

**Presiding Officer's Report to Agency on Rulemaking Hearing**

**Date:** January 27, 2022  
**To:** David Gerstenfeld, Acting Director  
**From:** Anne Friend, OED Rules Coordinator  
**Subject:** Presiding Officer's Report on Rulemaking Hearing – PFMLI Batch 1 Rules

**Public Hearings and Public Comment Period**

| Meeting Type          | Hearing Date and Time                   | Hearing Location                |
|-----------------------|---|---------------------------------|
| Public Hearing        | November 30, 2021, 9-11 am              | Virtual via Zoom                |
| Public Hearing        | December 9, 2021, 4-6 pm                | Virtual via Zoom                |
| Public Comment Period | November 1 – December 20, 2021, at 5 pm | Submitted in writing via email. |

**Notice Filings (OAR 471-070-\*)**

| Notice Number                                    | Rule Numbers   |
|--|--|
| Notice 1 – Contributions and Wages               | 471-070-0415, 0420, 0425, 0430, 0435, 0440, 0445, 0450, 0455, 0465, 0550, 0850, 3000, 3010, 3020, 3030, 3310, 3320, 5240, 8520, 8530 |
| Notice 2 – Small Employers and Assistance Grants | 471-070-3150, 3160, 3700, 3705, 3710, 3730, 3750, 3850   |
| Notice 3 – Self-employed Individuals             | 471-070-2000, 2005, 2010, 2030, 2170   |
| Notice 4 – Outreach Plan                         | 471-070-0800   |

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 Exhibits are available upon request

## Hearings Report

There were two rulemaking hearings on the proposed rules for the Paid Family Medical Leave Insurance Division's Batch 1 administrative rules. These hearings covered the four filings that the Department filed notices of proposed rulemaking on November 1, 2021, with the Secretary of State's Office. Both hearings were held virtually via the Zoom platform and recorded for the official record. At each hearing, I read the rulemaking information into the record and then began the hearings. Below, is a summary of each hearing and any comments received are outlined. The public comment period for this rulemaking effort was opened on November 1, 2021, and closed at 5 p.m. on December 20, 2021.

### Public Hearing #1 – November 30, 2021

The first public hearing for the Batch 1 administrative rules took place on November 30, 2021, from 9 – 11 a.m. The public was asked to register through Zoom in order to attend the hearing and to raise their hands within the Zoom meeting if they wanted to comment on the proposed rules. Attendees were also informed of the procedures for taking comments and that the hearing was being recorded as part of the official record. There were 37 people registered to attend the hearing and two attendees gave testimony during the hearing. A summary of the two attendees that testified can be found in the table below under the rule(s) they provided testimony about. The entire testimony can also be found in "Exhibit 001" attached.

### Public Hearing #2 – December 9, 2021

The second public hearing for the Batch 1 administrative rules took place on December 9, 2021 from 4 – 6 p.m. The public was asked to register through Zoom to attend and to raise their hands within the Zoom meeting if they wanted to comment on the proposed rules. Attendees were also informed of the procedures for taking comments and that the hearing was being recorded as part of the official record. There were 222 people registered to attend the hearing and eight attendees gave testimony during the hearing. A summary of the eight attendees that testified can be found in the table below under the rule(s) they provided testimony about. The entire testimony can also be found in "Exhibit 002" attached.

### Public Comment Period – Ending December 20, 2021

The four Notice of Proposed Rulemaking and Statement of Need and Fiscal Impact filings of the Batch 1 administrative rules were published in the Oregon Bulletin on November 1, 2021. Between November 1 and 5 p.m. on December 20, 2021, the public comment period was open to receive comments from the public, interested parties and groups, and legislators. Comments and questions were primarily received via the [OED\\_Rules@employ.oregon.gov](mailto:OED_Rules@employ.oregon.gov) email box where they were recorded by staff. Some comments did come in through the PFMLI email address but those were subsequently forwarded to the OED Rules email box and recorded.

The department received written testimony from 35 different individuals or groups. Of the 35 different testimonies received, 9 were comments about the general program, other batches of rules, or PFMLI benefits and, as such, are not included in this summaries of this document. A summary of the testimony on specific PFMLI Batch 1 administrative rules can be found in the table below under the rule(s) they provided testimony about. The exact comments can be found in the attached exhibits.

