



2022 Five Year Rule Review

*Compiled by
Oregon's Secretary of State's Publication Unit*

Department of Consumer and Business Services
Division of Financial Regulation (DFR)
5 Year Review of 2017 DFR Rulemaking

Admin Order #	Rule Number	Adopted date	Call up date	Review date
FSR 2-2017 manual exemption for 701 plans	441-035-0300	2/1/2017	4/7/2022	11/29/2022
FSR 12-2017 updates OIO for crowdfunding	441-035-0125	12/28/2017	10/28/2022	11/29/2022
ID 1-2017 complaints regarding unlawful claims settlement	836-005-0405	1/10/2017	4/7/2022	11/28/2022
ID 7-2017 2018 standard bronze and silver plans	836-053-0011	7/26/2017	5/26/2022	11/30/2022
ID 10-2017 NAIC governance annual disclosure	836-011-0020, 836-011-0022, 836-011-0024	11/22/2017	9/22/2022	11/14/2022
ID 12-2017 health coverage for disease outbreak or epidemic	836-053-0418	12/8/2017	10/8/2022	11/18/2022
ID 14-2017 NAIC annual statement blanks	836-011-0224	12/8/2017	10/8/2022	11/4/2022
ID 16-2017 PBM registration and regulation	836-200-0436	12/28/2017	10/28/2022	11/29/2022



Oregon

Tina Kotek, Governor

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Division of Financial Regulation

350 Winter St. NE, Room 410

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Five Year Review of New Rules Check List

Date: 11/29/2022

ID #: FSR 2-2017

OARs Adopted: 441-035-0300

Adoption Date: 2/1/2017

Advisory Committee List Attached?

Y

N

Does section apply to:

Implementation of court order or civil proceedings Y N

Adoption of federal laws or rules by reference Y N

Implementation of legislatively approved fee changes Y N

Adoption to correct errors or omissions Y N

Did rule:

Have intended effect?

a. What was the intended effect?

This proposed rulemaking makes technical changes to several rules addressing new statutory sections at the state and federal levels. The rules propose repealing the "exchange exemption" and relying on the federal rules regarding exchanges. The proposed rules remove references to Standard and Poor's Manual which ceased publication in May 2016. In order to provide adequate options for broker-dealers and salespersons utilizing the "manual exemption" provided for in ORS 59.025(5) these rules propose adding the OTCQ and OTCB Markets to the manual exemption for equity security offerings. The proposed rulemaking also makes changes to the registration requirements for SEC Rule 701 employee benefit stock option plans. The proposed rules would repeal the registration requirement, annual renewal, and salesperson licensing fees and establish a notice filing. The proposed rules also raise filing and renewal fees for investment company portfolios and reduce the fees related to broker-dealer salesperson registration renewals. The proposed rules are consistent with the intent of Oregon Revised Statute Chapter 59 to ensure licensing of individuals engaged in brokering or selling securities to the public.

b. How did the rule succeed or fail in achieving this effect?

The rule succeeded in amending the "manual exemption" provisions for 701 plans, adjusting fees, and making technical changes to securities regulation.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The proposed rulemaking makes technical and substantive changes. The technical changes should not have a fiscal impact. The proposed repeal of OAR 441-065-0270 and adoption of a new notice rule, OAR 441-035-0300 may have a positive fiscal impact on businesses wishing to offer certain stock incentive plans. The division will likely see a nominal decrease in fee revenue that will be largely offset by changes to the work flow process. The department expects a positive



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fiscal impact to businesses offering employee benefit stock option plan because they will not be required to renew the registration annually or register and renew salespersons. The department estimates an average of 87 renewals annually at an average cost of \$239 per renewal plus a \$50 salesperson renewal. The proposed rules would result in a savings to businesses offering stock incentives of \$24,969 plus an average of \$1,000 in attorney's fees annually to prepare and review documents for filing. Proposed amendments to the midpoint fees related to mutual fund portfolios, other than unit investment trusts, will result increased fees of \$45 per filing and \$35 per renewal. The department receives around 174 initial filings a year and 1,559 renewals. The reduced broker-dealer salesperson renewal fees will result in a \$5 decrease in fees for the approximately 142,500 salespersons that renew annually. The remainder of the rules are not estimated to have a fiscal impact because they do not make changes to requirements or procedures.

b. What was the actual fiscal impact?

Since the adoption of this rule, Oregon saw an increase of Licensed Investment Advisors, Federal Advisers, and Licensed Investment Adviser Representatives and a decline of Licensed Broker Dealer Salespersons. At the end of 2021, Oregon had 272 Oregon Licensed Investment Advisors. That represents an increase of 3%. At the end of 2021, Oregon had 1792 Federal Advisers. That represents an increase of 2.2%. At the end of 2021, Oregon had 4611 Oregon residents that were licensed as broker dealer salespersons. That represents a 3.5% decline from 2020. At the end of 2021, Oregon had a total of 6008 licensed investment adviser representatives and that represents an increase of increased between 2020 and 2021 by 127, or 2.2%.

c. If the answer to question 'b' is unknown, briefly explain why:

In 2021, DCBS reviewed and issued 107 securities registration orders, which represented a 8% decline. At the end of 2021, we had 113 active registrations, which represented a 16% increase. Most registrations were for REITS, BDCs, Church Bond, or Church Extension Plan offerings. DCBS did one rescission offering. Businesses will see reduced compliance costs because they will no longer be required to renew plans or register salespersons related to the offer or sale of SEC Rule 701 employee benefit stock option plans. The department estimates an average of 42 new employee benefit plans filed each year. It is unknown at this time how many businesses offer employee stock option benefit plans would be considered small businesses. Not all businesses subject to the rules are based in Oregon. The proposed rules should represent a positive fiscal impact to small businesses, but it is unknown at this time how many companies may offer such a plan to their employees or be subject to the notice requirement. The streamlined process may encourage more small businesses to offer these types of employee stock benefit plans. Proposed amendments to the midpoint fees related to mutual fund portfolios, other than unit investment trusts, will result increased fees of \$45 per filing and \$35 per renewal. The department receives around 174 initial filings a year and 1,559 renewals. The reduction broker-dealer salesperson renewal fees will result in a \$5 decrease in fees for the approximately 142,500 salespersons that renew annually. The department has no additional information on how many of those impacted would be considered small businesses under ORS 183.336.



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Have continued need?	Yes, there is continued need of the administrative rule.
Impact on small businesses?	The file does not reflect any impact on small businesses beyond that originally anticipated.



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Date: 11/29/2022

ID #: FSR 12-2017

OARs Adopted: 441-035-0125

Adoption Date: 12/28/2017

Advisory Committee List Attached? Y N

Does section apply to:

Implementation of court order or civil proceedings	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
Adoption of federal laws or rules by reference	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
Implementation of legislatively approved fee changes	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
Adoption to correct errors or omissions	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N

Did rule:

Have intended effect?

a. What was the intended effect?

In January of 2015, the division adopted rules allowing Oregon small businesses to raise modest amounts of capital from investors within Oregon without having to register their securities, generally referred to as crowdfunding. Businesses can take advantage of the exemption from registration if the offering is conducted entirely within the borders of the state and adheres to specific advertising restrictions based on the Securities and Exchange Commission's (SEC) Rule 147. On April 20, 2017, a new rule, Rule 147A, became effective. Rule 147A allows issuers to advertise offerings to residents of the state in which the issuer has its primary place of business, even if that advertisement reaches residents in other states. Incidental advertising is permitted so long as sales are restricted to in-state residents only and particular disclosures are contained in the advertisement. Rule 147A made a number of changes to modernize the rules governing intrastate offerings. These proposed rules will more closely align Oregon's interstate offering rules with the new federal requirements. The proposed rules also capture changes meant to allow small businesses more leeway to raise capital from permitted investors without lessening investor protections contained in the rules.

b. How did the rule succeed or fail in achieving this effect?

The rule succeeded in updating Oregon's Intrastate Offering Exemption for crowdfunding small businesses.



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Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated as follows:

The proposed rules are likely to have both negative and positive fiscal impacts: lifting advertising restrictions will likely result in a positive impact while additional record keeping and reporting may result in slightly higher costs.

b. What was the actual fiscal impact?

Unknown

c. If the answer to question 'b' is unknown, briefly explain why:

The file does not reflect any further feedback regarding fiscal impact. Extensive research would be required to determine actual fiscal impact.

Have continued need?

Yes, there is a continued need for the rules.

Impact on small businesses? The file does not reflect any impact on small businesses beyond that originally anticipated.



