

Secretary of State
NOTICE OF PROPOSED RULEMAKING*
A Statement of Need and Fiscal Impact accompanies this form

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| <u>Bureau of Labor and Industries</u> | <u>839</u> |
| Agency and Division | Administrative Rules Chapter Number |
| <u>Marcia Ohlemiller</u> | <u>(971) 673-0784</u> |
| Rules Coordinator | Telephone |
| <u>Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232</u> | |
| Address | |

RULE CAPTION

Clarifies how employer penalty is to be computed in Wage Security Fund recovery actions

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

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

AMEND:

OAR 839-001-0560

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 651.060(4); ORS 652

Other Authority:

Statutes Implemented:

ORS 652.414

RULE SUMMARY

ORS 652.414, relating to the payment of wage claims from the Wage Security Fund, provides that the Commissioner of the Bureau of Labor and Industries may initiate action to recover from employers or other persons liable for unpaid wages, amounts paid from the Wage Security Fund. In addition, the commissioner is also entitled to recover a penalty of 25 percent of the amount of wages paid from the Wage Security Fund or \$200, whichever amount is greater. The proposed rule amendment clarifies that in cases where multiple employees of an employer are paid from the Fund, the penalty of 25 percent amount of wages paid or \$200, whichever is greater, is to be calculated based on the amount paid to each employee from the Wage Security Fund, and not the total aggregated amount paid to the employees of the employer.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association 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 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.

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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| <u>12-21-2011 Close of Business</u> | <u>Marcia Ohlemiller</u> | <u>Marcia.L.Ohlemiller@state.or.us</u> | <u>11-2-11 9:59a.m.</u> |
| Last Day (m/d/yyyy) and Time for public comment | Printed Name | Email Address | Date Filed |

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003