: None.

Action: Amend Repeal No Change

Submit review to: Oregon Secretary of State (julie.a.yamaka@oregon.gov) Yes
Small Business Advisory Committee (steven.a.mabry@oregon.gov) Yes

330-110-0012

Small Scale Local Energy Project Advisory Committee Appointments, Term and Term Limit, Renewal, Member Removal

(1) Committee Appointment Process. As committee vacancies arise, the department will issue a committee member opening announcement.

- (a) Applicants must complete an Oregon executive appointments interest form.
- (b) The department may conduct in-person interviews, perform a background check and consult with current committee members.
- (c) An applicant may be invited to attend a committee meeting.
- (d) Department staff will submit a written recommendation to the director.
- (e) The director will consider the recommendation and make the final determination, in accordance with ORS 470.070(2).
- (f) If selected, the director will issue a signed letter of appointment and the applicant must accept within ten days.

(2) Committee Member Term; Term Limit.

- (a) A committee member serves for a four-year term.
- (b) A member's term starts on the date of appointment and until a successor is appointed and qualified.
- (c) No committee member may serve more than two terms.

(3) Committee Renewal Process. Upon the recommendation of the committee, the director will review and may reappoint committee members for a second term.

(4) Committee Member Removal. The director may remove a committee member for any of the following:

- (a) For any cause that is counter to the interests of the citizens of this state or the goals and mission of the committee, loan program or department.
- (b) Upon missing three scheduled committee meetings in a 12-month period, the director may remove a committee member. The department schedules six committee meetings a year.



Rule Review Report

Rule: OAR 330-135-0018, -0052	Date rule adopted: 12/27/2012 Date rule effective: 1/1/2013
Reviewed By: Ann Hushagen	Division: Planning & Innovation
Date Reviewed 12/12/2017	Program Area: 1.5% GET

Was this a new rule adopted January 1, 2006 or after? No Yes

Does not apply to rules already in existence as of January 1, 2006, or for which notice was delivered to the Secretary of State before January 1, 2006.

If rule review required, are there exclusions that apply, under ORS 183.405:

- Adopted to implement court orders or the settlement of civil proceedings
- Adopt federal laws or rules by reference
- Adopted to implement legislatively approved fee changes
- Adopted to correct errors or omissions
- No Exclusions

Was there an Advisory Committee? No Yes, provide a report on the review of this rule

Rule and Process Review

Plain Language: <input type="checkbox"/> Good <input checked="" type="checkbox"/> Needs work:
Operation of Program: <input type="checkbox"/> Good <input checked="" type="checkbox"/> Needs work:
Statutory References Changes: <input type="checkbox"/> Good <input checked="" type="checkbox"/> Changes:
Mandatory Report Requirements: <input type="checkbox"/> None <input checked="" type="checkbox"/> :
ODOE Policies: <input type="checkbox"/> Good <input checked="" type="checkbox"/> Needs work:
Forms: <input type="checkbox"/> Good <input checked="" type="checkbox"/> Needs work:

Has the rule had the intended effect? Unknown
 What was the intended effect? To allow contracting agencies to install green energy technology offsite if more cost-effective than locating it onsite and use the produced energy in the new building.
 How did the rule succeed or fail in achieving this effect? Contracting agencies have not yet chosen to locate green energy technology offsite with the understanding that the energy generated must be used at the building site.

Was the anticipated fiscal impact of the rule underestimated or overestimated? No
 What was the estimated fiscal impact? Minimal or no fiscal impact
 What was the actual fiscal impact? Agencies have not located green energy technology offsite, so no fiscal impact has been incurred.

Do subsequent changes in the law require that the rule be repealed or amended? No

Is there a continued need for the rule? Yes, it provides more options for the selection of green energy technologies.

Notes:

Action: Amend Repeal No Change

Submit rule review to Oregon Secretary of State: Yes



Five Year Rule Review

ORS 183.405

Rule Caption: Vital Records Modernization

Rule Number(s):

333-011-0205: County Vital Records Services

333-011-0210: Prenatal Care Information

333-011-0215: Registering Live Births that Occur Outside of a Facility with a Licensed Birth Attendant or Non-licensed Midwife within One Year of the Date of Birth

333-011-0220: Registering Live Births that Occur Outside of a Facility and Without a Licensed Attendant within One Year of the Date of Birth

333-011-0225: Registering Live Births that Occur In a Licensed Medical Facility More Than One Year after the Date of Birth

333-011-0230: Registering Live Births that Occur Outside a Facility More Than One Year after the Date of Birth

333-011-0235: Documentation in Support of an Application to Register a Delayed Report of Live Birth

333-011-0240: Review and Filing of Delayed Registration of Live Birth

333-011-0245: Denial of Application for Delayed Registration of Live Birth after Two Years

333-011-0250: Court Ordered Birth Records

333-011-0255: Infants of Unknown Parentage

333-011-0260: Amendment of the Same Item More than Once

333-011-0265: Amending Birth Records

333-011-0270: Voluntary Acknowledgment of Paternity

333-011-0280: Extension of Time for Submission of Report of Death or Fetal Death

333-011-0285: Report of Fetal Death Which Occurred Outside a Licensed Medical Facility

333-011-0300: Amendments to Death Records

333-011-0305: Marriage and Oregon Registered Domestic Partnership Records

333-011-0310: Record of Dissolution

333-011-0320: Preservation of Vital Records

333-011-0325: Confidentiality and Disclosure of Information from Vital Records or Vital Reports

333-011-0330: Authentication of Applicant

Program Area: Center for Health Statistics, Center for Public Health Practice

Adoption Date: January 1, 2014



Review Due Date:
1/1/2019



Review Date:
12/24/2018

Reviewer's Name:
Jennifer Woodward



- *Advisory Committee Used**
 Advisory Committee Not Used

***Committee Members:**

Contact Information:

Mary Herkert, State Archives	Mary.e.herkert@state.or.us
Kathy Cardin, DOJ	Kathy.cardin@state.or.us
Teri Williamson, DOJ	Terl.j.williamson@state.or.us
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Jennifer Woodward, State Registrar	Jennifer.a.woodward@state.or.us
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William Cooksey, DCS	William.cooksey@state.or.us
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Joe Nelson, Washington County Clerk's Office	Joe_nelson@co.washington.or.us
Teresa Eakin, Washington County Clerk's Office	Teresa_eakin@co.washington.or.us

What was the intended effect of this rule adoption?

The goal of these rules was to implement vital records and vital statistics laws that went into effect on January 1, 2014. House Bill 2093 passed by the Oregon legislature in June 2013. This bill reorganized and updated the Oregon vital records and statistics law. The subjects of the rules include reports of live births, reports of death, reports of fetal deaths, marriages, Oregon registered domestic partnerships, dissolution of marriage or domestic partnership, amendments of vital records, and county vital records offices.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Has this rule adoption had its intended effect? Please explain.</p> <p>The rules allow the Center for Health Statistics to Implement sections of the law that went into effect on January 1, 2014. Rules also needed to be updated to follow the new law.</p>
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Was the anticipated fiscal impact of this rule underestimated? Please explain.</p> <p>There has been no significant fiscal and economic impact because of these rules. Most of the rules clarified work processes or were updated to match current terminology in the new law. There was no cost to public or other state or local government agencies because of the rules. Small businesses did not have additional cost of compliance.</p>
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Was the anticipated fiscal impact of this rule overestimated? Please explain.</p> <p>There has been no significant fiscal and economic impact because of these rules. Most of the rules clarified work processes or were updated to match current terminology in the new law. There was no cost to public or other state or local government agencies because of the rules. Small businesses did not have additional cost of compliance.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Have subsequent changes in the law required this rule to be/can be amended or repealed? Please explain.</p> <p>333-011-0205, amended 1/1/16 to clarify that county registrars can issue certified copies of death records from a paper record that is at the county and to clarify that fees collected by county registrars are in the amounts authorized in 333-011-0340.</p> <p>333-011-0265, amended 1/1/18. This rule was revised to implement HB 2673 passed by the Oregon legislature in May 2017. The law creates an administrative process to change name and sex on a birth record when the change is requested to because the individual's sex on their birth certificate does not match their gender identity.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Is there a continued need for this rule? Please explain.</p> <p>These rules are needed to ensure implementation of ORS 432 which govern the operations of the Center for Health Statistics.</p>
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Additional Comments:


***Date report sent to advisory committee members: January 9, 2019**

Report approved by:

Brittany Hall
Administrative Rules Coordinator
Printed name

Brittany Hall
Signature

1/9/2019
Date

	<p style="text-align: center;">^{ORS} Five Year Rule Review – OAR 183.405 2018 review of rules adopted in 2013</p>
	<p>Oregon Department of Environmental Quality - <i>OAR ch. 340</i> Headquarters 811 SW 6th Ave. Portland OR 97204</p>
	<p>Contact: Agency Rules Coordinator - Meyer Goldstein</p>

The purpose of the review

ORS 183.405 of the Administrative Procedures Act requires agencies to review all newly adopted rules within five years after adopting them. This document meets DEQ's responsibilities under that law.

Legal requirements

The statute requires agencies to review new rules to determine whether:

- The rule had the intended effect
- The agency over- or underestimated the rule's anticipated fiscal impact
- Subsequent changes in the law required the agency to amend or repeal the rule
- There is a continued need for the rule

Agencies are only required to use available information to conduct this review. If the agency appointed an advisory committee in developing the rule, the agency must provide the committee members a copy of the review.

Exemptions

Rules are exempt from this review if they:

- Consist only of the repeal of or an amendment to an existing rule
- Are adopted to implement court orders or to settle civil proceedings
- Only adopt federal laws or rules by reference
- Implement legislatively approved fee changes
- Only correct omissions or errors

Distribution of the review

DEQ's Agency Rules Coordinator:

- Provides a copy of this review to DEQ's Leadership Team
- Provides a copy of this review to any advisory committee members
- Posts a copy of the review on DEQ's rulemaking website
- Preserves a copy of the review in DEQ's electronic rulemaking archives
- Sends a copy to the Oregon Secretary of State

EQC meetings in 2013

In 2013, the EQC adopted rules subject to review at these meetings:

- March 20, 2013
- August 22, 2013
- October 16, 2013

Rules subject to this review

Title – Update Oregon air quality rules to address federal regulation

- Adopted date – 3/20/2013
- Rule numbers – 340-216-0068; 340-244-0239
- Reviewer – Daniel Defehr/Steve Mrazik

Some of the rules adopted in this rulemaking adopted federal laws and rules by reference. These rules are exempt from the five year review requirement under ORS 183.405(b). The review below applies to the remaining rules adopted in this rulemaking.

Summary

The rules adopted new and amended federal air quality regulations and related permit rules. This included adopting new national performance and emission standards for electric utility steam generating units, gold mine ore processing and production, polyvinyl chloride and copolymers production, and sewage sludge incinerators. The rules also incorporated changes to the federal gasoline dispensing facility rules. The proposed rules clarify when and if Air Contaminant Discharge Permits are required for sources subject to federal New Source Performance Standards and NESHAPs.

Did the rule have the intended effect?

Yes. The rule changes updated DEQ's rules to reflect new and amended federal standards. The changes also allowed DEQ to better manage workload, spread out permitting over time, focus on federal standards with the greatest environmental benefit, and to decline to implement federal standards that are not substantive for Oregon or that are better implemented by EPA on the federal level.

Did the agency over- or underestimate the rule's fiscal impact?

DEQ estimated that the fiscal impact of the rules would not be significant. DEQ has no information suggesting that the resulting fiscal impact was significant.

Do subsequent changes in the law require the agency to amend or repeal the rule?

DEQ is not aware of any changes in the law that require the agency to the repeal the rules. DEQ is required to amend its adoption of federal standards from time-to-time to address changes to the standards on the federal level.

Is there a continued need for the rule?

Yes. The rule changes further DEQ's strategic direction to protect Oregonians from toxic pollutants by creating efficiencies and updating rules so they are consistent with federal rules. This allows DEQ to focus resources on other actions to reduce toxic air pollution and risk to public health.

Title – Conversion Technology

- Adopted date – 8/22/13
- Rule numbers - 340-096-0160, 340-096-0170, 340-096-0180,340-096-0190, 340-096-0200
- Reviewer – Bob Barrows/Brian Fuller

Summary

This rulemaking established performance standards and solid waste permit requirements for anaerobic digestion facilities and conversion technology facilities. These new standards and requirements helped to assure environmental protection, establish appropriate permitting requirements for anaerobic digesters and conversion technology facilities, establish an appropriate fee schedule for anaerobic digesters and the new conversion technology facility permit category, and provide regulatory certainty for emerging technology providers and DEQ staff.

This rulemaking also made changes to existing Oregon rules that include exempting certain low-risk facilities from solid waste disposal permit requirements, adjusted composting and waste tire rules, and corrected references to solid waste rules. The rulemaking also corrected grammatical errors.

Did the rule have the intended effect?

Yes. Adding the conversion technology rules and the amendments to the composting facility rules and other solid waste rules have been beneficial. The changes helped provide clear guidance to the public and DEQ staff about when and how to require and issue permits while assuring environmental protection. The fee schedule for conversion technology facilities and anaerobic digesters seems to be appropriate. DEQ and the Oregon Department of Agriculture

conduct successful, periodic consultations about oversight of on-farm anaerobic digesters that are regulated under an ODA Confined Animal Feeding Operation permit.

Did the agency over- or underestimate the rule's fiscal impact?

DEQ appears to have accurately estimated the fiscal impact on small businesses. DEQ has issued one conversion technology facility permit and four anaerobic digester permits since the rulemaking. Costs to these facilities were in line with what DEQ predicted during this rulemaking.

Do subsequent changes in the law require the agency to amend or repeal the rule?

No, there have been no changes in law that require amending or repealing these rules.

Is there a continued need for the rule?

Yes, the rules have been successfully implemented and continue to be so. They are necessary to continue to provide regulatory certainty for operators of currently permitted facilities and proponents of future facilities.

Title – Updates to Oregon SIP ambient air quality standards, nitrogen dioxide, sulfur dioxide, lead

- Adopted date – 10/16/13
- Rule numbers – 340-202-0020
- Reviewer – Karen Williams/Michael Orman

Summary

In 2010, to be more protective of public health, EPA revised national ambient air quality standards (NAAQA) for sulfur dioxide and nitrogen dioxide. The agency adopted a one-hour measurement averaging period. For sulfur dioxide, this was a reduction from a 24-hour averaging period. The one-hour nitrogen dioxide standard was an addition to the existing standard at the time. EPA also adopted interim Significant Impact Levels for both sulfur dioxide and nitrogen dioxide.

In 2008, to be more protective of public health and welfare, EPA adopted revised primary and secondary national ambient air quality standards for lead. EPA did not revise the numeric standard or the measurement averaging period. Instead, the agency inserted a reference to the measurement method in the Code of Federal Relations (40 C.F.R. Part 53).

DEQ was required to adopt the revised ambient air quality standards, incorporate them into the State Implementation Plan, and submit an infrastructure plan to EPA that detailed the rules, programs and authorities DEQ has in place to implement and enforce the revised standards. DEQ followed EPA's guidance to combine the three infrastructure plans in one EPA submittal, covering all three pollutants: sulfur dioxide, nitrogen dioxide and lead. Because DEQ had to

adopt the standards and submit infrastructure plans to be consistent with federal Clean Air Act requirements, DEQ did not have a policy choice to make and did not convene an advisory committee.

Did the rule have the intended effect?

Yes. The purpose of the rule adoption was to obtain EPA approval of Oregon's infrastructure plan submittal. EPA approved the lead infrastructure plan and published in the Federal Register on June 24, 2014 (70 FR 35693). EPA approved and published the nitrogen dioxide and sulfur dioxide infrastructure plans on May 24, 2018 (83 FR 24034).

DEQ's EPA-approved monitoring data also show the state in compliance with the sulfur dioxide, nitrogen dioxide, and lead NAAQS. DEQ's annual monitoring report compiles and illustrates several years' air quality measurements compared to the NAAQS. The following figures are from Oregon Air Quality Annual Report: 2017: (<https://www.oregon.gov/deq/FilterDocs/2017aqannualreport.pdf>).

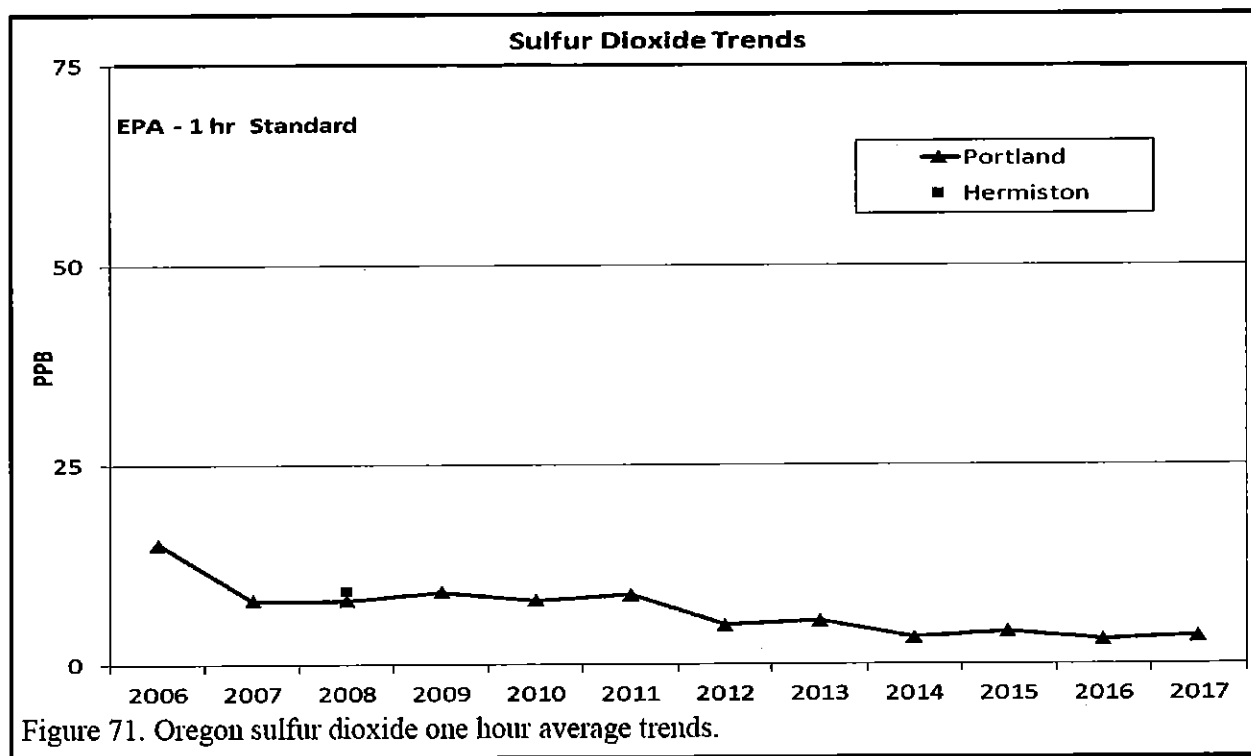
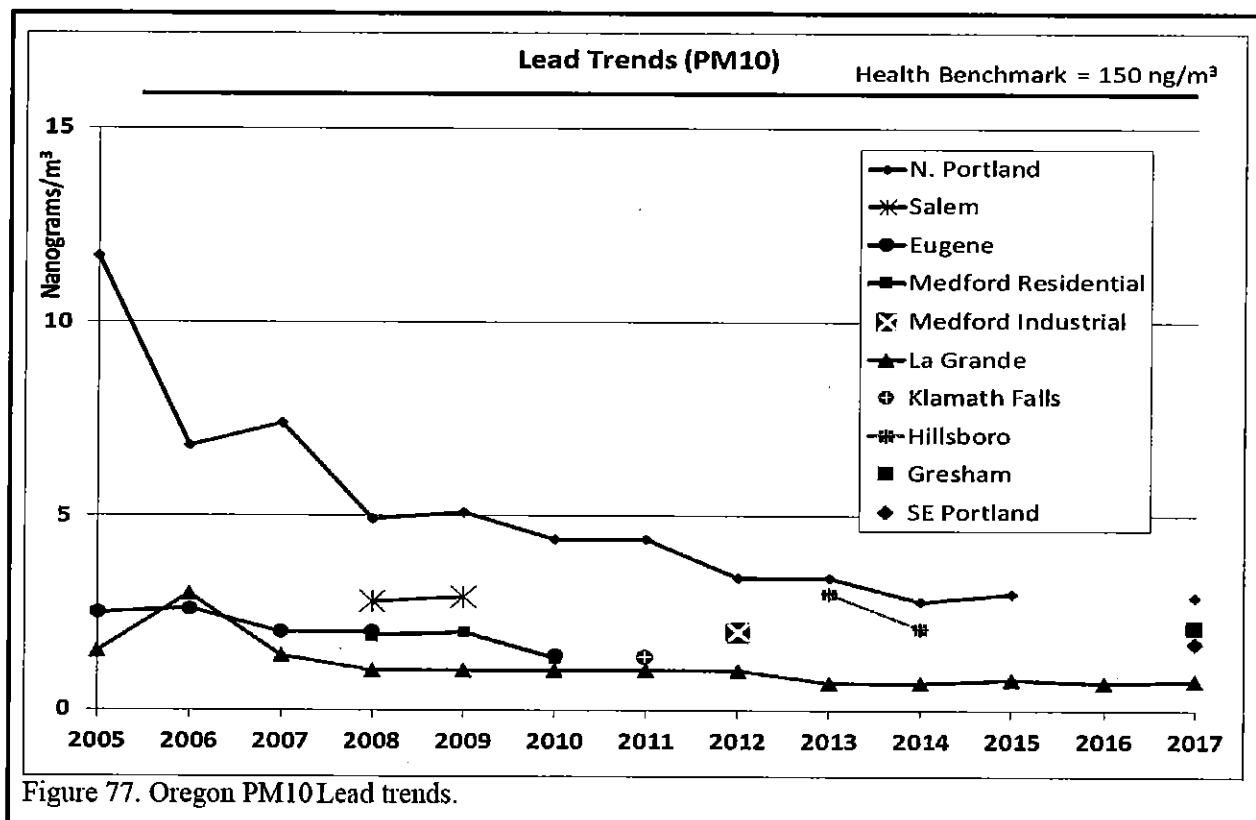
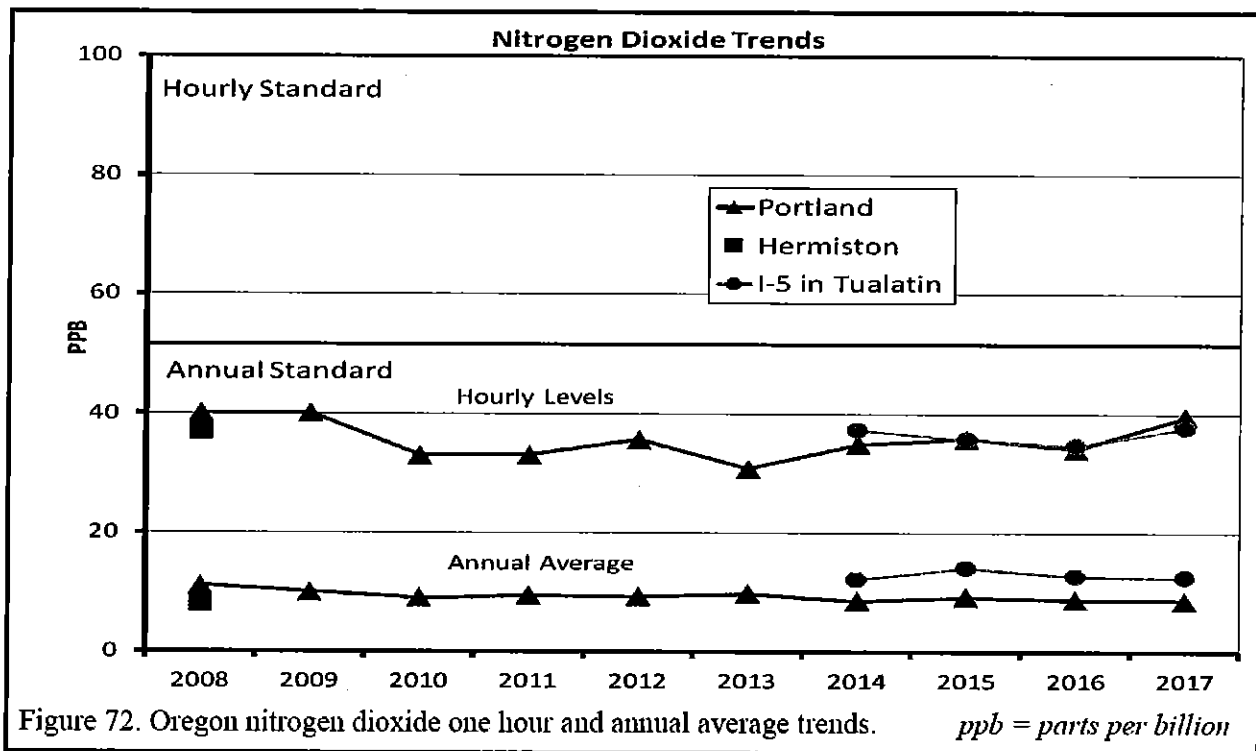


Figure 71. Oregon sulfur dioxide one hour average trends.



Did the agency over- or underestimate the rule's fiscal impact?

No, DEQ appears to have accurately estimated potential fiscal impact. The 2013 staff report, based on DEQ's permit database, states that in 2011, these revisions affected 347 small businesses (fewer than 50 employees) and 592 large businesses. DEQ expected that major new or modified sources such as natural gas electrical generating facilities and data storage centers would need to conduct Prevention of Significant Deterioration analysis. In addition to these types of facilities, over the past five years, natural gas compressor stations, wood products facilities, and paper product facilities have also needed to conduct PSD analyses.

In the 2013 staff report, DEQ estimated that modeling costs for the required PSD analysis for regulated facilities could span a few thousand dollars to more than \$100,000. DEQ's modeling specialist estimates that the required modelling by facilities since 2013 in response to the revised one-hour NAAQS would likely not exceed 5% of the total cost of a modelling project if the modelling included other averaged-time parameters. DEQ also predicted some facilities would need to add emission controls or conduct monitoring to comply with the revised NAAQS. DEQ did not estimate those costs as they would depend on the facility design and permit requirements. Permit writers consulted for this review were not aware of facilities over the past five years that needed to install additional controls to comply with the revised sulfur dioxide, nitrogen dioxide or lead NAAQS.

In response to the revised NAAQS, DEQ expected to conduct additional ambient monitoring for nitrogen dioxide near a roadway. In 2013, DEQ also thought additional sulfur dioxide monitoring may be necessary after EPA developed guidance for modeling and monitoring sulfur dioxide. In the last five years, DEQ was not prompted by EPA actions to purchase additional sulfur dioxide monitoring equipment. DEQ had already purchased an additional nitrogen dioxide monitor in 2013 with EPA funds and has been monitoring nitrogen dioxide at two locations (Portland and Tualatin near Interstate-5) since 2014.

In the 2013 staff report, DEQ left open the possibility of additional lead monitoring near airports. In the last five years, DEQ has not installed additional lead monitors, but did measure lead through EPA-approved particulate matter monitoring at several air toxics monitoring sites in Portland, Hillsboro, Gresham and La Grande. In addition, DEQ tracked two lead monitoring studies. Portland State University conducted a lead study near the Hillsboro airport and did not find lead levels above the NAAQS. EPA also conducted a pilot lead monitoring study at small airports and found that around the majority of small airports, lead levels were well below the NAAQS.

Do subsequent changes in the law require the agency to amend or repeal the rule?

No. EPA has not revised the national air quality standards for sulfur dioxide, nitrogen dioxide or lead since 2013. However, one year after EPA develops sulfur dioxide area designations for Oregon, EPA is required to repeal the annual and 24-hour sulfur dioxide national ambient air quality standards. EPA designated the entire state of Oregon Attainment/Unclassifiable for sulfur dioxide on January 9, 2018 (83 FR 1098). In the 2013 staff report DEQ indicates that once EPA

repeals the federal annual and 24-hour sulfur dioxide standards, DEQ will repeal the annual and 24-hour sulfur dioxide standards in OAR 340-202-0070.

Is there a continued need for the rule?

Yes. Oregon must continue to implement, enforce and report on compliance with national air quality standards for sulfur dioxide, nitrogen dioxide and lead.



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: Contested Case Hearings; Lay Representation in Contested Case Hearings; Late Contested Case Hearing Requests

Rule Number(s): 411-001-0500; 411-001-0510; 411-001-0520

Program Area: APD and ODDS: Contested Case Hearings

Adoption Date: 4/2/2013



Review Due Date:

4/2/2018



Review Date:

6/26/2017

Reviewer's Name:

Carol Mauser



- *Advisory Committee Used**
- Advisory Committee Not Used**

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What was the intended effect of this rule adoption?

Adopt OAR 411-001-0500 about contested case hearings to clarify which rules apply to contested case hearings concerning the Department's Aging and People with Disabilities' and Developmental Disabilities' programs. OAR 411-001-0500 will also make permanent certain changes adopted by temporary rule effective October 5, 2012 that indicate when the Department may not disclose contact information for witnesses in contested cases and the extent to which contested case hearings are open to the public

Yes
 No

Has this rule adoption had its intended effect?

Yes
 No

Was the anticipated fiscal impact of this rule underestimated?

Yes
 No

Was the anticipated fiscal impact of this rule overestimated?

Yes
 No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

Yes
 No

Is there a continued need for this rule?

What was the intended effect of this rule adoption?

Adopt OAR 411-001-0510 about lay representation in contested case hearings to make permanent certain changes adopted by temporary rule effective October 5, 2012 that were made to implement ORS 183.452 authorizing the Department's use of an officer or employee of the Department as a lay representative that may appear on behalf of the Department during contested case hearings. OAR 411-001-0510 also sets out requirements for lay representatives and the restrictions that apply to interrogatories and requests for admission when the Department has a lay representative

Yes
 No

Has this rule adoption had its intended effect?

Yes
 No

Was the anticipated fiscal impact of this rule underestimated?

Yes
 No

Was the anticipated fiscal impact of this rule overestimated?

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed? 7-1-2013 Temp; 12-15-2013 Perm; 6-4-2014 Perm
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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What was the intended effect of this rule adoption?
Adopt OAR 411-001-0520 about late hearing requests in contested cases to implement ORS 411.103 and set out how the Department treats late hearing requests (when not covered by other conflicting rules), the time period under which a late hearing request will be considered, and the criteria that apply to determine if a late hearing request will be considered timely

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
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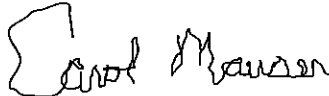
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Additional Comments:

***Date report sent to advisory committee members: _____**

Report approved by:

Carol S Mauser



06/26/2017

Printed name

Signature

Date

411-001-0500 Contested Case Hearings

(1) OAR 411-001-0500, 411-001-0510, and 411-001-0520 apply to all contested case hearing requests authorized under OAR chapter 411, except to the extent that --

(a) There is another conflicting rule in OAR chapter 411 that applies to the hearing request; or

(b) There is a rule in OAR chapter 411 that applies a conflicting rule in OAR chapter 461, division 025 to the hearing request.

(2) The Department of Human Services (Department) conducts contested case hearings in accordance with the Attorney General's model rules in OAR chapter 137, division 003, except to the extent that Department rules are permitted to and provide for different procedures.

(3) The Department may not provide the telephone number and addresses of a witness if the Department has a reasonable concern that the release of information may affect the safety of the witness.

(4) The Department's contested case hearings based on hearing requests authorized in OAR chapter 411 are not open to the public and are closed to nonparticipants, except nonparticipants may attend subject to the consent of the parties and the Department, as well as applicable confidentiality laws.

(5) The Department has adopted the exceptions to the Attorney General's model rules set out in section (3) of this rule and OAR 411-001-0510(6) due to caseload volume and because these model rule discovery procedures would unduly complicate or interfere with the hearing process.

Stat. Auth: ORS 409.050

Stats Implemented: ORS 409.010

411-001-0510 Lay Representation in Contested Case Hearings

(1) Subject to the approval of the Attorney General, an officer or employee of the Department of Human Services (Department) is authorized to appear on behalf of the Department in the following types of hearings conducted by the Office of Administrative Hearings:

(a) Eligibility for services available through a waiver or state plan administered by the Department's Aging and People with Disabilities (APD) or Developmental Disabilities (DD), including but not limited to the level or amount of benefits, and effective date;

(b) Eligibility for medical benefits, the level and amount of benefits, and effective date;

(c) Overpayments related to waived service benefits or medical benefits;

(d) Suspension, reduction, or denial of medical assistance services, prior authorizations, or medical management decisions; and

(e) Consumer-employed provider matters, including but not limited to provider enrollment or denial of enrollment, overpayment determinations, audits, and sanctions.

(2) A Department officer or employee acting as the Department's representative may not make legal argument on behalf of the Department.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the Department to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to the Department; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses, or presentation of factual arguments or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the Department in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of procedures being followed in the contested case hearing.

