

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

Board of Accountancy OAR 801 Division 001
Agency and Division Administrative Rules Chapter Number

Kimberly Bennett 3218 Pringle Rd SE #110, Salem, OR 97302 503-378-2268
Rules Coordinator Address Telephone

RULE CAPTION

Adopt rules for confidentiality of investigation files and update the professional standards effective date.

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

November 15, 2011 9:00 a.m. Board of Accountancy 3218 Pringle Rd SE Salem OR 97302 L. Patrick Hearn
Hearing Date Time Location Hearings Officer

Hearing Date Time Location Hearings Officer
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:

AMEND:
801-001-0035

REPEAL:

RENUMBER:

AMEND & RENUMBER:
801-010-0190 to 801-001-0040

Stat. Auth. : ORS 183.32, 673.410, 670.310, 673.410, 673.170, 673.400

Other Auth.:

Stats. Implemented: ORS 183.332, 673.410, 670.310, 673.170, 673.400

RULE SUMMARY

The 2011 Legislative Assembly passed HB 2067 allowing the Board to hold pending investigations confidential until a preliminary finding or dismissal on the matter is made.

The professional standards as used throughout OAR Chapter 801 are those that are in effect as of January 1, 2012.

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.

December 2, 2011

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

 L. PATRICK HEARN 10/12/11
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

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form

Board of Accountancy
Agency of Division

OAR Chapter 801
Administrative Rules Chapter Number

In the Matter of the Board of Accountancy)	Statutory Authority
Amending rules in Chapter 801, Division 001)	Statutes Implemented
Related to applications for CPA Certificate)	Statement of Need
)	Principal Documents Relied Upon
)	Statement of Fiscal Impact

Statutory Authority: ORS Chapter 183.332, 673.410, 670.310, 673.170, 673.400

Other Authority: None

Statutes Implemented: ORS 183.332, 673.410, 670.310, 673.170, 673.400

Need for the Rule(s): Implement HB 2067 to enable Board to keep investigations confidential until a preliminary finding is found or the matter is dismissed. Update the professional standards to those effective after January 1, 2012.

Documents Relied Upon*: House Bill 2067

Fiscal & Economic Impact: None

Administrative Rule Advisory Committee consulted? Yes.

If not, why? The Board had a legislative task force who developed the language and concept for this legislation.



Authorized Signature

* The documents listed are available for public inspection at the office of the Oregon Board of Accountancy, 3218 Pringle Road SE, Suite 110 Salem, Oregon 97302-6307, during regular business hours, 8:00 am to 5:00 pm, Monday through Friday.

**OREGON ADMINISTRATIVE RULES
CHAPTER 801, DIVISION 001 - BOARD OF ACCOUNTANCY**

PROCEDURAL RULES

Notice of Proposed Rulemaking

801-001-0000 Prior to permanent adoption, amendment or repeal of any rule, the Oregon Board of Accountancy shall give notice of the intended action:

- (1) By publishing Notice at least 21 days prior to the effective date of the rule in the bulletin compiled by the Secretary of State and referred to in ORS 183.360;
- (2) By mailing a copy of the Notice to persons on the Board of Accountancy's mailing list established pursuant to ORS 183.335 at least 28 days before the effective date of the rule;
- (3) By mailing or furnishing a copy of the Notice to the following persons and organizations:
 - (a) Capitol Press Room;
 - (b) Associated Press;
 - (c) Oregon Society of Certified Public Accountants;
 - (d) Oregon Association of Independent Accountants; and
- (4) By mailing a copy of the Notice to legislators as provided by ORS 183.335(15).

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.335 & 183.360

Hist.: AB 37, f. & ef. 12-3-75; AB 2-1982, f. & ef. 4-20-82; AB 4-1992, f. & cert. ef. 8-10-92; AB 1-1995, f. & cert. ef. 1-25-95; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 2-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 1-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 3-2004, f. 12-30-04, cert. ef. 1-1-05

Model Rules of Procedure

801-001-0005 Pursuant to ORS 183.341, the Oregon Board of Accountancy adopts by this reference the *Model Rules of Procedure* as promulgated by the Attorney General under the Administrative Procedures Act.

