

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

Oregon Health Authority (Authority), Division of Medical Assistance Programs (Division)	410	
Agency and Division	Administrative Rules Chapter Number	
Sandy Cafourek	500 Summer St. NE, Salem, OR 97301	503-945-6430
Rules Coordinator	Address	Telephone

RULE CAPTION

Aligns Non-Emergent Medical Transportation Vehicle and Subcontractor Standards with New Statute Regarding Inhalants
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

ADOPT:

AMEND: 410-136-3040

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 413.042

Other Auth.:

Stats. Implemented: ORS 414.065

RULE SUMMARY

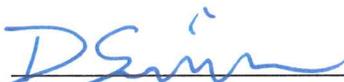
This amendment adds language regarding aerosolizing or vaporizing to the existing rule to bring subcontractor and vehicle standards into alignment with changes to the Oregon Indoor Clean Air Act made in HB 2456, which passed in the 2015 legislative session.

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 1st, SC 10/30/15
November 19, 2015, by 5 p.m.

Send comments to: dmap.rules@state.or.us

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


Signature

DAVID SUMMIT
Printed name

10/28/2015
Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A 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 notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

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

Oregon Health Authority (Authority), Division of Medical Assistance Programs (Division) 410-136-3040
Agency and Division Administrative Rules Chapter Number

Aligns Non-Emergent Medical Transportation Vehicle and Subcontractor Standards with New Statute Regarding Inhalants
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The amendment of 410-136-3040

Statutory Authority: ORS 413.042

Other Authority:

Stats. Implemented: ORS 414.065

Need for the Rule(s): In 2015 the legislature passed HB 2546, which expanded the prohibitions against tobacco products to other inhalants, such as nicotine- and cannabinoid-delivery systems.

Documents Relied Upon, and where they are available:
HB 2546, <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB2546/Enrolled>

Fiscal and Economic Impact:
None.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): Amending these rules will have no fiscal impact on the Authority, other state agencies, units of local government, the public, or businesses, including small businesses.

2. Cost of compliance effect on small business (ORS 183.336):

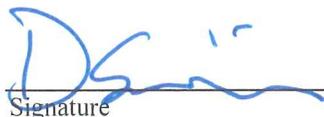
a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Taxi and medical transportation drivers.

b. Projected reporting, recordkeeping 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? This amendment is the result of an update of the Oregon Indoor Clean Air Act and is required.

Administrative Rule Advisory Committee consulted?: No. If not, why?: The rule derives from an update of the Oregon Indoor Clean Air Act and requires expanding the list of prohibited activities.


Signature

DAVID SIMALITI
Printed Name

10/28/2015
Date

410-136-3040

Vehicle Equipment and Subcontractor Standards

(1) Brokerages shall require subcontractors to maintain their vehicles for the comfort and safety of the clients. The vehicles shall meet the following requirements:

(a) The interior of the vehicle shall be clean;

(b) The subcontractor shall not smoke, aerosolize or vaporize an inhalant or permit smoking, aerosolizing or vaporizing of an inhalant in the vehicle at any time; and

(c) The subcontractor shall comply with appropriate local, state, and federal transportation safety standards regarding passenger safety and comfort. The vehicle shall include, but is not limited to, the following safety equipment:

(A) Safety belts for all passengers if the vehicle is legally required to provide safety belts;

(B) A first aid kit;

(C) A fire extinguisher;

(D) Roadside reflective or warning devices;

(E) A flashlight;

(F) Tire traction devices when appropriate;

(G) Disposable gloves; and

(H) All equipment necessary to transport clients using wheelchairs or stretchers if the subcontractor uses the vehicle for these modes of transport.

(2) The subcontractor shall follow a preventative maintenance schedule that incorporates at least all of the maintenance recommended by the vehicle manufacturer. The vehicle must be in good operating condition and shall include, but is not limited to:

(a) Side and rear view mirrors;

(b) A horn; and

(c) Working turn signals, headlights, taillights and windshield wipers.

(3) Brokerages shall require the subcontractors' drivers to receive training on their job duties and responsibilities, including:

(a) Understanding NEMT services in general, reporting forms, vehicle operation, requirements for fraud and abuse reporting and the geographic area in which subcontractors will provide service;

(b) Requiring the subcontractors' drivers to complete the National Safety Council Defensive Driving course or an equivalent course within six months of the date of hire and at least every three years thereafter;

(c) Requiring the subcontractors' drivers to complete Red Cross-approved First Aid, Cardiopulmonary Resuscitation and blood spill procedures courses or equivalent courses within six months of the date of hire and to maintain the certification as a condition of employment;

(d) Requiring the subcontractors' drivers to complete the Passenger Service and Safety course or an equivalent course within six months of the date of hire and at least every three years thereafter;

(e) Understanding established procedures for subcontractors and the subcontractors' drivers in the event that the client needs emergency care during the ride; and

(f) If providing ground or air ambulance services, verifying that the Authority has licensed the subcontractor to operate ground or air ambulance. If the subcontractor is located in a contiguous state and regularly provides rides to OHP eligible clients, the brokerage must ensure that both the Authority and the contiguous state have licensed the subcontractor.

(4) Brokerages shall require the following when hiring a subcontractor:

(a) The subcontractor's driver must have valid driver license. The license must be the class of license, with any required endorsements, that permits the subcontractor's driver to legally operate the vehicle for which they are hired to drive per ORS Chapter 807 and OAR chapter 735, division 062, or the applicable statutes of other states; and

(b) The subcontractor's drivers must pass a criminal background check in accordance with ORS 181.534 and 181.537 and OAR chapter 257, division 10, or if the brokerage is a mass transit district formed under ORS Chapter 267, the subcontractor's drivers must pass a criminal background check in accordance with ORS 267.237 and the mass transit district's background check policies. The brokerage may request an exception to this requirement in writing to the Authority, but only the Authority may grant the exception. Approval of the exception is dependent upon when the crime occurred, the nature of the offense, and any other circumstances to ensure that the client is not at risk of harm from the subcontractor. If approved, the Authority shall document the approval within 30 days of the request.

(5) For authorized out-of-state NEMT services in which the subcontractor solely performs work in the other state and for which the brokerage has no oversight authority,

the brokerage is not responsible for requiring that the subcontractor's vehicle and the subcontractor's standards meet the requirements set forth in this rule.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065