

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

<del>Oregon Health Authority</del> Department of Human Services, Office for Oregon Health Policy and Research	409/943
Agency and Division	Administrative Rules Chapter Number
Jennifer Bittel	250 Winter St NE, Salem, OR 97301
Rules Coordinator	(503) 947-5250
	Address Telephone

**RULE CAPTION**

**Amendments to Oregon Prescription Drug Program Rules for ~~Definitions and Contracted Services~~**

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

**AMEND & RENUMBER:** ~~OAR 409-030-0000 to 943-030-0000, 409-030-0005 to 943-030-0005, 409-030-0010 to 943-030-0010, 409-030-0020 to 943-030-0020, 409-030-0030 to 943-030-0030, 409-030-0050 to 943-030-0050, 409-030-0065 to 943-030-0065~~

**REPEAL:** OAR 409-030-0065(T)

**Stat. Auth.:** ~~ORS 409.050 & 414.312 & 414.320~~

**Other Auth.:**

**Stats. Implemented:** ~~ORS 414.312, 414.314, 414.316 & 414.318~~

**RULE SUMMARY**

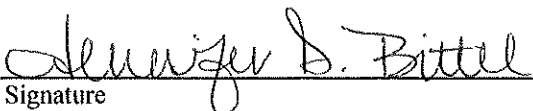
The Oregon Prescription Drug Program (OPDP) is proposing to amend ~~OAR 409-030-000 to 409-030-0065~~ to expand the definition of "prescription drugs" to conform with practice and allow OPDP to rely on ORS 279A.065(4) which allows contracting agencies that have not adopted their own rules of procedure to be subject to the model rules adopted by the Attorney General, including all modifications. Adoption of these proposed rules also repeals the temporary rule, OAR 409-030-0065 that has been in effect since April 21, 2010. ~~In addition, the OPDP rules are being renumbered and moved from Chapter 409 (Office for Oregon Health Policy and Research) to Chapter 943 (Oregon Health Authority) to align and update references consistent with agency reorganization.~~ This amended filing extends the comment to September 22, 2010 at 5:00pm and removes all of the proposed rule amendments except those to OAR 409-030-0065. The rules will also remain in chapter 409 at this time.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>.  
For hardcopy requests, call: (503) 947-5250.

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.

**August 22 September 22, 2010; 5:00pm**

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



Jennifer Bittel, DWSS Rules Coordinator  
Printed name

9/1/10  
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

**AMENDED STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

**Oregon Health Authority-Department of Human Services, Office for Oregon Health Policy and Research**

**409/943**

Agency and Division

Administrative Rules Chapter Number

In the Matter of:

**The amendment and renumber of 409-030-0000 through of 409-030-0065 to 943-030-0000 through 943-030-0065 and the repeal of 409-030-0065(T).**

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

**Amendments to Oregon Prescription Drug Program Rules for ~~Definitions and Contracted Services~~**

Statutory Authority: **ORS 409.050 & 414.312 & 414.320**

Other Authority:

Stats. Implemented: **ORS 414.312, 414.314, 414.316 & 414.318**

Need for the Rule(s):

**The Oregon Prescription Drug Program (OPDP) is proposing to amend ~~OAR 409-030-000 to 409-030-0065~~ to expand the definition of "prescription drugs" to conform with practice and allow OPDP to rely on ORS 279A.065(4) which allows contracting agencies that have not adopted their own rules of procedure to be subject to the model rules adopted by the Attorney General, including all modifications. Adoption of these proposed rules also repeals the temporary rule, OAR 409-030-0065 that has been in effect since April 21, 2010. In addition, the OPDP rules are being renumbered and moved from Chapter 409 (Office for Oregon Health Policy and Research) to Chapter 943 (Oregon Health Authority) to align and update references consistent with agency reorganization.**

Documents Relied Upon, and where they are available:

**ORS 279A.065(4), available at: <http://www.leg.state.or.us/ors/home.htm>**

Fiscal and Economic Impact:

**~~Expanding the definition of prescription drugs more precisely describes what is already practiced therefore there is no fiscal impact.~~ The change allowing OPDP to rely on ORS 279A.065(4) for contracted services is a clarification of current practices and invokes no additional fiscal or 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)):

**Amending this rule will have no fiscal impact on the Department of Human Services, the Oregon Health Authority, or other state agencies, local governments, clients, the public, or businesses, including small businesses. The proposed amendments are clarifying current practices and making housekeeping changes.**

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:

**Small businesses will have no costs of compliance because they are not impacted by these rules.**

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

**None.**

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

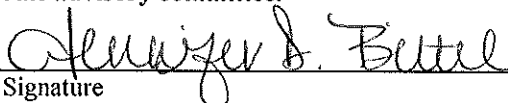
**None.**

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

**Small businesses were not involved in the development of these rules because the proposed amendments are administrative in nature.**

Administrative Rule Advisory Committee consulted? If not, why?:

**No. These proposed amendments are administrative in nature and clarify current practices and did not require the use of a rule advisory committee.**



**Jennifer Bittel, DWSS Rules Coordinator**

**9/1/10**

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97301

ARC 925-2007

**CHAPTER 943  
OREGON HEALTH AUTHORITY**

**DIVISION 30  
OREGON PRESCRIPTION DRUG PROGRAM**

**409-030-0065**

**Contracted Services**

(1) The Administrator may procure goods and services to perform any of the functions of OPDP.

~~(2) OPDP adopts the DOJ model public contract rules in OAR chapter 137, division 46 (General Provisions Related to Public Contracting) and division 47 (Public Procurements for Goods or Services), effective July 1, 2009, as the contracting rules that shall apply to its procurements.~~

~~(3)~~ The Administrator shall delegate procurement authority to the Department's Authority's Designated Procurement Officer for OPDP goods and services, except as the Administrator determines to retain such authority in a particular case and as otherwise provided in section ~~(54)~~ of this rule.

~~(43)~~ The Administrator shall act as the Department's Authority's representative for each contract. The Administrator may delegate in writing the representative's responsibilities to a designee. The agency's representative may participate with the Department's Authority's Designated Procurement Officer in all aspects of procurement.

~~(54)~~ OPDP's mechanism for and administration of the enrollment of participating groups shall not constitute procurements subject to this rule.

Stat. Auth.: ORS 409.050 & 414.320~~312~~  
Stats. Implemented: ORS 414.312~~to~~, 414.320  
314, 414.316 & 414.318