

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

Oregon Department of Consumer and Business Services
Agency and Division

Insurance Division

836

Administrative Rules Chapter Number

In the Matter of: Proposed Amendment of OAR 836-043-0046 and 836-043-0056, Relating to Workers' Compensation Insurance Plan.

Rule Caption: Elimination of use of guaranty contracts as proof of coverage with Workers' Compensation Division.

Statutory Authority: ORS 656.427, 656.730 and 731.244.

Other Authority:

Stats. Implemented: ORS 656.419, 656.427, 656.730 and 737.265

Need for the Rule(s): OAR 836-043-0001 to OAR 836-043-0091 govern the operation of the Oregon Workers' Compensation Insurance Plan (WCIP). The WCIP provides workers' compensation coverage for employers who are in good faith entitled to insurance but who are unable to procure coverage in a regular manner. Enrolled Senate Bill 559 (2007 Session) eliminated insurer filing of a guaranty contract as proof of employer coverage with the Workers' Compensation Division effective July 1, 2009. OAR 836-043-0046 and 836-043-0056 include references to the guaranty contract. The Insurance Division must amend the rules to comply with the 2007 legislative changes to the Oregon Workers' Compensation laws.

The Insurance Division proposes to amend OAR 836-043-0046 and 836-043-0056 in response to SB 559. The proposed amendments eliminate references to a guaranty contract and termination of a guaranty contract. Failure to adopt the changes will result in the failure of ORS 836-043-0001 to ORS 836-043-0091 governing WCIP to conform to the changes made by SB 559 in 2007.

Documents Relied Upon, and Where They are Available: SB 559 enacted by the 2007 Legislative Session and ORS 836-043-0001 to ORS 836-043-0091, Rating and Rating Organizations (Workers' Compensation Assigned Risk Plan). These documents are available for public inspection at the Insurance Division, 3rd Floor, Labor and Industries Building, Salem, Oregon 97301-3883, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

Fiscal and Economical Impact, Including Statement of Cost of Compliance: The Division will not incur a negative or positive fiscal impact owing to this rulemaking, and neither will other state agencies or local governments. Insurers will not incur a fiscal impact due to this rulemaking since the costs of the changes in their operating systems because of the statutory change have already been incurred. Employers, including small businesses that are insured by insurers affected by this rulemaking, will incur no fiscal impact from the rule amendment. To the extent that any of the affected insurers are small employers, these small employers have already incurred compliance costs of an unknown amount with respect to the change in statute. These costs would be incurred, however, because of the legislation itself and not because of this rulemaking.

How Were Small Businesses Involved in the Development of This Rule? 'Small business' means a corporation, partnership, sole proprietorship 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." ORS 183.310.

Other small businesses and other businesses generally, should not be directly affected. The following is a statement of cost of compliance effect on small businesses as required by ORS 183.336:

(a) An estimate of the number of small businesses subject to the proposed rule and identification of the types of businesses and industries with small businesses subject to the proposed rule. The Insurance Division does not have information as to the number of employees employed by insurers authorized to transact insurance in Oregon, but it is unlikely that any insurer transacting workers' compensation insurance is a small business.

(b) A brief description of the projected reporting, recordkeeping and other administrative activities required for compliance with the proposed rule, including costs of professional services. As noted, it is unlikely that small businesses are affected by this rulemaking.

(c) An identification of equipment, supplies, labor and increased administration required for compliance with the proposed rule. No increase in administration is anticipated to be necessary because of this rulemaking.

(d) A description of the manner in which the agency proposing the rule involved small businesses in the development of the rule. Small businesses were not directly involved in this rulemaking, but the only type of small businesses that are even indirectly affected by this rulemaking would be any insurers that meet the applicable definition of a small employer and it is unlikely any of these insurers are actually small businesses. A number of insurers were asked to comment on the proposed rule change.

Administrative Rule Advisory Committee Consulted? Yes. The Insurance Division convened an Advisory Committee to review changes to ORS 836-043-0001 to ORS 836-043-0091 that were effective January 1, 2009. The committee also reviewed the proposed changes to the rules and their compliance with SB 559 legislative changes and also ensured that the opportunity to raise any other questions was available. The Committee consisted of a sampling of the affected insurers and other interested parties including employer representatives.

If not, why?

(Signed)	Triz delaRosa, Deputy Insurance Administrator	June 15, 2009
_____ Authorized Signer	_____ Printed Name	_____ Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

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