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Five Year Review of New Rules Check List

Date: 11/28/2022

ID #: ID 1-2017

OARs Adopted: 836-005-0405

Adoption Date: 1/10/2017

Advisory Committee List Attached?

Y

N

Does section apply to:

Implementation of court order or civil proceedings Y N

Adoption of federal laws or rules by reference Y N

Implementation of legislatively approved fee changes Y N

Adoption to correct errors or omissions Y N

Did rule:

Have intended effect?

a. What was the intended effect?

ORS 731.264 as amended by Senate Bill 1591, provides that the Director of the Department of Consumer and Business Services (DCBS) may provide to any requester information about complaints against insurers for unlawful practices described under ORS 746.230. The statute does not further define what types of records and under what circumstances records must be disclosed. The proposed rules would clarify the method in which individuals may request information about complaints, the types of records and information that DCBS could and could not disclose, and the circumstances and manner in which DCBS would disclose that information.

b. How did the rule succeed or fail in achieving this effect?

The rule succeeded in implementing the disclosure requirements of information about complaints regarding unlawful claims settlement practices as required by Senate Bill 1591.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated as follows:

The fiscal impact of the proposed rule on the Division of Financial Regulation (DFR) will depend on a number of unknown factors. Consumer complaints filed about insurers were previously not subject to public records requests. DFR does not have information that could reliably predict the number of records request it will receive after the effective date. Under ORS 192.440(4)(a), DFR is authorized to charge fees reasonably calculated to reimburse the agency for the cost of producing records. DFR may also waive or reduce fees if doing so is in the public interest. DFR does not have information that could reliably predict the nature of requests under the proposed rule and what percentage of the requests will be eligible for a fee waiver.



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b. What was the actual fiscal impact?

Unknown

c. If the answer to question 'b' is unknown,
briefly explain why:

The file does not reflect any further feedback regarding fiscal impact.
Extensive research would be required to determine actual fiscal impact.
Presumably the fiscal impact is likely no impact.

Have continued need?

No, there is no continued need for the rules as the changes made by SB 1591 (2016) sunset on
January 1, 2021.

Impact on small businesses? The file does not reflect any impact on small businesses beyond that originally anticipated.



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Date: 11/30/2022

ID #: ID 7-2017

OARs Adopted: 836-053-0011

Adoption Date: 7/26/2017

Advisory Committee List Attached?

Y

N

Does section apply to:

Implementation of court order or civil proceedings Y N

Adoption of federal laws or rules by reference Y N

Implementation of legislatively approved fee changes Y N

Adoption to correct errors or omissions Y N

Did rule:

Have intended effect?

a. What was the intended effect?

These proposed rules establish the requirement that the standard bronze health benefit plan be HSA eligible, in order to promote consumer choice. The proposed rules bring the standard bronze and standard silver plans into compliance with federal law by amending the exhibits for the plans for plan years beginning on or after January 1, 2018, to meet federal minimum actuarial value (AV) requirements. The proposed rules further clarify that the insurer or health care service contractor shall clearly indicate on any applicable plan and benefits template or other plan or product specific filing document that the plan is HSA eligible.

b. How did the rule succeed or fail in achieving this effect?

The rule succeeded in adoption require standard bronze health benefit plans be Health Savings Account (HSA) eligible.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated as follows:

These new and amended rules update the Oregon standard bronze and silver plans for plan years beginning on and after January 1, 2018. The new rule requires the standard bronze plan be HSA-eligible. HSA plans are high deductible plans that allow consumers to pay for medical expenses with tax-free dollars. Consumers are responsible for initial health care costs until the deductible is met.

The amended rule does not contain new requirements, but rather adjusts certain benefits within plans. The fiscal impacts to insurers and the public generally will be a potential, though quite miniscule, increase in administrative costs resulting from insurers needing to update plan language. Because insurers are already required to adjust plan language to conform to current requirements, the fiscal



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impact is not solely resulting from adoption of these rules. Inclusion of clearer language providing clear guidance to insurers may help to counter any increased administrative costs. The plans selected by the rulemaking advisory committee are an updated version of the current standard bronze and silver plans.

b. What was the actual fiscal impact? Unknown

c. If the answer to question 'b' is unknown, briefly explain why: The file does not reflect any further feedback regarding fiscal impact. Extensive research would be required to determine actual fiscal impact.

Have continued need? Yes, there is a continued need for the rules.

Impact on small businesses? The file does not reflect any impact on small businesses beyond that originally anticipated.



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Date: 11/14/2022

ID #: ID 10-2017

OARs Adopted: 836-011-0020, 836-011-0022, and 836-011-0024

Adoption Date: 11/22/2017

Advisory Committee List Attached?

Y

N

Does section apply to:

Implementation of court order or civil proceedings	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
Adoption of federal laws or rules by reference	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
Implementation of legislatively approved fee changes	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N
Adoption to correct errors or omissions	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N

Did rule:

Have intended effect?

a. What was the intended effect?

As required by Senate Bill 97 (2017 Session), DCBS must establish, by rule, the manner for Oregon insurers to submit Corporate Governance disclosure reports annually, consistent with the NAIC model regulation requirements. These proposed rules adopt Corporate Governance Regulation Language from NAIC Models 305 and 306. Model 305 is the Model Act that SB 97 adopted into Oregon law. Model Regulation 306 implements Model 305 and provides direction to insurers on when and how to file the required Corporate Governance Annual Disclosure reports. These reports will contain certain material information such as oversight provided to critical risk areas impacting the insurer's business activities. The bill also specifies confidentiality requirements for documents and other information DCBS receives as part of the annual corporate governance report.

b. How did the rule succeed or fail in achieving this effect?

The rule succeeded in implementing NAIC Corporate Governance Annual Disclosure Model Regulation language into Oregon Administrative Rule.

Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated as follows:

These new rules require certain commercial carriers to annually submit a Corporate Governance Disclosure report to DCBS. Although the rules do establish a new required report, industry representatives in the advisory committee did not express concern over any additional administrative work that would be required to generate these reports. These new rules have no impact to the insurance carriers because the report consists of existing information that is combined into a new report. The reports should have no discernible impact to those consumers covered by insurance carriers



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- b. What was the actual fiscal impact? because there is at best minimal additional cost associated with the reports. Therefore, no cost will be passed onto consumers. The only impact to the general public is the knowledge that DCBS is providing additional oversight of insurance companies. Otherwise, as these reports do not require additional cost, the public would not be impacted.
Unknown
- c. If the answer to question 'b' is unknown, briefly explain why: The file does not reflect any further feedback regarding fiscal impact. Extensive research would be required to determine actual fiscal impact.
- Have continued need? Yes, there is a continued need for the rules.
- Impact on small businesses? Based on financial filings made to DCBS, no insurers meet the definition of a small business under ORS 183.310, because no insurer is independently owned and operated. The file does not reflect any impact on small businesses beyond that originally anticipated.



Five Year Review of New Rules Check List

Date: 11/18/2022

ID #: ID 12-2017

OARs Adopted: 836-053-0418

Adoption Date: 12/8/2017

Advisory Committee List Attached?

Y

N

Does section apply to:

Implementation of court order or civil proceedings Y N

Adoption of federal laws or rules by reference Y N

Implementation of legislatively approved fee changes Y N

Adoption to correct errors or omissions Y N

Did rule:

Have intended effect?

a. What was the intended effect?

The rule was intended to clarify the types of entities subject to 2017 Oregon Laws, Chapter 719 (ORS 743A.264). ORS 743A.264 prohibits “insurers” from restricting coverage in the following manner when the Public Health Director has determined there is a disease outbreak, epidemic or other condition of public health importance:

- Requiring services be administered by an in-network provider;
 - Imposing cost-sharing requirements that are greater than cost-sharing requirements for similar covered services;
 - Requiring prior authorization or other utilization control measures;
- or

- Limiting coverage in any manner that prevents an enrollee from accessing necessary health services. Most health insurers in Oregon are licensed as health care service contractors.

ORS 743.264 establishes the above requirements for insurers and defines “insurer” as a person with a certificate of authority to transact insurance in this state.

The department received a recommendation from the Department of Justice to clarify in rule that the provisions of the law applicable to insurers also apply to entities licensed as health care service contractors or multiple employer welfare arrangements.

b. How did the rule succeed or fail in achieving this effect?

The rule succeeded in clarifying the scope of ORS 743A.264 by making clear that, for purposes of the statute, the term “insurer” includes health care service contractors and multiple employer welfare arrangements.