(3) When an officer or employee appears on behalf of the Department, the administrative law judge shall advise the Department's representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection.

(4) If the administrative law judge determines that statements or objections made by the Department representative appearing under section (1) of this rule involve legal argument as defined in this rule, the administrative law judge shall provide reasonable opportunity for the Department representative to consult the Attorney General and permit the Attorney General to present argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.

(5) The Department is subject to the Code of Conduct for Non-Attorney Representatives at Administrative Hearings, which is maintained by the Oregon Department of Justice and available on its website at <http://www.doj.state.or.us>. A Department representative appearing under section (1) of this rule must read and be familiar with the Code of Conduct for Non-Attorney Representatives at Administrative Hearings.

(6) When a Department officer or employee represents the Department in a contested case hearing, requests for admission and written interrogatories are not permitted.

Stat. Auth: ORS 409.050

Stats Implemented: ORS 183.452, 409.010

411-001-0520 Late Contested Case Hearing Requests

(1) When the Department of Human Services (Department) receives a completed hearing request that is not filed within the timeframe required by the applicable rule in OAR chapter 411 but is filed no later than the deadlines set out in section (2) of this rule:

(a) The Department shall refer the hearing request to the Office of Administrative Hearings for a contested case hearing on the merits of the Department's action described in the notice when:

(A) The Department finds that the claimant and claimant's representative did not receive the notice and did not have actual knowledge of the notice; or

(B) The Department finds good cause that the claimant did not meet the timeframe required due to excusable mistake, surprise, excusable neglect (which may include neglect due to significant cognitive or health issues), circumstances beyond the claimant's control, reasonable reliance on the statement of a Department employee or an adverse provider relating to procedural requirements, or due to fraud, misrepresentation, or other misconduct of the Department or a party adverse to the claimant.

(b) The Department refers the request for a hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the claimant is entitled to a hearing on the merits if there is a dispute between the claimant and the Department about either of the following paragraphs.

(A) The claimant or claimant's representative received the notice or had actual knowledge of the notice. At the hearing, the Department must show that the claimant or claimant's representative had actual knowledge of the notice or that the Department mailed or electronically mailed the notice to the correct address of the claimant or claimant's representative, as provided to the Department.

(B) The claimant has established for a contested case hearing on the merits under paragraph (a)(B) of this section.

(c) The Department may only dismiss such a request for hearing as untimely without a referral to the Office of Administrative Hearings if the following requirements are met:

(A) The undisputed facts show that the claimant does not qualify for a hearing under this section; and

(B) The notice was served personally or by registered or certified mail.

(2) The Department shall consider whether a late hearing request meets the late request criteria set out in section (1) of this rule:

(a) When the hearing request is received up to 120 days after a notice became a final order by default if no provider is a party to the contested case.

(b) When the hearing request is received up to 60 days after a notice became a final order by default if at least one provider is a party to the contested case.

(3) Unless required otherwise by the Servicemembers Civil Relief Act, the Department may dismiss a request for hearing as untimely if the Department receives a completed hearing request after the applicable deadline in section (2) of this rule.

Stat. Auth.: ORS 409.050 & 411.103

Stats. Implemented: ORS 409.010 & 411.103



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: Adult Protective Services - General

Rule Number(s): 411-020-0123; 411-020-0126

Program Area: Oregon Department of Human Services - Aging and People with Disabilities

Adoption Date: 11-28-2012



Review Due Date:

11-28-2017



Review Date:

4-10-2017

Reviewer's Name:



Allison McKenzie

- *Advisory Committee Used
 Advisory Committee Not Used

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What was the intended effect of this rule adoption?

411-020-0123 Accessing Protected Health Information, including Records

Purpose was to implement procedures that incorporate various state and federal laws impacted by HB 4084 around accessing financial records and HIPAA regulations for accessing medical records in order to clarify for adult protective services specialists how an individual's records may be obtained and how investigation related materials are handled.

Yes
 No

Has this rule adoption had its intended effect?

Yes
 No

Was the anticipated fiscal impact of this rule underestimated?

Yes
 No

Was the anticipated fiscal impact of this rule overestimated?

Yes
 No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

Perm Eff. 1-1-15

Yes
 No

Is there a continued need for this rule?

What was the intended effect of this rule adoption?

411-020-0126 Accessing Financial Records

Purpose was to implement procedures that incorporate various state and federal laws impacted by HB 4084 around accessing financial records and HIPAA regulations for accessing medical records in order to clarify for adult protective services specialists how an individual's records may be obtained and how investigation related materials are handled.

Yes
 No

Has this rule adoption had its intended effect?

Yes
 No

Was the anticipated fiscal impact of this rule underestimated?

Yes
 No

Was the anticipated fiscal impact of this rule overestimated?

Yes
 No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

Yes
 No

Is there a continued need for this rule?

Additional Comments:

***Date report sent to advisory committee members:** 4/14/2017

Report approved by:

Allison McKenzie
Printed name

Allison McKenzie
Signature

4/10/17
Date

411-020-0123 Accessing Protected Health Information, including Records

Protected health information from a health care provider may be obtained in the course of an APS investigation as follows:

(1) **DISCLOSURE BY HEALTH CARE PROVIDER.** A health care provider may disclose, in accordance with 45 CFR 164.512(j), protected health information to APS to prevent or lessen a serious and imminent threat to the health or safety of a person or the public if the health care provider, in good faith, believes that the disclosure is necessary to prevent or lessen the threat. APS may request protected health information in the course of a self-neglect assessment or abuse investigation under this provision to prevent or lessen a serious and imminent threat.

(2) **COMMUNITY ABUSE INVESTIGATION.** In the course of an APS investigation into abuse in a community-based setting where the process under section (1) does not apply or is declined by the health care provider:

(a) **CONSENT BY REPORTED VICTIM.** APS may obtain a reported victim's protected health information for an APS investigation with that reported victim's consent.

(b) **DECLINED CONSENT.** If a reported victim is able to make an informed choice and declines to consent to APS obtaining protected health information, APS may not obtain the reported victim's protected health information.

(c) **REPORTED VICTIM INCAPABLE OF CONSENT.** If a reported victim is an older adult and does not have the ability to make an informed choice to consent to APS obtaining the reported victim's protected health information, and the reported victim does not have a fiduciary or legal representative that can consent to APS accessing the reported victim's protected health information, or when the fiduciary or legal representative is a reported perpetrator and refuses to consent to APS accessing the reported victim's protected health information, then the following procedure must be followed in order for APS to obtain the protected health information:

(A) APS must request that the appropriate law enforcement agency submit a written request to the health care provider to allow the law enforcement agency to inspect and copy, or otherwise obtain, the protected health information.

(B) APS shall inform the law enforcement agency that the written request must state that an investigation into abuse is being conducted under ORS 124.070 (elder abuse) or ORS 441.650 (nursing facility resident abuse).

(3) **HEALTH CARE PROVIDER NOTICE.** In investigations where APS is seeking disclosure of protected health information by a health care provider under sections (1) or (2) of this rule, APS shall inform the health care provider, either directly or through the law enforcement agency requesting the information, that the health care provider is required, in accordance with 45 CFR 164.512(c)(2), to promptly inform the individual to whom the protected health information pertains that information has been or shall be disclosed, unless:

(a) The health care provider, in the exercise of their professional judgment, believes that informing the individual may place the individual at risk of serious harm; or

(b) The health care provider would be informing a personal representative of the individual and the health care provider reasonably believes that the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person may not be in the best interests of the individual as determined by the health care provider in the exercise of their professional judgment.

(4) LICENSED CARE FACILITY INVESTIGATIONS. In the course of an APS investigation into abuse in a licensed care facility:

(a) OBTAINING RESIDENT RECORDS MAINTAINED BY A LICENSED CARE FACILITY. Licensed care facilities must provide APS access to all resident and facility records, including protected health information, maintained by the facility as required by their respective Oregon Administrative Rules.

(b) DISCLOSURE BY HEALTH CARE PROVIDER. A health care provider, such as a hospital, a medical office, or a provider other than a licensed care facility, may disclose, in accordance with 45 CFR 164.512(d), a reported victim's protected health information to APS as a health oversight agency for purposes of oversight of that facility, including oversight through investigation of complaints of abuse of residents in such facility. APS shall inform the health care provider of its authority as a health oversight agency and that such disclosures are permitted in accordance with 45 CFR 164.512(d).

(c) HEALTH CARE PROVIDER REFUSAL TO DISCLOSE. If a health care provider refuses to disclose protected health information to APS as a health oversight agency, APS may follow the procedure set forth in section (2)(c) of this rule if the reported victim is an older adult.

Stat. Auth.: ORS 410.070, 411.116, 441.637, 443.450, 443.765, & 443.767

Stats. Implemented: ORS 124.050 – 124.095, 410.020, 410.040, 410.070, 411.116, 441.630 – 441.695, 443.450, 443.500, 443.767, & 2012 Or. Laws Chapter 70

411-020-0126 Accessing Financial Records

(1) Financial records may be obtained from a financial institution in the course of an APS investigation into alleged abuse.

(2) DEFAULT STANDARD. APS may not request financial records from a financial institution unless one of the following exceptions applies and the corresponding procedures are followed:

(a) CUSTOMER AUTHORIZATION. APS may request and receive financial records from a financial institution when the customer authorizes such disclosure in accordance with ORS 192.593. The authorization must:

- (A) Be in writing, signed, and dated by the customer;
- (B) Identify with detail the records authorized to be disclosed;
- (C) Name the Department or Area Agency on Aging to whom disclosure is authorized;
- (D) Contain notice to the customer that the customer may revoke such authorization at any time in writing; and
- (E) Inform the customer as to the reason for such request and disclosure.

(b) **FINANCIAL INSTITUTION INITIATES CONTACT.** Where a financial institution initiates contact with APS or a law enforcement agency regarding suspected financial exploitation, the financial institution may share financial records with APS or the law enforcement agency and is not otherwise precluded from communicating with and disclosing financial records to APS or the law enforcement agency.

(c) **CUSTOMER INCAPABLE OF AUTHORIZING.** If a financial institution has not initiated contact with APS or a law enforcement agency and the reported victim does not have the ability to make an informed choice to consent to APS obtaining the reported victim's financial records; or a fiduciary or legal representative who is a reported perpetrator refuses to authorize disclosure; or the account is jointly held by a reported perpetrator as well as the reported victim and the reported perpetrator refuses to authorize disclosure of the reported victim's financial records, these procedures must be followed:

(A) APS shall work with the appropriate law enforcement agency to obtain a subpoena issued by a court or on behalf of a grand jury to request financial records of the reported victim.

(B) APS shall:

(i) Confirm to the law enforcement agency that an investigation under ORS 124.070 (elder abuse, including older adult residents in a community based care facility) or under ORS 441.650 (abuse of a nursing facility resident) is open and that the individual about whom financial records are sought is the alleged victim in the abuse investigation.

(ii) Provide or work with the law enforcement agency to obtain the name and social security number of the individual about whom financial records are sought.

(C) A financial institution, before making disclosures pursuant to a subpoena described in this section, may require reimbursement for the production of records, in accordance with ORS 192.602.

Stat. Auth.: ORS 410.070, 411.116, 441.637, 443.450, 443.765, & 443.767

Stats. Implemented: ORS 124.050 – 124.095, 192.586, 192.600, 192.602, 410.020, 410.040, 410.070, 411.116, 441.630 – 441.695, 443.450, 443.500, 443.767, & 2012 Or. Laws Chapter 70



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: Case Management Services for Older Adults and Adults with Disabilities

Rule Number(s): 411-028-0000; 411-028-0010; 411-028-0020; 411-028-0030; 411-028-0040; 411-028-0050

Program Area: Aging and People with Disabilities

Adoption Date: 12-13-2013



Review Due Date:
12/13/2018



Review Date:
10/18/2018

Reviewer's Name:
Mat Rapoza



- *Advisory Committee Used**
 Advisory Committee Not Used

*Committee Members:

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What was the intended effect of this rule adoption?	
411-028-0000: Purpose - To state the purpose of the APD case management rules.	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?

What was the intended effect of this rule adoption?	
411-028-0010: Definitions - To define the terms in APD case management rules	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed? 4-21-2014 Temp; 10-1-2014 Perm
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?

What was the intended effect of this rule adoption?	
411-028-0020: Scope of Case Management Services - Goes over APD direct and indirect case management services	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed? 4-21-2014 Temp; 10-1-2014 Perm
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?

What was the intended effect of this rule adoption?	
411-028-0030: Eligibility for Case Management Services - States who is eligible for APD case management services	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed? There was a 4-21-2014 temporary amendment, but It was reverted back as the changes were deemed unnecessary.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?

What was the intended effect of this rule adoption?	
411-028-0050: Qualified Case Manager - States requirements to be eligible to be a case manager for the Department or the Department's designee.	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed?
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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What was the intended effect of this rule adoption?	
411-028-0050: Frequency of Case Management Services - States how often case management must be provided to Medicaid home and community-based clients	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed?
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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Additional Comments:

***Date report sent to advisory committee members:** _____

Report approved by:

Mat Repora
Printed name


Signature

10/18/18
Date

**DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 28**

CASE MANAGEMENT SERVICES FOR OLDER ADULTS AND ADULTS WITH DISABILITIES

411-028-0000 Purpose
(Adopted 12/15/2013)

(1) The rules in OAR chapter 411, division 028 ensure case management services support the independence, empowerment, dignity, and human potential of older adult individuals and adult individuals with disabilities with the purpose of helping the individuals reside in their own home or in a community-based setting.

(2) Case management services are a component of an individual's comprehensive, person-centered plan for services.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-028-0010 Definitions
(Adopted 12/15/2013)

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 028:

(1) "Adult" means any person at least 18 years of age.

(2) "Adult Protective Services" mean the services provided in response to the need for protection from abuse described in OAR chapter 411, division 020, OAR chapter 407, division 045, and OAR chapter 943, division 045.

(3) "Case Management" means the functions described in OAR 411-028-0020 performed by a case manager, adult protective services investigator, or higher level management staff.

(4) "Case Manager" means a Department employee or an employee of the Department's designee that meets the minimum qualifications in OAR 411-028-0040 who is responsible for service eligibility, assessment of need, offering service choices to eligible individuals, service planning, service authorization and implementation, and evaluation of the effectiveness of Medicaid home and community-based services.

(5) "Collateral Contact" means contact by a case manager with others who may provide information regarding an individual's health, safety, functional needs, social needs, or effectiveness of the individual's plan for services. Collateral contact may include family members, service providers, medical providers, neighbors, pharmacy staff, friends, or other professionals involved in the service coordination of an individual receiving Medicaid home and community-based services.

(6) "Department" means the Department of Human Services.

(7) "Designee" means an organization that the Department contracts with or has an interagency agreement with for the purposes of providing case management services.

(8) "Disability" means a physical, cognitive, or emotional impairment which, for an individual, constitutes or results in a functional limitation in one or more of the activities of daily living defined in OAR 411-015-0006.

(9) "Individual" means an older adult or an adult with a disability applying for or determined eligible for Medicaid home and community-based services.

(10) "Medicaid Home and Community-Based Services" mean the services for older adults and adults with disabilities approved for Oregon by the Centers for Medicare and Medicaid Services.

(11) "Older Adult" means any person at least 65 years of age.

(12) "OSIP-M" means Oregon Supplemental Income Program-Medical as defined in OAR 461-101-0010. OSIPM is Oregon Medicaid insurance coverage for individuals who meet eligibility criteria as described in OAR chapter 461.

(13) "Representative" is a person either appointed by an individual to participate in service planning on the individual's behalf or a person with longstanding involvement in assuring the individual's health, safety, and welfare.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-028-0020 Scope of Case Management Services

(Adopted 12/15/2013)

(1) **DIRECT CASE MANAGEMENT SERVICES.** Direct case management services are provided by a case manager, adult protective services investigator, or higher level staff, who communicates directly with an individual or the individual's representative. Direct case management services may occur by phone call, face-to-face contact, or email. Direct case management services do not include contact with collateral contacts unless the collateral contact is the individual's authorized representative.

Direct case management services include:

(a) An assessment as described in OAR 411-015-0008;

(b) Service Plan development and review as described in OAR 411-015-0008;

(c) Service options choice counseling as described in OAR 411-030-0050;

(d) Risk assessment and monitoring --

(A) Identifying and documenting risks;

(B) Working with an individual to eliminate or reduce risks;

(C) Developing and implementing a Risk Mitigation Plan;

(D) Monitoring risks over time; and

(E) Making adjustments to an individual's Service Plan as needed.

(e) Diversion activities. Assisting an individual with finding alternatives to a nursing facility admission;

(f) Adult protective services investigation including all protective service activity directly provided to an individual;

(g) Other program coordination. Helping an individual navigate or coordinate with other social, health, and assistance programs;

(h) Crisis response and intervention. Assisting an individual with problem resolution; and

(i) Service provision issues. Assisting an individual with problem solving to resolve issues that occur with providers, services, or hours that don't meet the individual's needs.

(2) INDIRECT CASE MANAGEMENT SERVICES. Indirect case management services are services provided by a case manager, adult protective services investigator, or higher level staff, in which direct contact with an individual is not occurring. Indirect case management services include:

(a) Monitoring Service Plan implementation. Reviewing implementation of an individual's Service Plan by reviewing and comparing authorized and billed services to ensure that adequate services are being provided;

(b) Service options choice counseling. Assisting an individual's caregiver, family member, or other support person with understanding all available Medicaid home and community-based service options;

(c) Risk monitoring. Working with a collateral contact to review an individual's risks, eliminating or reducing risks, and developing and implementing a Risk Mitigation Plan. Adjustments to an individual's Service Plan based on risk monitoring activities are classified as direct case management;

(d) Diversion activities. Finding alternatives to a nursing facility admission. Diversion activities do not include transition activities to help an individual move from a nursing facility.

(e) Adult protective services referral including collateral contact and investigative work;

(f) Other program coordination. Helping collateral contacts navigate or coordinate with other social, health, and assistance programs;

(g) Service provision issues. Assisting with problem solving issues that occur with providers, services, or hours that do not meet an individual's needs; and

(h) Other case management activities not included in any criteria in this section of the rule.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-028-0030 Eligibility for Case Management Services

(Adopted 12/15/2013)

To be eligible for case management services a person must:

(1) Be 18 years of age or older;

(2) Be eligible for OSIP-M; and

(3) Meet the functional impairment level within the service priority levels currently served by the Department as outlined in OAR 411-015-0010 and OAR 411-015-0015.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-028-0040 Qualified Case Manager

(Adopted 12/15/2013)

Staff working for the Department or the Department's designee must meet the following requirements to provide case management services:

(1) A bachelor's degree in a behavioral science, social science, or a closely related field; or

(2) A bachelor's degree in any field and one year of human services related experience that may include providing assistance to people and groups with issues such as economical disadvantages, employment barriers and shortages, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or inadequate housing; or

(3) An associate's degree in a behavioral science, social science, or a closely related field and two years of human services related experience that may include providing assistance to people and groups with issues such as economical disadvantages, employment barriers and shortages, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or inadequate housing; or

(4) Three years of human services related experience that may include providing assistance to people and groups with issues such as economical disadvantages, employment barriers and shortages, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or inadequate housing.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-028-0050 Frequency of Case Management Services

(Adopted 12/15/2013)

A case manager who meets the requirements in OAR 411-028-0040 must provide the following case management services to an eligible individual receiving Medicaid home and community-based services:

OAR 183.405 Five Year Review

(1) A direct case management service as described in OAR 411-028-0020 must be provided to an eligible individual no less than once in each calendar quarter.

(2) An indirect case management service must be provided in every calendar month a direct case management service was not provided.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Division Name: Medicaid Home Delivered Meals

Rule Number(s): 411-040-0010; 411-040-0020; 411-040-0030; 411-040-0035; 411-040-0036; 411-040-0037; 411-040-0040; 411-040-0050; 411-040-0060

Program Area: Aging and People with Disabilities

Adoption Date: 6/4/2014



Review Due Date:
6/4/2019



Review Date:
1/4/2019

Reviewer's Name:
Darwin Frankenhoff



- *Advisory Committee Used**
 Advisory Committee Not Used

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What was the intended effect of this rule adoption?
411-040-0010 Definitions
Establish Definitions for the rule set

Yes
 No **Has this rule adoption had its intended effect?**

Yes
 No **Was the anticipated fiscal impact of this rule underestimated?**

Yes
 No **Was the anticipated fiscal impact of this rule overestimated?**

Yes
 No **Have subsequent changes in the law required this rule to be/can be amended or repealed?**

Yes
 No **Is there a continued need for this rule?**

What was the intended effect of this rule adoption?
411-040-0020 Client Eligibility and Responsibilities
Establish eligibility for clients and any client responsibilities to be eligible to receive home delivered meals

Yes
 No **Has this rule adoption had its intended effect?**

Yes
 No **Was the anticipated fiscal impact of this rule underestimated?**

Yes
 No **Was the anticipated fiscal impact of this rule overestimated?**

Yes
 No **Have subsequent changes in the law required this rule to be/can be amended or repealed?**

Yes
 No **Is there a continued need for this rule?**

What was the intended effect of this rule adoption?

411-040-0030 Medicaid Home Delivered Meal Provider Qualifications and Responsibilities

Establish provider qualifications and any provider responsibilities to be a provider for the home delivered meals program

- Yes
- No

Has this rule adoption had its intended effect?

- Yes
- No

Was the anticipated fiscal impact of this rule underestimated?

- Yes
- No

Was the anticipated fiscal impact of this rule overestimated?

- Yes
- No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

- Yes
- No

Is there a continued need for this rule?

What was the intended effect of this rule adoption?

411-040-0035 Meal Requirements

Establishes what the meal requirements of a home delivered meal are

- Yes
- No

Has this rule adoption had its intended effect?

- Yes
- No

Was the anticipated fiscal impact of this rule underestimated?

- Yes
- No

Was the anticipated fiscal impact of this rule overestimated?

- Yes
- No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

- Yes
- No

Is there a continued need for this rule?

What was the intended effect of this rule adoption?
411-040-0036 Service Requirements
Established provider service requirements for program

Yes No **Has this rule adoption had its intended effect?**

Yes No **Was the anticipated fiscal impact of this rule underestimated?**

Yes No **Was the anticipated fiscal impact of this rule overestimated?**

Yes No **Have subsequent changes in the law required this rule to be/can be amended or repealed?**

Yes No **Is there a continued need for this rule?**

What was the intended effect of this rule adoption?
411-040-0037 Staff and Volunteer Requirements
Establishes staff and volunteer requirements for those delivering/preparing food.

Yes No **Has this rule adoption had its intended effect?**

Yes No **Was the anticipated fiscal impact of this rule underestimated?**

Yes No **Was the anticipated fiscal impact of this rule overestimated?**

Yes No **Have subsequent changes in the law required this rule to be/can be amended or repealed?**

Yes No **Is there a continued need for this rule?**

What was the intended effect of this rule adoption? 411-040-0040 Provider Payment Establishes provider payment requirements	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed?
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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What was the intended effect of this rule adoption? 411-040-0050 Local Office Responsibility and Oversight Establishes responsibility of local office and Department in oversight of program	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed?
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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What was the intended effect of this rule adoption? 411-040-0060 Impact on Client Liability Establishes participant costs for program	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed?
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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Additional Comments:

***Date report sent to advisory committee members:** 1/23/2019

Report approved by:

Not Reported
Printed name


Signature

1/9/19
Date

411-040-0010 Definitions

(Adopted 06/04/2014)

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 040:

- (1) "Approved Carrier" means the United States Postal Service, or other carrier, who can ensure providers have passed criminal background checks to protect the well-being of the Medicaid eligible participant. Use of an Approved Carrier must be approved by the Department, Aging and People with Disabilities or the Area Agency on Aging (AAA).
- (2) "Client Liability" means the dollar amount participants with excess income must contribute to the cost of service pursuant to OAR 461-160-0610 and OAR 461-160-0620.
- (3) "Department" means the Department of Human Services (DHS).

- (4) "Homebound" means that leaving home is a significant effort to the point that leaving home unassisted is not normally possible.
- (5) "Home Delivered Meals" means meals that are delivered to a Medicaid eligible participant in their own home or apartment per 411-040-0035 of this rule.
- (6) "Meal preparation" means safely preparing food as defined in 411-015-0007(6).
- (7) "Medicaid eligible individual" means a participant who meets the eligibility criteria defined in OAR 411-015-0000 through 411-015-0100.
- (8) "Medicaid Home Delivered Meal Provider" means an approved home delivered meal provider that meets the qualifications in these rules and has an active Medicaid provider number.
- (9) "Natural Supports" means resources and supports (e.g. relatives, friends, significant others, neighbors, roommates, or the community) who are willing to voluntarily provide services to an individual without the expectation of compensation. Natural supports are identified in collaboration with the individual and the potential "natural support". The natural support is required to have the skills, knowledge and ability to provide the needed services and supports.

(10) "Nutrition education" means a program to promote better health by providing accurate and culturally sensitive nutrition, physical fitness, or health (as it relates to nutrition) information and instruction to participants, caregivers, or participants and caregivers in a group or individual setting overseen by a dietitian or individual of comparable expertise.

(11) "Nutrition screening survey" means the act of screening a participant's nutrition risk.

(12) "Participant" means a Medicaid eligible individual receiving Medicaid home delivered meals.

(13) "Provider" means Medicaid home delivered meal provider.

Stat. Auth.: ORS 410.070, 411.060, & 411.070

Stats. Implemented: ORS 410.070

411-040-0020 Client Eligibility and Responsibilities

(Adopted 06/04/2014)

(1) To be eligible for Medicaid home delivered meals a participant must:

(a) Be Medicaid eligible per 411-015-0100, and be receiving Medicaid long term services and supports in their own home;

(b) Be home-bound;

(c) Be unable to do meal preparation on a regular basis without assistance; and

(d) Not have natural supports available that are willing and able to provide meal preparation services.

(2) To remain eligible for home delivered meals, participants are responsible for payment of their specified monthly client liability amount so home-delivered meals can be authorized.

(3) If the participant is determined ineligible for Medicaid home delivered meals, but needs food assistance, the case manager shall refer the participant to the nearest Aging and Disability Resource Connection for assistance.

Stat. Auth.: ORS 410.070, 411.060, & 411.070
Stats. Implemented: ORS 410.070

411-040-0030 Medicaid Home Delivered Meal Provider Qualifications and Responsibilities

(Adopted 06/04/2014)

- (1) To be in alignment with the provision of services, home delivered meal providers must have contracts with, or be, an AAA as defined in 411-002-0100(1).
- (2) The provider must be in compliance, during all stages of food service operation, with applicable federal, state and local regulations, codes, and licensure requirements relating to fire; health; sanitation; safety; building and other provisions relating to the public health, safety, and welfare of meal patrons.
- (3) The provider must demonstrate that menu standards are developed to sustain and improve a participant's health through the provision of safe and nutritious meals that are approved by a dietician.
- (4) Each provider must be an enrolled Medicaid provider approved to provide Medicaid home delivered meals.
- (5) The provider must ensure that all requirements in OAR 411-040-0035 through 411-040-0037 are met.
- (6) Providers must ensure that anyone who delivers meals:
 - (a) Have passed a background check as defined in OAR 407-007-0275; or
 - (b) Uses an approved carrier.
- (7) All requests for Medicaid home delivered meals received by the provider must be referred to the Department or the Medicaid AAA office for prior authorization.
- (8) Meal providers must not solicit program income or voluntary donations from Medicaid eligible participants.

Stat. Auth.: ORS 410.070, 411.060, & 411.070
Stats. Implemented: ORS 410.070

411-040-0035 Meal Requirements
(Adopted 06/04/2014)

- (1) Each meal served must meet the current United States Department of Agriculture and Health and Human Services Dietary Guidelines and contain at least 33-1/3 percent of the current Dietary Reference Intakes as established by the Food and Nutrition Board of the National Academy of Science-National Research Council.
- (2) Foods must be prepared, served, and transported:
 - (a) With the least possible manual contact;
 - (b) With suitable utensils; and

 - (c) On surfaces that have been cleaned, rinsed, and sanitized to prevent cross contamination prior to use.
- (3) Meals may be hot, cold, frozen, dried, or canned with a satisfactory storage life.
- (4) Meal frequency.
 - (a) In areas where the frequency of serving meals five or more days per week is not feasible, per the area plan, nutrition providers have the ability to provide meals at less frequent intervals.
 - (b) For participants whose case managers have assessed the participant as having low risks, during the Medicaid Risk Assessment process and as part of the individualized service plan, the provider may be authorized to provide frozen meals not to exceed 31 days' worth of meals.
- (5) All providers will have a safety plan to ensure participants will receive meals during emergencies, weather-related conditions, and natural disasters. Plans could include, but are not limited to, shelf-stable emergency meal packages, four-

wheel drive vehicles, and volunteer arrangements with other community resources.

Stat. Auth.: ORS 410.070, 411.060, & 411.070
Stats. Implemented: ORS 410.070

411-040-0036 Service Requirements
(Adopted 06/04/2014)

(1) Except as provided in subsection (2), providers must provide:

(a) In-person delivery whereby a paid staff or volunteer delivers the meal to the participant's home. To the extent possible, the staff or volunteers must report any changes in participant's condition or concerns to the participant's case manager.

(b) Nutrition screening survey.

(A) The nutrition screening survey must be designed to indicate signs of poor nutritional health. In situations in which the screening shows that the individual has poor nutritional health, the provider will contact the participant's Medicaid case manager.

(B) Nutrition screening surveys will be completed at intake and at annual updates.

(c) Nutrition education.

(A) Nutrition education will be provided a minimum of one time per year.

(B) Nutrition education is required to be offered at the first nutrition risk assessment.

(2) In situations where the AAA has approved alternative delivery carriers, the home delivered meal provider must have weekly contact with the participant to determine if there are any changes in condition or concerns.

Stat. Auth.: ORS 410.070, 411.060, & 411.070
Stats. Implemented: ORS 410.070

411-040-0037 Staff and Volunteer Requirements
(Adopted 06/04/2014)

(1) Prior to having direct contact with participants, staff and volunteers must successfully pass a criminal background check.

(2) All staff and volunteers involved in food preparation will have training in:

- (a) Portion control;
 - (b) FDA Food Code practices for sanitary handling of food;
 - (c) Oregon food safety requirements; and
 - (d) Agency safety policies and procedures.
-

(3) All staff and volunteers having direct contact with a participant will have training in:

- (a) Protecting confidentiality;
- (b) How to report concerns, which may include: change of condition; self-neglect, and abuse, to appropriate staff for follow-up; and
- (c) When to report to the case manager any participants considered high risk, as a result of the nutrition risk assessment.

Stat. Auth.: ORS 410.070, 411.060, & 411.070
Stats. Implemented: ORS 410.070

411-040-0040 Provider Payment
(Adopted 06/04/2014)

(1) Providers will be reimbursed on a per meal basis, no more than 1 meal per day within the month.

(2) Provider rates will be published on the Department's rate table.

Stat. Auth.: ORS 410.070, 411.060, & 411.070

Stats. Implemented: ORS 410.070

411-040-0050 Local Office Responsibility and Oversight

(Adopted 06/04/2014)

(1) The Department shall establish, authorize, purchase, and monitor the standards for Medicaid paid home delivered meals.

(2) Case managers must authorize Medicaid home delivered meal services.

(3) Subsequent yearly nutrition education:

(a) May be determined by local Medicaid home delivered meal providers;
and

(b) Will be monitored by the Medicaid case manager at least annually.

(4) Provision of the home delivered meals reduces the need for reliance on paid staff during some meal times, so meal preparation hours in the service plan must be reduced.

(5) The Department shall make payments to Medicaid paid home delivered meal providers for all home-delivered meals provided to participants.

Stat. Auth.: ORS 410.070, 411.060, & 411.070

Stats. Implemented: ORS 410.070

411-040-0060 Impact on Client Liability

(Adopted 06/04/2014)

(1) The cost for home delivered meals shall be calculated into the service plan, in addition to in-home services provided by a client-employed provider or a home care agency.

(2) Participants required to make a client contribution, under OAR 461-185-0050, must have their home-delivered meal costs added to cost of care calculations.

Stat. Auth.: ORS 410.070, 411.060, & 411.070

Stats. Implemented: ORS 410.070



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: Purpose; Definitions; Eligibility and Limitations; Long Term Care Community Nursing Services; Communication and Notification Practices; Additional Documentation Requirements; Qualifications for Enrolled Medicaid Providers; Medicaid Provider Disenrollment/Termination; Compensation and Billing; Orientation Requirements; Exceptions

Rule Number(s): 411-048-0150; 411-048-0160; 411-048-0170; 411-048-0180; 411-048-0190; 411-048-0200; 411-048-0210; 411-048-0220; 411-048-0230; 411-048-0240; 411-048-0250

Program Area: APD: Long-Term Care Community Nursing

Adoption Date: 4/15/2013



Review Due Date:
4/15/2018



Review Date:
7/31/2017

Reviewer's Name:
Jane-ellen Weidanz



- *Advisory Committee Used
- Advisory Committee Not Used

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What was the intended effect of this rule adoption?

