

Secretary of State
Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on December 3, 2013 by the
Date prior to or same as filing date

Department of Consumer & Business Services/Workers' Compensation Board Chapter 438
Agency and Division Administrative Rules Chapter Number

Karen Burton 2601 25th St. SE, Ste. 150, Salem, OR 97302-1280 (503)934-0123
Rules Coordinator Address Telephone

to become effective April 1, 2014. Rulemaking Notice was published in the September 2013 *Oregon Bulletin*.
Date upon filing or later Month and Year

RULE CAPTION

OAR Chapter 438 provisions regarding Hearings Division, technology/response, and Claim Disposition concepts.

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

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: OAR 438-005-0035; OAR 438-005-0046; OAR 438-006-0020; OAR 438-006-0031; OAR 438-006-0036;
OAR 438-006-0045; OAR 438-006-0062; OAR 438-006-0075; OAR 438-007-0005; OAR 438-007-0018; OAR 438-007-0020;
OAR 438-009-0020.

REPEAL: OAR 438-006-0105.

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 656.291(4); ORS 656.307; ORS 656.388; ORS 656.593; ORS 656.726(5).

Other Auth.:

Stats. Implemented: ORS 656.012(2); ORS 656.236; ORS 656.262(4); ORS 656.268(8); ORS 656.283(4), (5)(a), (8), (9);
ORS 656.287; ORS 656.283(8); ORS 656.291; ORS 656.307; ORS 656.310(2); ORS 656.388; ORS 656.593; ORS 656.724(4);
ORS 656.726(2)(c), (5).

RULE SUMMARY

After considering public comment regarding "Hearings Division-related" rules and a report from the "Hearings Procedure" Advisory Committee, the Board proposes to: (1) amend OAR 438-005-0035, OAR 438-006-0031, OAR 438-006-0036, and OAR 438-006-0045 to provide the Board's policy to promote full and complete disclosure of parties' positions regarding issues raised, relief sought, and responses to such issues/relief (but without creating binding admissions on any party), to provide "motion for clarification" procedures to achieve such disclosure policy, and to provide that amendments to issues raised, relief sought, and responses to such issues/relief may be allowed; (2) amend OAR 438-005-0046 and OAR 438-006-0036 to allow parties to file/serve electronic "responses" to issues raised in a hearing request; (3) amend OAR 438-006-0020 to provide for the exceptions under

ORS 656.283(4)(b) to the 60-day notice of hearing requirement under ORS 656.283(4)(a); (4) amend OAR 438-006-0062 to list the purposes for prehearing conferences in section (1), to provide more flexibility in scheduling prehearing conferences in section (2), and to delete sections (3), (4), and (5); (5) amend OAR 438-006-0075(1) for clarity and readability purposes; (6) repeal OAR 438-006-0105, which conflicts with ORS 656.283(3)(a)(B); (7) amend OAR 438-007-0005 to delete section (1); (8) amend OAR 438-007-0018 to add a new section (4) specifying that filing exhibits at hearing does not establish that the carrier is the sponsor of such documents or that the claimant is automatically entitled to cross-examine the author of documents filed by the carrier; (9) amend OAR 438-007-0020(6)(b) to correct the Ombudsman's title and phone number and the Board's phone number in the subpoena appeal notice; and (10) amend OAR 438-009-0020(3) to add "or Administrative Law Judge who mediated the agreement" to the first signature line of the CDA approval paragraph.

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| | Holly J. Somers | December 5, 2013 |
| Authorized Signer | Printed name | Date |

Note: Permanent rulemakings must be submitted by the 15th day of the month to be included in the next month's *Oregon Bulletin* and online *OAR Compilation* updates.