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Was fiscal impact underestimated, overestimated, just about right, or unknown?

a. What was the estimated fiscal impact?

The fiscal impact was estimated as follows:

This rule simply clarifies that the entities already subject to the requirements of the bill include health care service contractors and multiple employee welfare arrangements. Because the rules do not add any new substantive requirements beyond what the enabling legislation required, there is no fiscal or economic impact as a result of this rule.

b. What was the actual fiscal impact?

Unknown

c. If the answer to question 'b' is unknown, briefly explain why:

The file does not reflect any further feedback regarding fiscal impact. Extensive research would be required to determine actual fiscal impact.

Have continued need?

Yes, there is a continued need for the rules.

Impact on small businesses? The file does not reflect any impact on small businesses beyond that originally anticipated.



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Five Year Review of New Rules Check List

Date: 11/4/2022

ID #: ID 14-2017

OARs Adopted: 836-011-0224

Adoption Date: 12/20/2017

Advisory Committee List Attached?

Y

N

Does section apply to:

Implementation of court order or civil proceedings Y N

Adoption of federal laws or rules by reference Y N

Implementation of legislatively approved fee changes Y N

Adoption to correct errors or omissions Y N

Did rule:

Have intended effect?

a. What was the intended effect?

OAR 836-011-0224: The NAIC Model 205 Annual Financial Reporting Model Regulation was amended in 2014 to incorporate an internal audit function for large insurers into the regulation. The revisions require individual insurers writing more than \$500 million or insurance groups writing more than \$1 billion in annual premium to maintain an internal audit function providing independent, objective and reasonable assurance to the audit committee and insurer management regarding the insurer's governance, risk management and internal controls. The division did not take action to adopt the revisions to these rules to align with the NAIC model until December 2017. The additional oversight for insurers of this size provides another level of protection for consumers.

The NAIC Accreditation Program was established to develop and maintain standards to promote effective insurance company financial solvency regulation. The purpose of the accreditation program is for state insurance departments to meet baseline standards of solvency regulation, particularly with respect to regulation of multi-state insurers. These rules align with model rules, and allow the department to remain accredited.

b. How did the rule succeed or fail in achieving this effect?

836-011-0224: The rule succeeded in implementing NAIC Model 205 - Annual Financial Reporting Model Regulation language pertaining to internal audits, which is necessary for the division to maintain NAIC accreditation and provides an additional layer of solvency protection for policyholders.

Was fiscal impact underestimated, overestimated, just about right, or unknown?



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a. What was the estimated fiscal impact?

The fiscal impact was estimated as follows:

There is no fiscal or economic impact as a result of this rule. As noted above, insurers to which the internal audit function requirement would apply are likely already performing this activity.

b. What was the actual fiscal impact?

Unknown.

c. If the answer to question 'b' is unknown, briefly explain why:

The file does not reflect any further feedback regarding fiscal impact. Extensive research would be required to determine actual fiscal impact. Presumably the fiscal impact is likely no impact.

Have continued need?

Yes, there is a continued need for the rule.

Impact on small businesses?

The file does not reflect any impact on small businesses beyond that originally anticipated.



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Five Year Review of New Rules Check List

Date: 11/29/2022

ID #: ID 16-2017

OARs Adopted: 836-200-0436

Adoption Date: 12/8/2017

Advisory Committee List Attached?

Y

N

Does section apply to:

Implementation of court order or civil proceedings Y N

Adoption of federal laws or rules by reference Y N

Implementation of legislatively approved fee changes Y N

Adoption to correct errors or omissions Y N

Did rule:

Have intended effect?

a. What was the intended effect?

Pharmacy Benefit Managers (PBMs) are intermediaries in a contractual relationship between wholesalers and manufacturers and health insurers or employers to administer drug benefit programs. Currently, there are 48 PBMs registered in Oregon. Nationally, PBMs manage the drug benefits for an estimated 95 percent of all patients with drug coverage.

Since 2014, the department has been charged with the responsibility of registering and regulating PBMs in the state of Oregon. To date, the department has received notice of more than 68,000 alleged statutory violations being committed by PBMs. The vast majority of those complaints related to the processing and appeal of claims to be paid by a PBM using maximum allowable cost methodology and were submitted in large batches, with each claim transaction listed as a separate violation, by an entity that represents many independent pharmacies in Oregon. Approximately one-third of those complaints were later determined to be related to Medicare Part D claims, which are preempted from state regulation by federal law. The vast majority of complaints were also not accompanied by supporting documentation.

In a budget note to Senate Bill 5701 (2016), the Oregon Legislative Assembly directed the department to convene a public workgroup to develop recommendations to improve the PBM regulatory framework. The department convened such a workgroup and developed statutory and rulemaking



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recommendations. The rulemaking recommendations reported to the legislature included (1) removing the current registration and renewal fee caps, to allow recoupment of administration and enforcement costs, and (2) clarifying registration and appeals processes and terminology associated with maximum allowable cost pricing.

House Bill 2388 (2017) modified and supplemented the PBM statutory framework to grant the department authority to suspend, revoke or deny the registration of applicants or registrants, to set registration and renewal fees based upon the department's reasonable costs and to prescribe a procedure by which a pharmacy or an entity acting on behalf of a pharmacy may file a complaint against a PBM.

This rulemaking is necessary to implement the Senate Bill 5701 budget note recommendations and the provisions of House Bill 2388, and as an aid to the effectuation of the Insurance Code.

- b. How did the rule succeed or fail in achieving this effect?

The rule succeeded in implementing the clarifying provisions related to registration and regulation of Pharmacy Benefit Managers as specified by Senate Bill 5701 budget note recommendations and provisions of House Bill 2388 (2017).

Was fiscal impact underestimated, overestimated, just about right, or unknown?

- a. What was the estimated fiscal impact?

The fiscal impact was estimated as follows:

PBMs will be fiscally impacted by the increase in registration and renewal fee amounts. Such fee increases are based upon the department's reasonable costs to administer and enforce ORS 735.530 to 735.552, as determined by the department. Other regulatory costs incurred by PBMs should be minimal, and can be attributed to the statutorily imposed requirements rather than these rules. To the extent that this rulemaking serves to clarify, and not change, those statutorily imposed requirements, it does not create any new fiscal impact upon PBMs.

Pharmacies or persons who file complaints against PBMs should experience negligible fiscal impact by the rule prescribing complaint procedures. The rule prescribes a uniform format for submission of such complaints, and makes little, if any, change in the substantive requirements for submission of complaints.

- b. What was the actual fiscal impact?

Unknown



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- c. If the answer to question 'b' is unknown,
briefly explain why:

The file does not reflect any further feedback regarding fiscal impact.
Extensive research would be required to determine actual fiscal impact.
Presumably the fiscal impact is likely no impact.

Have continued need? Yes, there is a continued need for the rules.

Impact on small businesses? The file does not reflect any impact on small businesses beyond that originally anticipated.

Department of Consumer and Business Services
Division of Financial Regulation (DFR)
5 Year Review of 2016 DFR Rulemaking

Admin Order #	Rule Number	Adopted date	Call up date	Completed date
FCS 3-2016 Commercial construction lending exemption	441-880-0009	9/9/2016	7/2021	12/15/2021  FSR No. 3-2016 checklist.docx
ID 1-2016 Limited license of Vehicle Rental Company	836-071-0354	1/20/2016	1/2021	10/19/2021  ID No. 1-2016 checklist.docx
ID 4-2016 Aligning health insurance rules	836-053-0015, 836-053-1500, 836-053-1505, 836-053-1510	4/8/2016	2/2021	10/19/2021  ID No. 4-2016 checklist.docx
ID 5-2016 Adoption of 2017 benchmark of EHB	836-010-0155, 836-053-0004, 836-053-0012, 836-053-0013	4/22/2016	2/2021	10/26/2021  ID No. 5-2016 checklist.docx
ID 7-2016 Requirements for limited lines travel producers	836-071-0450	6/30/2016	4/2021	10/26/2021  ID No. 7-2016 checklist.docx
ID 10-2016 Establishing standards for network adequacy	836-053-0300, 836-053-0310, 836-053-0320, 836-053-0330, 836-053-0340, 836-053-0350	9/14/2016	7/2021	11/2/2021  ID No. 10-2016 checklist.docx
ID 11-2016 Adoption of ORSA and Valuation Manual	836-031-0605, 836-011-0030	12/21/2016	10/2021	11/2/2021  ID No. 11-2016 checklist.docx

Rule number: OAR 459-009-0086 Reviewed by: Yong Yang
Date reviewed: 12/6/2022

PERS must review administrative rules adopted since January 1, 2006, within five years after the rules are first adopted. The review requirement only applies to rule adoptions, not subsequent amendments. ORS 183.405 Upon request of the agency, the Small Business Rules Advisory Committee established in ORS 183.407 may agree to complete the review. The 5 year review also does not apply to:

- (a) Rules adopted to implement court orders or the settlement of civil proceedings;
- (b) Rules that adopt federal laws or rules by reference;
- (c) Rules adopted to implement legislatively approved fee changes; or
- (d) Rules adopted to correct errors or omissions.