Stat. Auth: ORS 670.310, 673.410

Stats. Implemented: ORS 183.341

Hist.: AB 20A, f. 1-17-72, ef. 2-1-72; AB 25, f. 9-15-72, ef. 10-1-72; 1AB 33, f. 11-6-73, ef. 11-25-73; 1AB 38, f. & ef. 2-10-76; 1AB 3-1978, f. & ef. 3-23-78; 1AB 1-1980, f. & ef. 2-26-80; 1AB 1-1982, f. & ef. 1-8-82; AB 5-1988, f. & cert. ef. 10-31-88; AB 6-1991, f. & cert. ef. 12-18-91; AB 3-1994, f. & cert. ef. 8-10-94; AB 1-1-96, f. & cert. ef. 1-29-96; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 2-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 1-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 2-2003, f. 12-23-03 cert. ef. 1-1-04

Screening and Selection Procedures for Personal Services Contracts

801-001-0010 The Oregon Board of Accountancy adopts by this reference the Personal Contract Rules as promulgated by the Department of Administrative Services for procedures to be followed when entering into personal services contracts.

Stat. Auth: ORS 670.310

Stats. Implemented: ORS 279.051

Hist.: AB 4-1992, f. & cert. ef. 8-10-92; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 2-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 1-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 2-2003, f. 12-23-03 cert. ef. 1-1-04

Board Agenda Items

801-001-0015 All items for the Board agenda must be complete and received at least seven business days prior to the date of the Board meeting in order to be included on the Board agenda.

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Stat. Auth.: ORS 670.310

Stats. Implemented: ORS 192.640

Hist.: AB 6-1995, f. & cert. ef. 10-2-95; BOA 2-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 2-2003, f. 12-23-03 cert. ef. 1-1-04

Hearing Panel Rules

801-001-0020 The Oregon Board of Accountancy adopts by this reference the rules for *Office of Administrative Hearings Panel Rules* (OAR Chapter 137), as promulgated by the Department of Justice.

Stat. Auth.: OL 1999 Ch. 849 Sec. 2-21

Stats. Implemented: ORS 673.185

Hist.: BOA 2-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 1-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 2-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 2-2005, f. 2-24-05 cert. ef. 3-1-05

Authorization for Agency Representative

801-001-0025 The Oregon Board of Accountancy adopts the following rule to authorize the appearance of its staff as the Board's representative at contested hearings pursuant to ORS 183.452;

(1) Subject to the approval of the Attorney General, an officer or employee of the Board is authorized to appear on behalf of the Board in the following types of hearings conducted by this Board:

Administrative Hearings, as designated by the Board.

(2) The Board representative may not make legal argument on behalf of the Board.

(a) "Legal Argument" includes arguments on:

(A) The jurisdiction of the agency to hear contested cases;

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

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

(b) "Legal Argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual argument 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 agency in handling similar situations;

(C) The literal meaning if 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.

Stat. Auth.: OL 1999 Ch. 849 Sec. 2-21, ORS 183.310

Stats. Implemented: ORS 673.185

Hist.: BOA 2-2001, f. 12-28-01, cert. ef. 1-1-02

Extension of time limits created in Administrative Rules

801-001-0030 (1) The Oregon Board of Accountancy may extend specified time requirements stated in OAR Chapter 801 if the person seeking the extension shows good cause for failing to meet the time requirement stated by the applicable rule. A request for an extension of any time requirement must be submitted in writing within a reasonable time.

(2) **Definitions.** For the purposes of subsection (1) of this rule:

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(a) "Good cause" exists when the person seeking the extension establishes by satisfactory evidence that the cause of the failure to meet the time requirement stated by the applicable rule was beyond his or her reasonable control.