## Summary of Comments Received on and Responses for PFMLI Batch 1 Administrative Rules

| Rule Number  | Name Affiliation   | Exhibit Number    | Comment Summary   | Responses   | Rule Change – Yes/No |
|--|--|-------------------|---|---|----------------------|
| <b>471-070-0415</b><br><b>Wages: Incidental Expenses</b>       | No comments received   |                   |   |   |                      |
| <b>471-070-0420</b><br><b>Wages: Pensions</b>                  | Betsy Earl, Weyerhaeuser Company   | 003               | Opposes as requests further clarification on what type of pensions from a former employer is considered wages (i.e. restricted stock units, stock options exercises, and distribution from non-qualified retirement plans). | This rule is identical to the Unemployment Insurance (UI) rule (471-031-0025). Program can provide further clarification in instructions or amend the rule later if needed. | No                   |
| <b>471-070-0425</b><br><b>Wages: Jury Pay</b>                  | No comments received   |                   |   |   |                      |
| <b>471-070-0430</b><br><b>Wages: Bonuses, Fees, and Prizes</b> | Lindsay Farrimond, Plastech, Inc.  | 004               | Opposes as need to clarify if bonuses that are an incentive to stay with the company considered wages.  | Yes, incentives to stay with a company are considered bonuses and wages. This will be addressed further in instructions.  | No                   |
|  | John Zobrist, Woodburn Area Chamber of Commerce; Lori Arce-Torres, Lincoln City Chamber of Commerce; Gioia Goodrum, McMinnville Area Chamber of Commerce | 005, 006, and 007 | Opposes because wants PFMLI to use the same definition of bonuses, tips and gratuities as UI.   | This rule is identical to the UI rule (471-031-0035). Program will provide further clarification in instructions if wages are different for PFMLI and UI.                   | No                   |

| Rule Number  | Name Affiliation  | Exhibit Number | Comment Summary  | Responses   | Rule Change – Yes/No |
|--|---|----------------|--|---|----------------------|
|  | Ryan Chieffo, The Standard Insurance Company                | 008            | Opposes as can simplify the definition to include wages subject to Oregon UI tax since the definition is the same to ensure consistent reporting and administration. | Will explore possible merging of administrative rules of PFMLI and UI in the future. Program will provide further clarification in instructions if wages are different for PFMLI and UI.        | No                   |
| <b>471-070-0435<br/>Wages:<br/>Disability<br/>Payments and<br/>Accident<br/>Compensation</b> | Daris Freeman, Unum   | 009            | Opposes as requests clarification regarding whether payments received from an employer during family-related leave events are considered wages.                      | Waiting for IRS guidance on how PFMLI benefit payments should be treated. Will address in future PFMLI rules.   | No                   |
|  | Ryan Chieffo, The Standard Insurance Company                | 008            | Opposes as recommends adding a paragraph indicating that payments made under an employer sponsored disability plan (whether insured or self-funded) are not wages.   | Waiting for IRS guidance of how benefit payments should be treated. Will address in future PFMLI rules.   | No                   |
|  | Sarah Montgomery & Patricia Zuniga, Lincoln Financial Group | 026            | Opposes definition of sick pay and disability payments. Short-term disability insurance benefit payments be excluded from the definition.                            | Sick and disability payments are wages unless the payments were made under workers' compensation law, paid from employee-funded plans, or paid after six months from the date the employee last | Yes                  |

| Rule Number   | Name Affiliation                                       | Exhibit Number | Comment Summary   | Responses   | Rule Change – Yes/No |
|---|--|----------------|---|---|----------------------|
|   |  |                |   | worked for the employer. Will expand the definition of sick pay in PFMLI Batch 2 rules.   |                      |
| <b>471-070-0440</b><br><b>Wages: Gifts</b>              | No comments received                                   |                |   |   |                      |
| <b>471-070-0445</b><br><b>Wages: Remuneration Types</b> | Elaine Kantrowitz, ADP                                 | 010            | Must contributions be deducted from third party sick pay or disability payments?              | Sick and disability payments are wages unless the payments were made under workers' compensation law, paid from employee-funded plans, or paid after six months from the date the employee last worked for the employer. Will expand the definition of sick pay in PFMLI Batch 2 rules. | Yes                  |
|   | Lindsay Farrimond, Plastech, Inc.                      | 004            | Opposes inclusion of tips and gratuities as wages because burden for employers and employees. | When an employer-employee relationship exists, tips are included as wages. This is the same treatment as UI; therefore, kept tips in the rule.  | No                   |
|   | Greg Astley, Oregon Restaurant and Lodging Association | 002            | Opposes inclusion of "tips" as wages.   | When an employer-employee relationship exists, tips are included as wages. This is the same treatment as UI; therefore,   | No                   |