Date adopted: 12/1/2017

Date review due: 12/1/2022

Advisory committee used to draft Rule?

Yes No

If yes, identify members. Members must be provided a copy of this completed form.

[Click or tap here to enter text.](#)

1. Did the rule achieve the intended effect?

Yes No

a. What was the intended effect?

- Lowering the minimum payment required to establish a new side account,
- Lowering the administrative fees,
- Limiting additional deposits into existing side accounts to two per year, per account

b. How did the rule succeed or fail in achieving this effect?

The intended effects were incorporated into the rule itself

2. Was the fiscal impact statement? (Check one)

Underestimated Just about right

Overestimated Unknown

a. What was the estimated fiscal impact?

There are no discrete costs attributable to the rule.

b. What was the actual fiscal impact?

None

c. If the answer to question 2 is unknown, briefly explain why.

[Click or tap here to enter text.](#)

3. Have subsequent changes in the law required the rule be repealed or amended?

Yes No

If yes, explain.

[Click or tap here to enter text.](#)

4. Is the rule still needed?

Yes No

Explain.

Effects of the rule are still desirable

5. Does the rule impact small businesses?

Yes No

Explain.

PERS rules do not impact small businesses only Public Employers and their employees

Department of Consumer and Business Services
Workers' Compensation Division

Five-year Administrative Rule Review

Rule division name and rule numbers: OAR chapter 436, division 060, "Claims Administration," rule 0075, "Payment of Death Benefits."

Date adopted: Dec. 14, 2017

Date reviewed: July 11, 2022

Advisory Committee Used: Yes

The rulemaking advisory committee met on Aug. 23, 2017.

1. Did the rule achieve its intended effect? Yes

a. What was the intended effect?

In its filing with the Secretary of State on Dec. 14, 2017, the Workers' Compensation Division described the effects of the rule adoption:

"Adopted rule 0075 implements [Enrolled House Bill 2338 \(2017\)](#) and consolidates several current provisions relevant to death benefits. This rule describes appropriate payment of death benefits under ORS 656.204 and 656.208, to include provisions that address:

- "Final disposition of the body and funeral expenses;
- "Payments to surviving beneficiaries;
- "Benefit to surviving spouse;
- "Benefit to surviving child;
- "Benefit to surviving dependent;
- "Benefit to child or dependent attending higher education; and
- "Death during permanent total disability."

b. How did the rule succeed or fail in achieving this effect?

The rule provided information that was helpful to the understanding and implementation of ORS 656.204 and 656.208, as revised by HB 2338 (2017).

2. Was the fiscal impact statement:

- Underestimated
- Overestimated
- Just about right
- Unknown

a. What was the estimated fiscal impact?

The Workers' Compensation Division filed the following fiscal impact estimate with the Secretary of state on Sept. 15, 2017:

“House Bill 2338 amended ORS 656.204 and 656.208 such that insurers and self-insured employers will pay some increased benefits, primarily to surviving children, following the death of a worker due to an on-the-job injury or illness. The proposed rules explaining requirements for processing and payment of death benefits are intended to promote understanding and compliance with the statutes, but the rules do not increase or decrease any benefit payable under the statutes.”

b. What was the actual fiscal impact?

The filing explained that the rule does “not increase or decrease any benefit payable under the statutes.” This continues to be the agency’s understanding, but stakeholders should notify the division if the rule did affect costs.

c. If the answer to question 2 is unknown, briefly explain why.

Not applicable

3. Have subsequent changes in the law required the rule be repealed or amended?

No. Although the rule has been amended to clarify a mailing requirement and to replace gender-specific pronouns, these revisions were not required by changes in Oregon Revised Statutes.

4. Is the rule still needed? Yes

The rule is still needed for the reasons it was adopted: “... to implement legislation passed by the Oregon Legislature in 2017 and to better align some [then] current rules with ORS chapter 656.”

5. What impacts has the rule had on small businesses?

In its cost-of-compliance estimate filed with the Secretary of State on Sept. 15, 2017, the division included the following statements: “ The agency projects that proposed rule changes will not increase or decrease the costs for reporting, recordkeeping, or other administrative activities required for compliance, including costs of professional services. The agency projects that proposed rule changes will not increase or decrease costs for equipment, supplies, labor, or administration required for compliance.” This continues to be the agency’s understanding, but small business representatives should notify the division if the rule does affect costs in any way.

The department must review each administrative rule not later than five years after its adoption. Under ORS 183.405, the agency must determine:

- (a) Whether the rule has had the intended effect;
- (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- (c) Whether subsequent changes in the law require that the rule be repealed or amended;
- (d) Whether there is continued need for the rule; and
- (e) What impacts the rule has on small businesses.

The department must report its findings to any advisory committee appointed under ORS 183.333, to the Secretary of State, and to the Small Business Advisory Committee.

**Oregon Department of Human Services
Five Year Rule Review
ORS 183.405**

Rule Name: OREGON DEAF AND HARD OF HEARING SERVICES

Rule Number(s): 411-019-0000; 411-019-0010; 411-019-0020; 411-019-0030

Program Area: ODHS, Aging and People with Disabilities (APD)

Adoption Date: 02-21-2017 (effective 03-01-2017)



Review Due Date:
12-16-2022



Review Date:
12-15-2022

Reviewer's Name:
Barbara Robertson



- *Advisory Committee Used**
 Advisory Committee Not Used

***Committee Members:**

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Clark Anderson	
Steven Brown	
Mitch Turbin	
Mark Hill	
Ann McLaughlin	
David Vier	
Terry Blosser	
Penny Clifton	
Theresa Powell	

What was the intended effect of this rule adoption?

411-019-0000 Purpose and Responsibilities

States the purpose of the rule division

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be amended or repealed?

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
What impact has the rule had on small businesses? None	
Additional Comments:	

What was the intended effect of this rule adoption?	
411-019-0010 Definitions Establishes definitions for the rule division	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be amended or repealed?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
What impact has the rule had on small businesses? None	
Additional Comments: DeafBlind is preferred over "Deaf-blind" – we have submitted an LC to add "DeafBlind" to statutory language about our unit, updating our name to "Oregon Deaf, DeafBlind, and Hard of Hearing Services" (ODDBHHS).	

What was the intended effect of this rule adoption?	
411-019-0020 Composition of ODHHS Advisory Committee Establishes the composition of ODHHS Advisory Committees	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be amended or repealed?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
What impact has the rule had on small businesses? None	
Additional Comments: In the same LC referred to above, the AC expands to 15 members – six who are Deaf, six who are Hard of Hearing (with preference given to applicants who are DeafBlind or Deaf or Hard of Hearing with additional disabilities), and three who are hearing allies/professionals.	

What was the intended effect of this rule adoption? 411-019-0030 ODHHS Executive and Ad Hoc Committees Establishes composition of Executive and Ad Hoc Committees	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have subsequent changes in the law required this rule to be amended or repealed?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
What impact has the rule had on small businesses? None	
Additional Comments:	

Report approved by: *Jane-ellen Weidanz*

Date report sent to advisory committee members: N/A-Original members no long participating in the rulemaking process for this division.

Oregon Department of Human Services
Five Year Rule Review
 ORS 183.405

Rule Name: Professional Behavior Services for Children and Adults with Intellectual or Developmental Disabilities

Rule Number(s): 411-304-0110, 411-304-0120, 411-304-0130, 411-304-0140, 411-304-0150, 411-304-0160, 411-304-0170, 411-304-0180, 411-304-0190, 411-304-0200, 411-304-0210

Program Area: Office of Developmental Disabilities Services (ODDS)

Adoption Date: 12/1/2017



Review Due Date:
12/1/2022



Review Date:
11/14/2022

Reviewer's Name:
Christina Hartman



- *Advisory Committee Used**
 Advisory Committee Not Used
-

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What was the intended effect of this rule adoption?

ODDS adopted rules in OAR chapter 411, division 304 to establish standards for behavior professionals and the delivery of professional behavior services to modify the behavior of individuals experiencing intellectual or developmental disabilities.