(b) "Reasonable time" means that the person acted promptly in filing the request for extension after the cessation of the circumstances that prevented him or her from meeting the time requirement stated by the applicable rule.

(3) Time limits not subject to extension. The provisions for extension are not applicable to the following time limits:

(a) Renewal of permits described in OAR 801 Division 010,

(b) Renewal of firm registrations described in OAR 801 Division 010.

Stat. Auth.: ORS 670.310

Stats. Implemented: ORS 673.410

Hist.: BOA 1-2002, f. 12-27-02, cert. ef. 1-1-03

Professional Standards

801-001-0035 The professional standards, interpretations, rulings and rules designated and adopted by the Board in OAR Chapter 801 are those in effect as of January 1, 2012~~4~~.

Stat. Auth.: ORS 183.332 & 673.410

Stats. Implemented: ORS 183.337 & 673.410

Hist.: BOA 2-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 2-2005, f. 2-24-05 cert. ef. 3-1-05; BOA 5-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 1-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 1-2007, f. 12-27-07 cert. ef. 1-1-08; BOA 1-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 1-2009, f. 12-15-09 cert. ef. 1-1-2010; BOA 1-2010, f. 12-15-10, cert. ef. 1-1-11

Procedure for Complaints

801-001-0040 Pursuant to ORS 673.185, the Board is authorized to investigate complaints alleging violations of ORS 673.010 through 673.455 and OAR Chapter 801. The following procedures govern complaints received by the Board:

(1) The Board must investigate all complaints that describe activities that are the subject to the jurisdiction of the Board and that provide information in support of the complaint.

(2) Anonymous or unsigned complaints will only be investigated if they meet the criteria of (1).

(3) The Board may also investigate other information of which the Board has knowledge, such as media stories and information provided by law enforcement or other regulatory agencies, which indicates that a violation of the statutes or rules enforced by the Board may have occurred.

(4) Any person submitting a complaint may be required to support the complaint by personal appearance before the Board.

(5) The Board may employ private investigators or contract investigators to provide assistance in determining the facts of any case being investigated.

(6) A licensee who is the subject of a complaint may meet with the Complaints Committee to discuss the complaint.

(7) In accordance with ORS 673.415 the Board may obtain a copy of the signature block, including the name, address and signature of the tax preparer, for any tax return or report permitted or required to be filed with the Oregon Department of Revenue, if the Board has reasonable grounds to believe that a licensee who prepared such tax return or

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report violated any provision of ORS 673.010 to 673.455 or rules promulgated by the Board.

(8) If the Board determines that the available evidence is insufficient to indicate that a violation may have occurred, the Board shall dismiss the complaint.

(9) If the Board determines that the available evidence is sufficient to indicate that a violation may have occurred, the Board shall make a preliminary finding of a violation(s) and offer the subject of the complaint a contested case hearing.

(10) A person under investigation and the Board's Executive Director may negotiate a proposed Stipulated Final Order to conclude a matter at any time after the Complaints Committee has considered it.

(11) A negotiated settlement as described in paragraph (10) shall not be binding on either party until approved by the Board and signed by Chairperson of the Board.

Stat. Auth.: ORS 670.310; ORS 673.410

Stat. Implemented: ORS 673.170; 673.185;

Hist.: 1AB 9, f. 6-24-60; 1AB 24, f. 9-15-72, ef. 10-1-72; 1AB 5-1978, f. & ef. 5-16-78; 1AB 3-1982, f. & ef. 4-20-82; AB 4-1994, f. & cert. ef. 9-27-94; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02

Confidentiality of Complaints Received

801-001-0045

(1) All complaints received by the Board office shall be considered confidential.

(2) All documents received will be marked confidential until the Board otherwise resolves or a notice is issued.

(3) The Complaints Committee review and deliberations concerning a pending investigation shall occur only in executive session, pursuant to ORS 192.660(2)(f), to consider information that is exempt by law from public inspection.

