

STATE OF OREGON  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION

In the Matter of the Amendment of: )  
436-030, Claim Closure and Reconsideration ) SUMMARY OF  
436-060, Claims Administration ) TESTIMONY AND  
436-120, Vocational Assistance to Injured Workers ) AGENCY RESPONSES

This document summarizes the significant data, views, and arguments contained in the hearing record. The purpose of this summary is to create a record of the agency's conclusions about the major issues raised.

The proposed amendment to the rules was announced in the Secretary of State's *Oregon Bulletin* dated Nov. 1, 2022. On Nov. 28, 2022, at 10 a.m., a public rulemaking hearing was held as announced in Room F of the Labor & Industries Building, 350 Winter Street NE, Salem, Oregon, and by teleconference and videoconference. Fred Bruyns, from the Workers' Compensation Division, was the hearing officer. The record was held open for written comment through Dec. 5, 2022.

**Testimony list:**

<b>Exhibit</b>	<b>Rule division</b>	<b>Testifying</b>
<u>1</u>	060	Summer Tucker, Workers' Compensation Division
<u>2</u>	NA	Hearing transcript (no testimony)

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**Testimony: OAR 436-060-0005(19)**

***Exhibit 1***

“The Workers' Compensation Division (WCD) found that a reference to ORS 656.005 in OAR 436-060-0005(19) needed to be corrected after WCD published the proposed Division 60 rules.

“OAR 436-060-0005(19) defines the term “wages” and references ORS 656.005(29). Previously, ORS 656.005(29) was the location for the definition of wages. However, parts of ORS 656.005 were renumbered by House Bill 3188 (2021). The definition of wages was renumbered from subsection 29 to subsection 27.”

**Response:** The Workers' Compensation Division will update the statute reference in OAR 436-060-0005(19) to ORS 656.005(27).

<b>Dated this 19<sup>th</sup> day of December, 2022.</b>
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**Oregon**  
Kate Brown, Governor



Department of Consumer  
and Business Services

Exhibit  
"1"

# MEMORANDUM

November 23, 2022

To: Fred Bruyns, Rules Coordinator

From: Summer Tucker, Return to Work & Claims Administration Policy Analyst

Subject: Statute citation in OAR 436-060-0005(19)

The Workers' Compensation Division (WCD) found that a reference to ORS 656.005 in OAR 436-060-0005(19) needed to be corrected after WCD published the proposed Division 60 rules.

OAR 436-060-0005(19) defines the term "wages" and references ORS 656.005(29). Previously, ORS 656.005(29) was the location for the definition of wages. However, parts of ORS 656.005 were renumbered by House Bill 3188 (2021). The definition of wages was renumbered from subsection 29 to subsection 27.

WCD intends to update the statute reference in OAR 436-060-0005(19) to ORS 656.005(27) when filing notice of permanent OAR 436-060 rules, projected to be effective January 1, 2023 and January 1, 2024, with the Secretary of State.

Summer Tucker  
Return to Work & Claims Administration Policy Analyst

**BEFORE THE DIRECTOR OF THE  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
OF THE STATE OF OREGON**

**PUBLIC RULEMAKING HEARING**

In the Matter of the Amendment of OAR:	)	TRANSCRIPT OF TESTIMONY
436-030, Claim Closure and Reconsideration	)	
436-060, Claims Administration	)	
436-120, Vocational Assistance to Injured Workers	)	

The proposed amendment to the rules was announced in the Secretary of State’s Oregon Bulletin dated Nov. 1, 2022. On Nov. 28, 2022, a public rulemaking hearing was held as announced at 10 a.m. in Room F and via teleconference from the Labor & Industries Building, 350 Winter Street NE, Salem, Oregon. Fred Bruyns, from the Workers’ Compensation Division, was the hearing officer. The record will be held open for written comment through Dec. 5, 2022.

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No oral testimony.....	NA

**TRANSCRIPT OF PROCEEDINGS**

Fred Bruyns:

Good morning and welcome. This is a public rulemaking hearing.

My name is Fred Bruyns, and I’ll be the presiding officer for the hearing.

The time is now 10:01 a.m. on Monday, Nov. 28, 2022. We are conducting this hearing from the Conference Room F in the Labor & Industries Building in Salem, Oregon. However, we are also doing so virtually, by video and telephone conferencing. We are making an audio recording of the hearing.

The Workers’ Compensation Division of the Department of Consumer and Business Services proposes to amend chapter 436 of the Oregon Administrative Rules, specifically:

- Division 030, Claim Closure and Reconsideration,
- Division 060, Claims Administration, and
- Division 120, Vocational Assistance to Injured Workers.

The department has:

Transcript of public rulemaking hearing  
Nov. 28, 2022

- Summarized the proposed rule changes and prepared estimates of fiscal and economic impacts in the notices of proposed rulemaking filed with the Oregon Secretary of State;
- Published rulemaking notices to its postal and electronic mailing lists;
- Notified Oregon legislators as required by ORS chapter 183; and
- Posted public notice and the proposed rules to its website.

The Oregon Secretary of State:

- Published the hearing notices in its *Oregon Bulletin* dated Nov. 1, 2022.

This hearing gives the public the opportunity to provide comment about the proposed rules. In addition, the division will accept written comment through and including Dec. 5, 2022, and we will make no decisions until all of the testimony is considered.

I just want to bring your attention to some testimony that we have posted to the website with the proposed rules. It's from the Workers' Compensation Division, and it's to correct a citation error in rule 0005 of division 060, but that's the sum total of that. There was a law change recently, and we did not notice it until just a few days ago, so we thought this would be a great opportunity just to correct the citation. But, have a look at that on our website if you'd like.

We are now ready to receive public testimony.

Is there anyone who is – we have no one in the conference room with us currently, but is there anyone online with us this morning who would like to testify at this time?

Hearing no one, in a moment I will recess the hearing, but we will resume for additional testimony if anyone wishes to testify before 11 a.m.

Again, the record remains open for written testimony through and including Dec. 5. You may submit testimony in any written form. I encourage you to submit your testimony by email or as attachments to email. However, you may also use U.S. mail. I will acknowledge all testimony received.

This hearing is recessed at 10:03 a.m.

The hearing is resumed at 10:59 a.m.

Is there anyone who would like to testify today?

Hearing no one, the time is 11 a.m.

Thank you for coming. This hearing is adjourned.

Transcribed from a digital audio recording by Fred Bruyns, Nov. 28, 2022.