The rules in OAR chapter 411, division 304:

- Define terms relating to professional behavior services.
- Specify eligibility and limitations for professional behavior services.
- Clarify the components of professional behavior services, including standards for professional behavior service planning and safeguarding techniques.
- Establish minimum qualifications and standards for behavior professionals, including documentation and claim reimbursement requirements.
- Specify the provider types and agency endorsement needed to deliver professional behavior services.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be amended or repealed? 411-304-0110 Last Amended 7/1/2022 411-304-0120 Last Amended 7/1/2022 411-304-0130 Last Amended 7/1/2022 411-304-0140 Last Amended 7/1/2022 411-304-0150 Last Amended 7/1/2022 411-304-0160 Last Amended 7/1/2022 411-304-0170 Last Amended 7/1/2022 411-304-0180 Last Amended 7/1/2022 411-304-0190 Last Amended 7/1/2022

	411-304-0200 Last Amended 7/1/2022 411-304-0210 Last Amended 7/1/2022
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
	<p>What impact has the rule had on small businesses?</p> <p>The rules impact behavior professionals. A behavior professional may be either an independent provider, agency provider, or employees of an agency or 24-hour or supported living setting. At the time of adoption, there were approximately 100 independent and agency providers of professional behavior services and approximately 85 providers of professional behavior services in a 24-hour or supported living setting. Some behavior professionals may be considered a small business as defined in ORS 183.310.</p> <p>The impact to behavior professionals included developing and maintaining invoices, timesheets, record keeping, policies, and payment compliance although most of these requirements were in place as part of current business practice.</p> <p>The rules did heighten minimum qualifications requiring behavior professionals to obtain a minimum of 12 hours of ongoing education for re-enrollment every two years.</p>
Additional Comments:	

Report approved by: Melissa Lymburner

11/16/2022

Date report sent to advisory committee members:

11/18/2022

Oregon Department of Human Services
Five Year Rule Review
 ORS 183.405

Rule Name: Employment Services for Individuals with Intellectual or Developmental Disabilities

Rule Number(s): 411-345-0035, 411-345-0145

Program Area: Office of Developmental Disabilities Services (ODDS)

Adoption Date: 1/1/2018



Review Due Date:
1/1/2023



Review Date:
11/14/2022

Reviewer's Name:
Christina Hartman



- *Advisory Committee Used**
 Advisory Committee Not Used
-

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Shiela Zerngast	shielaz@tfcc.org

What was the intended effect of this rule adoption?	
ODDS adopted:	
<ul style="list-style-type: none"> • OAR 411-345-0035 about "Standards for Provider Agencies Delivering Employment Services" to consolidate all of the individual standards for provider agencies into one rule. • OAR 411-345-0145 about "Entry Requirements for a Provider Agency" to move the entry language from OAR 411-345-0140 into its own rule. 	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Has this rule adoption had its intended effect?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule underestimated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Have subsequent changes in the law required this rule to be amended or repealed? 411-345-0035 Last Amended 11/1/2019 411-345-0145 Last Amended 11/1/2019
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule?
	What impact has the rule had on small businesses? The rules impact providers of employment services. At the time of adoption, there were 213 sites where employment services were provided. Some of these providers may be considered a small business as defined in ORS 183.310. The impact to providers was due to an increase in administrative costs in order to update or create policies and procedures. In addition, clarification regarding training requirements may have resulted in some providers participating in more hours of training.
Additional Comments:	

Report approved by: Allison Enriquez 12/06/2022

Date report sent to advisory committee members: 12/06/2022



**Office of Child Welfare Programs
Five Year Rule Review - OAR Chapter 413
ORS 183.405**

Rules under review:

- 413-080-0062– Sex Trafficking Victim Identification (Adopted 09/29/16)

-
- Advisory Committee Used Prior to Initial Adoption of Permanent Rule**
 It does not appear that a Rule Advisory Committee was Used Prior to Initial Adoption of Permanent Rule: RAC Exception was granted for this rule.

What was the intended effect of this rule adoption?

- This rule needed to be adopted to implement provisions of the Preventing Sex Trafficking and Strengthening Families Act of 2014. Some of these provisions were implemented in October 2015 and the Department is required to implement the remaining provisions by September 29, 2016. This adoption establishes the remaining requirements to ensure the Department is in compliance with federal law.

- | | |
|---|---|
| <input checked="" type="checkbox"/> Yes | Have these rule adoptions had the intended effect? |
| <input type="checkbox"/> No | Rules were amended on 01/01/2017. |

- | | |
|--|---|
| <input type="checkbox"/> Yes | Was the anticipated fiscal impact of this rule underestimated? |
| <input checked="" type="checkbox"/> No | The Department estimated that amending these rules to comply with the federal sex trafficking legislation may have a negative fiscal impact on the Department due to increased requirements for caseworkers, but the impact will be absorbed within existing Department resources. The Department estimated a negative fiscal impact on service provider organizations who may receive increased referrals from the Department to provide services to children and young adults who are identified as needing services. The Department estimated a negative fiscal impact on local government due to increased reports to law enforcement, but data is not available to estimate the impact. The Department estimated a negative fiscal impact to BRS providers, some of whom may qualify as small businesses. Although BRS providers have been notifying law enforcement and the Department when children or young adults are missing, providers will need to provide training about the new requirement to notify the National Center for Missing and Exploited Children (NCMEC) and document compliance with the rule. The Department did not have data to estimate the number of BRS providers who qualify as small businesses or to estimate the negative fiscal impact of complying |

	with the federal law. The Department estimated no fiscal impact to other state agencies, clients, or the public. The Department estimated that the rule changes to clarify internal notification requirements regarding abuse reports will have no fiscal impact on state agencies, including the Department, clients, providers, the public, local government, or business, including small business. No small businesses were subjected to these rules. There was no cost of compliance for small businesses.
--	---

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was the anticipated fiscal impact of this rule overestimated? See above.
--	--

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have there been any subsequent changes in the law that require this rule to be amended or repealed? Rule was amended on 01/01/2017 but not due to law.
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule? Child Welfare continues to follow 413-080-0062 for Sex Trafficking Victim Identification.
--	--

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Has this rule had an impact on small businesses? Small businesses are not subject to this rule.
--	---

Report Prepared On: 11/01/2022

Report Approved By: Deena Loughary Program Manager



**Office of Child Welfare Programs
Five Year Rule Review - OAR Chapter 413
ORS 183.405**

Rules under review:

- 413-130-0365– Confidentiality and Maintenance of Records (Adopted 06/29/16)

-
- Advisory Committee Used Prior to Initial Adoption of Permanent Rule**
 It does not appear that a Rule Advisory Committee was Used Prior to Initial Adoption of Permanent Rule

What was the intended effect of this rule adoption?

- The Department of Human Services, Office of Child Welfare Programs, is amending its rules governing the voluntary adoption registry to implement HB 2414 (2015). The bill allows the Department to add genetic siblings of adoptees to the voluntary adoption search registry and provide information regarding finalization of an adoption.
- Additionally, these rules are being consolidated. Currently, the voluntary adoption registry and the assisted search program are covered in separate subdivisions. To improve organization and clarity, the rules governing the assisted search program in OAR 413-130-0400 to 413-130-0500 are being consolidated into OAR 413-130-0300 to 413-0365.

- | | |
|--|---|
| <input checked="" type="checkbox"/> Yes
<input type="checkbox"/> No | Have these rule adoptions had the intended effect? |
|--|---|

- | | |
|--|---|
| <input type="checkbox"/> Yes
<input checked="" type="checkbox"/> No | Was the anticipated fiscal impact of this rule underestimated?
At the time of adoption, it appears the Department estimated that the changes would have no fiscal impact on the Department, other agencies, or business, including small business. No small businesses were subject to these rules. There was no cost of compliance for small business.

The Department has not received information that the adoption of these rules in and of themselves created a fiscal impact inconsistent with the estimate provided at the time of adoption. |
|--|---|

- | | |
|--|--|
| <input type="checkbox"/> Yes
<input checked="" type="checkbox"/> No | Was the anticipated fiscal impact of this rule overestimated?
See above. |
|--|--|

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Have there been any subsequent changes in the law that require this rule to be amended or repealed?
--	--

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule? OAR-413-130-0365 is still needed for confidentiality and maintenance of records for Child Welfare.
--	---

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Has this rule had an impact on small businesses?
--	---

Report Prepared On: 10/26/2022

Report Approved By: Lorri Harris



Office of Child Welfare Programs
Five Year Rule Review - OAR Chapter 413
ORS 183.405

Rules under review:

- 413-215-0000 - Definitions (Adopted 12/01/16)
- 413-215-0218 - Room and Space Requirements (Adopted 12/01/16)
- 413-215-0318 - Standards for the Proctor Foster Home Environment (Adopted 12/01/16)
- 413-215-0618 – Room and Space Requirements (Adopted 12/01/2016)

-
- Advisory Committee Used Prior to Initial Adoption of Permanent Rule**
 It does not appear that a Rule Advisory Committee was Used Prior to Initial Adoption of Permanent Rule

What was the intended effect of this rule adoption?