411-048-0150 Purpose

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
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411-048-0160 Definitions

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411-048-0170 Eligibility and Limitations

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What was the intended effect of this rule adoption? 411-048-0180 Long Term Care Community Nursing Services	
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What was the intended effect of this rule adoption?	
411-048-0200 Additional Documentation Requirements	

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411-048-0210 Qualifications for Enrolled Medicaid Providers	

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What was the intended effect of this rule adoption? 411-048-0220 Medicaid Provider Disenrollment /Termination	
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What was the intended effect of this rule adoption? 411-048-0230 Compensation and Billing	
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What was the intended effect of this rule adoption?	
411-048-0240 Orientation Requirements	
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411-048-0250 Exceptions	
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Additional Comments:

***Date report sent to advisory committee members:** _____

Report approved by:

Jane-ellen Weidanz
Printed name

Jane-ellen Weidanz
Signature

9/12/12
Date

DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 48

LONG TERM CARE COMMUNITY NURSING

411-048-0150 Purpose

(Adopted 4/15/2013)

(1) The rules in OAR chapter 411, division 048 establish standards and procedures for Medicaid enrolled providers who provide long term care community nursing services. Long term care community nursing services provide ongoing registered nurse (RN) services to eligible individuals who are receiving Medicaid funded home and community based waived services in a home based or foster home setting.

(2) Long term care community nursing services provide:

(a) Evaluation and identification of supports that help an individual maintain maximum functioning and minimize health risks, while promoting the individual's autonomy and self management of healthcare;

(b) Teaching an individual's caregiver or family that is necessary to assure the individual's health and safety in a home based or foster home setting;

(c) Delegation of nursing tasks to an individual's caregiver; and

(d) Case managers and health professionals with the information needed to maintain the individual's health, safety, and community living situation while honoring the individual's autonomy and choices.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0160 Definitions

(Adopted 4/15/2013)

(1) "AAA" means the Area Agency on Aging designated by the Department that is responsible for providing a comprehensive and coordinated system of services to older adults or adults with disabilities in a designated planning and service area.

(2) "Abuse" means:

(a) Abuse of a child:

(A) As defined in ORS 419B.005; and

(B) As defined in OAR 407-045-0260, when a child resides in a foster home licensed by the Department to provide residential services to a child with developmental disabilities.

(b) Abuse of an adult or older adult:

(A) As defined in ORS 124.050-095 and ORS 430.735-765; and

(B) As defined in OAR 407-045-0260 for individuals 18 years or older with developmental disabilities that reside in a Department licensed adult foster home; or

(C) As defined in OAR 411-020-0002 for older adults and adults with a physical disability who are 18 years of age or older that reside in a Department licensed adult foster home.

(3) "Acute Care Nursing" means, for the purpose of these rules, nursing services provided on an intermittent or time limited basis such as those provided by a hospice agency as defined in ORS 443.850, or a home health agency as defined in ORS 443.005. Acute care nursing may include direct service and is designed to address a specific task of nursing or a short term health condition.

(4) "Business Day" means the day that the "Local Office" is open for business.

(5) "Care Coordination" means the email, faxes, phone calls, meetings and other types of information exchange, consultation, and advocacy provided by a registered nurse on behalf of an individual that is necessary for the registered nurse to conduct assessments, complete medication reviews, provide for individual safety needs, and implement an individual's Nursing Service Plan.

(6) "Caregiver" means any person responsible for providing services to an eligible individual in a home based or foster home setting. For the purpose of these rules, a caregiver may include an unlicensed person defined as a designated caregiver in OAR chapter 851, division 48 (Standards for Provision of Nursing Care by a Designated Caregiver).

(7) "Case Manager" means a person employed by the Department, Community Developmental Disability Program, or Area Agency on Aging who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements an individual's plan for services and monitors the services delivered.

(8) "CDDP" means the Community Developmental Disability Program responsible for the planning and delivery of services for individuals with developmental disabilities according to

OAR chapter 411, division 320. A CDDP operates in a specific geographic service area of the state under a contract with the Department, local mental health authority, or other entity as contracted by the Department.

(9) "Delegation" means, for the purpose of these rules, the standards and processes described in OAR chapter 851, division 047 (Standards for Community Based Care Registered Nurse Delegation).

(10) "Department" means the Department of Human Services or the Department's designee.

(11) "Department Approved Form" means forms used by registered nurses and case managers to support these rules. The Department maintains these documents on the Department's website (<http://www.oregon.gov/dhs/spd/pages/provtools/nursing/forms.aspx>). Printed copies may be obtained by contacting the Department of Human Services, ATTN: Rule Coordinator, 500 Summer Street NE, E10, Salem, OR 97301.

(12) "Direct Hands-on Nursing" means a registered nurse provides treatment or therapies directly to an individual instead of teaching or delegating the tasks of nursing to the individual's caregiver. Payment for direct hands-on nursing services is not reimbursed unless an exception has been granted by the Department as described in OAR 411-048-0170.

(13) "Documentation" means a written record of all services provided to, and for, an individual and an individual's caregiver that is maintained by the registered nurse as described in OAR 411-048-0200.

(14) "Enrolled Medicaid Provider" means an entity or individual that meets and completes all the requirements in these rules, OAR 407-120-0300 to 0400 (Medicaid Provider Enrollment and Claiming), and OAR chapter 410, division 120 (Medicaid General Rules) as applicable.

(15) "Foster Home" means any Department licensed or certified family home in which residential services are provided as described in:

(a) OAR chapter 411, division 050 for adult foster homes for older adults and adults with physical disabilities;

(b) OAR chapter 411, division 346 for foster homes for children with developmental disabilities; and

(c) OAR chapter 411, division 360 for adult foster homes for individuals with developmental disabilities.

(16) "Healthcare Provider" means a licensed provider providing services such as but not limited to home health, hospice, mental health, primary care, specialty care, durable medical equipment, pharmacy, or hospitalization to an eligible individual.

(17) "Home" means a non-licensed setting where an individual is receiving home and community based waived services.

(18) "Home and Community Based Waivered Services" mean the services approved and funded by the Centers for Medicare and Medicaid Services for eligible individuals who are aged and physically disabled and for eligible individuals with intellectual disabilities and developmental disabilities in accordance with section 1915(c) under Title XIX of the Social Security Act.

(19) "Home Health Agency" has the meaning given that term in ORS 443.005.

(20) "Individual" means a person eligible for community nursing services under these rules.

(21) "In-Home Care Agency" has the meaning given that term in ORS 443.305.

(22) "Local Office" means the Department office, Area Agency on Aging, or Community Developmental Disability Program responsible for Medicaid services including case management, referral, authorization, and oversight of long term care community nursing services in the region where the individual lives and where the community nursing services are delivered.

(23) "Long Term Care Community Nursing Services (Community Nursing Service)" mean, for the purpose of these rules, the nursing services provided under these rules to individuals living in a home based or foster home setting where the monthly home and community based waived services rate does not include nursing services. Long term care community nursing services are a distinct set of services that focus on an individual's chronic and ongoing health and activity of daily living needs. Long term care community nursing services include an assessment, monitoring, delegation, teaching, and coordination of services that addresses an individual's health and safety needs in a Nursing Service Plan that supports individual choice and autonomy. The requirements in these rules are provided in addition to any nursing related requirements stipulated in the licensing rules governing the individual's place of residence.

(24) "Medication Review" means a review focused on an individual's medication regime that includes examination of the prescriber's orders and related administration records, consultation with a pharmacist or the prescriber, clarification of PRN (as needed) parameters, and the development of a teaching plan based upon the needs of the individual or the individual's caregiver. In an unlicensed setting, the medication review may include observation and teaching related to administration methods and storage systems.

(25) "Nursing Assessment" means one of the following assessments selected by the registered nurse based on an individual's need and situation:

- (a) A "nursing assessment" as defined in OAR 851-047-0010 (Standards for Community Based Care Registered Nurse Delegation); or

(b) A "comprehensive assessment" or "focused assessment" as defined in OAR 851-045-0030 (Standards and Scope of Practice for the Licensed Practical Nurse and Registered Nurse).

(26) "Nursing Service Plan" means the plan that is developed by the registered nurse based on an individual's initial nursing assessment, reassessment, or updates made to a nursing assessment as a result of monitoring visits.

(a) The Nursing Service Plan is specific to the individual and identifies the individual's diagnoses and health needs, the caregiver's teaching needs, and any care coordination, teaching, or delegation activities.

(b) The Nursing Service Plan is separate from the case manager's service plan, the foster home provider's service plan, and any service plans developed by other health professionals.

(c) Nursing service plans must meet the standards in OAR chapter 851, division 045 (Standards and Scope of Practice for the Licensed Practical Nurse and Registered Nurse).

(27) "OSBN" means the Oregon State Board of Nursing. OSBN is the agency responsible for regulating nursing practice and education for the purpose of protecting the public's health, safety, and well-being.

(28) "Rate Schedule" means the communication tool issued by the Department to transmit rate changes to partners, subcontractors, and stakeholders. The Department maintains this document on the Department's website (<http://www.oregon.gov/dhs/spd/provtools/rateschedule.pdf>). Printed copies may be obtained by contacting the Department of Human Services, ATTN: Rule Coordinator, 500 Summer Street NE, E10, Salem, OR 97301.

(29) "RN" means a registered nurse licensed by the Oregon State Board of Nursing. An RN providing long term care community nursing services under these rules is either an independent contractor who is an enrolled Medicaid provider or an employee of an organization that is an enrolled Medicaid provider.

(30) "These Rules" mean the rules in OAR chapter 411, division 048.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0170 Eligibility and Limitations

(Adopted 4/15/2013)

(1) ELIGIBILITY. Community nursing services may be provided by an RN to an individual if the individual meets the following requirements:

(a) The individual must be determined eligible for home and community based waived services provided through the Department;

(b) The individual must be receiving services through one of the following:

(A) Long term supports for children with developmental disabilities as described in OAR chapter 411, division 308;

(B) Adult foster homes for individuals with developmental disabilities as described in OAR chapter 411, division 360;

(C) Foster homes for children with developmental disabilities as described in OAR chapter 411, division 346;

(D) Comprehensive in home support for adults with developmental disabilities as described in OAR chapter 411, division 330;

(E) Adult foster homes for older adults and adults with physical disabilities as described in OAR chapter 411, division 050;

(F) Independent Choices Program participants as described in OAR chapter 411, division 030;

(G) 1915C Nursing Facility Waiver; or

(H) State Plan K Community First Choice;

(c) The individual must live in a home or a foster home as defined in OAR 411-048-0160;

(d) The individual must be referred by their case manager for long term care community nursing services. Individuals may request long term community nursing services through their case manager.

(2) LIMITATIONS.

(a) Long term care community nursing services may not be provided to:

(A) A resident of a nursing facility, assisted living facility, residential care facility, 24 hour developmental disability group home, or intermediate care facility for individuals with developmental disabilities;

(B) An individual enrolled in a brokerage, Independent Choices, or other support services not funded by home and community based waived services; or

(C) An individual enrolled in a program or residing in a setting where nursing services are provided under a monthly service rate.

(b) Case managers may not prior authorize long term care community nursing services that duplicate nursing services provided by Medicare or other Medicaid programs.

(c) Long term care community nursing services do not include nursing activities used for administrative functions such as protective service investigations, pre-admission screenings, eligibility determinations, licensing inspections, case manager assessments, or corrective action activities. This limitation does not include authorized care coordination as defined in OAR 411-048-0160.

(d) Long term care community nursing services do not include reimbursement for direct hands-on nursing as defined in OAR 411-048-0160.

(3) EXCEPTIONS. An exception to sections (2)(c) and (2)(d) of this rule may be requested as described in OAR 411-048-0250.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0180 Long Term Care Community Nursing Services

(Adopted 4/15/2013)

When authorized by an individual's case manager, the following long term care community nursing services must be provided by an RN in accordance with these rules and the scope of practice as stated in the Oregon State Board of Nursing rules in OAR chapter 851.

(1) REVIEW OF REFERRAL. An RN must screen a referral and notify the individual's case manager of their decision to accept or refuse the referral within two business days of receiving the referral on the Department approved form. The RN may refuse any referral.

(2) INITIAL ASSESSMENT. The RN must perform a face-to-face comprehensive nursing assessment as defined in OAR 851-045-0030 within 10 business days following the acceptance of the individual's referral.

(a) The RN must conduct and document the comprehensive nursing assessment as specified in OAR chapter 851, division 045.

(b) The RN must send copies of the comprehensive nursing assessment to the individual's case manager. If the RN recommends ongoing long term care community nursing services, the RN must send a Nursing Service Plan as described in section (4) of this rule with the individual's comprehensive nursing assessment.

(3) REASSESSMENT. The RN must perform a face-to-face reassessment and update the individual's Nursing Service Plan at least annually and more frequently at the RN's discretion if

the individual experiences a change of condition or change of environment. Based on individual need, the RN must determine if this reassessment is a focused or comprehensive assessment as defined in OAR 851-045-0030.

(a) The RN must conduct and document the comprehensive or focused assessment as specified in OAR chapter 851, division 045.

(b) The RN must complete the reassessment within 10 business days of the date the reassessment started.

(c) The RN must send copies of the reassessment to the individual's case manager and include an updated Nursing Service Plan as described in section (4) of this rule.

(4) **NURSING SERVICE PLAN.** Based on the initial assessment or reassessment, the RN must develop or update the individual's Nursing Service Plan.

(a) The Nursing Service Plan must describe the needs of the individual and the individual's caregiver and the specific interventions the RN intends to provide to meet those needs including scope, duration, and frequency.

(b) An RN must complete and document Nursing Service Plans on the Department approved form and provide the Nursing Service Plan to an individual's case manager within 10 business days of the date that an initial assessment or a reassessment is initiated.

(c) An RN must attend a minimum of two Nursing Service Plan review meetings each year with a case manager. The RN and the case manager may agree to conduct the Nursing Service Plan review meeting by phone.

(5) **DELEGATION.** An RN must follow the standards and documentation requirements for delegation of nursing tasks as required by OAR chapter 851, division 047 (Standards for Community Based Care Registered RN Delegation).

(a) The RN alone, based on professional judgment and regulation, makes the determination to delegate or not delegate a nursing task, or to rescind a delegation.

(b) The RN must provide the case manager with an estimate of the number of hours of delegation the individual needs on the Nursing Service Plan and keep the case manager informed of ongoing delegation activities on the Service Summary form.

(c) The RN must keep the adult foster home provider informed of the delegation decisions and activities provided to caregivers in their home.

(6) **TEACHING.** An RN must follow the standards and documentation requirements for teaching health promotion as described in OAR 851-045-0060.

(a) In an overall teaching plan, the RN must describe and document the reason the teaching is needed and the specific goals for the individual or the individual's caregiver.

(b) An RN must follow the standards for community based care RN delegation in OAR chapter 851, division 047 and the standards for provision of nursing care by a designated caregiver in OAR chapter 851, division 048 when teaching an individual and the individual's caregiver the nursing tasks needed to meet the individual's health care needs.

(c) Teaching related to non-injectable medications or anticipated emergencies must be provided by an RN in accordance with OAR chapter 851, division 047 (Standards for Community Based Care RN Delegation).

(7) MONITORING. An RN must provide home based monitoring visits as needed to oversee and implement an individual's Nursing Service Plan.

(a) The RN must document the projected frequency of monitoring visits in an individual's Nursing Service Plan and may adjust the frequency based on the complexity of the Nursing Service Plan and the individual's needs.

(b) Calls with adult foster home providers, caregivers, or an individual to review health status, follow up on instructions, or exchange information related to care coordination are considered a monitoring visit.

(8) MEDICATION REVIEW. An RN must provide a medication review during each monitoring visit and as part of an initial assessment or reassessment. The scope of a medication review shall be based on the RN's judgment and the needs of the individual or the individual's caregiver. Information gathered as part of a medication review may result in changes to an RN's Teaching Plan or care coordination activity.

(9) CARE COORDINATION. An RN provides care coordination in order to advocate for health care services that an individual needs and to gather the information that is needed in the assessment or reassessment process, medication review, or Nursing Service Plan implementation. An RN uses care coordination to provide updated information to people involved in an individual's health care via phone calls, faxes, electronic mediums, or meetings. Care coordination is provided but not limited to case managers, RNs who provide acute care community nursing services, health care providers, and non-caregiving family members or legal representatives.

(10) Time spent completing the services described in sections (3) to (9) of this rule may be included in the claim for the respective service but must meet documentation standards specified in OAR 410-120-1360(1)(a)(b).

(11) PRIOR AUTHORIZATION. All long term care community nursing services in sections (2) to (9) of this rule must be prior authorized by an individual's case manager.

(a) An RN must use an individual's Nursing Service Plan to estimate the number of hours needed for community nursing services within a six month time period. The RN must document the estimated number of community nursing service hours on the Department approved form for authorization and send the Department approved form for authorization to the individual's case manager.

(b) The case manager must authorize the proposed hours after reviewing the individual's completed Nursing Service Plan. The case manager must complete the prior authorization within 5 business days of receiving the Department approved form for authorization and the individual's completed Nursing Service Plan.

(12) Prior authorization for the initial assessment and delegation of services described in sections (2) and (5) of this rule is granted once the Department approved form for referral is signed by the RN and the individual's case manager. The payment received by an RN for initial assessment shall include compensation for all community nursing services excluding delegation, provided by the RN to the individual and the individual's caregiver. Payment is not provided until prior authorization as described in section (11) of this rule has been provided to the RN by the individual's case manager.

(13) An RN must use the Department approved Service Summary form as the communication tool for case managers and caregivers to document the monitoring, care coordination, teaching, delegation, or other services as noted in these rules provided to each individual.

(14) A local office manager may grant an exception to the timeframes required in this rule on a case specific basis.

Stat. Auth: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0190 Communication and Notification Practices

(Adopted 4/15/2013)

(1) **MANDATORY REPORTING.** An RN must report suspected or known neglect or abuse of all older adults, adults, and children as required by OSBN and ORS 124.050 to 095, ORS 430.735 to 765, and ORS 419B.005 to 045.

(2) **CONFIDENTIALITY.**

(a) An RN must adhere to the OSBN confidentiality standards as described in OAR chapter 851 as well as the federal regulations adopted to implement the Health Insurance Portability and Accountability Act.

(b) An RN must provide all written, verbal, digital, video, and electronic information regarding an individual in accordance with the Department's confidentiality parameters as described in OAR chapter 407, division 014 and the federal regulations adopted to implement the Health Insurance Portability and Accountability Act.

(3) NOTIFICATION.

(a) An RN must immediately communicate possible life-threatening health and safety concerns to:

(A) The local office protective service worker, worker of the day, or case manager; and

(B) 911, police, or physician if needed to address emergent or urgent safety concerns.

(b) If while performing long term care community nursing services under these rules an RN determines that an individual's health condition is unstable or a significant change of condition is noted, the RN must either notify the individual's physician or primary care provider directly or ensure that the individual's caregiver has reported this information to them.

(c) An RN must notify the individual's case manager or local office management within one business day of non life threatening but high risk concerns including changes in condition as described in subsection (b) of this section, concerns about placement, or concerns about a caregiver's performance.

(d) An RN must notify the individual's case manager if the RN becomes aware that an individual has recently received a significant healthcare intervention such as an emergency room visit, hospitalization, a change in physician, referral to a specialist, home health, or hospice.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0200 Additional Documentation Requirements

(Adopted 4/15/2013)

(1) An RN must meet the documentation, record keeping, and communication standards as required by the Department in addition to the documentation, record keeping, and communication standards as required by the OSBN in OAR chapter 851. Compliance with these standards ensures communication between an RN and an individual's case manager and caregiver.

(2) The documentation standards in this rule and on Department approved forms provided by the Department do not replace or substitute for the documentation requirements in the:

(a) Rules for professional nursing standards as prescribed by the OSBN in OAR chapter 851, divisions 045, 047, and 48;

(b) Medicaid provider rules governing provider requirements as described in OAR chapter 407, division 120; and

(c) As applicable, the Medicaid General Rules described in OAR chapter 410, division 120.

(3) An RN is expected to complete the Department approved forms specified by the Department to support the long term care community nursing services in these rules. The Department may approve the use of alternative but equivalent forms.

(4) An RN must send copies of the completed Department approved forms to the case manager prior to or at the time of invoice submission. Documentation must support the long term care community nursing services billed and adhere to the timeframes noted in these rules.

(a) An individual's case manager must receive the required Department approved forms and documentation to pay a claim.

(b) Failure to comply with the documentation standards in this rule may result in the determination of overpayment for which restitution may be sought.

(5) All documentation must be provided in HIPAA secured format.

(6) The self-employed RN that is enrolled as a Medicaid provider or an agency enrolled as a Medicaid provider as described in OAR 411-048-0210 must maintain a record of all long term care community nursing services provided to each assigned individual and the individual's caregiver.

(a) The record must include copies of all documentation provided to the local office as well as any additional documentation the RN or agency maintained to meet OSBN or Medicaid provider rules.

(b) The RN must retain the record until the RN no longer provides long term care community nursing services to the individual, at which time the RN or agency must provide the individual's case manager a copy of any part of the record not previously provided.

(c) The RN or agency must retain original records for each individual following HIPAA practices for a period of seven years.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0210 Qualifications for Enrolled Medicaid Providers
(Adopted 4/15/2013)

(1) The Department may determine the number and type of enrolled Medicaid providers in a geographic area to assure that there is an appropriate number of qualified enrolled Medicaid providers to meet the needs of individuals eligible for long term care community nursing services.

(2) The Department shall select qualified enrolled Medicaid providers for long term care community nursing services according to the standards in these rules, OAR 407-120-0320, and OAR chapter 410, division 120 as applicable.

(3) The long term care community nursing services provided under these rules may be delivered by the following enrolled Medicaid providers:

(a) An RN who is a self-employed provider;

(b) Home health agencies meeting the requirements in OAR chapter 333, division 027;
or

(c) In-home care agencies meeting the requirements in OAR chapter 333, division 536.

(4) A self-employed RN who contracts with the Department to provide long term care community nursing services under these rules must:

(a) Pass a background check as defined in OAR 407-007-0210; and

(b) Provide and have available verification of the following:

(A) A current and unencumbered Oregon Registered RN license;

(B) Certification of professional liability insurance with coverage that meets Department requirements;

(C) Documentation supporting qualifications and expertise:

(i) A minimum of three years experience practicing as an RN in an in-home, home health, skilled nursing, hospital, or Department licensed community setting. At least one of these three years must have occurred within three years of the date the RN contracted with the Department to provide long term care community nursing services.

(ii) Experience providing nursing delegation or a pass score on the Department's nursing delegation self study test.

(D) Contact information for people or entities that verify the qualifications and expertise documented pursuant to this section.

(c) The RN must attend a contract briefing session with the local office management to review contract expectations.

(5) Agencies listed in section (3)(b) and (c) of this rule who contract with the Department to provide long term care community nursing services under these rules must:

(a) Maintain compliance with existing in home or home health agency licensing rules;

(b) Maintain a separate contract with the Department to provide Medicaid funded in home care agency services;

(c) Provide and have available verification of the following:

(A) A current and unencumbered Oregon Registered RN license;

(B) Certification of professional liability insurance with coverage that meets Department requirements;

(C) Documentation verifying the qualification and expertise of the RNs hired by the agency to provide long term care community nursing services including:

(i) Experience providing nursing delegation or a pass score on the Department's nursing delegation self study test;

(ii) Contact information for people or entities that verify the qualifications and experience documented pursuant to this section; and

(iii) A background check as defined in OAR 407-007-0210.

(D) Evidence of policies and procedures ensuring that the agency and its employees follow the specific standards in OAR chapter 411, division 048 that may exceed OAR chapter 333, division 536.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0220 Medicaid Provider Disenrollment /Termination

(Adopted 4/15/2013)

(1) Enrolled Medicaid providers of long term care community nursing services, or RN employees of an agency enrolled as a Medicaid provider providing these long term care community nursing services may be denied enrollment, terminated, or prohibited from providing long term care community nursing services for any of the following:

(a) Violation of any part of these rules;

(b) Violation of the protective service and abuse rules in OAR chapter 411, division 020 and OAR chapter 407, division 045;

(c) Any sanction or action as a result of an OSBN investigation;

(d) Failure to keep required licensure or certifications current;

(e) Failure to provide copies of the records described in these rules to designated Department or Oregon Health Authority entities;

(f) Repeated failure to participate in Nursing Service Plan review or care coordination meetings when requested by an individual's case manager;

(g) Failure to obtain a pass score on the Department's delegation self study test if requested by the Department;

(h) Failure to provide services;

(i) Fraud or misrepresentation in the provision of long term care community nursing services;

(j) Evidence of conduct derogatory to the standards of nursing as described in OAR 851-045-0070 that results in referral to OSBN; or

(k) A demonstrated pattern of repeated unsubstantiated complaints of neglect or abuse per OAR chapter 411, division 020 and OAR chapter 407, division 045.

(2) Enrolled Medicaid providers may appeal a termination of their Medicaid provider number based on OAR 407-120-0360(8)(g) and OAR chapter 410, division 120 as applicable.

(3) Enrolled Medicaid providers of long term care community nursing services must provide advance written notice to the Department at least 30 days prior to no longer providing long term care community nursing services.

(4) An RN ending long term care community nursing services must comply with the OSBN's standards regarding transition of care and transfer or rescinding of delegations per OAR chapter 851, division 47.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0230 Compensation and Billing

(Adopted 4/15/2013)

(1) All long term care community nursing services must be authorized by an individual's case manager using Department approved forms provided by the Department prior to the delivery of long term care community nursing services.

(2) All billing and claims must comply with:

(a) OAR 407-120-0330 and 407-120-0340;

(b) OAR chapter 410, division 120 as applicable; and

(c) The Long Term Care Nursing Procedure Codes and Payment Authorization Guidelines posted at <http://www.oregon.gov/dhs/spd/pages/provtools/nursing/forms.aspx>.

(3) Compensation for long term care community nursing services in OAR 411-048-0180 shall be defined in the Department's rate schedule or through a contract with the Department. The Department may adjust rates in underserved areas to assure that individuals have access to long term care community nursing services.

(4) Payment for non-Medicaid covered services must be prior authorized by the Department and billed on Department approved invoices.

(a) Rates for non-Medicaid services shall be determined by the Department but may not exceed the rate noted on the Department's rate schedule.

(b) The Department makes payment for non-Medicaid covered services within 45 days of receipt of the completed invoice.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0240 Orientation Requirements

(Adopted 4/15/2013)

(1) Self-employed RN providers as described in OAR 411-048-0210 must attend a total of 12 hours of office or field based orientation. Field based orientation must be provided by an experienced RN prior approved by the local office.

(2) Local office management may authorize additional orientation or field mentorship hours if mutually agreed upon by the newly contracted RN and the local office manager

(3) Each RN providing long term care community nursing services as an employee of an agency as described in OAR 411-048-0210 must attend a total of 12 hours of office or field based orientation approved by the local office.

(4) Local office managers may exempt an RN employed by an agency or a self-employed RN provider from all or part of orientation activities based on written request from the agency or self-employed RN provider describing an alternative orientation plan. The agreed upon alternative orientation plan must be signed by either the agency or self-employed provider and local office management. The local office must provide a copy of the signed alternative orientation plan to the Department.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-048-0250 Exceptions

(Adopted 4/15/2013)

(1) The Department may grant an exception to these rules. Implementation of an exception may not occur without the Department's written approval.

(2) A request for an exception to these rules must include but not be limited to the following standards:

(a) A written exception request must be provided to central office Department management for prior approval. The exception request must include;

(A) Local office management support for the exception request;

(B) A description of the benefit to the individual served by the Department that may occur as result of the exception; and

(C) Details regarding the specific rule for which the exception may be granted, the rationale for why the exception is needed, the proposed duration of the exception, identification of alternatives (including rule compliance), and costs of the exception if any.

(b) The exception may not impact compliance with any rules other than these rules for long term care community nursing services in OAR chapter 411, division 048.

(c) The exception may not result in non compliance with the Department's contract standards.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: Qualifications and Requirements for Limited Adult Foster Homes

Rule Number(s): 411-050-0662

Program Area: APD: Adult Foster Homes for Adults

Adoption Date: 8/31/2013



Review Due Date:
8/31/2018



Review Date:
7/15/17

Reviewer's Name:
Sylvia Rieger



***Advisory Committee Used**

Advisory Committee Not Used

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What was the intended effect of this rule adoption?

Qualifications and Requirements for Limited Adult Foster Homes

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect? Yes, with the exception noted below (pertaining to financial requirements), and for that reason, that section was modified.
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed? Due to privacy concerns, the new financial requirement for initial license applications requiring the last three months of bank statements and a copy of a complete and current credit check was removed in temp rules that went into effect 10/16/13. The financial requirements were further modified with stakeholder input for the permanent rules that went into effect 4/1/14. 6-28-2015 Perm; 1-1-2016 Temp; 6-28-2016 Perm
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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Additional Comments:

***Date report sent to advisory committee members:** _____

Report approved by:
Printed name: Lynette Caldwell Signature: Lynette Caldwell Date: 6/15/17

411-050-0662 Qualifications and Requirements for Limited Adult Foster Homes
(Adopted 9/1/2013)

(1) To qualify for a limited adult foster home license the applicant or licensee must submit:

(a) A completed application for initial or renewal limited licenses;

(b) The Department's Health History and Physician's or Nurse Practitioner's Statement that indicates the applicant or licensee is physically, cognitively, and emotionally capable of providing care to a specific adult who is older or who has a physical disability and with whom the applicant has an established relationship of not less than one year. The Health History and Statement must be submitted initially and every third year or sooner if there is reasonable cause for health concerns;

(c) Documentation of the initiation of a background check or copy of an approved background check for each subject individual;

(d) Completion of the Department's Caregiver Preparatory Training Study Guide (DHS 9030) and Workbook (DHS 9030-W); and

(e) A \$20 non-refundable fee. If the licensee requests and is granted a variance from the capacity limitation of one resident, a \$20 per bed non-refundable fee for each non-relative resident is required.

(2) The applicant or licensee must demonstrate a clear understanding of the resident's care needs.

(3) The applicant or licensee must live in the home that is to be licensed.

(4) The applicant or licensee must own, rent, or lease the home in which care is being provided. The applicant or licensee must provide verification of proof of ownership or a copy of the signed and dated rental or lease agreement as applicable.

(5) A caregiver must be available at all times, 24 hours a day, 7 days a week, when the resident is in the home. The caregiver must have the knowledge and ability to meet the resident's care needs. All caregivers must:

(a) Have an approved background check according to the Criminal Records and Abuse Check rules (OAR 407-007-0200 through 407-007-0370) prior to working in the home;

(b) Complete the Department's Caregiver Preparatory Training Study Guide (DHS 9030) and Workbook (DHS 9030-W); and

(c) Be at least 18 years of age.

(6) The licensee must notify the local licensing authority if the licensee shall be absent from the home 10 days or more and the resident shall be remaining in the home during the absence. The licensee must also submit a staffing plan to the local licensing authority demonstrating coverage during the absence that meets the needs of the resident.

(7) The resident's bedroom must be in close enough proximity to the licensee or caregiver in charge to alert him or her to nighttime needs or emergencies, or the bedroom must be equipped with a functional call bell or intercom within the resident's abilities to operate.

(8) The licensee and caregiver must have a complete understanding of the resident's medications. The licensee must have a copy of current prescribing practitioner orders including, if applicable, written authorization for self-administration of medications.

(9) Medications must be stored in their original labeled container except when stored in a 7-day closed container manufactured for advanced set-up of medications.

(10) The licensee and caregiver must place used, disposable syringes and needles, and other sharp items in a puncture-resistant, red container designed for disposal of sharp items. Disposal must be according to local regulations and resources (ORS 459.386 through 459.405).

(11) The licensee, the licensee's family, and employees of the home must guarantee not to violate the Residents' Bill of Rights as outlined in OAR 411-050-0655.

(12) The licensee must have a copy of any Advance Directive, Physician Order for Life-Sustaining Treatment (POLST), and Do Not Resuscitate (DNR) orders.

(13) The home must have a working landline and corded telephone. If the licensee has a caller identification service on the home number, the blocking feature must be disabled to allow incoming calls to be received unhindered. Voice over internet protocol (VoIP), voice over broadband (VoBB), or cellular telephone service may not be used in-place of a landline.

(14) CONSTRUCTION. Interior and exterior doorways used by a resident must be wide enough to accommodate wheelchairs and walkers if used by the resident. Interior and exterior stairways must be unobstructed, equipped with handrails, and appropriate to the condition of the resident.

(15) Hardware for all exit doors and interior doors must be readily visible and have simple hardware that may not be locked against exit and must have an obvious method of operation. Hasps, sliding bolts, hooks and eyes, slide chain locks, and double key deadbolts are not permitted. If a home has a resident with impaired judgment who is known to wander away, the home must have an activated alarm system to alert a caregiver of the resident's unsupervised exit.

(16) Buildings must be of sound construction with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread of

finished materials may not exceed 200 and the smoke developed index may not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exit way is composed of readily combustible material such as acoustical tile or wood paneling, such material must be treated with an approved flame retardant coating. Exception: Buildings supplied with an approved automatic sprinkler system.

(a) **MANUFACTURED HOMES.** Manufactured home (formerly mobile homes) units must have been built since 1976 and designed for use as a home rather than a travel trailer. The unit must have a manufacturer's label permanently affixed on the unit itself that states the unit meets the requirements of the Department of Housing and Urban Development (HUD). The required label must read as follows:

"As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See date plate."

(b) If such a label is not evident and the licensee believes the unit meets the required specifications, the licensee must take the necessary steps to secure and provide verification of compliance from the manufacturer.

(c) Mobile homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated with a flame retardant coating.

(17) The applicant or licensee must meet minimal fire safety standards including:

(a) A functional smoke alarm with back-up battery must be installed in all sleeping areas and hallways or access ways that adjoin sleeping areas;

(b) A functional carbon monoxide alarm with back-up battery must be installed within 15 feet of each bedroom and at a height as recommended by the manufacturer;

(c) At least one fire extinguisher with a minimum classification of 2-A:10-B:C must be mounted in a visible and readily accessible location on each floor, including basements, and be checked at least once a year by a qualified person who is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose;

(d) The licensee must have a safe evacuation plan and may be required to demonstrate their evacuation plan. The licensee may be required to install an Americans with Disabilities Act (ADA) compliant ramp for the safety of all occupants;

(e) The licensee and all occupants must be able to evacuate within 3 minutes to an initial point of safety exterior to and away from the structure, with access to a public



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: Quality and Efficiency Incentive Program

Rule Number(s): 411-070-0437

Program Area: Aging and People with Disabilities

Adoption Date: 3-13-2014



Review Due Date:
3-13-2019



Review Date:
1/17/2019

Reviewer's Name:
Cindy Susee



***Advisory Committee Used**

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What was the intended effect of this rule adoption?

411-070-0437: Quality and Efficiency Incentive Program - Program rules to Implement HB 2216 for Medicaid nursing facilities. In the bill the Department was directed to implement a nursing facility capacity reduction and this program was established as a result of that.

- Yes
- No

Has this rule adoption had its intended effect?

- Yes
- No

Was the anticipated fiscal impact of this rule underestimated?

- Yes
- No

Was the anticipated fiscal impact of this rule overestimated?

- Yes
- No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

4-1-2016 Temp; 9-28-2016 Perm

- Yes
- No

Is there a continued need for this rule?

Additional Comments:

***Date report sent to advisory committee members:** 1/23/2019

Report approved by:

Ar. Lee / Heloersch
Printed name

[Signature]
Signature

1/17/19
Date

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Department of Human Services, Aging and People with Disabilities

411

Agency and Division		Administrative Rules Chapter Number
Christina Hartman	500 Summer Street NE, E-10 Salem, OR 97301-1074	(503) 945-6398

Rules Coordinator	Address	Telephone
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RULE CAPTION

Nursing Facility Capacity Reduction

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

February 18, 2014	1:30 p.m.	Human Services Building 500 Summer Street NE, Rm. 160 Salem, Oregon 97301	Staff
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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

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:
411-070-0437

AMEND:
411-070-0005, 411-070-0300, 411-070-0442

REPEAL:
Temporary Rules 411-070-0005(T), 411-070-0300(T), 411-070-0437(T),
411-070-0442(T)

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 410.070 & 414.065

Other Auth.: HB 2216 (2013) & OL 2013 chapter 608

Stats. Implemented: ORS 410.070 & 414.065

RULE SUMMARY

The Department of Human Services (Department) is proposing to update the rules in OAR chapter 411, division 070 for Medicaid nursing facilities to make permanent temporary rule language that became effective on October 7, 2013 to implement HB 2216 (2013) which directs the Department to implement a nursing facility capacity reduction.

The proposed rules:

- Establish a statewide bed reduction target for nursing facilities to bring Oregon's occupancy rate closer to the national level;
- Provide an augmented rate for nursing facilities that purchase beds from nursing facilities that are no longer needed;
- Reduce nursing facility reimbursement rates if identified reduction targets are not achieved;
- Authorize annual rebasing of the nursing facility rate; and
- Extend the Nursing Facility Financial Statement deadline to October 31 of each year with no extensions.

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.

February 21, 2014 at 5 p.m.

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

Signed Michael R. McCormick, Director, Aging and People with Disabilities

12/11/2013

Signature

Date

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 Human Services, Aging and People with Disabilities

411

Agency and Division

Administrative Rules Chapter Number

Nursing Facility Capacity Reduction

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

In the Matter of: The adoption of OAR 411-070-0437; amendment of OAR 411-070-0005, 411-070-0300, and 411-070-0442; and repeal of temporary rules OAR 411-070-0005(T), 411-070-0300(T), 411-070-0437(T), and 411-070-0442(T) relating to nursing facilities.

Statutory Authority: ORS 410.070 & 414.065

Other Authority: HB 2216 (2013) & OL 2013 chapter 608

Stats. Implemented: ORS 410.070 & 414.065

Need for the Rule(s):

The Department needs to permanently update the rules in OAR chapter 411, division 070 to make permanent the temporary rules that became effective on October 7, 2013 to implement HB 2216 which directs the Department to implement a nursing facility capacity reduction.

The proposed rules implement the nursing facility capacity reduction in accordance with HB 2216 by:

- Establishing a statewide bed reduction target for nursing facilities to bring Oregon's occupancy rate closer to the national level;
- Providing an augmented rate for nursing facilities that purchase beds from nursing facilities that are no longer needed;
- Reducing nursing facility reimbursement rates if identified reduction targets are not achieved;
- Authorizing annual rebasing of the nursing facility rate; and
- Extending the Nursing Facility Financial Statement deadline to October 31 of each year with no extensions.

Documents Relied Upon, and where they are available:

HB 2216 (2013)

Available at: <http://www.leg.state.or.us/13reg/measpdf/hb2200.dir/hb2216.en.pdf>

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)):

The Department estimates that amending the rules in OAR chapter 411, division 070 to implement HB 2216 will have the following fiscal and economic impact:

State Agencies: The fiscal and economic impact for the Department is an ongoing cost until December 31, 2019. The estimated cost to the Department for the 2013-2015 biennium is two million dollars in General Funds. The Department is not expecting any fiscal and economic impact on other state agencies.

Units of Local Government: The Department is not expecting any additional fiscal and economic impact on units of local government. If a facility utilizes the Quality and Efficiency Program, the impact on units of local government is the same as when a nursing facility in Oregon closes.

Nursing Facility Residents: The Department is not expecting any additional fiscal and economic impact on nursing facility residents because the fiscal and economic impact is directly on nursing facilities.

Nursing Facilities: The Department is not expecting any additional fiscal and economic impact on nursing facilities unless the statewide goal of reducing 1,500 beds is not achieved by July 1, 2016. If the goal is not reached, the nursing facility reimbursement rate will be reduced by a reduction formula as stated in rule until the goal has been met.

Public: The Department is not expecting any fiscal or economic impact on the public because implementation is exclusively for nursing facilities.

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:

There are approximately 139 nursing facilities impacted by the proposed rule changes. There are 18 nursing facilities that may be considered small businesses as defined in ORS 183.310.

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

The proposed changes impact nursing facilities as described above in the Department's statement of cost of compliance.

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

The proposed changes impact nursing facilities as described above in the Department's statement of cost of compliance.

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

Small businesses as defined in ORS 183.310 were represented by Leading Age Oregon and the Oregon Health Care Association through the Administrative Rule Advisory Committee. Small businesses will also be included in the public review and comment period.

Administrative Rule Advisory Committee consulted?:

Yes. The Administrative Rule Advisory Committee included representation from Oregon Health Care Association, Leading Age Oregon, Oregon Association of Area Agencies on Aging and Disabilities, the Long Term Care Ombudsman, Service Employees International Union, Governor's Commission on Senior Services, Oregon Disabilities Commission, and the Oregon Board of Nursing.

Signed Michael R. McCormick, Director, Aging and People with Disabilities

12/11/2013

Signature

Date

**DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 70**

NURSING FACILITIES/MEDICAID – GENERALLY AND REIMBURSEMENT

Nursing Facilities/Medicaid – Generally

411-070-0005 Definitions

~~As used in~~ Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-085-0005 apply to the rules in OAR chapter 411, division 070, the definitions in OAR 411-085-0005 and the following definitions apply:

- (1) "Accrual Method of Accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.
- (2) "Active Treatment" means the implementation of an individualized care plan developed under and supervised by a physician and other qualified mental health professionals that prescribes specific therapies and activities.
- (3) "Activities of Daily Living" means activities usually performed in the course of a normal day in an individual's life such as eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition/behavior.
- (4) "Addictions and Mental Health (AMH) Division" means the Division, within the Oregon Health Authority, responsible for addictions and mental health services.
- (5) "Alternative Services" mean individuals or organizations offering services to persons living in a community other than a nursing facility or hospital.
- (6) "Area Agency on Aging (AAA)" means the Department of Human Services designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors and individuals with disabilities in a planning and service area. For the purpose of these rules, the term Area Agency on Aging is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210 to 410.300.
- (7) "Augmented Rate" means the additional compensation to a nursing facility who qualifies for the Quality and Efficiency Incentive Program described in OAR 411-070-0437. The augmented

rate is a daily rate of \$9.75 and is in addition to the rate that a nursing facility would otherwise receive. The Department may pay the augmented rate to a qualifying facility for a period not to exceed four years from the date that the facility purchases bed capacity under the Quality and Efficiency Incentive Program.

(78) "Basic Flat Rate Payment" and "Basic Rate" means the statewide standard payment rate for all long term services provided to a Medicaid resident of a nursing facility except for services reimbursed through another Medicaid payment source. The "Basic Rate" is the bundled payment rate unless the resident qualifies for the complex medical add-on rate (in addition to the basic rate) or the bundled pediatric rate (instead of the basic rate).

(89) "Capacity" means licensed nursing beds multiplied by number of days in operation.

(910) "Case Manager" means a Department of Human Services or Area Agency on Aging employee who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements the service plan and monitors the services delivered.

(1011) "Cash Method of Accounting" means a method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for them.

(1112) "Categorical Determinations" mean the provisions in the Code of Federal Regulations {42 CFR 483.130} for creating categories that describe certain diagnoses, severity of illness, or the need for a particular service that clearly indicates that admission to a nursing facility is normally needed or that the provision of specialized services is not normally needed.

(a) Membership in a category may be made by the evaluator only if existing data on the individual is current, accurate, and of sufficient scope.

(b) An individual with mental illness or developmental disabilities may enter a nursing facility without PASRR Level II evaluation if criteria of a categorical determination are met as described in OAR 411-070-0043(2)(a)-(2)(c).

(1213) "Certification" and "Certification for the Categorical Determination of Exempted Hospital Discharge" means that the attending physician has written orders for the individual to receive skilled services at the nursing facility.

(1314) "Certified Program" means a hospital, private agency, or an Area Agency on Aging certified by the Department of Human Services to conduct private admission assessments in accordance with ORS 410.505 through 410.530.

(1415) "Change of Ownership" means a change in the individual or legal organization that is responsible for the operation of a nursing facility. Change of ownership does not include changes that are merely changes in personnel, e.g., a change of administrators. Events that change ownership include but are not limited to the following:

- (a) The form of legal organization of the owner is changed (e.g., a sole proprietor forms a partnership or corporation);
- (b) The title to the nursing facility enterprise is transferred to another party;
- (c) The nursing facility enterprise is leased or an existing lease is terminated;
- (d) Where the owner is a partnership, any event occurs which dissolves the partnership;
- (e) Where the owner is a corporation, it is dissolved, merges with another corporation that is the survivor, or consolidates with one or more other corporations to form a new corporation; or
- (f) The facility changes management via a management contract.

(4516) "Compensation" means the total of all benefits and remuneration, exclusive of payroll taxes and regardless of the form, provided to or claimed by an owner, administrator, or other employee. Compensation includes but is not necessarily limited to:

- (a) Salaries paid or accrued;
- (b) Supplies and services provided for personal use;
- (c) Compensation paid by the facility to employees for the sole benefit of the owner;
- (d) Fees for consultants, directors, or any other fees paid regardless of the label;
- (e) Key man life insurance;
- (f) Living expenses, including those paid for related persons; or
- (g) Gifts for employees in excess of federal Internal Revenue Service reporting guidelines.

(4617) "Complex Medical Add-On Payment" and "Medical Add-On" means the statewide standard supplemental payment rate for a Medicaid resident of a nursing facility whose service is reimbursed at the basic rate if the resident needs one or more of the medication procedures, treatment procedures, or rehabilitation services listed in OAR 411-070-0091, for the additional licensed nursing services needed to meet the resident's increased needs.

(4718) "Continuous" means more than once per day, seven days per week. Exception: If only skilled rehabilitative services and no skilled nursing services are required, "continuous" means at least once per day, five days per week.

~~(1819)~~ "Costs Not Related to Resident Services" means costs that are not appropriate or necessary and proper in developing and maintaining the operation of a nursing facility. Such costs are not allowable in computing reimbursable costs. Costs not related to resident services include, for example, cost of meals sold to visitors, cost of drugs sold to individuals who are not residents, cost of operation of a gift shop, and similar items.

~~(1920)~~ "Costs Related to Resident Services" mean all necessary costs incurred in furnishing nursing facility services, subject to the specific provisions and limitations set out in these rules. Examples of costs related to resident services include nursing costs, administrative costs, costs of employee pension plans, and interest expenses.

~~(2021)~~ "CPI" means the consumer price index for all items and all urban consumers.

~~(2122)~~ "Day of Admission" means an individual being admitted, determined as of 12:01 a.m. of each day, for all days in the calendar period for which an assessment is being reported and paid. If an individual is admitted and discharged on the same day, the individual is deemed present on 12:01 a.m. of that day.

~~(2223)~~ "Department" or "DHS" means the Department of Human Services.

~~(2324)~~ "Developmental Disability" means a disability that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional. Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation, and the disability:

- (a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18;
- (b) Originates and directly affects the brain and has continued, or must be expected to continue, indefinitely;
- (c) Constitutes a significant impairment in adaptive behavior; and
- (d) Is not primarily attributed to a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder (ADHD).

~~(2425)~~ "Direct Costs" mean costs incurred to provide services required to directly meet all the resident nursing and activity of daily living service needs. Direct costs are further defined in OAR 411-070-0359 and OAR 411-070-0465. Examples: The person who feeds food to the resident is directly meeting the resident's needs, but the person who cooks the food is not. The person who is trained to meet the resident's needs incurs direct costs whereas the person providing the training is not. Costs for items that are capitalized or depreciated are excluded from this definition.

(2526) "Division of Medical Assistance Programs (DMAP)" means a Division, within the Oregon Health Authority, responsible for coordinating the medical assistance programs within the State of Oregon including the Oregon Health Plan Medicaid demonstration, the State Children's Health Insurance Program, and several other programs.

(2627) "DRI Index" means the "HCFA or CMS Nursing Home Without Capital Market Basket" index, which is published quarterly by DRI/McGraw - Hill in the publication, "Global Insight Health Care Cost Review".

(28) "Essential Nursing Facility" means a nursing facility that serves predominantly rural and frontier communities as designated by the Office of Rural Health that is located more than 32 miles from another nursing facility or from a hospital that has received a formal notice of Critical Access Hospital (CAH) designation from the Centers for Medicare and Medicaid Services and that is currently contracted to provide swing bed services for Medicaid-eligible individuals.

(2729) "Exempted Hospital Discharge" for PASRR means an individual seeking temporary admission to a nursing facility from a hospital as described in OAR 411-070-0043(2)(a).

(2830) "Facility" or "Nursing Facility" means an establishment that is licensed and certified by the Department of Human Services as a nursing facility. A nursing facility also means a Medicaid certified nursing facility only if identified as such.

(2931) "Fair Market Value" means the price for which an asset would have been purchased on the date of acquisition in an arms-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell.

(3032) "Generally Accepted Accounting Principles" mean the accounting principles approved by the American Institute of Certified Public Accountants.

(3133) "Goodwill" means the excess of the price paid for a business over the fair market value of all other identifiable, tangible, and intangible assets acquired, or the excess of the price paid for an asset over its fair market value.

(3234) "Historical Cost" means the actual cost incurred in acquiring and preparing a fixed asset for use. Historical cost includes such planning costs as feasibility studies, architects' fees, and engineering studies. Historical cost does not include "start-up costs" as defined in this rule.

(3335) "Hospital-Based Facility" means a nursing facility that is physically connected and operated by a licensed general hospital.

(3436) "Indirect Costs" mean the costs associated with property, administration, and other operating support (real property taxes, insurance, utilities, maintenance, dietary (excluding food), laundry, and housekeeping). Indirect costs are further described in OAR 411-070-0359 and OAR 411-070-0465.

(3537) "Individual" means a person who receives or expected to receive nursing facility services.

(3638) "Interrupted-Service Facility" means an established facility recertified by the Department of Human Services following decertification.

(3739) "Level I" means a component of the federal PASRR requirement. Level I refers to the identification of individuals who are potential nursing facility admissions who have indicators of mental illness or developmental disabilities {42 CFR 483.128(a)}.

(3840) "Level II" means a component of the federal PASRR requirement. Level II refers to the evaluation and determination of whether nursing facility services and specialized services are needed for individuals with mental illness or developmental disability who are potential nursing facility admissions, regardless of the source of payment for the nursing facility service {42 CFR 483.128(a)}. Level II evaluations include assessment of the individual's physical, mental, and functional status {42 CFR 483.132}.

(3941) "Level of Care Determination" means an evaluation of the intensity of a person's health service needs. The level of care determination may not be used to require that the person receive services in a nursing facility.

(4042) "Medicaid Occupancy Percentage" means the total Medicaid bed days divided by total resident days.

(4143) "Medical Add-On" or "Complex Medical Add-On Payment" has the meaning provided in section (16) of this rule.

(4244) "Mental Illness" means a major mental disorder as defined in the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (DSM IV-TR) limited to schizophrenic, paranoid and schizoaffective disorders, bipolar (manic-depressive), and atypical psychosis. "Mental Illness" for pre-admission screening means having both a primary diagnosis of a major mental disorder (schizophrenic, paranoid, major affective and schizoaffective disorders, or atypical psychosis) and treatment related to the diagnosis in the past two years. Diagnoses of dementia or Alzheimers are excluded.

(4345) "Mental Retardation" means significantly sub-average general intellectual functioning defined as IQ's under 70 as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior that are manifested during the developmental period, prior to 18 years of age. Individuals of borderline intelligence, IQ's 70-75, may be considered to have mental retardation if there is also significant impairment of adaptive behavior as diagnosed and measured by a qualified professional. The adaptive behavior must be directly related to the issues of mental retardation. Definitions and classifications must be consistent with the "Manual of Terminology and Classification in Mental Retardation" by the American Association on Mental Deficiency, 1977 Revision.

(a) Mild mental retardation is used to describe the degree of retardation when intelligence test scores are 50 to 69. Individuals with IQ's in the 70 to 75 range may be considered as having mental retardation if there is significant impairment in adaptive behavior as defined in OAR 411-320-0020.

(b) Moderate mental retardation is used to describe the degree of retardation when intelligence test scores are 35 to 49.

(c) Severe mental retardation is used to describe the degree of retardation when intelligence test scores are 20 to 34.

(d) Profound mental retardation is used to describe the degree of retardation when intelligence test scores are below 20.

(4446) "Necessary Costs" mean costs that are appropriate and helpful in developing and maintaining the operation of resident facilities and activities. Necessary costs are usually costs that are common and accepted occurrences in the field of long term nursing services.

(4547) "New Admission" for PASRR purposes means an individual admitted to any nursing facility for the first time. It does not include individuals moving within a nursing facility, transferring to a different nursing facility, or individuals who have returned to a hospital for treatment and are being admitted back to the nursing facility. New admissions are subject to the PASRR process {42 CFR 483.106(b)(1), (3), (4)}.

(4648) "New Facility" means a nursing facility commencing to provide services to individuals.

(4749) "Nursing Aide Training and Competency Evaluation Program (NATCEP)" means a nursing assistant training and competency evaluation program approved by the Oregon State Board of Nursing pursuant to ORS chapter 678 and the rules adopted pursuant thereto.

(4850) "Nursing Facility Financial Statement (NFFS)" means Form SPD 35, or Form SPD 35A (for hospital-based facilities), and includes an account number listing of all costs to be used by all nursing facility providers in reporting to the Department of Human Services for reimbursement.

(4951) "Occupancy Rate" means total resident days divided by capacity.

(52) "Official Bed Count Measurement" means the number of licensed nursing facility beds as of October 7, 2013 and the beds being developed by facilities that either applied to the Oregon Health Authority for a certificate of need between August 1, 2011 and December 1, 2012 or submitted a letter of intent under ORS 442.315(7) between January 15, 2013 and January 31, 2013.

(5053) "Ordinary Costs" mean costs incurred that are customary for the normal operation.

(~~5154~~) "Oregon Medical Professional Review Organization (OMPRO)" means the organization that determines level of services, need for services, and quality of services.

(~~5255~~) "Pediatric Rate" means the statewide standard payment rate for all long term services provided to a Medicaid resident under the age of 21 who is served in a pediatric nursing facility or a self-contained pediatric unit.

(~~5356~~) "Perquisites" mean privileges incidental to regular wages.

(~~5457~~) "Personal Incidental Funds" mean resident funds held or managed by the licensee or other person designated by the resident on behalf of a resident.

(~~5558~~) "Placement" means the location of a specific place where health services can be adequately provided to meet the service needs.

(~~5659~~) "Pre-Admission Screening (PAS)" means the assessment and determination of a potential Medicaid-eligible individual's need for nursing facility services, including the identification of individuals who can transition to community-based service settings and the provision of information about community-based alternatives. This assessment and determination is required when potentially Medicaid-eligible individuals are at risk for admission to nursing facility services. PAS may include the completion of the federal PASRR Level I requirement {42 CFR, Part 483, (C)-(E)}, to identify individuals with mental illness or mental retardation or developmental disabilities.

(~~5760~~) "Pre-Admission Screening and Resident Review (PASRR)" means the federal requirement, {42 CFR, Part 483, (C)-(E)}, to identify individuals who have mental illness or developmental disabilities and determine if nursing facility service is required and if specialized services are required. PASRR includes Level I and Level II functions.

(~~5861~~) "Prior Authorization" means the local Seniors and People with Disabilities Division/Area Agency on Aging office participates in the development of proposed nursing facility care plans to assure that the facility is the most suitable service setting for the individual. Nursing facility reimbursement is contingent upon prior-authorization.

(~~5962~~) "Private Admission Assessment (PAA)" means the assessment that is conducted for non-Medicaid residents as established by ORS 410.505 to 410.545 and OAR chapter 411, division 071, who are potential admissions to a Medicaid-certified nursing facility. Service needs are evaluated and information is provided about long-term service choices. A component of private admission assessment is the federal PASRR Level I requirement, {42 CFR, Part 483.128(a)}, to identify individuals with mental illness or developmental disabilities.

(~~6063~~) "Provider" means an entity, licensed by the Seniors and People with Disabilities Division, responsible for the direct delivery of nursing facility services.

(~~6164~~) "Provider Preventable Condition (PPC)" means a condition listed below caused by the provider:

- (a) Foreign object retained after treatment;
- (b) Stage III and IV pressure ulcers;
- (c) Falls and trauma;
- (d) Manifestations of poor glycemic control;
- (e) Catheter-associated urinary tract infection;
- (f) Medication error; or
- (g) Surgical site or wound site infection.

(65) "Quality and Efficiency Incentive Program" means the program described in OAR 411-070-0437 designed to reimburse quality nursing facilities that voluntarily reduce bed capacity that increases occupancy levels and enhances efficiency with the goal of slowing the growth of system-wide costs.

~~(6266)~~ "Reasonable Consideration" means an inducement that is equivalent to the amount that would ordinarily be paid for comparable goods and services in an arms-length transaction.

~~(6367)~~ "Related Organization" means an entity that is under common ownership or control with, or has control of, or is controlled by the contractor. An entity is deemed to be related if it has 5 percent or more ownership interest in the other. An entity is deemed to be related if it has capacity derived from any financial or other relationship, whether or not exercised, to influence directly or indirectly the activities of the other.

~~(6468)~~ "Resident" means a person who receives nursing facility services.

~~(6569)~~ "Resident Days" mean the number of occupied bed days.

~~(6670)~~ "Resident Review" means a review conducted by the Addictions and Mental Health Division for individuals with mental illness or by the Seniors and People with Disabilities Division for individuals with developmental disabilities who are residents of nursing facilities. The findings of the resident review may result in referral to PASRR Level II {42 CFR 483.114}.

~~(6771)~~ "Restricted Fund" means a fund in which the use of the principal or principal and income is restricted by agreement with or direction by the donor to a specific purpose. Restricted fund does not include a fund over which the owner has complete control. The owner is deemed to have complete control over a fund that is to be used for general operating or building purposes.

~~(6872)~~ "Seniors and People with Disabilities (SPD) Division" means the Department Division, ~~within the Department of Human Services, responsible for the administration of community-based care and nursing facility services to eligible individuals.~~

~~(6973)~~ "Specialized Services for Mental Illness" means mental health services delivered by an interdisciplinary team in an inpatient psychiatric hospital for treatment of acute mental illness.

~~(7074)~~ "Specialized Services for Mental Retardation or Developmental Disabilities" means:

(a) For individuals with mental retardation or developmental disabilities under age 21, specialized services are equal to school services; and

(b) For individuals with mental retardation or developmental disabilities over age 21, specialized services mean:

(A) A consistent and ongoing program that includes participation by the individual in continuous, aggressive training and support to prevent loss of current optimal function;

(B) Promotes the acquisition of function, skills, and behaviors necessary to increase independence and productivity; and

(C) Is delivered in community-based or vocational settings at a minimum of 25 hours a week.

~~(7175)~~ "Start-Up Costs" mean one-time costs incurred prior to the first resident being admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, mortgage and other interest, repairs and maintenance, training costs, etc. Start-up costs do not include such costs as feasibility studies, engineering studies, architect's fees, or other fees that are part of the historical cost of the facility.

~~(7276)~~ "Supervision" means initial direction and periodic monitoring of performance. Supervision does not mean that the supervisor is physically present when the work is performed.

~~(7377)~~ "These Rules" mean the rules in OAR chapter 411, division 070.

~~(7478)~~ "Title XVIII" and "Medicare" means Title XVIII of the Social Security Act.

~~(7579)~~ "Title XIX," "Medicaid," and "Medical Assistance" means Title XIX of the Social Security Act.

~~(7680)~~ "Uniform Chart of Accounts (Form SPD 35)" means a list of account titles identified by code numbers established by the Department of Human Services for providers to use in reporting their costs.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070 & ORS 414.065

411-070-0300 Filing of Financial Statement

(1) The provider must file annually with the ~~SPD~~Department, Financial Audit Unit, the Nursing Facility Financial Statement (NFFS) covering actual costs based on the facility's fiscal reporting period for the period ending June 30. A NFFS must be filed for other than a year only when necessitated by termination of a provider agreement with ~~SPD~~the Department, or by a change in ownership, or when directed by ~~SPD~~the Department. Financial reports containing up to 15 months of financial data ~~shall be~~are accepted for the reasons above or with ~~SPD's~~the Department's permission prior to filing.

(2) ~~The A~~ NFFS is due on or before October 31 or within three months of ~~the end of the fiscal reporting period,~~ a change of ownership, or withdrawal from the program.

(a) ~~The report A~~ NFFS must be postmarked on or before the due date to be considered timely. An extension may not be obtained.

~~(b) A one month extension may be obtained if a written request for an extension is postmarked prior to the expiration of the original three months. SPD shall respond in writing to these requests.~~

~~(b)~~ When a NFFS is not postmarked within three months, or within if an extension under section (2)(b) of this rule was obtained, ~~a~~A penalty ~~shall be~~is assessed and collected when a NFFS is not postmarked within the due date. The amount of the penalty ~~shall be~~is \$5 per licensed nursing facility bed per day for each State of Oregon business day the NFFS is late. The total penalty ~~must~~may not exceed \$50,000 per fiscal reporting period. For purposes of this section, the number of licensed nursing facility beds ~~shall be~~is the number of beds licensed on the last day of the fiscal reporting period that the facility failed to submit ~~its report~~a NFFS.

~~(d)~~ ~~SPD~~The Department may assess interim penalties and deduct the amount of the interim penalties from the next Medicaid payment payable to the facility. Each interim penalty ~~must be~~is the amount of the penalty that has accrued under subsection (2)(e) of this rule section to the date of assessment, and has not already been assessed as an interim penalty.

~~(e)~~ A facility may request an informal conference or contested case hearing pursuant to ORS 183.413 through 183.470 within 30 days of receiving a letter from ~~SPD~~the Department informing the facility of assessment of an interim penalty or a penalty under this rule. OAR 411-070-0435 applies to such requests and sets forth the procedures to be followed. If no request for an informal conference or contested case hearing is made within 30 days of receiving such a letter, the interim penalty or penalty becomes final in all respects, including liability for payment of and the amount of the interim penalty or penalty.

(3) ~~An improperly completed or incomplete Nursing Facility Financial Statements shall be NFFS~~ is returned to the facility for proper completion.

(4) FORMS.

(a) Form SPD 35 is a uniform cost report to be used by all nursing facility providers, except those that are hospital based.

(b) Form SPD 35A is a uniform cost report to be used by all nursing facility providers that are hospital based.

(c) Forms SPD 35 and SPD 35A must be completed in accordance with the Medicaid Nursing Facility Services Provider Guide and Audit Manual.

(5) If a provider knowingly or with reason to know files a ~~report~~ NFFS containing false information, such action constitutes cause for termination of its agreement with ~~SPD~~ the Department. Providers filing false reports may be referred for prosecution under applicable statutes.

(6) Each required NFFS must be signed by a company or corporate officer or a person designated by the corporate officers to sign. If ~~the a~~ NFFS is prepared by someone other than an employee of the provider, the individual preparing the NFFS must also sign and indicate his or her status with the provider.

(7) Facilities with fewer than 1000 Medicaid resident days during a twelve-month reporting period or fewer than 2.74 Medicaid resident days per calendar day, for facilities with reporting periods of less than a year, are not required to submit a SPD 35 or SPD 35A, but must submit a letter to ~~SPD's Financial Audit Unit~~ the Department indicating ~~they will~~ the nursing facility is not submitting a financial statement NFFS. This letter is due the same day ~~the financial statement a NFFS~~ would have been due.

(8) A NFFS must be filed annually by each facility for the fiscal reporting period that ends June 30. The NFFS filed for the period that ends June 30 is required to cover actual costs during the previous state fiscal year from July 1 through June 30.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070 & OL 2013 chapter 608

411-070-0437 Quality and Efficiency Incentive Program

(1) ESTABLISHMENT. Effective October 7, 2013 through December 31, 2015, the Department establishes the Quality and Efficiency Incentive Program (Program) in order to implement Enrolled House Bill 2216 (Chapter 608, 2013 Oregon Laws). The Program is designed to reimburse quality nursing facilities that voluntarily reduce bed capacity that increases occupancy levels and enhances efficiency with the goal of slowing the growth of system-wide costs. The Department may provide additional compensation to nursing facilities who qualify

for the legislatively approved Program. Such compensation may not exceed \$9.75 per resident day and may not exceed four years from the date of eligibility. Eligibility to participate in this Program sunsets on December 31, 2015.

(2) CAPACITY REDUCTION DISCUSSIONS. If two or more providers wish to initiate discussions concerning reduction of bed capacity in a community, the providers must notify the Department. The notice must identify the community and state that the parties wish to discuss reduction of bed capacity in that market pursuant to the Program.

(a) Upon receipt of a notice to discuss reduction of bed capacity, the Department shall review the notice and either approve or disapprove the proposed preliminary discussion. The Department shall approve the preliminary discussion if the community is one in which the proposed capacity reduction is consistent with the goals of the Program.

(b) If the Department approves the preliminary discussion, the Department shall notify the providers who requested approval and shall schedule a meeting at which a Department representative shall be made available to supervise the discussion. Providers in the affected market may attend the meeting and may discuss capacity reduction for that market under the supervision of the Department.

(c) The Department shall determine the time, place, and mechanism to discuss the reduction of bed capacity. The discussions may be held in-person or by means of conference call, video conference, or such other means that allow for each participant to hear and be heard by the other participant at the same time.

(d) Notice to the Department is not required for two providers who wish to discuss a specific transfer of bed capacity.

(3) CAPACITY REDUCTION TRANSACTIONS. Prior to any purchase of bed capacity under the Program, the parties to the transaction must notify the Department.

(a) The notice must describe the parties, the specific facilities, the proposed transaction, and the acquisition plan for the transaction.