| Rule Number  | Name Affiliation  | Exhibit Number | Comment Summary   | Responses   | Rule Change – Yes/No |
|--|---|----------------|---|---|----------------------|
|  |   |                |   | have kept tips in the rule.   |                      |
|  | Lisa Kwon, Family Forward Oregon and Time to Care Coalition | 011            | Support including stand-by-pay, tips, and compensatory pay to wages definition.   | Support for administrative rule as written, no changes needed.  | No                   |
| <b>471-070-0450 Wages: Remuneration Other than Cash</b>                | Ryan Chieffo, The Standard Insurance Company                | 008            | Opposes because should exclude non-cash forms of employer provided employee recognition provided in the ordinary course of business as wages. | This rule is identical to the UI rule (471-031-0055). Including non-cash remuneration will provide a larger benefit for employees then excluding it. Program can amend the rule later if needed             | No                   |
| <b>471-070-0455 Wages: Cafeteria Plans</b>                             | Elaine Kantrowitz, ADP                                      | 010            | Are employer contributions to an employee’s Health Savings Account plan, whether the employee has a cafeteria plan or not, wages?             | No. As defined by ORS 675.115, fringe benefits are not wages when paid by the employer.   | No                   |
| <b>471-070-0465 Wages: Corporate Officer and Shareholder Dividends</b> | Ryan Chieffo, The Standard Insurance Company                | 008            | Who makes the determination of whether dividends are reasonable compensation for services performed?  | The employer will make the initial determination if dividends are reasonable compensation according to the guidelines provided by the IRS. This determination is can be subject to audit by the department. | No                   |
| <b>General Wage Rules</b>  | Hayley Craig, Heart of Oregon Corps                         | 012            | Opposes as would like AmeriCorps living allowances  | The department needs to research further and will clarify in either a   | No                   |

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|---|---|------------------------|---|--|----------------------|
|   |   |                        | excluded from wages.  | future rule or in instructions.  |                      |
|   | Lara Million, First Federal   | 013                    | Opposes as eligible wages are not defined the same as eligible state income tax wages. This will streamline the process and help payroll professionals in the calculation, collection, and submission of the taxes. | Wages are defined by the statute [ORS 657B.010(26)] and are tied to the UI definition of wages.  | No                   |
|   | Lindsay Farrimond, Plastech, Inc.   | 004                    | Opposes as need to clarify if wage definitions are same or different from UI definitions.   | Will explore possible merging of administrative rules of PFMLI and UI in the future. Program will provide further clarification in instructions if wages are different for PFMLI and UI. | No                   |
|   | Paloma Sparks, Oregon Business & Industry; Mike Doke, Columbia Gorge Fruit Growers; Daris Freeman, UNUM | 014, 015, and 009      | Opposes because rules need to state if consistent with existing laws or UI.   | Will explore possible merging of administrative rules of PFMLI and UI in the future. Program will provide further clarification in instructions if wages are different for PFMLI and UI. | No                   |
| <b>471-070-0550 Continuous Jurisdiction</b> | No comments received  |                        |   |  |                      |
| <b>471-070-0800 Outreach Plan</b>           | Jess Giannettino Villatoro, Oregon AFL-   | 016, 017, 011, and 002 | Opposes as request stronger language to highlight the   | Ensuring racial equity is a key goal of the department and   | Yes                  |

