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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 436  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION

**FILED**  
09/28/2018 10:26 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Applicability date of rules governing the Workers' Benefit Fund assessment

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/22/2018 11:55 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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

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Filed By:  
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Rules Coordinator

**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.

**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.

**COST OF COMPLIANCE:**

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

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.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Because updating the applicability date will have no fiscal or economic impact on any party, small businesses have not been consulted about the change.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

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.

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AMEND: 436-070-0003

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

CHANGES TO RULE:

436-070-0003

Applicability of Rules ¶¶

(1) These rules are effective Jan. 1, 2017.¶¶

(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.

Statutory/Other Authority: ORS 656.506, 656.726(4)

Statutes/Other Implemented: ORS 656.506