(b) The acquisition plan must include documentation demonstrating that:

(A) The purchasing operator is able to meet or arrange for the needs of the individuals residing in the selling facility and meet all change of ownership or operator and closure criteria as described in OAR 411-085-0025;

(B) The selling operator meets the eligibility criteria described in section (5) of this rule and meets the criteria for nursing facility closure described in OAR 411-085-0025;

(C) Bed capacity in the community shall be reduced as a result of the transaction; and

- (D) The transaction does not compromise care or health status of residents.
- (c) The Department may approve the acquisition plan, disapprove the acquisition plan, or request further information or changes in the acquisition plan. The Department shall approve the transaction upon finding that the acquisition plan is expected to satisfy conditions (A) through (D) in subsection (b) of this section. If the Department approves or disapproves the transaction, the Department shall issue an order approving or disapproving the transaction and explaining how conditions (A) through (D) in subsection (b) of this section are satisfied or not satisfied.
- (d) The purchasing operator may receive incentives under the Program only if the Department approves the transaction and the purchasing and selling operators complete the transaction as described in the acquisition plan. The purchasing operator and selling operator are entitled to state action antitrust immunity for the transaction only if the Department approves the transaction.
- (e) Once approved for participation in the Program, the selling facility must provide all notices and meet the other requirements of a facility closure under OAR 411-085-0025, including limiting admissions of residents to the facility.

(4) COMMUNITY TRANSITION MEETING.

- (a) The Department, in consultation with the Long Term Care Ombudsman, shall convene a regional planning meeting in communities in which a facility plans to surrender the facility's license under these rules. The meeting shall engage the community in:
- (A) Planning to promote the safety and dignity of residents who shall be impacted by the surrender;
 - (B) A discussion regarding the local need for more home and community-based settings; and
 - (C) Assessing opportunities for more residential programs and supporting residential capacity.
- (b) The Community Transition Meeting is initiated by the Department upon approval of an acquisition as described in this rule.

(5) ELIGIBILITY. The eligibility requirements for participation in the Program are:

- (a) The nursing facility bed capacity being sold (the "selling facility") is not an Essential Nursing Facility or from a facility operated on behalf of the Oregon Department of Veteran's Affairs; and

(b) The selling facility's entire bed capacity is purchased and the seller agrees to surrender the nursing facility's license on the earlier of the date that:

(A) The last resident is transferred from the facility; or

(B) 180 days after the effective date of the sale of the facility bed capacity.

(c) A Program applicant (the "purchasing operator") must meet all of the following criteria at the time of the acquisition plan submission:

(A) Operate one or more facilities licensed by the Department as a nursing facility;

(B) Must be determined to be in substantial compliance from the annual licensing and recertification survey at the date of the acquisition plan submission; and

(C) Have no substantiated facility abuse meeting the criteria in ORS 441.715(2)(c) within six months of the date of the acquisition plan submission.

(d) The selling facility must provide all notices and meet the requirements of a facility closure under OAR 411-085-0025.

(6) ANTITRUST PROVISION.

(a) The Department declares its intent to exempt from state antitrust laws and provide state action immunity from federal antitrust laws individuals and entities that engage in transactions, meetings, or surveys described in sections (2) and (3) of this rule that might otherwise be constrained by such laws.

(b) The following activities are not immunized from antitrust liability:

(A) Agreements among competing providers to reduce the number of beds they operate outside of a sale;

(B) Provider meetings to discuss bed reduction strategies outside of the negotiation of a specific sale and where no Department representative is in attendance; or

(C) Collateral agreements between competing providers that involve their pricing strategies, how to respond to requests for proposals, or other discussions outside the sale of facilities.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070 & OL 2013 chapter 608

**411-070-0442 Per Diem Rate Setting For the Rate Period Beginning July 1, 2003
Calculation of the Basic Rate and Complex Medical Add-on Rate**

(1) The rates are determined annually and referred to as the Rebasing Year for the first year of each biennium, ~~the rebasing year, and the second year of each biennium, the non-rebasing year.~~

~~(a) The Rebasing Year.~~

~~(Aa) The basic rate is based on the statements received by the Department by September (or postmarked by October 31, if an extension of filing has been approved by the Department) for the fiscal reporting period ending on June 30 of the previous even-numbered year. For example, for the biennium beginning July 1, 20032013, statements for the period ending June 30, 2002-2012 are used. The Department desk reviews or field audits these statements and determines the allowable costs for each nursing facility. The costs include both direct and indirect costs. The costs and days relating to pediatric beds are excluded from this calculation. The Department shall only uses financial reports of facilities that have been in operation for at least 180 days and are in operation as of June 30, of even-numbered years for biennial rebasing.~~

~~(B) For the 2009 rebasing period only, the Department shall limit the administrative and property cost components as follows:~~

~~(i) Administrative and general costs per facility, less provider tax and employee benefits, equals the lesser of the facility's allowable cost or the 50th percentile over all facilities; and~~

~~(ii) Allowable property expenses shall be limited by the Medicaid occupancy percentage when the facility has an occupancy rate of less than 60 percent.~~

~~(Cb) For each facility, its allowable costs after any limitations as set forth in subsection (1)(a)(B) of this section are applied, less the costs of its self-contained pediatric unit (if any) is inflated from the mid-point of its fiscal reporting period to the mid-point of the first year of the biennium, hereafter referred to as the base year (e.g., for the biennium beginning July 1, 20032013, the base year is the fiscal period ending June 30, 20042014) by the annual change in the DRI Index, or its successor index, as measured in the previous 4th quarter.~~

~~(Dc) For each facility, its allowable costs after any limitations as set forth in subsection (1)(a)(B) of this section are applied, per Medicaid day is determined using the allowable costs as inflated and resident days, excluding pediatric days as reported in the statement.~~

~~(Ed) The facilities are ranked from highest to lowest by the facility's allowable costs after any limitations as set forth in subsection (1)(a)(B) of this section are applied, per Medicaid day.~~

~~(Fe) The basic rate will be is determined by ranking the allowable costs after any limitations as set forth in subsection (1)(a)(B) of this section are applied, per Medicaid day by facility and identifying the allowable cost per day at the applicable percentage. If~~

there is no allowable cost per day at the applicable percentage, the basic rate is determined by interpolating the difference between the allowable costs per day that are just above and just below the applicable percentage to arrive at a basic rate at the applicable percentage. ~~(i) The applicable percentage for the period beginning July 1, 2003 through June 30, 2005 is at the 63rd percentile. (ii) The applicable percentage for the period beginning July 1, 2005 through June 30, 2007 is at the 70th percentile. (iii) The applicable percentage for the period beginning July 1, 2007~~2013 is at the 63rd percentile.

~~(b) The Non-Rebasing Year. On July 1 of each non-rebasing year, the basic flat rate shall be inflated by the annual change in the DRI Index, or its successor index, as measured in the previous 4th quarter.~~

(2) The Department provides an augmented rate to nursing facilities who qualify under the Quality and Efficiency Incentive Program as described in OAR 411-070-0437. To receive the augmented rate, the bed capacity must be purchased on or after October 7, 2013 and on or before December 31, 2015. The qualifying nursing facility is paid the augmented rate for each Medicaid-eligible resident.

(3) Nursing facility bed capacity in Oregon shall be reduced by 1,500 beds by December 31, 2015, except for bed capacity in nursing facilities operated by the Department of Veteran's Affairs and facilities that either applied to the Oregon Health Authority for a certificate of need between August 1, 2011 and December 1, 2012, or submitted a letter of intent under ORS 442.315(7) between January 15, 2013 and January 31, 2013. An official bed count measurement shall be determined and issued by the Department prior to July 1, 2016 and each quarter thereafter if the goal of reducing the nursing facility bed capacity in Oregon by 1,500 beds is not achieved.

(a) For the period beginning July 1, 2013 and ending June 30, 2016, the Department shall reimburse costs as set forth in section (1) of this rule at the 63rd percentile.

(b) For each three-month period beginning on or after July 1, 2016 and ending June 30, 2020, in which the reduction in bed capacity in licensed facilities is less than the goal described in this section, the Department shall reimburse costs at a rate not lower than the percentile of allowable costs according to the following schedule:

(A) 63rd percentile for a reduction of 1,500 or more beds.

(B) 62nd percentile for a reduction of 1,350 or more beds but less than 1,500 beds.

(C) 61st percentile for a reduction of 1,200 or more beds but less than 1,350 beds.

(D) 60th percentile for a reduction of 1,050 or more beds but less than 1,200 beds.

(E) 59th percentile for a reduction of 900 or more beds but less than 1,050 beds.

(F) 58th percentile for a reduction of 750 or more beds but less than 900 beds.

(G) 57th percentile for a reduction of 600 or more beds but less than 750 beds.

(H) 56th percentile for a reduction of 450 or more beds but less than 600 beds.

(I) 55th percentile for a reduction of 300 or more beds but less than 450 beds.

(J) 54th percentile for a reduction of 150 or more beds but less than 300 beds.

(K) 53rd percentile for a reduction of 1 to 149 beds.

~~(24) The complex medical add-on rate is 40 percent of the basic rate, for the rebasing year and the non-rebasing year.~~

~~(35) The Department shall add a standard payment to fund implementation of certified nursing assistant staffing requirements contained in OAR 411-086-0100 in accordance with the Legislatively Adopted Budget.~~

~~(4) For services rendered between July 1, 2011 and June 30, 2013, the Department shall pay a daily rate equal to the following:~~

~~(a) Basic rate: \$212.12 per day;~~

~~(b) Complex medical rate: \$295.59 per day; and~~

~~(c) Pediatric rate: \$358.38 per day.~~

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070, OL 2003 chapter 736, OL 2007 chapter 780, OL 2009 chapter 827, & OL 2011 chapter 630, & OL 2013 chapter 608



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: Standards for Employers

Rule Number(s): 411-330-0065

Program Area: ODDS: Comprehensive In-Home Services

Adoption Date: 1/4/2013



Review Due Date:

1/4/2018



Review Date:

7/20/2017

Reviewer's Name:

Mike Parr



***Advisory Committee Used**

Advisory Committee Not Used

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What was the intended effect of this rule adoption?

OAR 411-330-0065 was created to implement employer standards for an individual or an individual's representative who is an employer of an independent provider.

Yes No **Has this rule adoption had its intended effect?**

Yes No **Was the anticipated fiscal impact of this rule underestimated?**

Yes No **Was the anticipated fiscal impact of this rule overestimated?**

Yes No **Have subsequent changes in the law required this rule to be/can be amended or repealed?**
Perm 12/28/2013; Perm 12/28/2014; Repealed 6-29-2016

Yes No **Is there a continued need for this rule?**
In 2016, ODDS restructured their rules and OAR 411-330-0065 was repealed. The standards for employers are now in OAR 411-375-0055.

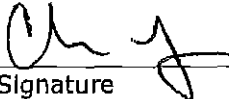
Additional Comments:

***Date report sent to advisory committee members:** _____

Report approved by:

Chelas Kronenberg

Printed name


Signature

09/19/07
Date

411-330-0065 Standards for Employers

(Adopted 1/4/2013)

(1) **EMPLOYEE - EMPLOYER RELATIONSHIP.** The relationship between an independent provider and an individual or the individual's representative is that of employee and employer.

(2) **JOB DESCRIPTION.** As an employer, it is the responsibility of the individual or the individual's representative to create and maintain a job description for potential independent providers that is in coordination with the services authorized by the individual's services coordinator.

(3) **PERSONAL SUPPORT WORKER BENEFITS.** The only benefits available to independent providers are for those who are personal support workers and negotiated in the collective bargaining agreement and provided in Oregon Revised Statute. The collective bargaining agreement does not include participation in the Public Employees Retirement System or the Oregon Public Service Retirement Plan. Independent providers, including personal support workers, are not state or CDDP employees.

(4) EMPLOYER RESPONSIBILITIES.

(a) For an individual to be eligible for in-home support provided by an independent provider, an individual or an individual's representative must demonstrate the ability to:

- (A) Locate, screen, and hire a qualified independent provider;
- (B) Supervise and train the independent provider;
- (C) Schedule work, leave, and coverage;
- (D) Track the hours worked and verify the authorized hours completed by the independent provider;
- (E) Recognize, discuss, and attempt to correct, with the independent provider, any performance deficiencies and provide appropriate, progressive, disciplinary action as needed; and
- (F) Discharge an unsatisfactory independent provider.

(b) Indicators that an individual or an individual's representative may not be meeting the employer responsibilities described in subsection (4)(a) of this section include but are not limited to:

- (A) Independent provider complaints;
- (B) Multiple complaints from an independent provider requiring intervention from the Department or CDDP;

(C) Frequent errors on time sheets, mileage logs, or other required documents submitted for payment that results in repeated coaching from the Department or CDDP;

(D) Complaints to Medicaid Fraud involving the individual or the individual's representative; or

(E) Documented observation by the CDDP of services not being delivered as identified in the individual's In-Home Support Plan.

(c) The Department or the CDDP may require intervention as defined in OAR 411-330-0020 when an individual or an individual's representative has demonstrated difficulty meeting the employer responsibilities described in subsection (4)(a) of this section.

(d) After appropriate intervention and assistance, an individual unable to meet the employer responsibilities described in subsection (4)(a) of this section may be determined ineligible for in home support provided by an independent provider.

(A) An individual determined ineligible to be an employer of an independent provider and unable to designate a representative, may not request in-home support provided by an independent provider until the individual's next annual ISP. Improvements in health and cognitive functioning may be factors in demonstrating the individual's ability to meet the employer responsibilities described in section (4)(a) of this rule. If an individual is able to demonstrate the ability to meet the employer responsibilities sooner than the next annual ISP, the individual may request the waiting period be shortened.

(B) An individual determined ineligible to be an employer of an independent provider shall be offered other available service options that meet the individual's service needs, including in-home support through a contracted qualified provider organization or general business provider when available. As an alternative to in-home support, the Department or the Department's designee may offer other available services in the Home and Community Based Services Waiver.

(5) DESIGNATION OF EMPLOYER RESPONSIBILITIES.

(a) An individual not able to meet all of the employer responsibilities described in section (4)(a) of this rule must:

(A) Designate a representative in order to receive or continue to receive in home support; or

(B) Select other available services.

(b) An individual able to demonstrate the ability to meet some of the employer responsibilities described in section (4)(a) of this rule must:

(A) Designate a representative to fulfill the responsibilities the individual is not able to meet to receive or continue to receive in home support; and

(B) On a Department approved form, document the specific employer responsibilities performed by the individual and the employer responsibilities performed by the individual's representative.

(c) When an individual's representative is not able to meet the employer responsibilities described in section (4)(a) or the qualifications in section (6)(c) of this rule, an individual must:

(A) Designate a different representative to receive or continue to receive in home support; or

(B) Select other available services.

(6) REPRESENTATIVE.

(a) An individual or an individual's legal representative may designate a representative to act on their behalf to meet the employer responsibilities described in section (4)(a) of this rule. An individual's legal representative may be designated as the individual's representative.

(b) A representative who is also an individual's independent provider of in-home support must seek an alternate representative for purposes of the independent provider's employment. The alternate representative must:

(A) Track the hours worked and verify the authorized hours completed by the independent provider; and

(B) Document the specific employer responsibilities performed by the individual and the individual's representative on a Department approved form.

(c) The Department or the CDDP may suspend, terminate, or deny an individual's request for a representative if the designated representative has:

(A) A history of substantiated abuse of an adult as described in OAR 411-045-0250 to 411-045-0370;

(B) A history of founded abuse of a child as described in ORS 419B.005;

(C) Participated in billing excessive or fraudulent charges; or

(D) Failed to meet the employer responsibilities in section (4)(a) or (6)(b) of this rule, including previous termination as a result of failing to meet the employer responsibilities in section (4)(a) or (6)(b).

(d) An individual shall be given the option to select another representative if the Department or CDDP suspends, terminates, or denies an individual's request for a representative for the reasons described in subsection (6)(c) of this section.

(7) APPEALS.

(a) The Department or the CDDP, respectively, shall mail a notice identifying the individual, the individual's representative, and if applicable the individual's legal representative when:

(A) The Department or the CDDP denies, suspends, or terminates an individual or an individual's representative from performing the employer responsibilities described in sections (4)(a) or (6)(b) of this rule; and

(B) The Department or the CDDP denies, suspends, or terminates an individual's representative from performing the employer responsibilities described in section (4)(a) or (6)(b) of this rule because the individual's representative does not meet the qualifications in section (6)(c) of this rule.

(b) CDDP ISSUED NOTICES. An individual receiving in-home support, the individual's legal representative, or the individual's representative may appeal a notice issued by the CDDP by requesting a review by the CDDP's Director.

(A) For an appeal regarding denial, suspension, or termination of an individual, the individual's legal representative, or the individual's representative to be valid, written notice of the appeal and request for review must be received by the CDDP within 45 calendar days of the date of the notice.

(B) The CDDP Director shall complete a review and issue a decision within 30 calendar days of the date the written appeal was received by the CDDP.

(C) If an individual, individual's legal representative, or the individual's representative is dissatisfied with the CDDP Director's decision, the individual or the individual's representative may request an administrative review by the Department's Director or the Department's designee.

(D) For an appeal of the CDDP's decision to be valid, written notice of the appeal and request for an administrative review must be received by the Department within 15 calendar days of the date of the CDDP's decision.

(E) The Department's Director or the Department's designee shall complete an administrative review within 30 calendar days of the date the written appeal was received by the Department.

(F) The Department's decision of an administrative review is considered final.

(c) DEPARTMENT ISSUED NOTICES. An individual receiving in-home support, the individual's legal representative, or the individual's representative may appeal a notice issued by the Department by requesting an administrative review by the Department's Director or the Department's designee.

(A) For an appeal regarding denial, suspension, or termination of an individual, and individual's legal representative, or the individual's representative to be valid, written notice of the appeal and request for an administrative review must be received by the Department within 45 calendar days of the date of the notice.

(B) The Department's Director or Department's designee shall complete an administrative review and issue a decision within 30 calendar days of the date the written appeal was received by the Department.

(C) The Department's decision of an administrative review is considered final.

(d) An individual has appeal rights as described in OAR 411-330-0130 when the denial, suspension, or termination of the individual or the individual's representative results in the Department or CDDP denying, suspending, or terminating an individual from comprehensive in-home supports.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 - 430.670



Department of Human Services

Five Year Rule Review

ORS 183.405



Rule Name: Provider Enrollment Agreements and Contracts

Rule Number(s): 411-360-0055

Program Area: ODDS: Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities

Adoption Date: 9/27/2013



Review Due Date:
9/27/2018



Review Date:
7/19/2017

Reviewer's Name:
Ken Ralph



- *Advisory Committee Used
- Advisory Committee Not Used

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What was the intended effect of this rule adoption?

OAR 411-360-0055 clarified Medicaid Provider Enrollment Agreements including, but not limited to, the circumstances for denial or termination of enrollment and the service requirements for individuals who are or become eligible for Medicaid services.

- Yes
- No

Has this rule adoption had its intended effect?

- Yes
- No

Was the anticipated fiscal impact of this rule underestimated?

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be/can be amended or repealed? 1-1-2016 Temp; 6-29-2016 Perm;
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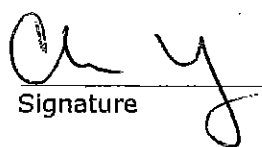
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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Additional Comments:

***Date report sent to advisory committee members:** _____

Report approved by:

Chelas Kronenberg
Printed name


Signature

09/19/17
Date

411-360-0055 Provider Enrollment Agreements and Contracts

(Adopted 9/27/2013)

(1) MEDICAID PROVIDER ENROLLMENT AGREEMENT.

(a) An applicant or licensee who intends to provide care and services to support individuals who are or become eligible for Medicaid services must enter into a Medicaid Provider Enrollment Agreement with the Department, follow Department rules, and abide by the terms of the Agreement. A Medicaid Provider Enrollment Agreement is not approved unless the Department has determined that the applicant, licensee, co-licensee, or any owner or officer of the corporation, as applicable, is not listed on the Office of Inspector General's or the U.S. General Services Administration's (System for Award Management) Exclusion Lists.

(b) An approved Medicaid Provider Enrollment Agreement does not guarantee the placement of individuals eligible for Medicaid services in an AFH-DD.

(c) An approved Medicaid Provider Enrollment Agreement is valid for the length of the license unless earlier terminated by the licensee or the Department. A Medicaid Provider Enrollment Agreement must be completed, submitted, approved, and renewed with each licensing cycle.

(d) An individual eligible for Medicaid services may not be admitted into an AFH-DD unless and until the Department has approved a Medicaid Provider Enrollment Agreement. Medicaid payment is not issued to a licensee without a current license and an approved Medicaid Provider Enrollment Agreement in place.

(e) The rate of compensation established by the Department is considered payment in full. The licensee may not request or accept additional funds or in-kind payment from any source.

(f) The Department does not issue payment for the date of the exit of an individual or for any time period thereafter.

(g) The licensee or the Department may terminate a Medicaid Provider Enrollment Agreement according to the terms of the Agreement.

(h) The Department may terminate a Medicaid Provider Enrollment Agreement under the following circumstances:

(A) The licensee fails to maintain substantial compliance with all related federal, state, and local laws, ordinances, and regulations; or

(B) The license to operate the AFH-DD has been voluntarily surrendered, revoked, or not renewed.

(i) The Department must terminate a Medicaid Provider Enrollment Agreement under the following circumstances:

(A) The licensee fails to permit access by the Department or CMS to any AFH-DD licensed to and operated by the licensee;

(B) The licensee submits false or inaccurate information;

(C) Any person with five percent or greater direct or indirect ownership in the AFH-DD did not submit timely and accurate information on the Medicaid Provider Enrollment Agreement form or fails to submit fingerprints if required under the background check rules in OAR 407-007-0200 to 407-007-0370;

(D) Any person with five percent or greater direct or indirect ownership interest in the AFH-DD has been convicted of a criminal offense related to the person's involvement with Medicare, Medicaid, or Title XXI programs in the last 10 years; or

(E) Any person with an ownership or control interest, or who is an agent or managing employee of the AFH-DD fails to submit timely and accurate information on the Medicaid Provider Enrollment Agreement form.

(j) If a licensee submits notice of termination of the Medicaid Provider Enrollment Agreement, the licensee must concurrently issue a Notice of Involuntary Move or Transfer to each individual eligible for Medicaid services residing in the licensee's AFH-DD.

(k) If either a licensee or the Department terminates the Medicaid Provider Enrollment Agreement, the licensee may not re-apply for a new Medicaid Provider Enrollment Agreement for a period of no less than 180 days from the date the licensee or the Department terminated the Agreement.

(l) A licensee must forward all of the personal incidental funds (PIF) of an individual who is a recipient of Medicaid services within 10 business days of the death of the individual to the Estate Administration Unit, PO Box 14021, Salem, Oregon 97309-5024.

(2) PRIVATE CONTRACT. A licensee who provides care and services to support individuals who pay with private funds or individuals receiving only day care services must enter into a written contract with the individual or the person paying for the individual's care and services. The written contract is the admission agreement. The written contract must be signed by all parties prior to the admission of the individual and updated as needed. A copy of the contract is subject to review by the Department prior to licensure and prior to the implementation of any changes to the contract.

(a) The contract must include but not be limited to:

(A) An Individual Support Plan;

(B) A schedule of rates; and

(C) Conditions under which the rates may be changed.

(b) The provider must give a copy of the signed contract to the individual or the individual's legal representative and retain the original contract in the individual's record.

(c) The licensee must give written notice to a private pay individual or the person paying for the individual's care and services 30 days prior to any general rate increases, additions, or other modifications of the rates unless the change is due to a medical emergency resulting in a greater level of care in which case the notice must be given within 10 days of the change.

Stat. Auth.: ORS 409.050, & 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825



Department of Human Services
Office of Child Welfare Programs

Five Year Rule Review - OAR Chapter 413
ORS 183.405

Rules under review: 413-010-0185

The current rule text is available [here](#).

- 413-010-0185 – Department Responsibilities (adopted 01/01/14, amended 01/01/18)

- Advisory Committee Used Prior to Initial Adoption of Permanent Rule
 Advisory Committee Not Used Prior to Initial Adoption of Permanent Rule

Committee Members:	Contact Information:
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Tina Spencer	TINA.J.SPENCER@dhsosha.state.or.us
Robin Corrigan	Robin.L.Corrigan@state.or.us

What was the intended effect of this rule adoption?

- OAR 413-010-0185 was adopted to implement Senate Bill 123 (2013), which required the Department to adopt rules establishing the Oregon Foster Children's Bill of Rights. Changes clarified rights of every child and young adult in the Department's custody and in substitute care.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
--	--

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated? The Department has not received information that the adoption of this rule in and of itself created a fiscal impact inconsistent with the estimate provided at the time of adoption.
--	---

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated? See above.
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have there been any subsequent changes in the law that require this rule to be amended or repealed? This rule was updated on 01/01/18 to add a section regarding the establishment of the Oregon Foster Children's Sibling Bill of Rights.
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Has this rule had an impact on small businesses?
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Report prepared on: 12/6/18

Report prepared by: Anne King, Child Welfare Rules Coordinator

Report approved by: Carrie Vandijk, Foster Care and Youth Transitions program analyst

Report sent to Rule Advisory Committee participants on: 12/18/18



Department of Human Services
Office of Child Welfare Programs

Five Year Rule Review - OAR Chapter 413
ORS 183.405

Rules under review: Original rule text is available [here](#) and the current rule text is available [here](#).

Child Welfare Policy 413-030-0456, Health Care Notifications, Credit Reports, and Data Tracking:

Rule summary:

These rules about child welfare programs are being changed to align them with the child contact requirements required under federal law. These rules also are being revised to fully incorporate the provisions of P.L. 110-351, Fostering Connections to Success and Increasing Adoptions Act of 2008 and P.L. 106-169, Foster Care Independence Act of 1999 to provide certain children in substitute care information about their credit report annually, information regarding designating another individual to make health care treatment decisions if he or she is unable to participate in those decisions, and to require Department participation in the National Youth in Transition Database.

- Advisory Committee Used Prior to Initial Adoption of Permanent Rule
 Advisory Committee Not Used Prior to Initial Adoption of Permanent Rule

Committee Members:	Contact:	Organization:
Dana Ainam	Dana.leno@grandronde.org	Conf Tribes of Grand Ronde
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Mike Balter		Boys and Girls Aid Society
Iris Bell	info@irisbell.com; iris.bell@state.or.us	OCCF
Cindy Burlingame	cburlingame@co.wheeler.or.us	Juv Dept Director
Pamela Butler		Children First of Oregon
Donald Darland	ability@smt-net.com	OR Foster Parent Organization
Leah Hall	Leah.hall@dhsosha.state.or.us	Parent Mentor/Court Liaison
Mike Maryanov	Mike.v.maryanov@doj.state.or.us	CAMI Grant Coordinator
Leola McKenzie	Leola.l.mckenzie@state.or.us	Citizen Review Board Director
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Nan Waller	Nan.g.waller@state.or.us	Multnomah County Circuit Court
Nicole Stapp	Nicole.stapp@dhsosha.state.or.us	Oregon Foster Youth Connection

What was the intended effect of this rule adoption?

OAR 413-030-0456 was adopted to describe the Department responsibilities for notification of health care proxy to youth over 17 years, for ensuring an annual consumer credit report is reviewed with any youth in care over age 16, and to describe the requirements for collection and reporting of data for the National Youth in Transition Database.

Yes No **Has this rule adoption had its intended effect?**

Yes No **Was the anticipated fiscal impact of this rule underestimated?**

At the time of adoption, the Department estimated that these rule changes would have no fiscal impact on the Department, other state agencies, local government, the public, clients, providers, and business, including small business. No small businesses would be regulated by these rules. There would be no cost of compliance for small business.

The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption.

Yes No **Was the anticipated fiscal impact of this rule overestimated?**

See above.

Yes No **Have there been any subsequent changes in the law that require this rule to be amended or repealed?**

These rules were updated on 10/01/15 to implement provisions of the Preventing Sex Trafficking and Strengthening Families Act of 2014 and make general updates consistent with current Department practices.

Yes No **Is there a continued need for this rule?**

No

Report prepared on: 1/23/2018

Report prepared by: Anne King, Child Welfare Rules Coordinator

Report approved by: Rosemary Iavenditti, ILP Coordinator

Report sent to Rule Advisory Committee participants on: 1/30/2018



Department of Human Services
Office of Child Welfare Programs

Five Year Rule Review - OAR Chapter 413
ORS 183.405

Rules under review: Original rule text is available [here](#) and the current rule text is available [here](#).

Child Welfare Policy 413-080-0054, Monthly Face-to-Face Contact Requirements:

Rule summary:

These rules about child welfare programs are being changed to align them with the child contact requirements required under federal law. These rules also are being revised to fully incorporate the provisions of P.L. 110-351, Fostering Connections to Success and Increasing Adoptions Act of 2008 and P.L. 106-169, Foster Care Independence Act of 1999 to provide certain children in substitute care information about their credit report annually, information regarding designating another individual to make health care treatment decisions if he or she is unable to participate in those decisions, and to require Department participation in the National Youth in Transition Database.

- Advisory Committee Used Prior to Initial Adoption of Permanent Rule**
- Advisory Committee Not Used Prior to Initial Adoption of Permanent Rule**

Committee Members:	Contact:	Organization:
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Pamela Butler		Children First of Oregon
Donald Darland	ability@smt-net.com	OR Foster Parent Organization
Leah Hall	Leah.hall@dhsosha.state.or.us	Parent Mentor/Court Liaison
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Leola McKenzie	Leola.l.mckenzie@state.or.us	Citizen Review Board Director

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Tina Morgan		Director, Kids First Center
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Angela Sherbo	Angela.S@youthrightsjustice.org	Youth, Rights and Justice
Ruth Taylor	ruth.taylor@morrisonkids.org	Parents Anonymous of Oregon
Nan Waller	Nan.g.waller@state.or.us	Multnomah County Circuit Court
Nicole Stapp	Nicole.stapp@dhsaha.state.or.us	Oregon Foster Youth Connection

What was the intended effect of this rule adoption?

OAR 413-080-0054 was adopted to describe the Department responsibilities about monthly face-to-face contact requirements of Department staff.

Yes
 No

Has this rule adoption had its intended effect?

Yes
 No

Was the anticipated fiscal impact of this rule underestimated?

At the time of adoption, the Department estimated that these rule changes would have no fiscal impact on the Department, other state agencies, local government, the public, clients, providers, and business, including small business. No small businesses would be regulated by these rules. There would be no cost of compliance for small business.

The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption.

Yes
 No

Was the anticipated fiscal impact of this rule overestimated?

See above.

Yes
 No

Have there been any subsequent changes in the law that require this rule to be amended or repealed?

This rule was updated on:
5/27/14 to add and update language and terminology consistent with OSM concepts, consistent with changes to CPS rules in division 015.

10/1/15 to implement provisions of the Preventing Sex Trafficking and Strengthening Families Act of 2014 relating to the Department's responsibilities when a child or young adult in substitute care is missing.

1/1/16 to permanently implement provisions of section 104 of the Preventing Sex Trafficking and Strengthening Families Act of 2014 relating to the Department's responsibilities when a child or young adult in substitute care is missing.

7/1/16 to implement SB 1515 (Oregon Laws 2016, chapter 2016), which created new requirements for the Department relating to ensuring the safety of children residing in or receiving services from child-caring agencies licensed by the Department.

12/1/16 to improve the oversight by the Department of child-caring agencies and proctor foster homes, promote the safety of children residing in or receiving services from childcaring agencies licensed by the Department as well as proctor foster homes, and comply with and implement SB 1515 (Oregon Laws 2016, chapter 106.)

1/1/18 to ensure compliance with Department-wide changes required by recent legislation, in particular SB 243 (2017). SB 243 is effective January 1, 2018 and requires all appropriate personnel in the Department to collaborate whenever a report of abuse is received on a child or young adult in most substitute care settings.

Yes
 No

Is there a continued need for this rule?

Report prepared on: 1/24/2018

Report prepared by: Anne King, Child Welfare Rules Coordinator

Report approved by: Lacey Andresen, DHS permanency manager

Report sent to Rule Advisory Committee participants on: 1/30/2018



Department of Human Services
Office of Child Welfare Programs

Five Year Rule Review - OAR Chapter 413
ORS 183.405

Rules under review:

- 413-090-0055: Effective Date and Administration of the BRS Program
- 413-090-0060: Purpose
- 413-090-0065: Definitions
- 413-090-0070: BRS Provider Requirements
- 413-090-0075: Prior Authorization for the BRS Program; Appeal Rights
- 413-090-0080: BRS Placement Related Activities for a Department BRS Contractor and BRS Provider
- 413-090-0085: Billing and Payment for Services and Placement-Related Activities
- 413-090-0090: Compliance Reviews and Remedies

(Original rule text is available [here](#) and the current rule text is available [here](#).)

- Advisory Committee Used Prior to Initial Adoption of Permanent Rule
 Advisory Committee Not Used Prior to Initial Adoption of Permanent Rule

Committee Members:

Contact Information:

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What was the intended effect of this rule adoption?

In 2013, these rules were written to standardize practice in the delivery of Behavior Rehabilitation Services in the child welfare system with other Oregon Departments who contract for such services with BRS Contractors. These rules clarified the Placement Related Activities provided to a BRS client receiving Behavior Rehabilitation Services through a BRS Contractor or BRS Provider. These rules outlined the responsibilities of the Department for contract compliance and oversight. These rules ensured that Behavior Rehabilitation Services were provided to meet the needs of children and young adults in the care or custody of the Department.