| Rule Number       | Name Affiliation  | Exhibit Number   | Comment Summary   | Responses   | Rule Change – Yes/No |
|-------------------|---|--|---|---|----------------------|
|                   | CIO; Jeanine Morales, Pro-Choice Oregon; Lisa Kwon, Family Forward Oregon and Time to Care Coalition; Linda Herrera, PCUN |  | importance of racial equity throughout the longevity of the program.  | will guide outreach efforts not only during implementation but after implementation. The department is committed to ensuring that all of Oregon's diverse population has information about and access to PFMLI. |                      |
|                   | Jeanine Morales, Pro-Choice Oregon; Lisa Kwon, Family Forward Oregon and Time to Care Coalition                           | 017 and 011  | Supports decision to prioritize Black, Indigenous, People of Color (BIPOC) engagement.  | Support for administrative rule as written, no changes needed.  | No                   |
| 017 and 011       |   | Requests PFMLI division build strong BIPOC community buy-in prior to program rollout by using community-based and cultural specific organizations. | Ensuring racial equity is a key goal of the department and it is a goal that will guide outreach efforts. The department is committed to ensuring the all of Oregon's diverse population has information about and access to PFMLI. | No  |                      |
| 017, 001, and 011 |   | Opposes because need to include healthcare providers and healthcare navigators as targets for outreach.  | Changed rule as the department is committed to working with healthcare providers to understand PFMLI and also assist with education.  | Yes   |                      |
|                   | Lindsay Farrimond, Plastech Inc;  | 004, 002,  | Opposes as need to also prioritize communication  | Changed rule as program will include small  | Yes                  |

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|-------------|--|------------------------|---|---|----------------------|
|             | Paloma Sparks, Oregon Business & Industry; Mike Doke, Columbia Gorge Fruit Growers                               | 014, and 015           | with small and rural employers.   | employers and rural communities in the outreach and community engagement efforts.   |                      |
|             |  | 004, 002, 014, and 015 | Opposes as should hire an employer ombudsman to answer questions and provide resources.   | The department will have staff dedicated to answering employer questions.   | No                   |
|             | Lisa Kwon, Family Forward Oregon and Time to Care Coalition  | 011 and 001            | Opposes because wants firmer commitment to collaboration with community groups.   | Changed rule to firmer commitment for the agency to collaborate with community groups, advocacy organizations and healthcare providers.   | Yes                  |
|             | Julie Samples, David Henretty, Laurie Hofer, and Paloma Dale, Oregon Law Center and Legal Aid Services of Oregon | 018                    | Opposes because should remove the term "marginalized" because does not capture the different types of oppression that group of people face. | The department recognizes that various groups in Oregon have been and are marginalized in a number of different ways. Outreach will be based on that understanding and focus on ensuring equitable access to PFMLI. | No                   |
|             |  |                        | Opposes because wants more details about how feedback will be sought from different groups.   | The outreach and community engagement plan is being developed and will have more details on how the department plans to work with different groups.   | No                   |

| Rule Number | Name Affiliation | Exhibit Number | Comment Summary  | Responses  | Rule Change – Yes/No |
|-------------|------------------|----------------|--|--|----------------------|
|             |                  |                | Opposes because should conduct proactive outreach in multiple languages and consider not all languages are written in a common form. | The department hopes to provide program information in a range of languages, which have been worked on in coordination with the DEI staff.                             | No                   |
|             |                  |                | Opposes because there is no discussion of a budget for outreach.   | Budget details are usually not mentioned within an administrative rule as they may change prior to implementation and after implementation.                            | No                   |
|             |                  |                | Opposes because community based organizations are important partners and building trust takes time. Media campaigns are not enough.  | The outreach and community engagement plan is being developed and will have more details on how the department plans to work with different groups and building trust. | No                   |
|             |                  |                | Opposes as should hire a dedicated citizen advocate to answer questions and provide resources.                                       | The department will have staff dedicated to answering employer questions but does not feel needs to be put in rule.  | No                   |
|             |                  |                | Opposes because wants an advisory group and regular communication with community-based organizations.                                | The department does not plan to create additional advisory groups at this time.  | No                   |
|             |                  |                | Supports using community-based   | Support for administrative rule  | No                   |

| Rule Number  | Name Affiliation | Exhibit Number | Comment Summary   | Responses   | Rule Change – Yes/No |
|--|------------------|----------------|---|---|----------------------|
|  |                  |                | organizations to help community members hear about PFMLI.   | as written, no changes needed.  |                      |
|  |                  |                | Opposes as no assessment of outreach plan with community partners after the first six months to determine if adjustments are needed.                        | The outreach and community engagement plan is being developed and will have more details on how the department plans to work with different groups and assessments. Reevaluation will occur throughout but does not need to be put in rule. | No                   |
|  |                  |                | Opposes because no concentrated outreach to employers who employ workers of color and low-wage and seasonal workers to encourage them to comply with PFMLI. | The outreach and community engagement plan is being developed and will have more details on how the department plans to work with different groups and the details aren't needed in rule.   | No                   |
| <b>471-070-0850<br/>Electronic Filing</b>          |                  |                | No comments received  |   |                      |
| <b>471-070-2000<br/>Self-Employed: Definition</b>  |                  |                | No comments received  |   |                      |
| <b>471-070-2005<br/>Self-Employed: Eligibility</b> |                  |                | No comments received  |   |                      |
| <b>471-070-2010<br/>Self-Employed: Election</b>    |                  |                | No comments received  |   |                      |