- The Department was adopting rules to address gaps and improve the oversight by the Department of Child-Caring Agencies, establish and implement new Department oversight requirements and enforcement authority including taking action on licensing violations and deficiencies, promote the safety and well-being of children residing in or receiving services from child-caring agencies licensed by the Department and proctor foster homes, and comply with and implement SB 1515 (Oregon Laws 2016, chapter 106.) A proctor foster home means a foster home certified by a child-caring agency.
- Rule changes included:
- Set out the standards child-caring agencies must comply with as provided in section 4 of SB 1515;
- Update definitions to align with SB 1515, including "child in care," "child-caring agency," and "proctor foster home" and consolidating definitions in an overarching definitions rule;
- Require compliance with all applicable laws and rules, and the internal policies and procedures of the child-caring agency as a condition of licensure;
- Establish new financial oversight requirements required in SB 1515;
- Add specific rights for children and families served by child-caring agencies, including a prohibition on the restriction of child-parent communication as a condition of program participation, and a requirement that child-caring agencies must afford the rights under ORS 418.200 - 418.202 to children in the care or custody of the Department;
- Require child-caring agencies to have child abuse reporting policies, procedures, and training as required in section 37 of SB 1515;
- Clarify requirements related to the internal written policies and procedures child-caring agencies must have, including the additional requirement to have a suicide prevention policy and requiring policies to be submitted at initial application and renewal;

- Require child-caring agencies to provide contact information for executive directors and board members and governmental agencies or units with whom they contract to provide services or care to children;
- Require child-caring agencies to provide access to children in care and the agencies' premises as required in section 20 of SB 1515 and, for those child-caring agencies who care for children on a 24-hour basis, to obtain parental consent to allow access to the child as required in SB 1515 and the licensing rules;
- Require child-caring agencies to provide the Department with information about children in its care and allow inspection of records and documents, including financial documents, when requested;
- State that the Department will investigate when it becomes aware that abuses, deficiencies, or failures to comply may be occurring in a child-caring agency;
- Update the civil penalty criteria consistent with section 31 of SB 1515;
- Require annual inspections of premises where children reside or receive services;
- Grant new authority for the Department to take licensing enforcement actions when licensing violations exist;
- Require licensing enforcement actions in certain circumstances;
- Update the foster care agency rules to align with the rules for Department-certified foster homes;
- Require prospective adoptive parents to sign a release of information regarding previous adoption application denials;
- Update requirements for therapeutic boarding schools;
- Update rules in OAR chapter 413, division 10 relating to client rights to reflect new terminology and align notice and hearing rights with SB 1515; and
- Make additional housekeeping changes to align requirements for different types of child-caring agencies; improve the organization of the rules; and update terminology to align with SB 1515.

<input checked="" type="checkbox"/> Yes	Have these rule adoptions had the intended effect?
<input type="checkbox"/> No	Adopted Administrative rules are still in effect today.

<input type="checkbox"/> Yes	Was the anticipated fiscal impact of this rule underestimated?
<input checked="" type="checkbox"/> No	The Department estimated that the rule changes did not impact the Department fiscally beyond the fiscal impact on the Department of requirements in SB 1515.

<input type="checkbox"/> Yes	Was the anticipated fiscal impact of this rule overestimated?
<input checked="" type="checkbox"/> No	The Department estimated that the rule changes did not impact the Department fiscally beyond the fiscal impact on the Department of requirements in SB 1515.

<input checked="" type="checkbox"/> Yes	Have there been any subsequent changes in the law that require this rule to be amended or repealed?
<input type="checkbox"/> No	<ul style="list-style-type: none"> • 413-215-0000 - Definitions (Adopted 12/01/16) has been amended multiple times since its adoption to update definitions. • 413-215-0218 - Room and Space Requirements (Adopted 12/01/16) had a minor correction to fix statutory reference.

	<ul style="list-style-type: none"> • 413-215-0318 - Standards for the Proctor Foster Home Environment (Adopted 12/01/16) has been amended two times to updated best practices. • 413-215-0618 - Room and Space Requirements (Adopted 12/01/2016) had a minor correction to fix statutory reference.
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is there a continued need for this rule? All adopted administrative rules are currently still effective.
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Has this rule had an impact on small businesses? The Department estimated that the rule changes did not impact small businesses fiscally beyond requirements in SB 1515.
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Report Prepared On: 11/07/2022

Report Approved By: Jenifer McIntosh



Report to the Secretary of State: 5-Year Rule Review (January 2017 – December 2017)

March 18, 2022

[ORS 183.405](#) requires all state agencies to make a reporting of all rulemakings that adopted rules in the fifth calendar year prior to date. The purpose of the review is to determine the rules' alignment with original intent, applicability, and anticipated fiscal impact. OHCS strives to make necessary rule amendments as the need arises. The appendices of this report detail the status of those rules.

The following records account for all of OHCS' adopted rules for the 2017 Calendar Year. A copy of this report shall be made available by Nicole Stingh; Nicole.R.Stingh@HCS.Oregon.Gov

January 1, 2017 – December 31, 2017

OHCS adopted a total of 9 rules.

These rulemakings impacted two (2) divisions and programs.

- Elderly Rental Assistance (Division 53)
- Local Innovation and Fast Track (Division 135)

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5-Year Rule Review Adopted Rules of Chapter 813

Division No. 53 (Elderly Rental Assistance Program):

Rules Adopted: 813-053-0000

Date Adopted (Filing No.): 11-17-17 (OHCS-9-2017 through OHCS-18-2017)

Rule Advisory Committee Used: No

If not, please explain: Rules Advisory Committee information was not included in 2017 orders. Repealed program at Department of Revenue and established the same program at OHCS.

OAR 813-053-0000: Purpose and Objectives	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Meet need to repeal temporary rules and codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by the Community Action Agency network locally.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 11/26/19, amended the statutory reference and amended to create consistency in language between other agency divisions of rule.
<i>Is the rule still necessary?</i>	Yes

OAR 813-053-0090: Administrative Review by Subgrantee	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Meet need to repeal temporary rules and codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by

2022 5-Year Rule Review

	the Community Action Agency network locally.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 11/26/19, amended to create consistency in language between other agency divisions of rule.
<i>Is the rule still necessary?</i>	Yes

OAR 813-053-0080: Challenge of Subgrantee Action	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Meet need to repeal temporary rules and codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by the Community Action Agency network locally.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 11/26/19, amended to create consistency in language between other agency divisions of rule.
<i>Is the rule still necessary?</i>	Yes

OAR 813-053-0070: Remedies	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Meet need to repeal temporary rules and codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by the Community Action Agency network locally.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 07/03/19, amended for minor correction to rule title according to ORS 183.360(2). On 11/26/19, amended to create consistency in language between other agency divisions of rule.
<i>Is the rule still necessary?</i>	Yes

2022 5-Year Rule Review

OAR 813-053-0060: Recordkeeping and Compliance Monitoring	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Meet need to repeal temporary rules and codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by the Community Action Agency network locally.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 11/26/19, amended to create consistency in language between other agency divisions of rule.
<i>Is the rule still necessary?</i>	Yes

OAR 813-053-0050: Application for Funding; Funding Agreement	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Meet need to repeal temporary rules and codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by the Community Action Agency network locally.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 11/26/19, amended to create consistency in language between other agency divisions of rule and amended to incorporate current program requirements.
<i>Is the rule still necessary?</i>	Yes

OAR 813-053-0040: Use of Funds	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Meet need to repeal temporary rules and codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by the Community Action Agency network locally.