- 413-090-0055: Effective Date and Administration of the BRS Program
- 413-090-0060: Purpose
- 413-090-0065: Definitions
- 413-090-0070: BRS Provider Requirements
- 413-090-0075: Prior Authorization for the BRS Program; Appeal Rights
- 413-090-0080: BRS Placement Related Activities for a Department BRS Contractor and BRS Provider
- 413-090-0085: Billing and Payment for Services and Placement-Related Activities
- 413-090-0090: Compliance Reviews and Remedies

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
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<input type="checkbox"/> Yes <input type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated? The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption.
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<input type="checkbox"/> Yes <input type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated? See above.
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have there been any subsequent changes in the law that require this rule to be amended or repealed? These rules have subsequently been amended to comply with changes to the law. They are undergoing changes currently with a projected implementation date of 1/1/18.
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
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Report prepared on: 11/6/18

Report prepared by: Anne King, Child Welfare Rules Coordinator

Report approved by: Sara Fox, Treatment Services Program Manager

Report sent to Rule Advisory Committee participants on: 11/6/18



Department of Human Services
Office of Child Welfare Programs

Five Year Rule Review - OAR Chapter 413
ORS 183.405

Rules under review (adopted 1-1-14):

- 413-140-0031 Actions Performed by the Department upon Receipt of an Adoption Petition
- 413-140-0032 Waivers the Department May Issue (amended 10/1/16)
- 413-140-0033 Minimum Standards for Adoptive Homes
- 413-140-0047 Fees for the Placement Report and Certificate of Approval

The current rule text is available [here](#).

- Advisory Committee Used Prior to Initial Adoption of Permanent Rule**
 Advisory Committee Not Used Prior to Initial Adoption of Permanent Rule

Committee Members:	Contact Information:
Sandy Andersen	(Unable to locate.)
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Robin Corrigan	Robin.L.Corrigan@state.or.us

What was the intended effect of the adoption of these rules?

- 413-140-0031 was adopted to describe administrative procedures followed by the Department once an adoption petition has been served upon the Department.
- 413-140-0032 (amended 10/1/16) was adopted to summarize the types of waivers that may be granted by the Department as well as to describe eligibility for those waivers and required documentation to obtain each waiver.
- 413-140-0033 was adopted to comply with ORS 109.309(7)(a) by setting forth administrative rules regarding minimum standards for Oregon adoptive homes.
- 413-140-0047 was adopted to set out the fees for the placement report.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have these rule adoptions had their intended effect?
--	---

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of these rules underestimated? The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption.
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of these rules overestimated? See above.
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have there been any subsequent changes in the law that require this rule to be amended or repealed? OAR 413-140-0032 was updated 10-1-16 to waive the home study requirement when the birth mother retains parental rights as allowed under ORS 109.309.
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for these rules?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have these rules had an impact on small businesses?
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Report prepared on: 12/10/18

Report prepared by: Anne King, Child Welfare Rules Coordinator

Report approved by: Lacey Andresen, Permanency program manager

Report sent to Rule Advisory Committee participants on: 12/18/18



Department of Human Services
Office of Child Welfare Programs

Five Year Rule Review - OAR Chapter 413
ORS 183.405

Rules under review:

(Original rule text is available [here](#), and the current rule text is available [here](#).)

- Child Welfare Policy 413-215-0918, Consents, Disclosures, and Authorizations
- Child Welfare Policy 413-215-0992, Referral and Initial Evaluation of Youth

Rules summary:

These rules about licensing outdoor youth programs were amended to recognize the treatment value of the outdoor youth wilderness experience and ensure additional safety elements are in place, including gathering additional information about each youth as well as recognizing and treating issues which may arise.

OAR 413-215-0918 about consents, disclosures, and authorizations was adopted to establish consent, disclosure, and authorization requirements for outdoor youth programs.

OAR 413-215-0992 about referral and initial evaluation of youth was adopted to establish the requirements of outdoor youth programs for policies about referral and exclusion, and incorporate the policy about initial evaluation which is being relocated from OAR 413-215-0996.

- Advisory Committee Used Prior to Initial Adoption of Permanent Rule**
 Advisory Committee Not Used Prior to Initial Adoption of Permanent Rule

Committee Members:

Contact Information:

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What was the intended effect of this rule adoption?

- OAR 413-215-0918 was adopted to: This rule protects children and their families by requiring OYP, CCAs to complete Consents, Disclosures, and Authorizations with the child and guardian. The Consents, Disclosures, and Authorizations ensure the child and guardian essentially understand what services will be provided and the risks involved.
- OAR 413-215-0992 was adopted to: This rule protects children by requiring OYP, CCAs to gather enough information about each child served prior to and early during their placement so the child will be kept safe and adequate services will be provided to meet their needs.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated? At the time of adoption, the Department estimated that there are three outdoor youth programs that are small businesses that are subject to these rules. For their costs of compliance, the Department estimated that the amendments to OAR 413-215-0918 establishing consent, disclosure, and authorization requirements for outdoor youth programs will take about eight employee hours, with average personnel costs at about \$35 per hour, totaling \$280 for development and implementation. The Department estimates that the amendments to OAR 413-215-0992 will require development and implementation of policies about referral and exclusion that will take will take about eight employee hours, with average personnel costs at about \$35 per hour, totaling \$280. The Department estimates that there are no other fiscal impacts on client, the public, local government, and business, including small business. The economic effect on business is not significant. The fiscal impact on small business is not significantly adverse.
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have there been any subsequent changes in the law that require this rule to be amended or repealed? Both rules have subsequently been amended to comply with changes to the law.
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
--	---

Report prepared on: 9/18/18

Report prepared by: Anne King, Child Welfare Rules Coordinator

Report approved by: Tom Van der Veen

Report sent to Rule Advisory Committee participants on: 9/19/18

Department of Consumer and Business Services
Workers' Compensation Division

Five-year Administrative Rule Review

Rule division name and rule numbers: OAR chapter 436, division 009, Oregon Medical Fee and Payment, rule 0023, Ambulatory Surgery Center.

Date adopted: 3/12/2014

Date reviewed: Oct. 22, 2018

Advisory Committee Used: Yes

The Workers' Compensation division hosted meetings to discuss division 009 on Nov. 18 and Nov. 21, 2013. Rule 0023 was presented to the committee on Nov. 18.

1. **Did the rule achieve its intended effect?** Yes

a. **What was the intended effect?**

Rule 0023 included components from several rules – 0200 through 0290 – that were repealed. The intent of the reorganization included, “to make the rules more comprehensive and to facilitate consistent understanding. The one substantive change was to require, “that insurers pay ambulatory surgery centers (ASCs) separately for surgical implants when the cost of components of an implant adds up to \$100 or more.” The intent of this payment requirement was to ensure that ASCs were adequately paid for their costs for the implants.

b. **How did the rule succeed or fail in achieving this effect?**

Public comment on the reorganization of division 009, though not about rule 0023 specifically, has been generally positive. The division has not heard concerns about the consolidation of several rules to create rule 0023. The only testimony received regarding the proposed rule 0023 was supportive of clarifying that insurers must pay for implants if the components exceed \$100.

2. **Was the fiscal impact statement:**

- Underestimated
- Overestimated
- Just about right
- Unknown

a. What was the estimated fiscal impact?

In its “Statement of Need and Fiscal Impact” the Workers’ Compensation Division (division) estimated that reorganization of rules, including those affecting ASCs, would not have a significant effect. However, the fiscal impact estimate included:

“The proposed rules would require that insurers pay separately for surgical implants provided by an ambulatory surgery center when the cost of components of an implant adds up to \$100 or more. The agency projects that this amendment would produce a very small benefit for ambulatory surgery centers at a corresponding cost to insurers.”

b. What was the actual fiscal impact?

Unknown, but likely positive, as forecasted.

c. If the answer to question 2 is unknown, briefly explain why.

The division cannot quantify the benefits to ASCs or the costs to insurers. Prior rulemaking had already required that “When the ASC’s cost for an implant is more than \$100, the ASC may bill for the implant as a separate line item.” The rule adopted 3/12/2014 clarified that separate payment is required when the *components* of an implant sum to \$100 or more. Some carriers were paying consistent with the new rule before it was adopted, and a comparison of payment data (if available) before and after the adoption of the new rule would not produce meaningful data. However, because some insurers were not paying for *components* that were valued at less than \$100 before the rule change, the division is confident that the effect of the rule change has been slightly beneficial to ASCs, as forecasted.

3. Have subsequent changes in the law required the rule be repealed or amended?

No. The rule has been amended several times for updates to the related fee schedules, Appendices C and D, and for clarifications, but not due to changes in the law.

4. Is the rule still needed? Yes

The rule remains necessary to provide standards and fee schedules for payment of ASCs.

5. What impacts has the rule had on small businesses?

In 2014, in the related “Statement of Need and Fiscal Impact,” “Cost of compliance effect on small business,” the division projected that these “proposed rule changes would not significantly affect businesses’ costs for reporting, recordkeeping, administration, or professional services.” Division staff believe that outcomes have been consistent with this projection, but welcome input from stakeholders regarding the actual effects on businesses, small and large.

The department must review each administrative rule not later than five years after its adoption. Under ORS 183.405, the agency must determine:

- (a) Whether the rule has had the intended effect;
- (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- (c) Whether subsequent changes in the law require that the rule be repealed or amended;
- (d) Whether there is continued need for the rule; and
- (e) What impacts the rule has on small businesses.

The department must report its findings to any advisory committee appointed under ORS 183.333, to the Secretary of State, and to the Small Business Advisory Committee.

Department of Consumer and Business Services
Workers' Compensation Division

Five-year Administrative Rule Review

Rule division name and rule numbers:

OAR chapter 436, division 110, "Preferred Worker Program," rule 0150, "Pilot Projects"

(1) The director may develop one or more pilot projects to test alternatives to the current system of re-employing preferred workers.

(2) Notwithstanding any other provision of these rules, the director and others participating in pilot projects are bound by the terms of the pilot project.

Date adopted: June 5, 2013

Date reviewed: Feb. 6, 2018

Advisory Committee Used: Yes

The division consulted with a rulemaking advisory committee on March 26, 2013. The potential for pilot projects was the sole topic for discussion.

1. Did the rule achieve its intended effect? Yes

a. What was the intended effect?

The intent was to provide flexibility for the agency to develop pilot projects to test alternatives to current methods for returning injured workers to suitable employment.

b. How did the rule succeed or fail in achieving this effect?

The rule has allowed the division and stakeholders to test some service delivery methods. We think the success of the rule rests on its facilitation of an empirical approach to program development, and not on the success of any individual pilot.

The first pilot allowed a large Oregon insurer, rather than the division, to administer Preferred Worker program (PWP) benefits for its insured employers and employees. The objectives of the pilot project included increasing usage of the PWP, decreasing the time required to access PWP benefits, and increasing the accuracy of benefit delivery decisions. After comparing the delivery of services under the pilot with performance measures developed to evaluate its success, the division ended the pilot. Although for one timeliness criterion, timely approval of

wage subsidy agreements, timeliness improved by two percent, for all other measures, the quantity, timeliness, and accuracy of services declined.

In the second pilot, the division tested use of placement assistance agreements. These agreements provided greater incentives for vocational counselors to help workers rejoin the workforce. After completion of the pilot, the division adopted a rule that includes improved placement assistance incentives. Although the rule does not duplicate procedures used under the pilot, the experience gained in the pilot informed the development of an effective rule.

2. Was the fiscal impact statement:

- Underestimated
- Overestimated
- Just about right
- Unknown

a. What was the estimated fiscal impact?

Because the exact nature of then future pilot projects was unknown, the division did not estimate specific costs or benefits. We acknowledged that any associated, increased use of return-to-work incentives would increase demands on the Workers' Benefit Fund, and that pilot participants might experience increased or decreased costs under a pilot.

b. What was the actual fiscal impact?

One reason to test service delivery options as pilot projects is to limit any harm that might result. Although under one pilot, approximately \$12,000 was incorrectly reimbursed to employers, the economic costs and benefits have not otherwise been substantial.

c. If the answer to question 2 is unknown, briefly explain why.

N/A

3. Have subsequent changes in the law required the rule be repealed or amended?

No

4. Is the rule still needed? Yes

1

The rule continues to be needed for the same reasons it was adopted – to allow the division the option to test service delivery alternatives in a limited way.

The department must review each administrative rule not later than five years after its adoption. Under ORS 183.405, the agency must determine:

- (a) Whether the rule has had the intended effect;
- (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- (c) Whether subsequent changes in the law require that the rule be repealed or amended; and
- (d) Whether there is continued need for the rule.

The department must report its findings to the Secretary of State and to any advisory committee appointed under ORS 183.333.

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

Five-year Administrative Rule Review

Rule number: OAR 437-002-0023

Date adopted: February 15, 2013

Date reviewed: March 12, 2018

Advisory Committee Used:

Oregon Construction Advisory Committee

1. **Did the rule achieve its intended effect?** Yes

a. **What was the intended effect?**

The rule and its entire accompanying Subdivision has been replaced with the new Walking Working Surfaces rule, promulgated by Federal OSHA and adopted/revised by Oregon OSHA as Division 2/D Walking Working Surfaces 437-002-0020 through 437-002-2031, adopted November 1, 2017.

b. **How did the rule succeed or fail in achieving this effect?**

The rule was successfully implemented.

2. **Was the fiscal impact statement:**

Underestimated _____

Overestimated _____

Just about right X

Unknown _____

a. **What was the estimated fiscal impact?**

The rule had no substantive initial cost impact.

b. **What was the actual fiscal impact?**

The rule has had no substantive fiscal impact outside of the predicted range.

- c. **If the answer to question 2 is unknown, briefly explain why.**
N/A

3. Have subsequent changes in the law required the rule be repealed or amended?

This rule was replaced with the new Walking Working Surfaces rule, Division 2/D, on November 1, 2017. OAR 437-002-0023 was specifically replaced by 437-002-1910.28(b)(3), within the total revision of 2/D Walking Working Surfaces.

4. Is the rule still needed? No. The entire subdivision has been replaced with Division 2/D, 437-002-0020 through 437-002-2031, including 437-002-1910.28.

Explain. Oregon OSHA administers and enforces the occupational safety and health provisions of Division 2, Subdivision D. These rules set forth requirements for Walking/Working Surfaces for General Industry, which was adopted on November 1, 2017, to replace the previous version of Division 2/D.

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

Five-year Administrative Rule Review

Rule number: OAR 437-003-0134

Date adopted: February 15, 2013

Date reviewed: March 12, 2018

Advisory Committee Used:

Oregon Construction Advisory Committee

1. **Did the rule achieve its intended effect?** Yes

a. **What was the intended effect?**

To update the Oregon OSHA Personal Protective Equipment Standard for Construction based upon Phase III of Federal OSHA's Standards Improvement Project. Oregon OSHA adopted most of the Federal SIP-III amendments into Oregon OSHA rules without revision. We also adopted some Oregon-initiated rules of equivalent or greater effectiveness and made some additional changes to other standards or divisions addressed by the Federal rulemaking.

b. **How did the rule succeed or fail in achieving this effect?**

The rule was successfully implemented.

2. **Was the fiscal impact statement:**

Underestimated _____

Overestimated _____

Just about right X _____

Unknown _____

a. **What was the estimated fiscal impact?**

A reduced fiscal cost was estimated based upon changes in the electrical protective glove testing schedule and the updating of protective head gear.

- Electrical protective glove testing was standardized with the requirements in the General Industry rule 437-002-0134.
- Hard hat reference standards were updated to comply with the ANSI Z89-2009, ANSI Z89-2003, and ANSI Z89-1997 standards.

b. What was the actual fiscal impact?

The rule has had no substantive fiscal impact outside of the predicted range.

c. If the answer to question 2 is unknown, briefly explain why.
N/A

3. Have subsequent changes in the law required the rule be repealed or amended? This rule has been amended three times:

- a) A change in Electrical Protective Equipment, 1910.137(c)(2)(xii) Table I-5 regarding the frequency of testing rubber insulating gloves and sleeves, effective January 1, 2016
- b) An update of eye and face protection related ANSI Standards based upon Federal OSHA updates: adopted the Federal changes as issued. Effective September 7, 2016
- c) An update of head protection related to ANSI Standards based upon Federal OSHA updates: adopted the Federal changes as issued. Effective January 1, 2017.

4. Is the rule still needed? Yes

Explain. Oregon OSHA administers and enforces the occupational safety and health provisions of Division 3, Subdivision E. These rules set forth requirements for personal protective equipment selection, use, maintenance and training; affecting the majority of Construction employers in Oregon.

Five-Year Review of New Administrative Rules
adopted since January 1, 2006 (ORS 183.405)

Rule number(s): OAR 731-012-0010 through 731-012-0140 DOT 4-2013

Date adopted: 8-22-13 (not date filed or effective)

Date review due: 8-22-18

Advisory committee used? yes no

If yes, identify members below. Members must be provided a copy of this completed form.

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

The rule protects certain state highways from proposed projects that may reduce the capacity of the highway to accommodate legal loads and annual permitted over-dimension loads.

b. How did the rule succeed or fail in achieving this effect?

The rule is achieving the desired effect.

2. Was the fiscal impact statement (check one)

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

No fiscal impact associated with implementation of the rule.

b. What was the actual fiscal impact?

No fiscal impact associated with implementation of the rule.

c. If the answer to question 2 is unknown, briefly explain why.

3. Have subsequent changes in the law required the rule be repealed or amended?

yes no

If yes, explain below.

4. Is the rule still needed? yes no

Explain below.

It is anticipated that local governments will continue to propose improvement projects on highways that also serve as main streets and that ODOT will need to review these projects to determine if there is a capacity reduction.

Review completed by: Robin Marshburn

Date: Aug 20, 2018

Phone: 503-986-3696

Five-Year Review of New Administrative Rules
adopted since January 1, 2006 (ORS 183.405)

Rule number(s): OAR 734-030-0016 Rest Areas HWD 1-2013

Date adopted: January 16, 2013 (not date filed or effective)

Date review due: January 16, 2018

Advisory committee used? yes no

If yes, identify members below. Members must be provided a copy of this completed form.

N/A

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

Provide a process for the review of a notice of exclusion from a rest area.

b. How did the rule succeed or fail in achieving this effect?

Allows a notice of exclusion from a rest area to be reviewed and potentially withdrawn.

2. Was the fiscal impact statement (check one)

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

Potential impact on citizens who fail to comply with rest area health and safety rules.

b. What was the actual fiscal impact?

The actual cost to those citizens in unknown.

c. If the answer to question 2 is unknown, briefly explain why.

3. Have subsequent changes in the law required the rule be repealed or amended?

yes no

If yes, explain below.

4. Is the rule still needed? yes no

Explain below.

The rule is necessary to provide for the exclusion from a rest area for violation of rest area rules and other regulations.

Review completed by: Karen Morrison

Date: December 6, 2017

Phone: 503-986-3006

Five-Year Review of New Administrative Rules
adopted since January 1, 2006 (ORS 183.405)

Rule number(s): OAR 734-082-0085 MAP-21 HWD 4-2013

Date adopted: 9-19-13 (not date filed or effective)

Date review due: 9-19-18

Advisory committee used? yes no

If yes, identify members below. Members must be provided a copy of this completed form.

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

Section 1511 of MAP-21 extends the states' authority to issue special permits to vehicles with divisible loads that are delivering relief supplies during a presidentially-declared emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act") (42 U.S.C. 5121 et seq.). The rule adoption was necessary to ensure Oregon is in compliance with the federal regulations.

b. How did the rule succeed or fail in achieving this effect?

The rule helps makes certain Oregon is prepared for a presidentially-declared emergency or major disaster.

2. Was the fiscal impact statement (check one)

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

None

b. What was the actual fiscal impact?

None

c. If the answer to question 2 is unknown, briefly explain why.

N/A

3. Have subsequent changes in the law required the rule be repealed or amended?

yes no

If yes, explain below.

4. Is the rule still needed? yes no

Explain below.

Yes, the rule is necessary to remain in compliance with federal requirements.

Review completed by: Kim Toews

Date: 9/13/18

Phone: 503-378-4851

Five-Year Review of New Administrative Rules
adopted since January 1, 2006 (ORS 183.405)

Rule number(s): OAR 735-090-0066, Discovery in IC hearings DMV 13-2013

Date adopted: 9-19-13 (not date filed or effective)

Date review due: 9-19-18

Advisory committee used? yes no

If yes, identify members below. Members must be provided a copy of this completed form.

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

Implied Consent (IC) hearings operate a bit differently than other agency hearings as they follow extremely tight timelines established in law. The intended effect of this rule was to make certain that unneeded discovery requests, as provided in model rules and appropriate in other hearing types, are not allowed to unnecessarily circumvent the flow of the IC hearings and allow petitioners to prevail at hearings simply because they found a stalling tactic that prevented the issuance of a final order in the time allowed by statute.

b. How did the rule succeed or fail in achieving this effect?

It succeeded as no IC hearing was unnecessarily delayed by actions disallowed by this rule.

2. Was the fiscal impact statement (check one)

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

No fiscal impact.

b. What was the actual fiscal impact?

No fiscal impact.

c. If the answer to question 2 is unknown, briefly explain why.

3. Have subsequent changes in the law required the rule be repealed or amended?

yes no

If yes, explain below.

4. Is the rule still needed? yes no

Explain below.

The tight timelines for IC hearings remain the same. The model rules regarding discovery also remain the same. Therefore, the rule limiting methods of discovery in IC hearings is still required.

Review completed by: Liz Woods

Date: 8/20/2018

Phone: (503) 945-8911

Five-Year Review of New Administrative Rules
adopted since January 1, 2006 (ORS 183.405)

Rule number(s): OAR 735-010-0250 and 735-018-0130 DMV 20-2013

Date adopted: 12/18/13 (not date filed or effective)

Date review due: 12/18/18

Advisory committee used? yes no

If yes, identify members below. Members must be provided a copy of this completed form.

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

The rules are intended to implement the statutes requiring DMV notify ODVA at least once a month of the receipt of written authorization from a member or veteran of a uniformed service to provide their name and address to ODVA.

b. How did the rule succeed or fail in achieving this effect?

The rules succeeded in that DMV notifies ODVA once a month as required in the statute in a form established by the agencies by the rule.

2. Was the fiscal impact statement (check one)

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

None.

b. What was the actual fiscal impact?

None.

c. If the answer to question 2 is unknown, briefly explain why.

3. Have subsequent changes in the law required the rule be repealed or amended?

yes no

If yes, explain below.

4. Is the rule still needed? yes no

Explain below.

Yes the rule is needed to comply with ORS 406.073

Review completed by: Ty Yoder

Date: 11/7/18

Phone: (503) 945-5256

Five-Year Review of New Administrative Rules
adopted since January 1, 2006 (ORS 183.405)

Rule number(s): OAR 737-015-0035 through 737-015-0130 TSD 1-2014

Date adopted: 1/16/14 (not date filed or effective)

Date review due: 1/16/19

Advisory committee used? yes no

If yes, identify members below. Members must be provided a copy of this completed form.

Members: Rich Hanson, Jon Congdon, Andrew Crites, Steve Lents, Ruth Ann Meize, Holly Nelson, Rick Nickell, and Loree Nosack – Staff: William Warner and Mary DeFerrari

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

To increase program access throughout underserved areas in the state. Additional sanctions to refine the monitoring and compliance program for the service providers. Additional subsidy to assist low-income families.

b. How did the rule succeed or fail in achieving this effect?

Education program access increased for underserved Oregonians throughout the state. Opportunity for remediation with service providers has increased value and efficiency with refined sanctions. Low-income families have reduced course fee due to additional subsidy.

2. Was the fiscal impact statement (check one)

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

Increased draw on Student Driver Training Fund expected to reduce fund balance by \$5 million over 3 years.

b. What was the actual fiscal impact?

The SDTF balance reduced overall by 1.5 million dollars as of 12-12-18

c. If the answer to question 2 is unknown, briefly explain why.

3. Have subsequent changes in the law required the rule be repealed or amended?

yes no

If yes, explain below.

4. Is the rule still needed? yes no

Explain below.

There continues to be underserved rural and frontier areas of the state. Incentives reduce the financial loss a provider may experience delivering the program in these areas. Progressive sanctions help protect the public and give driver education providers opportunity to make corrections. Low-income subsidy provides better access for low-income families by reducing course fee.

Review completed by: William Warner

Date: 12/11/18

Phone: 503 986-4413

Five-Year Review of New Administrative Rules
adopted since January 1, 2006 (ORS 183.405)

Rule number(s): OAR 740-055-0035 Change in Fee Basis

Date adopted: May 15, 2013 (not date filed or effective)

Date review due: May 15, 2018

Advisory committee used? yes no

If yes, identify members below. Members must be provided a copy of this completed form.

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

A fee basis is the method a carrier elects to use to report and pay Highway Use Tax. A carrier's fee basis eligibility is determined by the declared weight of the vehicle, configuration of the vehicle and commodity to be transported. The new rule was necessary to define and clarify when a change of fee basis has occurred.

b. How did the rule succeed or fail in achieving this effect?

The rule provides the clarity that was being sought.

2. Was the fiscal impact statement (check one)

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

None, rulemaking clarified practice.

b. What was the actual fiscal impact?

None

c. If the answer to question 2 is unknown, briefly explain why.

3. Have subsequent changes in the law required the rule be repealed or amended?

yes no

If yes, explain below.

4. Is the rule still needed? yes no

Explain below.

Clarification and practice is required for describing the method a carrier elects to use to report and pay Highway Use Tax. A carrier's fee basis eligibility is determined by the declared weight of the

vehicle, configuration of the vehicle and commodity to be transported.

Review completed by: Kim Toews

Date: 5/9/18

Phone: 503-378-4851

Five-Year Review of New Administrative Rules
adopted since January 1, 2006 (ORS 183.405)

Rule number(s): OAR 740-060-0035, 740-060-0085, 740-060-0090

Date adopted: June 19, 2013

Date review due: June 19, 2018

Advisory committee used? yes no

If yes, identify members below. Members must be provided a copy of this completed form.

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect?

1. OAR 740-060-0035, Cargo Insurance and Valuation Declaration rule was needed to explain that a carrier liability is altered by selecting a valuation protection option. The new rule removes depreciated value protection as a valuation option. In addition, the rule specifies if the shipper does not select a valuation option, replacement cost protection will be the charged by the carrier at the expense of the shipper.

2. OAR 740-060-0085, Hourly Rate Local Moves clarifies the rates and areas used for commercial zones and moves wholly within a city.

3. OAR 740-060-0090, Hourly Rate Distance Move was needed to alleviate the concern of using hourly charges for a distance move by limiting the amount of time a mover can charge for transit time by using a mileage software program to determine the travel time.

b. How did the rule succeed or fail in achieving this effect?

A General Information Bulletin for Moving Household Goods in Oregon (Bulletin) is being used for its intended purpose. The Department has not received negative comment regarding the changes made. Positive feedback has been received from the industry and consumers that the online forms are useful and necessary.

2. Was the fiscal impact statement (check one)

underestimated

overestimated

just about right

unknown

a. What was the estimated fiscal impact?

None

b. What was the actual fiscal impact?

None

c. If the answer to question 2 is unknown, briefly explain why.

N/A

3. Have subsequent changes in the law required the rule be repealed or amended?

yes no

If yes, explain below.

N/A

4. Is the rule still needed? yes no

Explain below.

The rulemakings are still required to regulate a state-mandated monopoly to provide consumer protection to Oregonians.

1. OAR 740-060-0035, Cargo Insurance and Valuation Declaration rule was needed to explain that a carrier liability is altered by selecting a valuation protection option. The new rule removes depreciated value protection as a valuation option. In addition, the proposed rule specifies if the shipper does not select a valuation option, replacement cost protection will be the charged by the carrier at the expense of the shipper. OARs are still needed for consumer protection.

2. OAR 740-060-0085, Hourly Rate Local Moves clarifies the rates and areas used for commercial zones and moves wholly within a city. Specifications on how hourly rates are applied are still required.

3. OAR 740-060-0090, Hourly Rate Distance Move is still needed to eliminate the concern of using hourly charges for a distance move by limiting the amount of time a mover can charge for transit time by using a mileage software program to determine the travel time.

Review completed by: Kim Toews

Date: 6/19/2018

Phone: 503-378-4851

Landscape Contractors Board
Five-year Administrative Rule Review

Rule division name and rule number:

808-002-0755 – Defines Patio

Date adopted: February 1, 2013

Date Reviewed: July 20, 2018

Advisory Committee Used: Yes, the Board acts as its own Advisory Committee

1. **Did the rule achieve the intended effect?** Yes
2. **Was the fiscal impact statement:**
 - Underestimated
 - Overestimated
 - Just about right
 - Unknown
3. **Have the rules been repealed or amended?** No
4. **Are the rules still needed?** Yes
The need for clarity and consistency remains.

The agency must review each adopted administrative rule not later than five years after its adoption. Under ORS 183.405, the agency must determine:

- a. Whether the rule has had the intended effect;
- b. Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- c. Whether subsequent changes in the law require that the rule be repealed or amended;
- d. Whether there is a continued need for the rule.

The agency must report its findings to the Secretary of State and any advisory committee appointed under ORS 183.333. This agency has a Board that acts as the Advisory Committee.

The review requirement does not apply to rules adopted to:

- implement court orders or settle civil proceedings;
- adopt federal laws or rules by reference;
- implement legislatively-approved fee changes; or
- correct errors or omissions.



MEMORANDUM

To: Secretary of State

From: Kim Gladwill, Program Manager

Date: September 13, 2018

Re: Five Year Rule Review

Kim

On July 20, 2018 the Landscape Contractors Board review a newly adopted rule from five year ago and determined this rule has achieved the intended effect and is still needed for clarify and consistency.

Enclosed is our report.

Thank you.

Kim Gladwill-Rowley
Program Manager
Landscape Contractors Board
(503) 967-6291 Ext. 223
Kim.Gladwill@oregon.gov



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Division of Financial Regulation

350 Winter St. NE, Room 410

P.O. Box 14480

Salem, OR 97309-0405

Five Year Review of New Rules Check List

Date: 10/22/2018

ID #: 7-2013

OARs Adopted: 836-027-0125 and 836-027-0140

Adoption Date: 12/26/2013

Advisory Committee List Attached?

Y

N

Does section apply to:

- | | | |
|--|----------------------------|---------------------------------------|
| Implementation of court order or civil proceedings | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption of federal laws or rules by reference | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Implementation of legislatively approved fee changes | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption to correct errors or omissions | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |

Did rule:

Have intended effect?

a. What was the intended effect?

The Rule Summary stated as follows:

These new and amended rules relate to holding companies to incorporate changes necessary as a result of legislation passed by the 2013 Legislative Assembly. The major changes are to adopt the forms and requirements for an annual enterprise report for holding companies and the pre-acquisition notification required to be filed by a domestic insurer that is proposing a merger or acquisition or by a non-domiciliary insurer licensed to do business in this state. The rules are based on the National Association of Insurance Commissioners' Model Regulation #450, Insurance Holding Company System Model Regulation With Reporting Forms and Instructions. The proposed rules include the two new forms as exhibits.

b. How did the rule succeed or fail in achieving this effect?

The rules succeeded in providing guidance to insurers regarding the filing of notices of merger or acquisition, as well as the filing of enterprise risk reports.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated as follows:

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



Oregon

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Department of Consumer and Business Services

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Five Year Review of New Rules Check List

These proposed rules do not have a financial impact on state agencies, local governments or the public generally. The rules pertain to acquisitions and mergers connected to holding companies that are insurers. For those insurers who must comply with these holding company rules, there will be a fiscal impact in that it will require the companies to engage specialized consultants, such as certified public accountants, to prepare or assist in the preparation of the reports required by the legislation and these rules. This cost will not be insignificant because the cost to hire the consultants is not insignificant, but the amount of financial impact is indeterminate at this time as insurers have not previously submitted these reports.

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:

These proposed rules affect only insurers, none of whom are small businesses in Oregon.

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

None for small business.

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

b. What was the actual fiscal impact?

Unknown.

c. If the answer to question 'b' is unknown, briefly explain why.

The file does not reflect any subsequent feedback regarding fiscal impact. Extensive research would be required to determine actual fiscal impact.

Have continued need?

Yes, there is a continued need for the rules. The relevant underlying statutes remain unchanged. The rules have since been updated, to substitute ORS references for session laws references and to specify form access on the department's website. However, there are several technical errors that should be corrected – i.e., references to ORS 732.587 should be changed to ORS 732.537; references to ORS 732.589 should be changed to ORS 732.539; and, references to ORS 732.705 (in the statutory authority) should be changed to ORS 732.572.

Impact on small businesses?

The file does not reflect any impact on small businesses.



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Department of Consumer and Business Services

Division of Financial Regulation

350 Winter St. NE, Room 410

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Salem, OR 97309-0405

Five Year Review of New Rules Check List

Date: 2/15/2017

ID #: 3-2012

OARs Adopted: 836-052-0768 and 836-052-0770

Adoption Date: 2/13/2012

Advisory Committee List Attached?