| Rule Number   | Name Affiliation                             | Exhibit Number | Comment Summary   | Responses   | Rule Change – Yes/No |
|---|--|----------------|---|---|----------------------|
| <b>Requirements and Effective Date</b>  |  |                |   |   |                      |
| <b>471-070-2030 Self-Employed: Contribution Payments and Reporting Requirements</b>                 | Ryan Chieffo, The Standard Insurance Company | 008            | Opposes because if self-employed individuals include non-W-2 shareholders/partners, and a partnership or LLC entity wishing to opt in to the state plan or provide equivalent plan coverage, the contribution cap of 60% may be a windfall to these entities. | Self-employed individuals are opting in for themselves. The department believes that for the majority of self-employed individuals, the fairest option is they pay the employee portion of contributions. | No                   |
| <b>471-070-2170 Self-Employed: Termination</b>  | No comments received                         |                |   |   |                      |
| <b>471-070-3000 Contributions: Definitions</b>  | No comments received                         |                |   |   |                      |
| <b>471-070-3010 Contributions: Method for Determining Contribution Rate and Maximum Wage Amount</b> | Ryan Chieffo, The Standard Insurance Company | 008            | Opposes because wants the Trust Fund balance to be reviewed on June 30 <sup>th</sup> or July 31 <sup>st</sup> instead of August 31 <sup>st</sup> .  | The second quarter Oregon Combined Payroll report is not due until July 31 <sup>st</sup> so need time to process two quarters of reports before reviewing the Trust Fund.                                 | No                   |
|   |  |                | Opposes because needs clarification on how indexing for inflation will be handled for the maximum wage amount.  | Maximum wage amount will be indexed to inflation by adding one to the Consumer Price Index for All Urban Consumers as of August and multiplying it by the current   | No                   |

| Rule Number   | Name Affiliation   | Exhibit Number    | Comment Summary  | Responses   | Rule Change – Yes/No |
|---|--|-------------------|--|---|----------------------|
|   |  |                   |  | maximum wage amount.  |                      |
|   | Daris Freeman, Unum; Gina Rutledge, MetLife  | 009 and 002       | Opposes because wants earlier contribution rate and maximum wage announcement, especially for first year.  | This is the same timing as UI announces their contribution rates. For the first year, we will strive to announce earlier than the deadline.   | No                   |
| <b>471-070-3020 Contributions: Maximum Wage Amount</b>                      | Gina Rutledge, MetLife   | 002               | Opposes as wants clarification if the contribution is taken from every dollar earned, like FICA, or look at annual salary and give them equal amounts of payroll deductions? | The contribution is taken from every dollar earned until reach the maximum wage amount. This can be explained further in instructions and does not need to be added to the rule.                  | No                   |
|   | Ryan Chieffo, The Standard Insurance Company   | 008               | Supports contributions follow wages earned by each employer and not pro-rating.  | Support for administrative rule as written, no changes needed.  | No                   |
| <b>471-070-3030 Contributions: Wage Reporting and Contribution Payments</b> | Ryan Chieffo, The Standard Insurance Company   | 008               | Opposed as recommends contributions be due 30 days after the close of the quarter or year.   | The contributions are due the last day of the month following the close of the calendar quarter, which aligns with the due date for all the other programs on the Oregon Combined Payroll Report. | No                   |
|   | Anna Roberts, SEIU Local 49; Lisa Kwon, Family Forward Oregon and Time to Care Coalition | 001, 019, and 011 | Opposes decision to exempt domestic employers from filing quarterly reports.   | The statute requires PFMLI to be a part of the Oregon Quarterly Combined Payroll Tax Report process and in that process;  | No                   |

| Rule Number  | Name Affiliation  | Exhibit Number                               | Comment Summary   | Responses  | Rule Change – Yes/No |
|--|---|--|---|--|----------------------|
|  |   |  |   | domestic employers are allowed to file annually.   |                      |
| <b>471-070-3150<br/>Employer Size:<br/>Definitions</b> | Jess Giannettino Villatoro, Oregon AFL-CIO; Jeanine Morales, Pro-Choice Oregon; Lisa Kwon, Family Forward Oregon and Time to Care Coalition | 016, 017, 001, and 011                       | Opposes because recommends employers that have multiple corporate entities be counted as a single employer.   | Employer size is based on each Business Identification Number (BIN) as that is how the Oregon Combined Quarterly Payroll report is filed.                      | No                   |
|  | Jeff Jimerson, Business Owner   | 020  | Opposes because should use the U.S. Small Business Administration’s (SBA) guidelines for defining small employer.   | ORS 657B.150(4) defines a small employer as an employer with less than 25 employees. Administrative rule aligns with statute.                                  | No                   |
|  | Ryan Chieffo, The Standard Insurance Company  | 008  | Opposes, as definition should not include temporary employees that an employer is in contract with.   | Temporary employees employed by a temporary agency are employees of that temporary agency and not the employer and should not be counted in the employer size. | No                   |
|  | Ryan Chieffo, The Standard Insurance Company; Katy Brooks, Bend Chamber of Commerce; Lindsay Farrimond, Plastech, Inc.;                     | 008, 021, 004, 005, 006, 014, 015, 022, 007, | Opposes that out-of-state employee are included in the definition as Washington only counts employees located within the state and Oregon should do the same. | Including all employees represents the true size of the business. Washington and Oregon’s threshold for employer size is                                       | No                   |

| Rule Number | Name<br>Affiliation   | Exhibit<br>Number                               | Comment<br>Summary   | Responses   | Rule<br>Change<br>– Yes/No |
|-------------|---|---|--|---|----------------------------|
|             | John Zobrist,<br>Woodburn<br>Area Chamber<br>of Commerce;<br>Lori Arce-<br>Torres, Lincoln<br>City Chamber<br>of Commerce;<br>Paloma<br>Sparks,<br>Oregon<br>Business &<br>Industry; Mike<br>Doke,<br>Columbia<br>Gorge Fruit<br>Growers;<br>Anthony Smith,<br>National<br>Federation of<br>Independent<br>Businesses;<br>Gioia<br>Goodrum,<br>McMinnville<br>Area Chamber<br>of Commerce;<br>Kristen Adams,<br>Associated<br>General<br>Contractors –<br>Oregon<br>Columbia<br>Chapter | 023, and<br>002                                 |  | different in<br>statute.  |                            |
|             | Jess<br>Giannettino<br>Villatoro,<br>Oregon AFL-<br>CIO; Anna<br>Roberts, SEIU<br>Local 49;<br>Jeanine<br>Morales, Pro-<br>Choice<br>Oregon; Lisa,<br>Kwon, Family<br>Forward<br>Oregon and   | 016,<br>001,<br>019,<br>017,<br>011, and<br>002 | Supports the<br>decision to include<br>out-of-state<br>employees when<br>calculating the<br>employer size. | Support for<br>administrative rule<br>as written, no<br>changes needed. | No                         |

| Rule Number  | Name Affiliation   | Exhibit Number                                  | Comment Summary   | Responses   | Rule Change – Yes/No |
|--|--|---|---|---|----------------------|
|  | Time to Care Coalition; Linda Herrera, PCUN,   |   |   |   |                      |
| <b>471-070-3160<br/>Employer Size:<br/>Method to Determine Number of Employees Employed by an Employer</b> | Anna Roberts, SEIU Local 49;   | 001 and 019                                     | Opposes to only using the first quarter in 2023 to determine employer size.   | Given the options for determining employer size in 2023, this is the best option despite its drawbacks, as PFMLI doesn't have data available from prior years.  | No                   |
|  | Jess Giannettino Villatoro, Oregon AFL-CIO; Jeanine Morales, Pro-Choice Oregon; Lisa Kwon, Family Forward Oregon and Time to Care Coalition; Anna Roberts, SEIU Local 49               | 016, 017, 001, 011, and 019                     | Opposes because wants additional language that states employees cannot be misclassified as independent contractors. | Employees being misclassified as independent contractors impacts more than just PFMLI. Employers should be including all employees if they are employees. Will gather additional ideas and will incorporate into instructions if necessary. | No                   |
|  | Lindsay Farrimond, Plastech Inc.; John Zobrist, Woodburn Area Chamber of Commerce; Lori Arce-Torres, Lincoln City Chamber of Commerce; Paloma Sparks, Oregon Business & Industry; Mike | 004, 005, 006, 014, 015, 022, 007, 023, and 002 | Opposes quarterly count because believes legislative intent was a 52-week average.                                  | The statute provides the department the authority to determine how the employer size is calculated. By counting quarterly, it aligns with the Oregon Quarterly Combined Payroll Tax Report.   | No                   |

| Rule Number  | Name<br>Affiliation   | Exhibit<br>Number | Comment<br>Summary  | Responses   | Rule<br>Change<br>– Yes/No |
|--|---|-------------------|---|---|----------------------------|
|  | Doke,<br>Columbia<br>Gorge Fruit<br>Growers;<br>Anthony Smith,<br>National<br>Federation of<br>Independent<br>Businesses;<br>Gioia<br>Goodrum,<br>McMinnville<br>Area Chamber<br>of Commerce;<br>Kristen Adams,<br>Associated<br>General<br>Contractors –<br>Oregon<br>Columbia<br>Chapter;<br>Greg Astley,<br>Oregon<br>Restaurant<br>and Lodging<br>Association |                   |   |   |                            |
|  | Jeff Jimerson,<br>Business<br>Owner   | 020               | Opposes very<br>small businesses<br>(fewer than 10<br>employees) in two<br>consecutive<br>quarters, should be<br>exempt from future<br>quarterly reporting. | The statute and<br>not the<br>administrative rule<br>requires all<br>employers to file<br>PFMLI on the<br>Oregon Quarterly<br>Combined Payroll<br>Tax Report. | No                         |
| <b>471-070-3310<br/>Contributions:<br/>Application of<br/>Payments</b> | Ryan Chieffo,<br>The Standard<br>Insurance<br>Company;<br>Daris<br>Freeman,<br>Unum   | 008 and<br>009    | Can retroactive<br>deductions be<br>required from<br>employees?   | Retroactive<br>deductions will be<br>further analyzed<br>and clarified in a<br>subsequent rule<br>or instructions.  | No                         |
|  | Ryan Chieffo,<br>The Standard<br>Insurance<br>Company   | 008               | Can employer pay<br>the full<br>contribution?   | Yes, the employer<br>can pay the full<br>contribution<br>amount. The<br>employee just   | No                         |

| Rule Number   | Name Affiliation                           | Exhibit Number | Comment Summary  | Responses   | Rule Change – Yes/No |
|---|--|----------------|--|---|----------------------|
|   |  |                |  | cannot pay more than 60% of the contribution rate.  |                      |
| <b>471-070-3320 Contributions: Deposit, Bond, or Letter of Credit</b> | No comments received                       |                |  |   |                      |
| <b>General Contributions Rules</b>                                    | Elaine Kantrowitz, ADP                     | 010            | Requests adding rule to cover situations in which the contribution amount exceeds the amount an employee would earn in a given paycheck. | Need to research further and will make changes to rule or instructions in future depending on what the department determines is best.                       | No                   |
|   | Daris Freeman, Unum                        | 009            | If an employer pays employee portion of contributions, is that to be considered imputed income for PFMLI wages?                          | Need to research further and will make changes to rules or instructions in future depending on what the department determines is best.                      | No                   |
|   | Cathee Brown, Oregon Trail School District | 024            | Opposes because contribution payments are required for school district employees.  | PFMLI contributions are required by statute for all employees. Employers can see if plans they already have complies with the equivalent plan requirements. | No                   |
|   | Chris White                                | 025            | Not-for-profit have to pay contributions on founding officers and board members?   | All business types that have employees, the employees are required to pay PFMLI contributions.  | No                   |

