



# Oregon

Kate Brown, Governor

Department of Consumer and Business Services  
Workers' Compensation Division  
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Sept. 28, 2018

## Proposed Changes to Workers' Compensation Rules

**Caption:** Applicability date of rules governing the Workers' Benefit Fund assessment

The Workers' Compensation Division proposes to revise the effective date in OAR 436-070-0003, "Applicability of Rules," **from Jan. 1, 2017 to Jan. 1, 2019.**

[See attached, proposed rule.](#)

### How can I make a comment?

Send written comments to:

Email – [fred.h.bruyns@oregon.gov](mailto:fred.h.bruyns@oregon.gov)

Fred Bruyns, rules coordinator

Workers' Compensation Division

350 Winter Street NE (for courier or in-person delivery)

PO Box 14480, Salem, OR 97309-0405

Fax – 503-947-7514

**The closing date for written comments is Oct. 22, 2018.**

### Summary of proposed changes:

- Amendment of the effective date in rule 0003 from Jan. 1, 2017 to Jan. 1, 2019.

**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.

**Need for the Rule(s):** The agency previously filed a proposed reduction in the Workers' Benefit Fund (WBF) assessment rate, affecting OAR 436-070-0010. An amendment to the effective date in OAR 436-070-0003 should have been filed with rule 0010. Both rules are to be effective Jan. 1, 2019. This rulemaking action is needed to provide consistent effective dates for the WBF assessment.

**Documents Relied Upon, and where they are available:** See the rulemaking records for the amendment of OAR 436-070-0010, to be effective Jan. 1, 2019. These documents are available for public inspection upon request to the Workers' Compensation Division, 350 Winter Street NE, Salem, Oregon 97301-3879. Please contact Fred Bruyns, rules coordinator, 503-947-7717, [fred.h.bruyns@oregon.gov](mailto:fred.h.bruyns@oregon.gov).

**Fiscal and Economic Impact:** The proposed amendment to the effective date will have no fiscal or economic impact on the agency or on any person or organization subject to the rule.

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

- a. The agency estimates that the proposed rule change will not affect costs to state agencies for compliance with the rule.
- b. The agency estimates that the proposed rule change will not affect costs to units of local government for compliance with the rule.
- c. The agency estimates that the proposed rule change will not affect costs to the public for compliance with the rule.

**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:**

All subject employers are required to pay the WBF assessment. Oregon employers subject to the WBF assessment number approximately 116,000. At least 90 percent of employers are small businesses (50 or fewer employees).

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

The agency projects that there will be no impact on costs for reporting, recordkeeping, professional services, or other administrative activities required for compliance.

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

The agency projects there will be no impact on costs for equipment, supplies, labor, or increased administration required for compliance.

**How were small businesses involved in the development of this rule?** Because updating the applicability date will have no fiscal or economic impact on any party, small businesses have not been consulted about the change.

**Administrative Rule Advisory Committee consulted?:** No. **If not, why?** During recent rulemaking to amend the WBF assessment rate in OAR 436-070-0010, the agency announced that the rate change would be effective Jan. 1, 2019. The change to OAR 436-070-0003 will simply bring these two rules into alignment, and it would not be fruitful to consult with an advisory committee about the change.

*/s/ Louis Savage*  
Authorized Signer

Louis Savage  
Printed name

Sept. 28, 2018  
Date

**Mailing distribution:** US Mail – WCD-S, U, AT, EG, NM, EC | agency email lists

Proposed rules and public testimony are available on the Workers’ Compensation Division’s website: <http://wcd.oregon.gov/laws/Pages/proposed-rules.aspx>.

**ORDER NO. 18-XXX**

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**  
**WORKERS' COMPENSATION DIVISION**  
*Proposed* **WORKERS' BENEFIT FUND ASSESSMENT**

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**OREGON ADMINISTRATIVE RULES**  
**CHAPTER 436, DIVISION 070**

**NOTE:** Revisions are marked as follows: [new text](#) | ~~deleted text~~.

**436-070-0003      Applicability of Rules**

- (1) These rules are effective Jan. 1, [20172019](#).
- (2) These rules govern the Workers' Benefit Fund assessment under ORS 656.506.
- (3) These rules apply to all subject employers as defined in ORS 656.005 and any otherwise non-subject employer who elects coverage pursuant to ORS 656.039.
- (4) Applicable to this chapter, the director may, unless otherwise obligated by statute, in the director's discretion waive any procedural rules as justice so requires.

Stat Auth: ORS 656.506, 656.726(4)

Stats. Impltd: ORS 656.506

Hist: Amended 12/7/12 as WCD Admin. Order 12-063, eff. 4/1/13

Amended 11/8/16 as WCD Admin. Order 16-053, eff. 1/1/17

[Amended xx/xx/xx as WCD Admin. Order 18-XXX, eff. 1/1/19](#)

See also the *Index to Rule History*: [http://wcd.oregon.gov/laws/Documents/Rule\\_history/436\\_history.pdf](http://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf).