



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

### CHAPTER 438 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES WORKERS' COMPENSATION BOARD

**FILED**

10/29/2025 3:07 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Updating Workers' Compensation Board procedural rules related to rulemaking.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/18/2025 10:30 AM

*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.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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Filed By:  
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Rules Coordinator

### NEED FOR THE RULE(S)

The Workers' Compensation Board needs to amend its procedural rules related to rulemaking, OAR 438-022-0005 (Adoption of Attorney General's Model Rules) and OAR 438-022-0010 (Notice of Rulemaking), to allow notice of rulemaking to be provided electronically, to make the rules consistent with statute, and to increase accessibility to the Board's rulemaking actions.

ORS 183.341(2) requires state agencies to adopt rules of procedure for rulemaking actions. OAR 438-022-0005 adopts by reference the Attorney General's Model Rules for Rulemaking, but does not inform the reader where to find the model rules. The Board proposes to add a note directing the reader where to find the model rules. In addition, changes are proposed to clarify language and enhance readability.

ORS 183.335(1)(a) and 183.341(4) require state agencies to adopt in rule the manner in which interested persons will be notified of the agency's proposed rulemaking actions. OAR 438-022-0010 provides that interested parties will be notified of the Board's proposed rulemaking actions by mail. ORS 183.335(8), however, allows any person to request rulemaking notice by electronic mail, and ORS 183.335(1)(d) requires rulemaking notice be delivered to certain legislators by electronic mail. The Board proposes to amend the rule to allow notice to be provided by email, consistent with statute.

### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

- Memorandum to Board Members from Autumn Blake, Oct. 13, 2025
- Minutes of Workers' Compensation Board meeting, Oct. 23, 2025

These documents are or will be available on the Board's website at [wcb.oregon.gov](http://wcb.oregon.gov), or by calling 503-934-0123.

## STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The proposed rule amendments are intended to increase the public's ability to access the Board's rulemaking actions and apply to any interested person or organization.

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### FISCAL AND ECONOMIC IMPACT:

The proposed rule amendments are expected to have a small positive fiscal or economic impact on other state agencies, units of local government, and members of the public by reducing the amount of physical mail processing. The proposed rule amendments will have a positive effect on the Board through reduced mailing costs.

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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) These rule amendments would allow any person or organization, including small businesses, to request to receive notice of the Board's proposed rulemaking actions by mail, email, or both. The amended rules will require no additional activities or costs to comply.

(2)(a) Less than 900 small businesses will be subject to the rules. They are those who elect to be notified of the Board's rulemaking actions.

(2)(b) The amended rules will require no additional activities or costs to comply.

(2)(c) It is estimated that the amended rules will not require professional services, equipment, supplies, labor, or increased administration to comply with the rules.

The Board invites public comment on any fiscal or economic impact of the proposed rule amendments.

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

Small businesses were not involved in the development of the proposed rule amendments.

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

The Board did not consult an advisory committee in proposing these rule amendments. The proposed amendments make the rules consistent with the Administrative Procedures Act and improve accessibility of the Board's rulemaking actions. The proposed rule amendments do not affect the substantive rights or obligations of the parties under the Workers' Compensation Law.

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### RULES PROPOSED:

438-022-0005, 438-022-0010

AMEND: 438-022-0005

**RULE SUMMARY:** Include a note directing the reader where to find the Attorney General's Model Rules for Rulemaking, and make non-substantive changes to clarify language and enhance readability.

### CHANGES TO RULE:

438-022-0005

Adoption of Attorney Generals Model Rules ¶

To the extent that the following rules are applicable to the Workers' Compensation Law (€ORS chapter 656), the

Board hereby adopts by reference OAR 137-001-0005 through 137-001-0100 (Attorney General's Model Rules for Rulemaking), as adopted by the Department of Justice effective January 1, 2008.¶  
[ED. NOTE: The full text of the Model Rules is available from the Department of Justice, the Workers' Compensation Board, or the Oregon State Archives website at  
[https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=281.](https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=281)  
Statutory/Other Authority: ORS 656.726(5), ORS 654.025(2)  
Statutes/Other Implemented: ORS 183.341(4)

AMEND: 438-022-0010

RULE SUMMARY: Allow notice of proposed rulemaking actions to be provided by email and notify persons and organizations how to request to receive notification by email or mail.

CHANGES TO RULE:

438-022-0010

Notice of Rulemaking ¶¶

(1) Prior to adoption, amendment or repeal of any administrative rule, other than a temporary rule adopted under ORS 183.335(5), the Board shall give notice of the intended action: ¶¶

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action; ¶¶

(b) By mailing or emailing a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the intended action; ¶¶

(c) By emailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the intended action; and ¶¶

(d) By mailing, emailing, or furnishing a copy of the notice to: ¶¶

(A) The Oregonian; ¶¶

(B) The Associated Press; and ¶¶

(C) The Capitol Press Room. ¶¶

(2) The Board shall give notice of any administrative rulemaking hearing: ¶¶

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 14 days before the hearing; and ¶¶

(b) By mailing or emailing notice of the hearing to any person requesting the hearing and to the persons on the Board's mailing list established pursuant to ORS 183.335(8) at least 21 days before the hearing. ¶¶

(3) A person or organization may elect to receive notification by mail, email, or both, of the Board's proposed rulemaking actions. ¶¶

(a) A person or organization may elect to receive notification by email at

<https://service.govdelivery.com/accounts/ORDCBS/subscriber/new>. ¶¶

(b) A person or organization may elect to receive notification by mail by sending a request in writing, including the person or organization's full name and mailing address, to the following address: ¶¶

Rules Coordinator ¶¶

Workers' Compensation Board ¶¶

2601 25th St Ste 150 ¶¶

Salem OR 97302

Statutory/Other Authority: ORS 656.726(5), ORS 654.025(2)

Statutes/Other Implemented: ORS 183.341(4)