



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

CHAPTER 836  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
INSURANCE REGULATION

**FILED**

06/29/2022 3:49 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: In the matter of amending OAR 836-042-0045 relating to workers' compensation statistical plans.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/29/2022 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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350 Winter Street  
Salem, OR 97301

Filed By:  
Karen Winkel  
Rules Coordinator

### HEARING(S)

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

DATE: 07/25/2022

TIME: 2:00 PM

OFFICER: Raven Collins

ADDRESS: Labor & Industries Building  
350 Winter St NE  
Basement, Conference Room E  
Salem, OR 97301

### SPECIAL INSTRUCTIONS:

This is a hybrid meeting conducted in-person and virtually via Microsoft TEAMS.

Contact rules coordinator to receive meeting link if you wish to join virtually.

Call in (audio only):

+1 503-446-4951,,852585801# United States, Portland  
Phone Conference ID: 852 585 801#

### NEED FOR THE RULE(S)

ORS 737.205 and ORS 737.320 require workers' compensation insurers to file copies of rates, rating plans, and rating systems with the director of the Department of Consumer and Business Services (DCBS).

ORS 737.225 states that the director shall prescribe by rule the statistical plan for workers' compensation insurance. Accordingly, OAR 836-042-0045 currently prescribes the Statistical Plan for Workers' Compensation and Employer Liability Insurance, 2008 Edition, filed by the National Council on Compensation Insurance and approved by the director to become effective January 1, 2009, and revisions approved by the director to become effective on or before August 16, 2020. This rulemaking will change that last date to October 1, 2022, reflecting the effective date of revisions

in NCCI's new filing.

Based on the information available to DCBS, the proposed rule would not have a fiscal or economic impact on state agencies, local governments, the public, nor small businesses.

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

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

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

The rulemaking advisory committee was asked if the adoption of this rule would effect equity in Oregon in any way. The group unanimously responded that it would not. It was also asked whether the new rule would impact one group of people differently than other groups. The answer to that question was the same.

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#### FISCAL AND ECONOMIC IMPACT:

This rulemaking adopting the updated NCCI statistical plan does not create new requirements for businesses generally. It will not have a fiscal impact. Any rate changes are expected to be \$0 overall basis. Based on financial filings made to DFR, no workers' compensation insurers meet the definition of a small business under ORS 183.310, because no workers' compensation insurer is independently owned and operated.

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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) Based on information currently available to DCBS, the proposed rule would not have a fiscal or economic impact on state agencies, local government units, nor the public.

(2)(a) Based on information currently available to DCBS, none of the workers' compensation insurers in Oregon qualify as small businesses.

(2)(b) The proposed rule does not create or affect compliance requirements for small businesses. No reporting, recordkeeping, or administrative activities will be required.

(2)(c) The proposed rule does not create or affect compliance requirements for small businesses. No equipment, supplies, or labor will be required.

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

Representatives of small businesses were invited to attend the rulemaking advisory committee meeting and provide comment on the rule. These stakeholders and others will also have an opportunity to attend the hearing, and/or submit comments afterwards.

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#### WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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AMEND: 836-042-0045

RULE SUMMARY: Amended for revisions to become effective on or before October 1, 2022, is prescribed as the statistical plan for workers' compensation and employers' liability insurance.

CHANGES TO RULE:

836-042-0045

Workers Compensation Statistical Plan ¶

(1) The Statistical Plan for Workers' Compensation and Employers' Liability Insurance, 2008 Edition, filed by the National Council on Compensation Insurance and approved by the director to become effective January 1, 2009, and revisions approved by the director to become effective on or before ~~June~~October 18, 2021~~2~~, is prescribed as the statistical plan for workers' compensation and employers' liability insurance.¶

(2) Manuals or guides referenced within the statistical plan designated in section (1) of this rule are not prescribed by this rule.

Statutory/Other Authority: ORS 731.244, ~~ORS 737.225~~

Statutes/Other Implemented: ~~ORS 737.225~~, 737.205, 737.265(2), 737.320