Y

N

Does section apply to:

Implementation of court order or civil proceedings Y N

Adoption of federal laws or rules by reference Y N

Implementation of legislatively approved fee changes Y N

Adoption to correct errors or omissions Y N

Did rule:

Have intended effect?

a. What was the intended effect?

The Rule Summary stated, as follows:

These rules implement chapter 69, Oregon Laws 2011 (Enrolled Senate Bill 88), which took effect May 19, 2011. The rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements. The rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The rules apply to long term care policies issued or renewed after July 1, 2012.

b. How did the rule succeed or fail in achieving this effect?

The rules succeeded in detailing requirements for internal and external review of benefit determinations. The rules also succeeded in establishing requirements for prompt resolution of benefit claims.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated, as follows:

Fiscal and Economic Impact: These rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements for long term care insurance. The draft rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The insurers will bear the cost of internal and external reviews when requested by an insured. That cost is unknown at this time as it will be determined in part through a public bid process conducted by the Division. The insurers will also be required to comply with prompt pay requirements, but this is not



Oregon

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Department of Consumer and Business Services

Division of Financial Regulation

350 Winter St. NE, Room 410

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Salem, OR 97309-0405

Five Year Review of New Rules Check List

likely to have a fiscal impact.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Department of Consumer and Business Services (DCBS) anticipates the number of long term care external review cases would be approximately 44 per year. Forty-four hours, 1 hour per case, for an Administrative Specialist 1, is anticipated to facilitate the external review process. In addition, 90 hours of an Insurance Examiner would be anticipated to initiate and analyze data collection to evaluate insurer's prompt pay compliance. We also estimate 15 hours for a Public Service Representative 4 to facilitate any data collection. Lastly, 14 hours of assistant attorney general time is anticipated for review of the solicitation and contracts for external review services.

Except for the costs incurred by the Department of Justice for reviewing the solicitation and contracts for external review services, no other agency or unit of local government will be impacted by these rules.

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: The rule applies to long term care insurers. No long term care insurer is a small business in Oregon. Entities that may be selected to provide external review services may be small businesses in Oregon. The Insurance Division anticipates that up to three contractors would be selected to provide this service.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Only those small businesses selected to provide external review services would incur costs and those costs would be covered by the contract to provide the services.

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

b. What was the actual fiscal impact?

Although the costs of the external review process, in particular, would appear much less than originally anticipated, given its relatively infrequent usage (approximately once per year), the actual fiscal impact of complying with benefit determination review processes and prompt pay requirements is unknown.

c. If the answer to question 'b' is unknown, briefly explain why.

The file does not reflect any subsequent feedback or other information regarding the actual costs of complying with internal or external review processes, or prompt pay provisions. Extensive research would be required to determine actual fiscal impact.



Oregon

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Department of Consumer and Business Services

Division of Financial Regulation

350 Winter St. NE, Room 410

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Salem, OR 97309-0405

Five Year Review of New Rules Check List

Have continued need?

Yes. The underlying statutory framework remains intact. There is a continued need for the rules.



Oregon

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Department of Consumer and Business Services

Division of Financial Regulation

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Salem, OR 97309-0405

Five Year Review of New Rules Check List

Date: 2/15/2017

ID #: 3-2012

OARs Adopted: 836-052-0768 and 836-052-0770

Adoption Date: 2/13/2012

Advisory Committee List Attached?

Y

N

Does section apply to:

- | | | |
|--|----------------------------|---------------------------------------|
| Implementation of court order or civil proceedings | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption of federal laws or rules by reference | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Implementation of legislatively approved fee changes | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption to correct errors or omissions | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |

Did rule:

Have intended effect?

a. What was the intended effect?

The Rule Summary stated, as follows:

These rules implement chapter 69, Oregon Laws 2011 (Enrolled Senate Bill 88), which took effect May 19, 2011. The rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements. The rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The rules apply to long term care policies issued or renewed after July 1, 2012.

b. How did the rule succeed or fail in achieving this effect?

The rules succeeded in detailing requirements for internal and external review of benefit determinations. The rules also succeeded in establishing requirements for prompt resolution of benefit claims.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated, as follows:

Fiscal and Economic Impact: These rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements for long term care insurance. The draft rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The insurers will bear the cost of internal and external reviews when requested by an insured. That cost is unknown at this time as it will be determined in part through a public bid process conducted by the Division. The insurers will also be required to comply with prompt pay requirements, but this is not



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Division of Financial Regulation

350 Winter St. NE, Room 410

P.O. Box 14480

Salem, OR 97309-0405

Five Year Review of New Rules Check List

likely to have a fiscal impact.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Department of Consumer and Business Services (DCBS) anticipates the number of long term care external review cases would be approximately 44 per year. Forty-four hours, 1 hour per case, for an Administrative Specialist 1, is anticipated to facilitate the external review process. In addition, 90 hours of an Insurance Examiner would be anticipated to initiate and analyze data collection to evaluate insurer's prompt pay compliance. We also estimate 15 hours for a Public Service Representative 4 to facilitate any data collection. Lastly, 14 hours of assistant attorney general time is anticipated for review of the solicitation and contracts for external review services.

Except for the costs incurred by the Department of Justice for reviewing the solicitation and contracts for external review services, no other agency or unit of local government will be impacted by these rules.

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: The rule applies to long term care insurers. No long term care insurer is a small business in Oregon. Entities that may be selected to provide external review services may be small businesses in Oregon. The Insurance Division anticipates that up to three contractors would be selected to provide this service.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Only those small businesses selected to provide external review services would incur costs and those costs would be covered by the contract to provide the services.

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

b. What was the actual fiscal impact?

Although the costs of the external review process, in particular, would appear much less than originally anticipated, given its relatively infrequent usage (approximately once per year), the actual fiscal impact of complying with benefit determination review processes and prompt pay requirements is unknown.

c. If the answer to question 'b' is unknown, briefly explain why.

The file does not reflect any subsequent feedback or other information regarding the actual costs of complying with internal or external review processes, or prompt pay provisions. Extensive research would be required to determine actual fiscal impact.



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Five Year Review of New Rules Check List

Have continued need?

Yes. The underlying statutory framework remains intact. There is a continued need for the rules.



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Division of Financial Regulation
350 Winter St. NE, Room 410
P.O. Box 14480
Salem, OR 97309-0405

Five Year Review of New Rules Check List

Date: 2/15/2017

ID #: 3-2012

OARs Adopted: 836-052-0768 and 836-052-0770

Adoption Date: 2/13/2012

Advisory Committee List Attached? Y N

Does section apply to:

- | | | |
|--|----------------------------|---------------------------------------|
| Implementation of court order or civil proceedings | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption of federal laws or rules by reference | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Implementation of legislatively approved fee changes | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption to correct errors or omissions | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |

Did rule:

Have intended effect?

a. What was the intended effect?

The Rule Summary stated, as follows:

These rules implement chapter 69, Oregon Laws 2011 (Enrolled Senate Bill 88), which took effect May 19, 2011. The rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements. The rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The rules apply to long term care policies issued or renewed after July 1, 2012.

b. How did the rule succeed or fail in achieving this effect?

The rules succeeded in detailing requirements for internal and external review of benefit determinations. The rules also succeeded in establishing requirements for prompt resolution of benefit claims.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated, as follows:

Fiscal and Economic Impact: These rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements for long term care insurance. The draft rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The insurers will bear the cost of internal and external reviews when requested by an insured. That cost is unknown at this time as it will be determined in part through a public bid process conducted by the Division. The insurers will also be required to comply with prompt pay requirements, but this is not



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P.O. Box 14480

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Five Year Review of New Rules Check List

likely to have a fiscal impact.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Department of Consumer and Business Services (DCBS) anticipates the number of long term care external review cases would be approximately 44 per year. Forty-four hours, 1 hour per case, for an Administrative Specialist 1, is anticipated to facilitate the external review process. In addition, 90 hours of an Insurance Examiner would be anticipated to initiate and analyze data collection to evaluate insurer's prompt pay compliance. We also estimate 15 hours for a Public Service Representative 4 to facilitate any data collection. Lastly, 14 hours of assistant attorney general time is anticipated for review of the solicitation and contracts for external review services.

Except for the costs incurred by the Department of Justice for reviewing the solicitation and contracts for external review services, no other agency or unit of local government will be impacted by these rules.

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: The rule applies to long term care insurers. No long term care insurer is a small business in Oregon. Entities that may be selected to provide external review services may be small businesses in Oregon. The Insurance Division anticipates that up to three contractors would be selected to provide this service.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Only those small businesses selected to provide external review services would incur costs and those costs would be covered by the contract to provide the services.

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

b. What was the actual fiscal impact?

Although the costs of the external review process, in particular, would appear much less than originally anticipated, given its relatively infrequent usage (approximately once per year), the actual fiscal impact of complying with benefit determination review processes and prompt pay requirements is unknown.

c. If the answer to question 'b' is unknown, briefly explain why.

The file does not reflect any subsequent feedback or other information regarding the actual costs of complying with internal or external review processes, or prompt pay provisions. Extensive research would be required to determine actual fiscal impact.



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Division of Financial Regulation

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Salem, OR 97309-0405

Five Year Review of New Rules Check List

Have continued need?

Yes. The underlying statutory framework remains intact. There is a continued need for the rules.



Five Year Review of New Rules Check List

Date: 2/15/2017

ID #: 3-2012

OARs Adopted: 836-052-0768 and 836-052-0770

Adoption Date: 2/13/2012

Advisory Committee List Attached?

Y

N

Does section apply to:

Implementation of court order or civil proceedings Y N

Adoption of federal laws or rules by reference Y N

Implementation of legislatively approved fee changes Y N

Adoption to correct errors or omissions Y N

Did rule:

Have intended effect?

a. What was the intended effect?

The Rule Summary stated, as follows:

These rules implement chapter 69, Oregon Laws 2011 (Enrolled Senate Bill 88), which took effect May 19, 2011. The rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements. The rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The rules apply to long term care policies issued or renewed after July 1, 2012.

b. How did the rule succeed or fail in achieving this effect?

The rules succeeded in detailing requirements for internal and external review of benefit determinations. The rules also succeeded in establishing requirements for prompt resolution of benefit claims.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated, as follows:

Fiscal and Economic Impact: These rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements for long term care insurance. The draft rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The insurers will bear the cost of internal and external reviews when requested by an insured. That cost is unknown at this time as it will be determined in part through a public bid process conducted by the Division. The insurers will also be required to comply with prompt pay requirements, but this is not



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Five Year Review of New Rules Check List

likely to have a fiscal impact.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Department of Consumer and Business Services (DCBS) anticipates the number of long term care external review cases would be approximately 44 per year. Forty-four hours, 1 hour per case, for an Administrative Specialist 1, is anticipated to facilitate the external review process. In addition, 90 hours of an Insurance Examiner would be anticipated to initiate and analyze data collection to evaluate insurer's prompt pay compliance. We also estimate 15 hours for a Public Service Representative 4 to facilitate any data collection. Lastly, 14 hours of assistant attorney general time is anticipated for review of the solicitation and contracts for external review services.

Except for the costs incurred by the Department of Justice for reviewing the solicitation and contracts for external review services, no other agency or unit of local government will be impacted by these rules.

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: The rule applies to long term care insurers. No long term care insurer is a small business in Oregon. Entities that may be selected to provide external review services may be small businesses in Oregon. The Insurance Division anticipates that up to three contractors would be selected to provide this service.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Only those small businesses selected to provide external review services would incur costs and those costs would be covered by the contract to provide the services.

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

b. What was the actual fiscal impact?

Although the costs of the external review process, in particular, would appear much less than originally anticipated, given its relatively infrequent usage (approximately once per year), the actual fiscal impact of complying with benefit determination review processes and prompt pay requirements is unknown.

c. If the answer to question 'b' is unknown, briefly explain why.

The file does not reflect any subsequent feedback or other information regarding the actual costs of complying with internal or external review processes, or prompt pay provisions. Extensive research would be required to determine actual fiscal impact.



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Five Year Review of New Rules Check List

Have continued need?

Yes. The underlying statutory framework remains intact. There is a continued need for the rules.



Five Year Review of New Rules Check List

Date: 2/15/2017

ID #: 3-2012

OARs Adopted: 836-052-0768 and 836-052-0770

Adoption Date: 2/13/2012

Advisory Committee List Attached? Y N

Does section apply to:

- | | | |
|--|----------------------------|---------------------------------------|
| Implementation of court order or civil proceedings | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption of federal laws or rules by reference | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Implementation of legislatively approved fee changes | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption to correct errors or omissions | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |

Did rule:

Have intended effect?

a. What was the intended effect?

The Rule Summary stated, as follows:

These rules implement chapter 69, Oregon Laws 2011 (Enrolled Senate Bill 88), which took effect May 19, 2011. The rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements. The rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The rules apply to long term care policies issued or renewed after July 1, 2012.

b. How did the rule succeed or fail in achieving this effect?

The rules succeeded in detailing requirements for internal and external review of benefit determinations. The rules also succeeded in establishing requirements for prompt resolution of benefit claims.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated, as follows:

Fiscal and Economic Impact: These rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements for long term care insurance. The draft rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The insurers will bear the cost of internal and external reviews when requested by an insured. That cost is unknown at this time as it will be determined in part through a public bid process conducted by the Division. The insurers will also be required to comply with prompt pay requirements, but this is not



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Five Year Review of New Rules Check List

likely to have a fiscal impact.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Department of Consumer and Business Services (DCBS) anticipates the number of long term care external review cases would be approximately 44 per year. Forty-four hours, 1 hour per case, for an Administrative Specialist 1, is anticipated to facilitate the external review process. In addition, 90 hours of an Insurance Examiner would be anticipated to initiate and analyze data collection to evaluate insurer's prompt pay compliance. We also estimate 15 hours for a Public Service Representative 4 to facilitate any data collection. Lastly, 14 hours of assistant attorney general time is anticipated for review of the solicitation and contracts for external review services.

Except for the costs incurred by the Department of Justice for reviewing the solicitation and contracts for external review services, no other agency or unit of local government will be impacted by these rules.

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: The rule applies to long term care insurers. No long term care insurer is a small business in Oregon. Entities that may be selected to provide external review services may be small businesses in Oregon. The Insurance Division anticipates that up to three contractors would be selected to provide this service.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Only those small businesses selected to provide external review services would incur costs and those costs would be covered by the contract to provide the services.

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

b. What was the actual fiscal impact?

Although the costs of the external review process, in particular, would appear much less than originally anticipated, given its relatively infrequent usage (approximately once per year), the actual fiscal impact of complying with benefit determination review processes and prompt pay requirements is unknown.

c. If the answer to question 'b' is unknown, briefly explain why.

The file does not reflect any subsequent feedback or other information regarding the actual costs of complying with internal or external review processes, or prompt pay provisions. Extensive research would be required to determine actual fiscal impact.



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Five Year Review of New Rules Check List

Have continued need?

Yes. The underlying statutory framework remains intact. There is a continued need for the rules.



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

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350 Winter St. NE, Room 410

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Salem, OR 97309-0405

Five Year Review of New Rules Check List

Date: 10/22/2018

ID #: 9-2013

OARs Adopted: 836-071-0405, 836-071-0410, 836-071-0415, 836-071-0420, 836-071-0425 and 836-071-0430

Adoption Date: 12/31/2013

Advisory Committee List Attached?

Y

N

Does section apply to:

- | | | |
|--|----------------------------|---------------------------------------|
| Implementation of court order or civil proceedings | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption of federal laws or rules by reference | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Implementation of legislatively approved fee changes | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |
| Adoption to correct errors or omissions | <input type="checkbox"/> Y | <input checked="" type="checkbox"/> N |

Did rule:

Have intended effect?

a. What was the intended effect?

The Rule Summary stated, as follows:

These rules establish the application materials and requirements for a self-service storage owner to obtain a limited lines insurance license. The rules also establish requirements for the maintenance of employee information and the required training program; and the limited license renewal process applicable to self-service storage facilities. The proposed rules are necessary to implement recent legislation enacted by the 2013 Legislative Assembly, House Bill 2845.

b. How did the rule succeed or fail in achieving this effect?

The rules succeeded in establishing and implementing licensing requirements for self-service storage facility owners that choose to sell insurance to their renters.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The Fiscal and Economic Impact was estimated, as follows:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The proposed rules do not have a financial impact on state agencies, local governments or the public generally. The bill was supported by members of the Self Storage Association. Supporting agencies and professional agents associations are serving on the rules advisory committee.



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Division of Financial Regulation

350 Winter St. NE, Room 410

P.O. Box 14480

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Five Year Review of New Rules Check List

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: Self Storage facilities that wish to sell insurance to their renters will need to obtain licenses as outlined in the rule. This is elective; there is no requirement to sell insurance or to obtain the license. The self-storage industry is not able to estimate at this time how many of their business members will take advantage of this option.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Self Storage facilities that wish to sell insurance to their renters will need to obtain licenses as outlined in the rule and maintain reports of trained staff and training materials as well as informational hand outs for their renters.

c. Equipment, supplies, labor and increased administration required for compliance: These costs will include \$200.00 for licensure and \$200.00 bi-annually for renewal licensing. In addition, licensed facilities will have expenses for training material and information for clients. Industry representatives believe that the return in additional profit from the sale of the insurance will more than outweigh the expense.

b. What was the actual fiscal impact?

Unknown.

c. If the answer to question 'b' is unknown, briefly explain why.

The file reflects no subsequent feedback regarding fiscal impact.

Extensive research would be required to determine actual fiscal impact.

Have continued need?

Yes, there is a continued need for the rules. The underlying statutory framework, which is now codified at ORS 744.860 to 744.872, has remained unchanged.

Impact on small business?

These rules affect self-service storage facilities that choose to sell insurance. Many of those facilities may be small businesses. The file does not reflect any impact upon small business beyond that which was originally estimated.



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Division of Financial Regulation

350 Winter St. NE, Room 410

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Salem, OR 97309-0405

Five Year Review of New Rules
Check List

Date: 10/30/2018

ID #: 12-2013

OARs Adopted: 836-010-0051, 836-053-0002, 836-053-0008, 836-053-0009, 836-053-0063, 836-053-0211, 836-053-0221, 836-053-0431, 836-053-0472, 836-053-0473, 836-053-0835, 836-053-1180 and 836-075-0045

Adoption Date: 12/31/2013

Advisory Committee List Attached?

[] Y

[X] N

Does section apply to:

- Implementation of court order or civil proceedings [] Y [X] N
Adoption of federal laws or rules by reference [] Y [X] N
Implementation of legislatively approved fee changes [] Y [X] N
Adoption to correct errors or omissions [] Y [X] N

Did rule:

Have intended effect?

a. What was the intended effect?

The Rule Summary stated, as follows:

These rules implement changes to insurance regulation necessary to conform to state and federal health reform legislation including Enrolled House Bill 2240(2013 Legislative Session) and the federal Public Health Service Act as amended by the Affordable Care Act. The rules also implement changes to insurer communication requirements, reporting and external review processes. Finally the rules revise obsolete language to provide clarity. Some of the specific changes in, the rules include:

- Establish requirements for electronic reporting.
Changes to coordination of benefits for individual coverage.
Eliminate outdated insurer to insurer notice requirement.
Define essential health benefits and make related changes.
Establish modification requirements for health benefit plans.
Changes to association, trust, and MEWA certification requirements.
Defining the Oregon Bronze and Standard plans.
Streamline rules relating to underwriting and benefit design for small and large groups.
Clarify rate filing requirements for grandfathered small group plans.
Streamline rules relating to underwriting, enrollment, and benefit design for group health benefit plans including small group plans; to create new requirements for the crediting of creditable



Five Year Review of New Rules Check List

coverage; and to establish special enrollment provisions and effective dates of coverage.

- Revise creditable coverage requirements for individual and group health benefit plans.
- Provide for open and special enrollment provisions and effective dates of coverage for individual health benefit plans.
- Clarify distinctions between individual grandfathered and nongrandfathered health benefit plan rating requirements.
- Update various reporting requirements.
- Clarify grievance reporting requirements.
- Clarify and update provisions related to independent review requirements.
- Prohibit discrimination based on sexual orientation.
- Clarify the definition of "clean claim".

The proposed rules also adopt changes to the rate filing rule that were previously adopted as a temporary rule on June 17, 2013. The temporary rules will expire on December 6, 2013, so the changes in these proposed rules will adopt that change permanently.

- b. How did the rule succeed or fail in achieving this effect?

This rulemaking was a significant undertaking, and involved the adoption, amendment and repeal of many rules. The rulemaking appears to have succeeded in implementing health reform legislation and clarifying related provisions by specifying new requirements, and by correcting, updating and simplifying the text of the rules.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

- a. What was the estimated fiscal impact?

The fiscal and economic impact was estimated, as follows:

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)):

These rules implement provisions of existing state and federal law, which may have a fiscal impact on state and local government and the public. However, these rules by themselves do not impose an additional cost to state or local governments.

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:

In general, because the rules implement provisions of the Public Health Service Act (PHSA), the rules do not directly impact small business. The provisions primarily apply to insurers, which are not small businesses. The relevant provisions of the PHSA, and thus these rules, indirectly impact small business through the requirements imposed on insurers.



Five Year Review of New Rules Check List

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

None for small business.

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

b. What was the actual fiscal impact?

Unknown.

c. If the answer to question 'b' is unknown, briefly explain why.

The file does not reflect any subsequent feedback regarding fiscal impact. Extensive research would be required to determine actual fiscal impact.

Have continued need?

Yes, there is a continued need for the rules. More than half of the new rules have been amended, and updated, since being originally promulgated. The statutory framework underlying the rules remains substantially unchanged, however, many of those statutes have since been moved and/or renumbered.

Impact on small businesses?

The file does not reflect any impact upon small businesses beyond that which was originally estimated.



Oregon

Bureau of Labor and Industries

Brad Avakian
Commissioner

January 7, 2018

Oregon Secretary of State
Attn: Administrative Rules Section
800 NE Summer Street
Salem OR, 97310

*revised 1/9/2019
-J.Y.*

5-year Rule Review

To whom it may concern,

Please find attached 5-year rule reviews for OAR Division 11 (Apprenticeship and Training Division) in compliance with ORS 183.405.

Sincerely,

Benedikt Springer

CC:

BOLI Rules Coordinator
Small Business Advisor Committee

PORTLAND
800 NE Oregon St. Suite 1045
Portland, OR 97232-2180
(971) 673-0761
Fax (971) 673-0762

SALEM
3865 Wolverine St. NE; E-1
Salem, OR 97305-1268
(503) 378-3292
FAX (503) 373-7636

EUGENE
1400 Executive Parkway, Suite 200
Eugene, OR 97401-2158
(541) 686-7623
FAX (541) 686-7980

BEND
Apprenticeship and Training
Worksource Bend
1645 NE Forbes Rd, Ste 106
Bend, OR 97701-4990
(541) 322-2435
FAX (541) 389-8265

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MEDFORD
Apprenticeship and Training
119 N Oakdale Ave.
Medford, OR 97501-2629
(541) 776-6201
FAX (541) 776-6284



Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0560

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? ____ Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule provides if a person served with a subpoena fails to appear and has not filed any prior objections, the Council will conclude that the person has refused, without reasonable cause, to answer any question or to produce any document or other thing.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes, this rule outlines the procedures and scope of the Council's subpoena power.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

 - 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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

1/15/10
Date

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.

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number
Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232 Stephen Simms
Hearing Date Time Location Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
Hearing Date Time Location Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309


RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

 Stephen Simms 1/15/10
Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0555

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule provides the method for taking testimony in response to a subpoena ad testificandum.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes, this rule outlines the procedures and scope of the Council's subpoena power.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council

OAR 839-011

Agency and Division

Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.

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

In the Matter of:

Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

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

None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.

Signature

Stephen Simms

Printed name

Date

1/15/10

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.

FILED
 JAN 15 2010
 ARCHIVES DIVISION
 SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
 Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
 Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
 Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232	Stephen Simms	
Hearing Date	Time	Location
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms		Stephen Simms
Hearing Date	Time	Location
		Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

	Stephen Simms	1/15/10
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0550

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule provides the method for raising objections to subpoenas.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes, this rule outlines the procedures and scope of the Council's subpoena power.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

 - 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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.

Signature

Stephen Sinums
Printed name

1/15/10
Date

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

FILED
 JAN 15 2010
 ARCHIVES DIVISION
 SECRETARY OF STATE

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
 A Statement of Need and Fiscal Impact accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
 Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
 Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
 Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232	Stephen Simms
Hearing Date	Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230	Stephen Simms
Hearing Date	Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxillary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

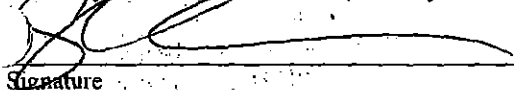
RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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



Stephen Simms
 Printed name

1/15/10
 Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0545

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? ____ Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule provides the grounds of which any person served with an investigative subpoena may object to testifying or providing the documents or other things sought.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes, this rule outlines the procedures and scope of the Council's subpoena power.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

 - 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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.

Signature

Stephen Sinums
Printed name

1/15/10
Date

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.

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number
Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232 Stephen Simms
Hearing Date Time Location Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
Hearing Date Time Location Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

 Stephen Simms 1/15/10
Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0540

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? ___ Yes ___x___ No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule provides that all persons subpoenaed by the Council must be paid the mileage and per diem set out in ORS 44.415(2).

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes, this rule outlines the procedures and scope of the Council's subpoena power.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

11/15/10
Date

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

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number
Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232 Stephen Simms
Hearing Date Time Location Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
Hearing Date Time Location Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxillary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

 Stephen Simms 1/15/10
Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0535

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? ___ Yes ___ No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule specifies the delivery method for serving subpoenas and requires subpoenas be sent certified mail more than ten days before the set appearance, or production of documents, or other things.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes, this rule outlines the procedures and scope of the Council's subpoena power.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

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

None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.

Signature

Stephen Simms

Printed name

Date

1/15/10

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

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232 Stephen Simms
Hearing Date Time Location Hearings Officer

March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
Hearing Date Time Location Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309


RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

 Stephen Simms 1/15/10
Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0530

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule sets out the conditions that must be met for a subpoena ad testificandum and requires the Council and its designees to give the person a reasonable time for preparation and travel to the place of attendance.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes, this rule outlines the procedures and scope of the Council's subpoena power.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

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

None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.

Signature

Stephen Simms

Printed name

1/15/10
Date

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

FILED
 JAN 15 2010
 ARCHIVES DIVISION
 SECRETARY OF STATE

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
 A Statement of Need and Fiscal Impact accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
 Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
 Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
 Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
March 3, 2010, 9:30 am – 11 am,		Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232	Stephen Simms
March 18, 2010, 10:00 am – 11:30 am,		Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230,	Stephen Simms

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

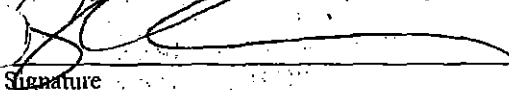
RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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



Stephen Simms

1/15/10

Signature

Printed name

Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0525

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule provides the parameters a subpoena duces tecum may be issued.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes, this rule outlines the procedures and scope of the Council's subpoena power.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

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

None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

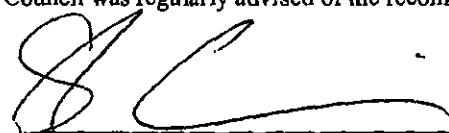
a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

11/15/10
Date

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

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number
Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232 Stephen Simms
Hearing Date Time Location Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
Hearing Date Time Location Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

 Stephen Simms 1/15/10
Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0520

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule delegates subpoena power and authority to the Council or the Council's designees.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes; this rule expands subpoena power to include Division staff when designated by the Council.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

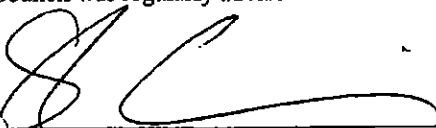
a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

1/15/10
Date

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.

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
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Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

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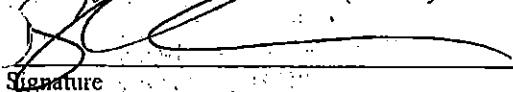
RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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



Stephen Simms

Printed name

1/15/10
Date

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Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0510

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule outlines under what circumstances a subpoena may be issued, including when the Council may issue a subpoena ad testificandum to compel a person to appear and a subpoena duces tecum to compel a person to produce documents.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes; this rule is necessary for the Council and its designees when investigating allegations of apprenticeship operations and unlawful discrimination.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

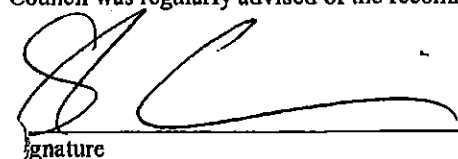
2. Cost of compliance effect on small business (ORS 183.336): None anticipated.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

 - 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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

11/15/10
Date

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*
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FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

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AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

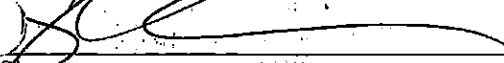
RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0510

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule defines who and what is subject to the Council's authority to issue subpoenas ad testificandum and subpoenas duces tecum, administer oaths, obtain evidence and take testimony.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?
None.

4) Is the rule still needed?

Yes; this rule specifies the Council may issue subpoenas ad testificandum and subpoenas duces tecum, administer oaths, obtain evidence and take testimony.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

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Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

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Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
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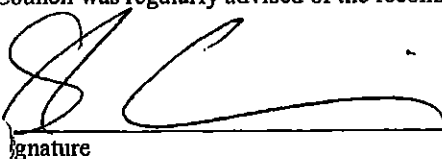
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Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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c. Equipment, supplies, labor and increased administration required for compliance: None anticipated.

How were small businesses involved in the development of this rule? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.



Signature

Stephen Simms
Printed name

11/15/10
Date

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

FILED
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SECRETARY OF STATE

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Stat. Auth. : ORS Ch. 660.120(3)

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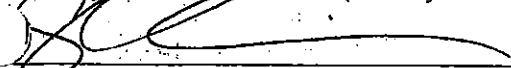
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Stephen Simms
Printed name

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Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0505

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule defines key terms as it pertains to the Council's authority to issue subpoenas ad testificandum and subpoenas duces tecum, administer oaths, obtain evidence and take testimony.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes; this rule provides definitions pertaining to the Council's authority to issue subpoenas.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

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

None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

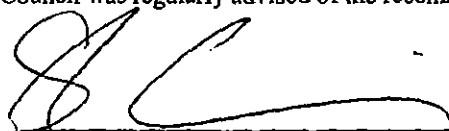
a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.



Signature

Stephen Simms
Printed name

11/15/10
Date

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

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number
Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232 Stephen Simms
Hearing Date Time Location Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
Hearing Date Time Location Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxilliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

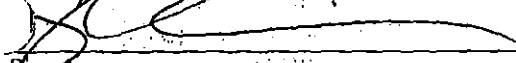
RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

 Stephen Simms 1/15/10
Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0501

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule addresses the Council's authority to issue subpoenas ad testificandum and subpoenas duces tecum, administer oaths, obtain evidence and take testimony.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes; this rule provides Council authority to issue subpoenas as part of their regulatory and compliance obligations.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council

OAR 839-011

Agency and Division

Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.

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

In the Matter of:

Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

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

None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.

Signature

Stephen Simms
Printed name

11/15/10
Date

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.

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number
Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232 Stephen Simms
Hearing Date Time Location Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
Hearing Date Time Location Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309


RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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


Signature

Stephen Simms

Printed name

1/15/10

Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0401

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule requires Council approval for all youth apprenticeship programs to operate in the state and specifies that all youth apprenticeship committees and standards must meet the requirements outlined in adult apprenticeship programs.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes; this rule requires Council approval for youth apprenticeship programs; it ensures consistency among Council approved youth apprenticeship programs.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none


Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.
2. Cost of compliance effect on small business (ORS 183.336): None anticipated.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.
 - 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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

11/15/10
Date

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.

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232 Stephen Simms
Hearing Date Time Location Hearings Officer

March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
Hearing Date Time Location Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

 Stephen Simms 1/15/10
Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0565

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/9/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule provides an enforcement mechanism for noncompliance with a subpoena request. If a person served with a subpoena refuses, without reasonable cause, to be examined, to answer any question or to produce any document or other thing as required by the subpoena, the Council may petition the circuit court in the county in which the investigation is pending for an order directing the person to show cause why the person has not complied with the subpoena and should not be held in contempt.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes, this rule outlines the procedures and scope of the Council's subpoena power.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

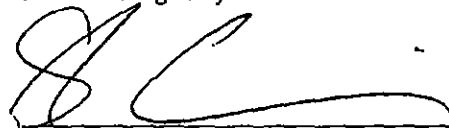
2. Cost of compliance effect on small business (ORS 183.336): None anticipated.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

 - 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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

11/15/10
Date

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

FILED
 JAN 15 2010
 ARCHIVES DIVISION
 SECRETARY OF STATE

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
 A Statement of Need and Fiscal Impact accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
 Agency and Division Administrative Rules Chapter Number
 Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
 Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
 Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232	Stephen Simms
Hearing Date	Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms	Stephen Simms
Hearing Date	Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

 Stephen Simms 1/15/10
 Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0335

Date Rule Became Effective: 11/12/2015

Date Review Due: 11/12/2020

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/8/2018

Advisory committee used during rulemaking? ____ Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule defines pre-apprenticeship program for Council approval purposes and establishes pre-apprenticeship program reporting requirements. Further, the rule also establishes program review guidelines and mandates for pre-apprenticeship programs.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes; this rule creates guidelines for Council approval for pre-apprenticeship programs; it ensures consistency among Council approved pre-apprenticeship programs; and establishes reporting requirements for pre-apprenticeship programs.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

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

None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

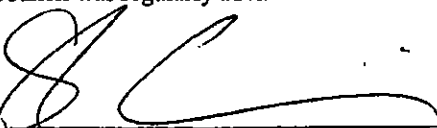
a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

1/15/10
Date

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.