2022 5-Year Rule Review

<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 11/26/19, amended to create consistency in language between other agency divisions of rule and amended to identify all uses of funds.
<i>Is the rule still necessary?</i>	Yes

OAR 813-053-0030: Applicant Eligibility	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Meet need to repeal temporary rules and codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by the Community Action Agency network locally.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 07/03/19, amended for minor correction to rule title according to ORS 183.360(2). On 11/26/19 amended to create consistency in language between other agency divisions of rule and amended eligibility requirements consistent with current operation.
<i>Is the rule still necessary?</i>	Yes

OAR 813-053-0020: Administration	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	Meet need to repeal temporary rules and codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by the Community Action Agency network locally.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 11/26/19, amended to create consistency in language between other agency divisions of rule.
<i>Is the rule still necessary?</i>	Yes

OAR 813-053-0010: Definitions	
<i>Based on the need for the rule</i>	Meet need to repeal temporary rules and

2022 5-Year Rule Review

<i>identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	codify permanent rule changes.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There is no additional fiscal impact with the administration of the Elderly Rental Assistance Program, all funding remains distributed by the Community Action Agency network locally.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	On 11/26/19, amended to create consistency in language between other agency divisions of rule. On 05/07/20, amended definitions to reflect current operation.
<i>Is the rule still necessary?</i>	Yes

5-Year Rule Review Adopted Rules of Chapter 813

Division No. 135 (Local Innovation and Fast Track Program):

Rules Adopted: 813-135-0010, 813-135-0020, 813-135-0030, 813-135-0040, 813-135-0050, 813-135-0060

Date Adopted (Filing No.): 02-21-2017 (OHCS-1-2017)

Rule Advisory Committee Used: No

If not, please explain: The LIFT program rules were created with extensive stakeholder engagement.

OAR 813-135-0010: Purpose	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	This rule met the need to stand up the Local Innovation and Fast Track (LIFT) program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no fiscal impact assumed with these rules and that was accurate. There is no negative financial impact to community.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	There has not been any legislative event that would impact this rule.
<i>Is the rule still necessary?</i>	Yes

OAR 813-135-0020: Definitions	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	This rule met the need to stand up the Local Innovation and Fast Track (LIFT) program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no fiscal impact assumed with these rules and that was accurate. There is no negative financial impact to community.

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<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	There was a minor correction in 2020 to update ORS references.
<i>Is the rule still necessary?</i>	Yes

OAR 813-135-0030: Eligibility	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	This rule met the need to stand up the Local Innovation and Fast Track (LIFT) program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no fiscal impact assumed with these rules and that was accurate. There is no negative financial impact to community.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	There has not been any legislative event that would impact this rule.
<i>Is the rule still necessary?</i>	Yes

OAR 813-135-0040: Allocation of Bond Proceeds	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	This rule met the need to stand up the Local Innovation and Fast Track (LIFT) program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no fiscal impact assumed with these rules and that was accurate. There is no negative financial impact to community.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	In December 2017, there was an update to the rule to describe the borrower's obligation to repay LIFT loans .
<i>Is the rule still necessary?</i>	Yes

OAR 813-135-0050: Application Requests and Charges

2022 5-Year Rule Review

<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	This rule met the need to stand up the Local Innovation and Fast Track (LIFT) program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no fiscal impact assumed with these rules and that was accurate. There is no negative financial impact to community.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	There has not been any legislative event that would impact this rule.
<i>Is the rule still necessary?</i>	Yes

OAR 813-135-0060: Application for LIFT Funds	
<i>Based on the need for the rule identified on the notice of rulemaking, how did the rule meet or fail to meet its intended effect?</i>	This rule met the need to stand up the Local Innovation and Fast Track (LIFT) program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no fiscal impact assumed with these rules and that was accurate. There is no negative financial impact to community.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	There has not been any legislative event that would impact this rule.
<i>Is the rule still necessary?</i>	Yes

Administrative Rules Five-Year Review Report required by ORS 183.405

Rule Numbers: 166-500-0047, 166-500-0060 and 166-500-0070 Rulemaking transparency and streamlining, Implementation of SB 227

Date Adopted: December 12, 2017

Review Due Date: December 12, 2022

Advisory Committee Used? Yes No

Members:

1. Did the rules achieve their intended effect: Yes No
 - a. What was the intended effect? To give information to state agencies on how to file administrative rulemakings in the online administrative rules database
 - b. How did the rules succeed in achieving this effect? They succeeded by giving state agency rules coordinators pertinent information on how to file administrative rulemakings in the online administrative rules database
2. Was the fiscal impact statement: underestimated; overestimated; Just about right;
3. or unknown
 - a. What was the estimated fiscal impact? Any fiscal impact would be to state agency staff, and it is anticipated that would be related and limited to training time required for staff to learn to file using the new online filing system. It is also anticipated that the enhanced filing features will offset the time required to learn how to use the system, resulting in an overall time savings for state agency staff.
 - b. What was the actual fiscal impact? Just about what we had anticipated.
 - c. If the answer to question 2 is unknown, explain why:
4. Have subsequent changes in the law required the rule to be repealed or amended?
 Yes No

5. Is the rule still needed? Yes No

Explain: Due to state agency turnover, and that some agencies do very little rulemaking, there is continued need for these rules as there is a continuing need to give information and direction to state agencies on how to file their administrative rules in the online administrative rules database.

6. What impacts do these rules have on small businesses? These rules on how state agencies are to use a state online filing database have no effect on small businesses in Oregon

- (1) Not later than five years after adopting a rule, an agency shall review the rules for the purpose of determining:
 - (1) Did the rules achieve the intended effect; Yes, the new rules on how to file state agency administrative rules using the online filing system have had the intended effect.
 - (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
 - (c) Whether subsequent changes in the law require that the rules be repealed or amended; There have been no law changes that require these rules to be repealed or amended
 - (d) Whether there is continued need for the rules; Yes, there is continued need for these rules as there is still a need to give information and direction to state agencies on how to file their administrative rules in the online administrative rules database.
 - (e) What impacts the rules have on small businesses. These rules on how state agencies use a state online filing database have no effect on small businesses in Oregon

166-500-0047

Statutory Minor Correction (SMC) Filing Requirements

(1) Statutory Minor Corrections (SMC) Filings, in addition to the requirements outlined in ORS 183.335(7) and OAR 166-500-0055, must include the following components:

- (a) Filing caption;
 - (b) Rule number and rule title;
 - (c) Final rule text, which shall be clean and free from strike-throughs, underlines, or other formats showing tracked changes;
 - (d) Associated statutory authority and statutes implemented;
 - (e) Rule Summary;
 - (f) If applicable, PDF of all rule attachments containing items such as maps, seals, drawings, forms, graphs, tables, and charts. See OAR 166-500-0060.
- (2) Indicate which subsection of ORS 183.335(7) authorizes the proposed change.
- (3) Rule title changes shall be applied through a Statutory Minor Correction Filing.
- (4) An agency may file a Statutory Minor Correction Filing without first filing a Notice of Proposed Rulemaking Filing.

Statutory/Other Authority: ORS 183.360

Statutes/Other Implemented: ORS 183.360 & ORS 183.355

166-500-0060

Attachments to Rule

Attachments for Notice of Proposed Rulemaking, Permanent, Statutory Minor Correction and Temporary Filings, must meet the following guidelines:

- (1) Attachments include items such as maps, seals, drawings, forms, graphs, tables, and charts. Agencies shall attach a PDF file that includes all the associated documents not included in the rule text.

(2) All attachments must be contained in one PDF per rule.

(3) To keep an attachment within a rule, the agency must attach a PDF each time that rule is submitted with a filing. If a PDF is not attached, the item will not continue to be part of the rule and will not be posted online.

(4) The File name must be the rule number. For example: 166-500-0060.pdf.

(5) The agency must upload the PDF file to OARD at the time of filing. Attachments will not be added, removed or altered without a filing.

Statutory/Other Authority: ORS 183.360

Statutes/Other Implemented: ORS 183.360 & ORS 183.355

166-500-0070

Deadline Day and the Oregon Bulletin Schedule

(1) **Deadline day** is the last day to submit filings through OARD, for possible inclusion in the Oregon Bulletin.

(2) To be included in the upcoming month's Bulletin, all filings must:

(a) Be submitted by 11:59 p.m. on the last day of the current month;

(b) Be reviewed and published by the Publications Unit; and

(c) Comply with filing requirements outlined in OAR 166-500 and ORS Chapter 183.

(3) The Publications Unit review times will vary based on filing volume and staff availability. Agencies are advised to submit their filings at least five business days prior to their desired publication month.

(4) The Publications Unit will only publish filings that the Publications Unit determines comply with OAR 166-500 and ORS 183. Published Filings are the official record retained by the Oregon State Archives.

(5) **Correcting Filings:** The Publications Unit will return filings requiring corrections to Rules Coordinators through OARD. The process for corrections is as follows:

(a) Agencies will be notified through OARD that a filing has been returned. The agency is responsible for monitoring OARD to check status, correct and resubmit filings.