| Rule Number   | Name Affiliation  | Exhibit Number    | Comment Summary  | Responses  | Rule Change – Yes/No |
|---|---|-------------------|--|--|----------------------|
| <b>471-070-3700 Assistance Grants: Definitions</b>              | Jess Giannettino Villatoro, Oregon AFL-CIO; Lisa Kwon, Family Forward Oregon and Time to Care Coalition | 016 and 011       | Opposes because needs definition of temporary worker.  | Need to research further and will make changes to rule or instructions in future depending on what the department determines is best.  | No                   |
| <b>471-070-3705 Assistance Grants: Eligibility</b>              | Anthony Smith, National Federation of Independent Businesses  | 022               | Opposes as believes employers should pay contributions prior to receiving a grant and should not have to pay after receiving grant.                          | The statute does not say an employer has to pay prior to receiving a grant, only elect to pay employer portion of the contributions.<br><br>There is no statutory minimum or maximum for the length of time an employer is obligated to pay. The department, therefore, has clarified the requirement in rule. | No                   |
| <b>471-070-3710 Assistance Grants: Application Requirements</b> | Anna Roberts, SEIU Local 49; Lisa Kwon, Family Forward Oregon and Time to Care Coalition                | 001, 019, and 011 | Opposes because requirement to submit replacement worker's SSN or ITIN will negatively affect businesses that are owned by immigrants and employ immigrants. | Use of SSNs and ITINs for ID verification for hiring a replacement worker is desired for audits, verification of hiring, and verification of wages. The SSN is required for the Oregon Quarterly Combined Payroll Tax Report each quarter, PFMLI is just asking for it at                                      | No                   |

| Rule Number | Name Affiliation   | Exhibit Number                                  | Comment Summary  | Responses  | Rule Change – Yes/No |
|-------------|--|---|--|--|----------------------|
|             |  |   |  | the time of the hiring.  |                      |
|             | Lisa Kwon, Family Forward Oregon and Time to Care Coalition; Anna Roberts, SEIU Local 49   | 001, 011, and 019                               | Supports the removal of the requirement to report SSN or ITIN of eligible employee taking leave. | Support for administrative rule as written, no changes needed.   | No                   |
|             | Katy Brooks, Bend Chamber of Commerce; Paloma Sparks, Oregon Business & Industry; Mike Doke, Columbia Gorge Fruit Growers; Gioia Goodrum, McMinnville Area Chamber of Commerce; Kirsten Adams, Associated General Contractors – Oregon Columbia Chapter; Lindsay Farrimond, Plastech Inc.; John Zobrist, Woodburn Area Chamber of Commerce; Lori Arce-Torres, Lincoln City Chamber of Commerce | 021, 014, 015, 007, 023, 004, 005, 006, and 002 | Opposes because application requirements are too complicated.                                    | Application for assistance grants has five sections and contains the minimum information needed for the department to ensure eligibility for the grant – 1) employer information, 2) information on employee taking leave, 3) grant requested, 4) documentation demonstrating the grant amount, 5) Acknowledgement . Program can always reevaluate after implementation. | No                   |
|             | Katy Brooks, Bend Chamber of Commerce;   | 021, 014, 015,                                  | Opposes because eight quarters is too long and   | PFMLI has to balance the use of grants with the  | No                   |

| Rule Number   | Name Affiliation   | Exhibit Number | Comment Summary                      | Responses  | Rule Change – Yes/No |
|---|--|----------------|--------------------------------------|--|----------------------|
|   | Paloma Sparks, Oregon Business & Industry; Mike Doke, Columbia Gorge Fruit Growers; Kirsten Adams, Associated General Contractors – Oregon Columbia Chapter; Lindsay Farrimond, Plastech Inc | 023, and 004   | makes the grant program meaningless. | stability of the PFMLI fund and feels eight quarters is the correct balance. Program can always reevaluate after implementation to determine the best balance. |                      |
| <b>471-070-3730 Assistance Grants: Grant Amounts</b>                            | No comments received   |                |                                      |  |                      |
| <b>471-070-3750 Assistance Grants: Employer Contributions</b>                   | No comments received   |                |                                      |  |                      |
| <b>471-070-3850 Assistance Grants: Repayment of Grants</b>                      | No comments received   |                |                                      |  |                      |
| <b>471-070-5240 Compromise of Amount Due</b>                                    | No comments received   |                |                                      |  |                      |
| <b>471-070-8520 One-Percent Penalty</b>   | No comments received   |                |                                      |  |                      |
| <b>471-070-8530 Good Cause for Failure to File Reports or Pay Contributions</b> | No comments received   |                |                                      |  |                      |

Exhibits are available upon request.