

**CHAPTER 407  
DEPARTMENT OF HUMAN SERVICES**

**DIVISION 1  
PROCEDURAL RULES**

[ED. NOTE: The Department of Human Services will adhere to the Procedural Rules in this chapter unless otherwise specifically stated.]

**407-001-0000**

**Model Rules of Procedure**

The Department of Human Services (Department) adopts the Attorney General Model Rules applicable to rulemaking, effective on January 1, 2012, with the exception of 137-001-0080.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Human Services.]

Stat. Auth.: ORS 183.341 & 409.050

Stat. Implemented: ORS 183.341 & 409.050

Hist.: DHSD 3-2006, f. 5-11-06, cert. ef. 6-1-06; DHSD 9-2008, f. & cert. ef. 12-5-08; DHSD 5-2012, f. 10-31-12, cert ef. 11-1-12

**407-001-0005**

**Notice of Proposed Rulemaking and Adoption of Temporary Rules**

- (1) Except as provided in ORS 183.335(7) or (12) or 183.341, before permanently adopting, amending, or repealing an administrative rule, the Department shall give notice of the intended action:
  - (a) To legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;
  - (b) To persons on the interested parties lists described in section (2) of this rule for the pertinent OAR chapter or pertinent subtopics or programs within an OAR chapter at least 28 days before the effective date of the rule;
  - (c) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;
  - (d) To other persons, agencies, or organizations that the Department is required to provide an opportunity to comment pursuant to state statute or federal law or as a requirement of receiving federal funding, at least 28 days before the effective date of the rule;
  - (e) To the Associated Press and the Capitol Press Room at least 28 days before the effective date of the rule; and

- (f) In addition to the above, the Department may send notice of intended action to other persons, agencies, or organizations that the Department, in its discretion, believes to have an interest in the subject matter of the proposed rule at least 28 days before the effective date of the rule.
- (2) Pursuant to ORS 183.335(8), the Department shall maintain an interested parties list for each OAR chapter of rules for which the Department has administrative responsibility, and an interested parties list for subtopics or programs within those chapters. A person, group, or entity that desires to be placed on such a list to receive notices regarding proposed permanent adoption, amendment, or repeal of a rule must make such a request in writing or by electronic mail to the rules coordinator for the chapter. The request must include either a mailing address or an electronic mail address to which notices may be sent.
- (3) Notices under this rule may be sent by use of hand delivery, state shuttle, postal mail, electronic mail, or facsimile. The Department recognizes state shuttle as "mail" and may use this means to notify other state agencies.
  - (a) An email notification under section (1) of this rule may consist of any of the following:
    - (A) An email that attaches the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.
    - (B) An email that includes a link within the body of the email, allowing direct access online to the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.
    - (C) An email with specific instructions within the body of the email, usually including an electronic Universal Resource Locator (URL) address, to find the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.
  - (b) The Department may use facsimile as an added means of notification, if necessary. Notification by facsimile under section (1) of this rule shall include the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact, or specific instructions to locate these documents online.
  - (c) The Department shall honor all written requests that notification be sent by postal mail instead of electronically if a mailing address is provided.
- (4) If the Department adopts or suspends a temporary rule, the Department shall notify:
  - (a) Legislators specified in ORS 183.335(15);
  - (b) Persons on the interested parties list described in section (2) of this rule for the pertinent OAR chapter or pertinent subtopics or programs within an OAR chapter;

- (c) Other persons, agencies, or organizations that the Department is required to notify pursuant to state statute or federal law or as a requirement of receiving federal funding; and
  - (d) The Associated Press and the Capitol Press Room; and
  - (e) In addition to the above, the Department may send notice to other persons, agencies, or organizations that the Department, in its discretion, believes to have an interest in the subject matter of the temporary rulemaking.
- (5) In lieu of providing a copy of the rule or rules as proposed with the notice of intended action or notice concerning the adoption of a temporary rule, the Department may state how and where a copy may be obtained on paper, by electronic mail, or from a specified web site.

Stat. Auth: ORS 183.341 & 409.050

Stats. Implemented: ORS 183.330, 183.335, 183.341 & 409.050

Hist.: DHSD 3-2006, f. 5-11-06, cert. ef. 6-1-06; DHSD 9-2008, f. & cert. ef. 12-5-08

#### **407-001-0010**

##### **Delegation of Rulemaking Authority**

Any officer or employee of the Department of Human Services who is identified on a completed Delegation of Authority form signed by the Director or Deputy Director of the Department and filed with the Secretary of State, Administrative Rules Unit, is vested with the authority to adopt, amend, repeal, or suspend administrative rules as provided on that form until such delegation is revoked by the Director or Deputy Director of the Department, or the person leaves employment with the Department.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 183.325, 409.050, 409.120 & 409.130

Hist.: DHSD 3-2006, f. 5-11-06, cert. ef. 6-1-06; DHSD 9-2008, f. & cert. ef. 12-5-08