Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

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

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<tr>
<th>Oregon Health Authority - Public Health Division</th>
<th>Administrative Rules Chapter Number</th>
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<tbody>
<tr>
<td>Agency and Division</td>
<td>Standards for State and Local Public Health Authorities</td>
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<td>Rule Caption</td>
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In the Matter of: Amending OAR chapter 333, division 14, relating to transfers of local public health authority.

In this rulemaking the Oregon Health Authority (Authority) is updating OAR 333-014-0590 to comply with statutory changes from the passage of Senate Bill 253 (Oregon Laws, 2019, chapter 321), to update rules for requests to transfer local public health authority to the Authority and to update and establish rules and procedures for a "jurisdiction" governing body of a county or the governing body of the entity that was the local public health authority to request transfer back of local public health authority from the Authority.

The proposed rulemaking

1. Amends the rules to include adoption of a resolution by a governing body of a county public health authority as a means for requesting transfer of local public health authority responsibilities to the Authority.

2. Specifies the process for how the governing body of a jurisdiction that has previously transferred its local public health authority responsibilities to the Authority may request a transfer of local public health authority responsibilities back to the local jurisdiction.

Documents Relied Upon, and where they are available:

- Oregon Administrative Rules 333-014-0590: [https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=239291](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=239291)

Statement Identifying How Adoption of Rule(s) Will Affect Racial Equity in This State:

A transfer of local public health authority responsibilities is likely to lead to some disruption in the provision of public health services to local communities. This disruption and the potential for gaps or elimination of some public health services could especially impact populations experiencing health inequities including Black, Indigenous, people of color, and American Indian/Alaska Native people; people with low incomes; people who identify as lesbian, gay, bisexual, transgender, queer and questioning; people with disabilities; and people living in rural areas of the state.

This rule revision establishes a clear process through which the Authority may approve a transfer back of local public health authority responsibilities if requested less than four years after those responsibilities were transferred to the Authority. The rule requires that a request from the governing body of the county or other entity that previously served as the local public health authority must include an explanation of how the community will benefit from the responsibilities being transferred back. The rule also requires submission of a financing plan, a staffing plan and a list of location or locations where public health services will be provided. If the transfer request is denied, the rule requires the Authority to include the rationale for denial.

By setting forth specific requirements for documentation that must be submitted to, and approved by, the Authority before local public health authority can be transferred back if requested less than four years after a transfer to the Authority, this rule could prevent the potential for a negative equity impact by reducing the likelihood of back-and-forth transfers of local public health authority responsibilities. This rule change provides a process to encourage a thoughtful approach to meeting public health needs.
and mitigating any potential disruption to public health services if a transfer back to a local public health authority is requested within four years after a transfer to the Authority.

Fiscal and Economic Impact:

*Only Two* governing bodies of local public health authorities have transferred their local public health authority responsibilities to the Authority under the current ORS 431.382. In 2018, the Wallowa County Board of Commissioners transferred their local public health authority responsibilities. In 2020, the Curry County Board of Commissioners transferred their local public health authority responsibilities. When a transfer occurs, the Authority is responsible for monitoring communicable diseases and controlling outbreaks; enforcing the Indoor Clean Air Act; ensuring access to safe drinking water; ensuring access to WIC services; and licensing and inspecting food, pool, and lodging facilities. The Authority may at its discretion provide additional public health services depending on needs and available resources. The Authority’s experience with the transfer of local public health authority responsibilities from Wallowa County and Curry County is that the costs to the Authority for providing these services in the event of a transfer exceeds the resources available. When a local jurisdiction public health authority transfers its responsibilities, the county or the entity that was the local public health authority jurisdiction may experience savings by no longer having to provide public health infrastructure in the form of office space, utilities, staff and supplies. The county or counties in cases of a regional local public health authority jurisdiction may experience other long-term health-related costs as a result of the absence of public health programs such as tobacco prevention, communicable disease prevention, and maternal and child health programs.

When a transfer back of local public health responsibilities occurs from the Authority to a local public health authority jurisdiction presumably the local public health authority jurisdiction will experience initial set-up costs to re-establish public health infrastructure and programs within its jurisdictions. While the Authority provides public health funding to the local public health authority through an Intergovernmental Agreement, that funding likely will not cover all costs of providing public health services in the local jurisdiction. Long-term health-related benefits may result from implementing additional public health programs within the local public health authority jurisdiction.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

   The compliance costs related to a transfer of authority include: personnel expenses such as salaries and fringe benefits, training, recordkeeping and records management costs, travel expenditures (dependent on the proximity of a local public health authority to the Authority), legal fees, and communication initiatives to residents in the local public health authority that would be impacted by change in service delivery such as outreach and notification. Duties such as enforcing public health laws (e.g., restaurant inspections) are especially labor intensive and have a fiscal impact on the Authority. There likely will be similar costs to the Authority to effectuate a transfer of local public health authority responsibilities back to a local jurisdiction public health authority, but those costs would not be ongoing.

   If a governing body of a county or the governing body of the entity that was the local public health authority requests to take back local public health authority responsibilities less than four years after a transfer to the Authority, the county or other entity would incur costs related to planning and preparing its request to OHA. When a local jurisdiction public health authority receives its local public health authority responsibilities back from the Authority, the jurisdiction local public health authority would incur costs to re-establish public health infrastructure as noted above. There are ongoing costs to fulfilling local public health authority responsibilities and a governing body will need to be able to plan for these costs and develop multiple funding sources (including local, state and federal funds) to cover these costs. If the local jurisdiction local public health authority accepts the delegation of environmental health licensing and inspection services, the jurisdiction local public health authority will have the ability to set and collect fees for the services. To the extent that the local public health authority provides direct clinical services, some of those services may be eligible for Medicare or private insurance reimbursement.

2. Cost of compliance effect on small business (ORS 183.336): ORS 183.310(10) defines small business as “a corporation, partnership, cooperative, or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses and which has 50 or fewer employees.”

   a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
The rule applies to all 33 local public health authorities in Oregon and the two counties that have transferred local public health authority responsibilities to the Authority. No local public health authority or counties meet the definition of a small business. Therefore, none of Oregon’s small businesses are subject to the rules.

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

     No additional reporting, recordkeeping or other administrative activities by private businesses are projected.

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

     No additional equipment, supplies, labor or increased administration are expected.

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

Public meeting notices were issued for the three Rules Advisory Committee meetings that were held, and a public comment period was available at all meetings. A public hearing will be held, and written and oral testimony will be accepted during a formal public comment period prior to the rules becoming effective.

Administrative Rule Advisory Committee consulted?: Yes

Rules Advisory Committee membership included the following:

Conference of Local Health Officials staff
Local public health administrators
Elected officials (County commissioners)
County counsels
Tribal health director
Health care provider
Coordinated Care Organization
Public Health Advisory Board members
Association of Oregon Counties
Department of Justice
If not, why?:

<table>
<thead>
<tr>
<th>Signature</th>
<th>Printed name</th>
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Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007