(4) The Board of Accountancy's review and deliberations concerning a pending investigation shall also occur only in executive session, pursuant to ORS 192.660 (2)(f), to consider information that is exempt by law from public inspection.

(5) Any action by the Board to approve a final order, make a preliminary finding of violation or dismiss a matter shall take place in a public meeting. At this point the matter is public.

Confidentiality and Inadmissibility of Mediation Communications

801-001-0050

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the

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agency is acting as the “mediator” in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromised negotiations under ORS 40.190 (OEC Rule 408), those mediations communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Mediations Excluded. Sections (6)-(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency’s employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rules or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential;

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)-(d), (j)-(l) or (o)-(p) of section (9) of this rule.

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in sections (8)-(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties’ agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an “agreement to mediate.”

Agreement to Participate in a Confidential Mediation

The agency and the parties to the mediation agree to participate in a mediation in which the mediation communications are confidential and/or non-discoverable and inadmissible to the extent authorized by OAR 801-001-0050(7), and this agreement. This agreement relates to the following mediation:

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a) _____ *(Identify the mediation to which this agreement applies)*

b) To the extent authorized by OAR 801-001-0050(7), mediation communications in this mediation are: (check one or more)

_____ Confidential and may not be disclosed to any other person

_____ Not admissible in any subsequent administrative proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent administrative proceeding, or introduced as evidence by the parties or the mediator in any subsequent administrative proceeding

_____ Not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent administrative, judicial or arbitration proceeding, or introduced as evidence by the parties or the mediator in any subsequent administrative proceeding

c) Name of Agency

Signature of Agency's authorized representative
(when agency is a party) or Agency employee acting as the mediator (when Agency is mediating the dispute)

Date

d) _____
Name of party to the mediation

Signature of Party's authorized representative

Date

e) _____
Name of party to the mediation

Signature of Party's authorized representative

Date

(9) Exceptions to confidentiality and inadmissibility

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing

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the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communications is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation, or

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- (B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation, or
- (C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712, or
- (D) A strike notice submitted to the Employment Relations Board
- (l)** To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.
- (m)** Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceedings to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:
- (A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege, or
- (B) Attorney work product prepared in anticipation of litigation or for trial, or
- (C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency, or
- (D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation, or
- (E) Settlement concepts or proposals, shared with the mediator or other parties
- (n)** A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Oregon Board of Accountancy determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.
- (o)** The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 30.402 or state or federal law requires the terms to be confidential.
- (p)** The mediator may report the disposition of mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).
- (10)** When mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Auth: ORS 36.224

Stat. Implemented: ORS 36.220 to 36.238; 183.335(5); 673.410

Hist.: BOA 1-2003(Temp), f. & cert. ef. 10-15-03 thru 3-15-04; BOA 2-2003, f. 12-23-03 cert. ef. 1-1-04

Requesting a Hearing; Stating Claims and Defenses
801-001-0055

Division 001

Effective January 1, 2012[†]

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(1) When requesting a hearing, or within fourteen (14) days following a request for hearing, the person responding to the notice must admit or deny, in writing, all factual matters stated in the notice. Any factual matters not denied shall be presumed admitted.

(2) When requesting a hearing, or within fourteen (14) days following a request for hearing, the person responding to the notice shall affirmatively state, in writing, any and all claims or defenses the person may have and the reason that supports the claim of defense. Failure to raise a claim or defense shall be presumed to be a waiver of such claim.

(3) Evidence shall not be taken on any issue not raised in the notice and either the request for hearing or a subsequent statement within fourteen (14) days following the request for hearing as required in sections (1) and (2) of this rule.

Stat. Auth.: ORS 673.410

Stats. Implemented: ORS 673.170

Hist.: BOA 5-2005, f. 11-22-05, cert. ef. 1-1-06

