

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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

CHAPTER 471  
EMPLOYMENT DEPARTMENT

**FILED**

09/03/2020 12:56 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Authority during state of emergency or public health emergency

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/21/2020 5:00 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.*

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Filed By:  
Anne Friend  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/16/2020

TIME: 2:00 PM - 4:00 PM

OFFICER: Zulimar Alvira-Gonzalez

ADDRESS: Virtual

Oregon Employment Department  
Salem, OR 97311

SPECIAL INSTRUCTIONS:

Hearing information will be posted on  
the Agency website when hearing date  
is closer.

NEED FOR THE RULE(S):

The rule is needed to respond to the State of Emergency declared by the Governor for the State of Oregon, Kate Brown, on March 8, 2020, due to COVID-19 and any future orders that are issued. The Employment Department believes that adopting this rule will assist in preventing or alleviating the public health threat and will allow for emergency changes as needed to respond to a particular declaration of state of emergency or public health emergency. This rule may impact UI benefit recipients and employers subject to UI taxes and reimbursement obligations.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes, available online at [www.oregonlegislature.gov](http://www.oregonlegislature.gov) or from the agency; and Oregon Administrative Rules, available online at [sos.oregon.gov/archives/Pages/oregon\\_administrative\\_rules.aspx](http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx) or from the agency.

FISCAL AND ECONOMIC IMPACT:

The Employment Department anticipates the adoption of this rule may have a fiscal and economic impact to employers

that pay into the trust fund and reimbursing employers; this may include small businesses, state agencies, and units of local government. The intent of this rule is to provide the Employment Department the authority to change the requirements to receive unemployment insurance benefits during a declared state of emergency or public health emergency. This means more members of the public could qualify for benefits, which would have an impact on the Unemployment Insurance Trust Fund, and could result in a workload increase. Such increase may precipitate the need for additional staff.

Since the changes will depend on the declared emergency and the need at that point in time, there is not sufficient information available to estimate the fiscal and economic impact to the potentially affected groups.

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**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)):

The department does not anticipate a cost for state agencies, units of local government, or the public to comply with this rule.

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

a. Estimate the number and type of small businesses subject to the rule:

The Department does not anticipate a cost for small businesses to comply with this rule. There is, however, a potential for indirect costs associated with the adoption of this rule. Such indirect costs will depend on the changes made to the qualifying criteria for unemployment insurance recipients and is contingent to the need imposed by the declared state of emergency or public health emergency.

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

The Department does not anticipate a cost for projected reporting, recordkeeping, and other administrative activities required for compliance, including costs of professional services, as a result of the adoption of this rule.

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

There is no increase in costs for equipment, supplies, labor, and increased administration required for compliance as a result of the adoption of this rule.

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

Small businesses were not specifically involved in the development of this rule. However, the department will seek input from small businesses during the public comment and public hearing process.

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

The department did not consult an Administrative Rule Advisory Committee. Given the current circumstances and pressing need for the rule, the department considered it was not in the public's best interest to consult with one, as this would have resulted on inevitable delays. The department will seek external input during the public comment and public hearing stages of the process.

ADOPT: 471-030-0071

RULE SUMMARY: This rule allows for modifications to unemployment insurance eligibility requirements listed under OAR 471-030-0036 and OAR 471-030-0038, on an as needed basis to assist recipients during a declared state of emergency or public health emergency.

CHANGES TO RULE:

471-030-0071

Benefit eligibility during a declared emergency

(1) During a state of emergency declared by the Governor under ORS 401.165, or a public health emergency declared under ORS 433.441, the Director of the Employment Department may waive, otherwise limit, or modify the requirements of OAR 471-030-0036 and 471-030-0038. ¶

(2) To the extent reasonably possible the Department shall give public notice of the new requirements. The public notice shall include the effective dates for the new requirements. ¶

(3) The new requirements may not extend beyond 90 days from the end of the state of emergency or public health emergency.

Statutory/Other Authority: ORS 657.610

Statutes/Other Implemented: ORS 657.155