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
March 3, 2010, 9:30 am - 11 am		Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232	Stephen Simms
March 18, 2010, 10:00 am - 11:30 am		Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230	Stephen Simms
Hearing Date	Time	Location	Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxiliary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 - ORS 660.309

RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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



Stephen Simms

Printed name

1/15/10
Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0143

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/8/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule establishes ratio and supervision requirements for apprentices.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes; this rule ensures the safety and adequate supervision of apprentices on jobsites.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

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

None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.

Signature

Stephen Simms
Printed name

11/15/10
Date

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.

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
March 3, 2010, 9:30 am – 11 am,		Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232	Stephen Simms
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RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

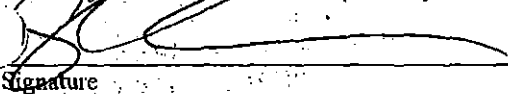
RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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



Stephen Simms

Printed name

1/15/10

Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0142

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/8/2018

Advisory committee used during rulemaking? ____ Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes, the rule was enacted pursuant to Title 29 CFR Part 30 and requires an analysis and evaluation of whether proposed minimum qualifications in standards would result in an adverse impact upon any protected class of applicants. Specifically, the rules prohibits minimum qualification requirements to include: Physical ability to do the job, unless it specifically references a validated occupational requirement, such as lifting a sack of cement to a specified height; Any tests (including color tests) that do not meet the validity requirements under 41 CFR 60.3; A valid driver's license; or A medical exam.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes; this rule ensures apprenticeship program's minimum qualifications do not result in an adverse impact upon any protected class of applicants.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in

the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

839-011-0142

Apprenticeship and Training Committees — Apprentice/Trainee Qualifications

(1) The Council and the Division shall evaluate proposed qualification standards or selection methods pursuant to the criteria set forth in

Statutory/Other Authority: ORS 660.120(3)

Statutes/Other Implemented: ORS 660.120(3)

History:

BLI 15-2015, f. & cert. ef. 11-12-15

BLI 1-2012, f. & cert. ef. 1-3-12

BLI 5-2011(Temp), f. 7-13-11, cert. ef. 7-18-11 thru 1-4-12

BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

 - 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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.

Signature

Stephen Simms
Printed name

1/15/10
Date

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

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number
Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

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Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

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Hearing Date Time Location Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
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AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth. :

Stats. Implemented: ORS 660.002 – ORS 660.309

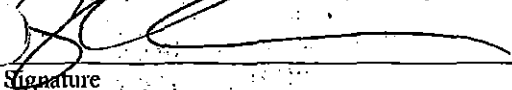
RULE SUMMARY

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March 17, 2010

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



Stephen Simms

1/15/10

Signature

Printed name

Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0141

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/8/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes; the rule was enacted to create minimum guideline committees and standards for apprenticeship programs registered with the state. These statewide committees establish the standards and minimum requirements for every apprenticeship program with respect to minimum qualifications; hours of employment; maximum probationary period; maximum ratio; Maximum ratio of apprentices to journey workers and required supervision; Minimum work processes and approximate hours, and expected competencies (if desired); and Minimum related/supplemental instruction.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?
None.

4) Is the rule still needed?
Yes; this rule ensures consistency among apprenticeship program standards.

5) What impacts has the rule had on small business?
At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small

business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

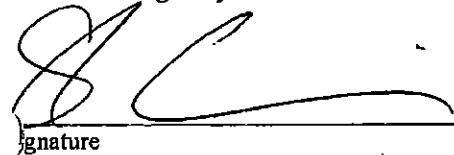
2. Cost of compliance effect on small business (ORS 183.336): None anticipated.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

 - 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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

11/15/10
Date

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.

FILED
JAN 15 2010
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am, Room JA, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232 Stephen Simms
Hearing Date Time Location Hearings Officer
March 18, 2010, 10:00 am – 11:30 am, Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230, Stephen Simms
Hearing Date Time Location Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxillary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309


RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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

 Stephen Simms 1/15/10
Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-011-0051

Date Rule Became Effective: 8/1/2010

Date Review Due: 8/1/2015

Bureau Division or Unit: Apprenticeship and Training Division

Name and Title of Employee Completing this Report: Jessica Ponaman, Operations Manager

Date the Review was Completed: 11/8/2018

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes, the rule was enacted to provide the Director, with Chair approval, to act on behalf of the Council for federal purposes and in all cases where immediate action is deemed necessary. This permits apprenticeship programs to continue to operate while pending Council approval or ratification.

2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?

The fiscal impact of this rule is consistent with the statement of need and fiscal impact upon filing; there's been no fiscal impact because of this rule.

3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

None.

4) Is the rule still needed?

Yes; this rule ensures apprenticeship programs can continue operations while awaiting Council review and action.

5) What impacts has the rule had on small business?

At the time of the adoption of this rule, there were approximately 1,500 small contracts involved in the building, construction and manufacturing trades. There's been no fiscal impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, (address not currently available).

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
Agency and Division Administrative Rules Chapter Number

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:
Administrative Rule Amendments for Registered Apprenticeship Programs

Statutory Authority: ORS 660.120(3)

Other Authority:

Stats. Implemented: ORS 660.002 – ORS 660.309

Need for the Rule(s):

The proposed rule adoptions, amendments and renumberings result from a comprehensive review by the Oregon State Apprenticeship and Training Council ("Council") of the rules governing registered apprenticeship and would implement the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments would also implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

Documents relied upon, and where they are available: none

Fiscal and Economic Impact: The proposed rule amendments are not expected to result in any fiscal impact for the Bureau of Labor and Industries or the public.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None anticipated.

2. Cost of compliance effect on small business (ORS 183.336): None anticipated.

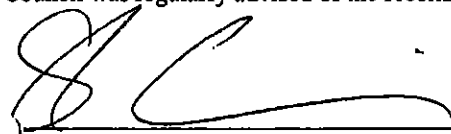
a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Approximately 1,500 small contractors involved in the building, construction and manufacturing trades.

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? At least two small businesses participated in the Council's Administrative Rules and Policy Advisory Task Force.

Administrative Rule Advisory Committee consulted?: Yes. The Council formed an Administrative Rules and Policy Task Force to develop these proposed rule amendments. The Task Force was composed of representatives of labor, industry and the public. The Council was regularly advised of the recommendations of the Task Force and public input was solicited at each Council meeting.


Signature

Stephen Simms
Printed name

1/15/10
Date

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.

FILED
 JAN 15 2010
 ARCHIVES DIVISION
 SECRETARY OF STATE

Oregon Bureau of Labor and Industries, Oregon State Apprenticeship and Training Council OAR 839-011
 Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon Street, Suite 1045, Portland, Oregon 97232 971-673-0784
 Rules Coordinator Address Telephone

RULE CAPTION

Proposed amendments based on comprehensive review of administrative rules for registered apprenticeship programs
 Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

March 3, 2010, 9:30 am – 11 am,	Room 1A, Portland State Off Bldg, 800 NE Oregon Street, Portland, OR, 97232	Stephen Simms
Hearing Date	Time	Location
March 18, 2010, 10:00 am – 11:30 am,	Pacific NW Carpenters Institute, 4222 NE 158th Ave, Portland OR, 97230,	Stephen Simms
Hearing Date	Time	Location
		Hearings Officer

Hearing site is accessible to individuals with disabilities. Auxillary aids for individuals with disabilities are available upon request to Rules Coordinator at 971-673-0784 no later than 10 days prior to hearing date.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.
ADOPT: 839-011-0051; 0141; 0142; 0143; 0403; 0501; 0505; 0510; 0515; 0520; 0525; 0530; 0535; 0540; 0550; 0555; 0560; 0565.

AMEND: 839-011-0000; 0010; 0015; 0020; 0030; 0040; 0050; 0060; 0070; 0072; 0073; 0074; 0078; 0082; 0084; 0088; 0093; 0140; 0145; 0162; 0170; 0175; 0200; 0250; 0250; 0260; 0265; 0270; 0280; 0290; 0310; 0320; 0334 and other 839-011 rules as necessary

AMEND & RENUMBER: 839-011-0420 Youth Apprenticeship Eligibility to 0402; 0440 Training Agent Approval Process to 0404 Youth Apprentice Training Agents; 0430 Supervision to 0405 Youth Apprentice Supervision; 0480 Youth Apprentice Ratios to 0406; 0410 Review Policy, Formation and Scope of Responsibilities to 0407 Youth Apprentice Evaluation; 0450 Transfer of Youth Apprentice to 0408 Transfer of Youth Apprentices

Stat. Auth. : ORS Ch. 660.120(3)

Other Auth.:

Stats. Implemented: ORS 660.002 – ORS 660.309

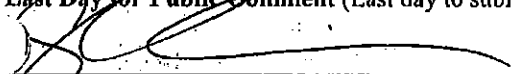
RULE SUMMARY

The proposed rule adoptions, amendments and renumberings are a result of a comprehensive review by the Oregon State Apprenticeship and Training Council of the rules governing registered apprenticeship pursuant to the recommendations of the Council's Rules and Policy Task Force. The proposed rule amendments also would implement statutory changes resulting from the enactment into law of SB 416 following the 2007 Legislative Session. In addition to housekeeping and plain language changes, the proposed rule amendments reflect current investigative subpoena requirements, public records request requirements, changes in compliance review administration and changes to licensing procedures.

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.

March 17, 2010

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


 Signature

Stephen Simms
 Printed name

1/15/10
 Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Bureau of Labor and Industries
Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number: OAR 839-050-0445

Date Rule Became Effective: 11/7/08

Date Review Due: 11/7/13

Bureau Division or Unit: Administrative Prosecution Unit

Name and Title of Employee Completing this Report: Cristin Casey, Chief Prosecutor

Date the Review was Completed: 10/18/18

Advisory committee used during rulemaking? Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- 1) Has the rule had the intended effect? Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown?
Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended? No
- 4) Is the rule still needed? Yes
- 5) What impacts has the rule had on small business? No known impact on small business.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.

- The Small Business Rules Advisory Committee, (address not currently available).



Oregon Bureau of Labor and Industries
800 NE Oregon Street Suite 1045 Portland OR 97232

Memo

DATE: August 14, 2008

TO: Legislators and Interested Persons

FROM: Marcia Ohlemiller, Rules Coordinator

REGARDING: Notice of Proposed Rulemaking for Contested Case Rules for Prevailing Wage Predeterminations

On August 14, 2008, the bureau filed a Notice of Proposed Rulemaking for contested case rules to be applied to hearings requested for Wage and Hour Division prevailing wage predeterminations. The attached documents provide further information. The proposed rule, which is attached, is identical to the temporary rule that is in place through January 23, 2009. When final, the proposed rule, possibly amended pursuant to public comments, will supersede the temporary rule. Any questions may be directed to Marcia Ohlemiller at 971-673-0784 or marcia.l.ohlemiller@state.or.us.

Transmission Report

Date/Time 08-14-2008 04:12:11 p.m.
 Local ID 1 5037314103
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 Local Name 1 BOLI CO-TA
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Commissioner's Office
 Suite 1045
 800 NE Oregon Street
 Portland OR 97232
 Fax: (971) 673-0762
 TDD: (971) 673-0766
 www.oregon.gov/boli

OREGON BUREAU OF LABOR AND INDUSTRIES

Facsimile Date: August 14, 2008

To: Archives Division, Ad Rules Section Fax: (503) 378-4118

Company/Agency: Secretary of State Phone: (503) 373-0701 option 2

Sender: Marla Oudemiller Sender Phone: (971) 763-0784

Regarding: Notice of Proposed Rulemaking Pages: 3 (including cover)

CC:

P:\Fax Cover Sheet.doc

Total Pages Scanned : 3

Total Pages Confirmed : 3

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	083	503 378 4118	04:10:13 p.m. 08-14-2008	00:01:23	3/3	1	EC	HS	CP14400

Abbreviations:

- Host send PL: Polled local MP: Mailbox print TU: Terminated by user
- HR: Host receive PR: Polled remote CP: Completed TS: Terminated by system G3: Group 3
- WS: Waiting send MS: Mailbox save FA: Fall RP: Report EC: Error Correct



Commissioner's Office

Suite 1045
800 NE Oregon Street
Portland OR 97232
Fax: (971) 673-0762
TDD: (971) 673-0766
www.oregon.gov/boli

OREGON BUREAU OF LABOR AND INDUSTRIES

Facsimile

Date: August 14, 2008

To: Archives Division, Ad Rules Section

Fax: (503) 378-4118

Company/Agency: Secretary of State

Phone: (503) 373-0701 option 2

Sender: Marcia Ohlemiller

Sender Phone: (971) 763-0784

Regarding: Notice of Proposed Rulemaking

Pages: 3 (Including cover)

CC:

Secretary of State
NOTICE OF PROPOSED RULEMAKING*
A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries Commissioner's Office Hearings Unit	839	
Agency and Division	Administrative Rules Chapter Number	
Marcia L. Ohlemiller	800 NE Oregon St. #1045 Portland OR 97232	971-673-0784
Rules Coordinator	Address	Telephone

RULE CAPTION

The proposed rule would provide procedure for hearings on predetermination of prevailing wage coverage.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: OAR 839-050-0445

Stat. Auth.: ORS chapter 183, ORS 279C.817

Other Auth.:

Stats. Implemented: ORS 279C.817

RULE SUMMARY

The proposed rule would provide contested case procedures for hearings on predeterminations of prevailing wage coverage. A temporary rule is in place through January 23, 2009. This proposed rule, which may result in amendments to the temporary rule language following the comment process, is being issued as a first step in adopting a permanent rule.

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.

October 3, 2008

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

Marcia Ohlemiller

Marcia Ohlemiller

8/14/08

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. 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 Rulemaking Notice 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, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries Commissioner's Office Hearings Unit

839

Agency and Division

Administrative Rules Chapter Number

The proposed rule would provide procedure for hearings on predeterminations of prevailing wage coverage.

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

In the Matter of: Temporary Rules providing Contested Case Procedures for Prevailing Wage Predeterminations

Statutory Authority: ORS chapter 183, ORS 279C.817

Other Authority: none

Stats. Implemented: ORS 279C.817

Need for the Rule(s):

During 2007 legislation was enacted which is codified as ORS 279C.817, providing for a public agency or interested person to ask the bureau to make a determination about whether a construction project would be a public works on which payment of the prevailing rate of wage would be required under ORS 279C.840. The bureau is required to afford the requester or a person adversely affected or aggrieved by the determination a hearing in accordance with ORS 183.413 to 183.470. The bureau is required to adopt rules establishing the process for requesting and making the determinations provided under ORS 279C.817.

Documents Relied Upon, and where they are available: none

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)): The rule is required to implement a new statute, so insofar as costs of compliance those already issue from the statute. However, both the rule and the statute would likely have not an increased cost of compliance, but a cost benefit to public bodies who let contracts for public works, and to all construction contractors, by providing procedures for on-the-record hearings to review determinations by the bureau that a project requires payment of prevailing wages.

2. Cost of compliance effect on small business (ORS 183.336): Provision of contested case procedures for administrative hearings to challenge a determination of prevailing wage coverage, rather than resolution by litigation in court, should result in cost savings rather than compliance costs for small businesses. Small businesses are less likely to retain their own house legal counsel, and more likely to have to rely on outside counsel if they should have to litigate in court about prevailing wage coverage.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: The Oregon Construction Contractors Board estimates there are 45,000 licensed construction contractors in Oregon. It is unknown what percentage of these would qualify as small businesses, but any construction contractor could potentially be impacted if a project they contemplate could be determined to be a public works.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: There are no reporting, recordkeeping or other administrative requirements.

c. Equipment, supplies, labor and increased administration required for compliance: No equipment, supplies, labor or administration is required in connection with the proposed rule.

How were small businesses involved in the development of this rule? Small businesses were not involved in the development of this rule. This rule is mandated by statute to be promulgated. A temporary rule, which this proposed rule will supersede when final, is in place until January 23, 2009.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: This proposed rule will be referred to the Commissioner's Prevailing Wage Advisory Committee for review.

Marcia Ohlemiller

Marcia Ohlemiller

8/14/08

Signature

Printed name

Date

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

P:\Rules0500445Statement.doc

REVIEW OF ADOPTED RULES – ORS 183.405

OAR 845-015-0205 – Satellite Liquor Stores

Date Adopted: September 1, 2013

Date Review Due: September 1, 2018

Date Review Completed: August 28, 2018

Advisory Committee (AC) used? No.


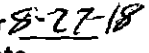
AC members:

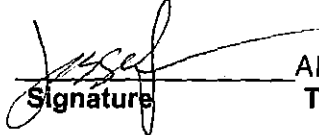
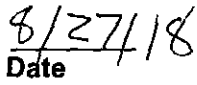
- 1) **Did the rule achieve its intended effect?** Yes.
 - a) **What was the intended effect?**
 - i. 845-015-0205 established the standards and procedures that the Commission would use to locate and evaluate regular Satellite Liquor Stores. The rule would also allow the Commission to convert existing pilot Satellite Liquor Stores into regular Satellite Liquor Stores prior to the expiration of their respective Pilot Program Agent Agreements, if desired.
 - a) **How did the rule succeed or fail in achieving this effect?**
 - i. The rule is used to issue Retail Sales Agent agreements where there is a fluctuating, seasonal demand for smaller, additional Liquor Stores due to tourism or other similar factors. Further, the Commission has forecasted the possible need to use the rule to determine the efficacy of operating new non-exclusive retail liquor stores in smaller communities.
- 2) **Was the fiscal impact underestimated, overestimated, just about right, or unknown?** Just about right.
 - a) **What was the estimated fiscal impact?**
 - i. The Commission anticipated no fiscal impact on Retail Sales Agents overall. However, the Commission did forecast a positive fiscal impact upon Retail Sales Agents whom so chose to use the program to open another store due to seasonal population increases.
 - b) **What was the actual fiscal impact?**
 - i. Currently, two Retail Sales Agents use this rule to serve the fluctuation in population.
 - c) **If the answer to question 2 is unknown, briefly explain why.**
N/A
- 3) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.** No.

4) **Is the rule still needed? Yes. Explain:**

- a) The rule is used to issue Retail Sales Agent agreements where there is a fluctuating, seasonal demand for smaller, additional Liquor Stores due to tourism or other similar factors. Further, the Commission has forecasted the possible need to use the rule to determine the efficacy of operating new non-exclusive retail liquor stores in smaller communities.

Review Completed By:  Rules Coordinator 
Signature Title Date

Program Approval:  Distilled Spirits Director 
Signature Title Date

AP&P Approval:  AP&P Director 
Signature Title Date



Five-Year Rule Review

ORS 183.405

Rule Name: Delegation of Authority – Suspensions by Operation of Law

Rule Number(s): OAR 847-001-0035

Adoption Date:
July 12, 2013

Review Due Date:
July 12, 2018

Review Date:
December 13, 2017

Advisory Committee Used: Administrative Affairs Committee
 Advisory Committee Not Used

What was the intended effect of this rule adoption?

The rule was intended to delegate authority to the executive Director and Medical Director to approve Suspensions and Terminations of Orders that occur by operation of law. Suspensions that occur by operation of law are those required by statute for licensees who are in arrears for child support, licensees who do not comply with CME audit requirements, licensees who are adjudged to be mentally ill or admitted to a treatment facility for mental illness for more than 25 consecutive days, and licensees who are inmates in a penal institution. Terminations that occur by operation of law are those required by statute for licensees who come into compliance with child support or come into compliance with the CME audit requirements after a of minimum 90 days.

Has this rule adoption had its intended effect?

Yes
 No

The Executive Director and Medical Director are authorized to sign these orders that occur by operation of law.

Was the anticipated fiscal impact of this rule correct?

Yes
 No

No fiscal impact was anticipated. Since implementation, the rule has not created any fiscal impact to the Board, other state agencies, units of local government, small businesses, licensees, or the public.

Have subsequent changes in the law required this rule to be/can be amended or repealed?

Yes
 No

No

Is there a continued need for this rule?

Yes
 No

Yes

Report provided by:

Nicole Krishnaswami, Rules Coordinator
Printed name


Signature

11/3/17
Date

Five-Year Rule Review

ORS 183.405

Rule Name: Delegation of Authority – Notices of Civil Penalty

Rule Number(s): OAR 847-001-0040

Adoption Date:
October 15, 2013

Review Due Date:
October 15, 2018

Review Date:
December 13, 2017

Advisory Committee Used: Administrative Affairs Committee
 Advisory Committee Not Used

What was the intended effect of this rule adoption?

The rule was intended to put into administrative rule the authority that was previously delegated by the Board to the Executive Director over approving and signing Notices of Civil Penalty for violation of Board administrative rules.

Yes
 No

Has this rule adoption had its intended effect?

The Executive Director is authorized to sign Notices of Civil Penalty.

Yes
 No

Was the anticipated fiscal impact of this rule correct?

No fiscal impact was anticipated. Since implementation, the rule has not created any fiscal impact to the Board, other state agencies, units of local government, small businesses, licensees, or the public.

Yes
 No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

No

Yes
 No

Is there a continued need for this rule?

Yes

Report provided by:

Nicole Krishnaswami, Rules Coordinator
Printed name


Signature

11/3/17
Date

Five-Year Rule Review

ORS 183.405

Rule Name: Board Member Compensation

Rule Number(s): OAR 847-003-0200

Adoption Date:
October 15, 2013

Review Due Date:
October 15, 2018

Review Date:
December 13, 2017

Advisory Committee Used: Administrative Affairs Committee
 Advisory Committee Not Used

What was the intended effect of this rule adoption?

The rule was intended to put into administrative rule the compensation authorized for Board members.

Yes
 No

Has this rule adoption had its intended effect?

Board members are compensated according to the rule.

Yes
 No

Was the anticipated fiscal impact of this rule correct?

No fiscal impact was anticipated because the compensation had already been budgeted through the budget development and legislative approval process.

Yes
 No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

Yes, the rule was amended in January 2017 in order to allow compensation to Board members for preparing for Board meetings and Investigative Committee meetings.

Yes
 No

Is there a continued need for this rule?

Yes

Report provided by:

Nicole Krishnaswami, Rules Coordinator
Printed name


Signature

11/3/17
Date

Five-Year Rule Review

ORS 183.405

Rule Name: Delegation of Authority – Licensing

Rule Number(s): OAR 847-008-0003

Adoption Date:
October 15, 2013

Review Due Date:
October 15, 2018

Review Date:
December 13, 2017

Advisory Committee Used: Administrative Affairs Committee
 Advisory Committee Not Used

What was the intended effect of this rule adoption?

The rule was intended to put into administrative rule the licensing authority that was previously delegated by the Board to the Executive Director and Medical Director.

Has this rule adoption had its intended effect?

Yes
 No
The Executive Director and Medical Director approve licensure for applicants and renewing licensees daily rather than the Board issuing licenses on a quarterly basis.

Was the anticipated fiscal impact of this rule correct?

Yes
 No
No fiscal impact was anticipated. Since implementation, the rule has not created any fiscal impact to the Board, other state agencies, units of local government, small businesses, licensees, or the public.

Have subsequent changes in the law required this rule to be/can be amended or repealed?

Yes
 No
Yes, the rule was amended in October 2016 to change the name of "Consent Agreements" to "Consent Agreements for Re-entry to Practice." No substantive changes were made on this amendment.

Is there a continued need for this rule?

Yes
 No
Yes

Report provided by:

Nicole Krishnaswami, Rules Coordinator
Printed name


Signature

11/3/17
Date

Five-Year Rule Review

ORS 183.405

Rule Name: Office-Based Procedures

Rule Number(s): OAR 847-017-0003; 847-017-0008; 847-017-0037

Adoption Date:
October 15, 2013

Review Due Date:
October 15, 2018

Review Date:
December 13, 2017

Advisory Committee Used: Administrative Affairs Committee

Advisory Committee Not Used

What was the intended effect of this rule adoption?

The rules were intended to classify levels of office-based surgeries and set forth the corresponding requirements; establish a standard of practice for licensees performing office-based surgery; and require reporting of specified office-based surgical adverse events.

Has this rule adoption had its intended effect?

Yes
 No

Office-based surgeries continue to be classified as Level I, II, or III. Requirements for licensees performing these procedures in the office setting correspond to the Level of the procedure. Licensees are held to a standard of practice when performing office-based procedures, and licensees are reporting surgical adverse events when they occur.

Was the anticipated fiscal impact of this rule correct?

Yes
 No

Physicians and their medical practices were expected to incur some additional costs for compliance if they chose to perform Level II or III procedures in the office setting.

Have subsequent changes in the law required this rule to be/can be amended or repealed?

Yes
 No

Yes, 847-017-0003 rule was amended in April 2016 in order to change the name of the American Board of Podiatric Surgery (ABPS) to its current name, American Board of Foot and Ankle Surgery (ABFAS). No substantive changes were made during this rule amendment.

Is there a continued need for this rule?

Yes
 No

Yes

Report provided by:

Nicole Krishnaswami, Rules Coordinator
Printed name


Signature

11/3/17
Date

Five-Year Rule Review

ORS 183.405

Rule Name: Licensure for Military Spouses or Domestic Partners

Rule Number(s): 847-020-0165; 847-050-0022; 847-070-0024; 847-080-0016

Adoption Date:
October 15, 2013

Review Due Date:
October 15, 2018

Review Date:
December 13, 2017

Advisory Committee Used: Administrative Affairs Committee
 Advisory Committee Not Used

What was the intended effect of this rule adoption?

The rules were intended to implement an augmented process for licensure of military spouses or domestic partners as required by 2013 House Bill 2037. Four rules were included, each one specific to a licensed profession. Each rule defines "military spouse or domestic partner," provides the qualifications for the augmented process, provides the documents that will be accepted in lieu of other documents, lists any information that the Board will obtain on behalf of the applicant, and specifies the additional documents that will be required as part of this augmented application process.

Yes
 No

Has this rule adoption had its intended effect?

An augmented license application process is available to military spouses and domestic partners.

Yes
 No

Was the anticipated fiscal impact of this rule correct?

No fiscal impact was anticipated. Since implementation, the rule has not created any fiscal impact to the Board, other state agencies, units of local government, small businesses, licensees, or the public.

Yes
 No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

No

Yes
 No

Is there a continued need for this rule?

Yes

Report provided by:

Nicole Krishnaswami, Rules Coordinator
Printed name


Signature

11/3/17
Date

Five-Year Rule Review

ORS 183.405

Rule Name: Reorganize the Rules on Podiatric Medicine Licensure

Rule Number(s): OAR 847-080-0021; 847-080-0028

Adoption Date:
July 12, 2013

Review Due Date:
July 12, 2018

Review Date:
December 13, 2017

Advisory Committee Used: Administrative Affairs Committee
 Advisory Committee Not Used

What was the intended effect of this rule adoption?

The rules were intended to create separate rules for Re-Entry to Practice and License Application Withdrawals.

Yes
 No

Has this rule adoption had its intended effect?

The rules clearly govern Re-Entry to Practice and License Application Withdrawals and provide the Board's requirements for those processes.

Yes
 No

Was the anticipated fiscal impact of this rule correct?

No fiscal impact was anticipated. Since implementation, the rules have not created any fiscal impact to the Board, other state agencies, units of local government, small businesses, licensees, or the public.

Yes
 No

Have subsequent changes in the law required this rule to be/can be amended or repealed?

Yes, OAR 847-080-0021 was amended in April 2014 to require that re-entry plans be established through a Consent Agreement with the Board. The rule was amended again in October 2016 to change the name of "Consent Agreements" to "Consent Agreements for Re-entry to Practice."

Yes
 No

Is there a continued need for this rule?

Yes

Report provided by:

Nicole Krishnaswami, Rules Coordinator
Printed name


Signature

11/3/17
Date

OSBN Board Rule Activities Report

Administrative Rules Review – Jan. 2014 through Dec. 2014
 (pursuant to ORS 183.405-review not later than five years after adoption of rule)

OAR NUMBER	ADOPTED DATE	REVIEW	DATE OF RULE REVIEW	DESCRIPTION – REASON/NEED FOR RULE
851-054-0030	1/1/2014	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	9/24/2018	Establishes criteria and requirements for Clinical Nurse Specialist programs based on national standards and criteria.
851-054-0035	1/1/2014	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	9/24/2018	Establishes standards for approval of Oregon based Clinical Nurse Specialist programs based on national standards and criteria.

Board of Pharmacy 2014 Rules Adopted Review

Rules Adopted during 2014	Topic	Effective Date	Are there changes in law that require amending or repeaing this rule?	Is there continued need for this rule?	Was there a Rules Advisory Committee?	Did the rule have it's intended effect?	Was the projected fiscal impact correct?	What impact has this rule had on Small Business?
855-019-0122	License Renewal of Pharmacists	1/1/2015	No	Yes	No	Yes	None	None
855-019-0171	Petitioning for Reinstatement of Pharmacists	1/1/2015	No	Yes	No	Yes	None	None
855-025-0012	Technician License Reqs	1/1/2015	No	Yes	No	Yes	None	None

Based on ORS 183.405

Compiled and filed January 2019

Rule Review Due Date: 2/11/18

Date Adopted: 2/11/2013, Effective 2/14/2013

Docket No. AR 567

Rule(s) Reviewed: 860-21-0170

Based on the information on hand and general knowledge of Commission activities:

Did the rule(s) have the intended effect?

Yes, the rule was promulgated to assist PUC Staff in identifying systemic trends or problems with regulated utilities' billing and work with the utilities as needed to reduce the number of incorrect bills sent to customers. The reports filed to date by the subject utilities indicate only one utility experienced a billing error that met the threshold for reporting and that error was promptly corrected and adjusted on the affected customers' bills. Of the bills adjusted, the company reported the average adjustment was a credit of \$1.38. The billing error reports are available on the PUC's website www.puc.state.or.us in eDockets by searching for dockets RG 79, RG 63, RG 64, RE 131, RE 132, and RE 133.

Was the anticipated fiscal impact of the rule underestimated or overestimated?

At the time of rulemaking, the PUC stated that the utilities subject to the rule had reported that there was no economic impact to them. There is no current information to indicate that this reporting requirement has increased cost to the regulated utilities.

Do subsequent changes in the law require the rule to be repealed or amended?

No, there have been no applicable changes to the law.

Are the rules still needed?

Yes. The rule is still necessary to provide the Commission with information to ensure that systemic billing errors, if they happen, are adequately addressed to protect customers. Based on information reported and on customer complaints on file with the Consumer Services Section, Staff may revisit the threshold for reporting billing errors to ensure that the regulated energy utilities are reporting the information needed for the continued protection of the customers.

Reviewed on 1/30/18 by:

/s/Diane Davis

Diane Davis

Rules Project Leader



Oregon

Kate Brown, Governor

Public Utility Commission

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503-373-7394

December 11, 2018

VIA ELECTRONIC MAIL

Secretary of State – Administrative Rules Unit

Adminrules.archives@oregon.gov



RE: Public Utility Commission of Oregon Five Year Rule Review

Rule Review Due Date: 12/6/18

Date Adopted: 2/19/2013, Effective 12/20/2013

Docket No. AR 574

Rule(s) Reviewed: 860-033-0110, Advertising, Marketing and Outreach (OTAP, Lifeline)

Based on the information on hand and general knowledge of Commission activities:

Did the rule(s) have the intended effect?

Yes, the rule was promulgated to ensure that telecommunications providers' advertising materials regarding the Oregon Telephone Assistance Program (OTAP) and Lifeline benefits were described in a manner consistent with the applicable rules and laws. Not only does the advertising review process provide an opportunity for the PUC to provide feedback on inconsistencies and errors, but also an opportunity for PUC Staff to prepare for a potential increase in application or call volume related to the advertisement.

Was the anticipated fiscal impact of the rule underestimated or overestimated?

At the time of rulemaking, the PUC stated that the potential magnitude of additional costs created by changes to the rules could not be quantified at the time. There is no current information to indicate that the review process has increased cost to the telecommunications providers or the PUC.

Do subsequent changes in the law require the rule to be repealed or amended?

While there have been substantial changes to federal law concerning the Lifeline program, those changes do not impact this rule; instead, these changes promote the need for the review process established in the rule.

Are the rules still needed?

Yes. The rule is still necessary to ensure that the providers' marketing materials are consistent with the OTAP and Lifeline rules and regulations.

Reviewed on 12/6/18 by:

A handwritten signature in black ink that reads "Diane Davis". The signature is written in a cursive, flowing style.

Diane Davis

Rules Project Leader