(b) Agencies must submit corrected filings through OARD within two business days.

(c) If a filing is pending corrections on the first of the month, the Publications Unit will not include the filing in the current Oregon Bulletin. Once necessary corrections are resubmitted, reviewed, and published, the filing will be included in the next Oregon Bulletin.

(d) If an agency has not corrected a filing within the allotted time, the Publications Unit will void the filing.

Statutory/Other Authority: ORS 183.360

Statutes/Other Implemented: ORS 183.360 & ORS 183.355

2022 Five-Year Rule Review

January 1, 2023



*Prepared by
Oregon Department of State Lands*

Introduction

ORS 183.405 requires state agencies to review all administrative rules adopted five years prior, with the purpose of analyzing the impacts of each rule. Specifically, the report must determine:

- Whether the rule had the intended effect;
- Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- Whether subsequent changes in the law require that the rule be repealed or amended;
- Whether there is continued need for the rule; and
- What impacts the rule has had on small businesses.

In this report, the Oregon Department of State Lands (DSL) is submitting rule reviews for rules adopted between 2016 and 2017. The Department did not submit a review in 2021 due to a lack of staffing and is submitting the review as part of the 2022 report.

The final report will be sent to the Small Business Rules Advisory Committee, to any rule advisory committee that aided in the adoption of a rule subject to review, and to the Secretary of State for inclusion in the comprehensive report to the Oregon Legislative Assembly.

Exemptions

Under ORS 183.405(5) & (6), this rule review does not apply to the amendment or repeal of a rule, rules adopted to implement court orders or the settlement of civil proceedings, rules that adopt federal laws or rules by reference, rules adopted to implement legislatively approved fee charges, or rules adopted to correct errors or omissions.

Rule Reviews

Between 2016 and 2017, the Department adopted six sets of rules subject to review.

Rule(s)	Adopted
141-068-0000, -0010, -0020, -0030, -0040, -0050, -0060, -0070, -0080, -0090, -0100, -0110, -0120, -0130, -0140	May 13, 2016
141-082-0311, -0312, -0313, -0314	November 3, 2016
141-093-0250, -0255, -0260, -0265, -0270, -0275, -0280	July 15, 2016
141-093-0285, -0290, -0295, -0300, -0305, -0310	December 28, 2017
141-140-0045, -0095, -0105, -0115	December 28, 2017
141-141-0100, -0110, -0120, -0130, -0140, -0150, -0160	June 15, 2017

ok

Division Name: Identification, Notification, Sale and Exchange, Clearing Title, or Reservation of Historically Filled Lands, and Approval to Create, Sell, Exchange or Reserve New Lands

Rule Numbers: 141-068-0000, -0010, -0020, -0030, -0040, -0050, -0060, -0070, -0080, -0090, -0100, -0110, -0120, -0130, -0140

Program Area: State Owned Land

Adoption Date: May 13, 2016

Review Due Date:

October 7, 2022

Review Date:

October 5, 2022

Reviewer's Name:

Blake Helm & Chris Castelli

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Chris Hathaway	Deputy Director; Lower Columbia Estuary Partnership
Chuck Bennett	Confederation of Oregon School Administrators
Dave Hunnicutt	President; Oregonians in Action
Jim Green	Oregon School Boards Association
Joy Vaughan	Land and Water Use Coordinator; Oregon Department of Fish and Wildlife
Mark Nystrom	Association of Oregon Counties
Martha Pagel	Attorney; Schwabe, Williamson, & Wyatt
Mary Anne Nash	Oregon Farm Bureau
Paula Miranda	Deputy Executive Director; Port of St. Helens
Rodger Craddock	City Manager, City of Coos Bay

ORS 183.405 Questions

1) Did the rules have the intended effect?

Yes AND No

The Identification, Notification, and State Land Board declaration processes are not working as planned and are not having the intended effect; the administrative process is time intensive given the resources allocated. The land sale application and sale process are working and in line with the Department's other administrative rules, as is the process for attaining permission to create new lands.

2) Was the anticipated fiscal impact overestimated or underestimated?

Overestimated Underestimated Neither overestimated nor underestimated

The equipment, supplies, labor, and increased administrative costs were underestimated; the historical research, technical GIS work, multiple notification and public engagement process exceeded the expectations of the Department.

- 3) Have there been any subsequent changes in law that require the rules be amended or repealed?
 Yes No

Explanation (if yes):

- 4) Is there continued need for these rules?
 Yes No

Explanation: Statutes still exist. After utilizing these rules, the Department recommends amending the rule language to better implement existing statutes.

- 5) What impacts have these rules had on small businesses, if any? To date, the Department has not witnessed or received any indication that the rules have impacted small businesses.

Additional Comments:

The Department is evaluating the effectiveness of the statutes (ORS 274.905 – 274.940), along with these administrative rules (OAR 141-068), and is considering recommendations for improving the process as it is currently written.

Division Name: Rules Governing the Management of, and Issuing of Leases, Licenses and Registrations for Structures on, and Uses of State-Owned Submerged and Submersible Land

Rule Numbers: 141-082-0311, -0312, -0313, -0314

Program Area: State Owned Waterways

Adoption Date: November 3, 2016

Review Due Date:

October 7, 2022

Review Date:

October 5, 2022

Reviewer's Name:

Blake Helm

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
LeAnn Bailey	Petitioner; Marine Salvage Consortium
Ronald Hahn	Waterway Lessees; Pelican Marina
Betsy Johnson	Senator; Oregon Legislature
Mark Landauer	Oregon Public Ports Association
Than Monk	Public-at-Large
Charlie Plybon	Public-at-Large
Tricia Smith	Beneficiaries; Oregon School Employees Association
Stan Tonneson	Waterway Lessees; Waterfront Organizations of Oregon

ORS 183.405 Questions

1) Did the rules have the intended effect?

Yes No

These rules describe the Submerged Lands Enhancement Fund and how moneys may be used, including providing funding to qualified third parties through a grant program, for management activities on state owned submerged or submersible land.

2) Was the anticipated fiscal impact overestimated or underestimated?

Overestimated Underestimated Neither overestimated nor underestimated

The Department did not originally anticipate a significant fiscal impact and, to date, has not seen one.

3) Have there been any subsequent changes in law that require the rules be amended or repealed?

Yes No

Explanation (if yes):

4) Is there continued need for these rules?

Yes No

Explanation: Statute is still in place and the Department has successfully managed two separate grant cycles, distributing over \$200K for waterway enhancement projects.

5) What impacts have these rules had on small businesses, if any? To date, the Department has not witnessed or received any indication that the rule has impacted small businesses.

Additional Comments:

Awardee	Funds Awarded	Project Type
Willamette Riverkeeper	\$ 25,628.00	Waterway enhancement
City of Coquille	\$ 45,000.00	Boat ramp and dock replacement
Lower Columbia River Estuary Partnership	\$22,930.95	Marine debris removal
North Clackamas Watershed Council	\$101,170.00	Waterway enhancement
City of Umatilla	\$56,352.00	Abandoned and derelict vessel removal
South Slough National Estuary Research Reserve	\$15,000.00	Abandoned and derelict vessel removal
Total Funds Awarded:	\$266,134.95	

Division Name: Administrative Rules Governing the Issuance and Enforcement of General Permits within Waters of this State

Rule Numbers: 141-093-0250, -0255, -0260, -0265, -0270, -0275, -0280

Program Area: Removal-Fill Permits

Adoption Date: July 15, 2016

Review Due Date:

October 7, 2022

Review Date:

October 2, 2022

Reviewer's Name:

Bethany Harrington

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Emily Ackland	County Road Program Manager; Association of Oregon Counties
Doug Baer	Environmental & Grants Coordinator; Oregon State Marine Board
Sara Christensen	Water Quality Certification Program Manager; Oregon Department of Environmental Quality
Richard Dybevik	Operations Manager; Roseburg Forest Products
Mark Freeman	Ports Coordinator; Business Oregon-Infrastructure Finance Authority
Rick Fuller	Director of Operations; Port of Newport
Jeff Griffin	Regional Solutions Coordinator; Governor's Office
Erin Hale	Senior Environmental Scientist; AMEC Environment & Infrastructure
Betsy Johnson	Senator; Oregon Legislature
Jim Knight	Executive Director; Port of Astoria
Steve Leskin	Project Manager; Port of Bandon
Denise Lofman	Director; Columbia River Estuary Study Taskforce
Joy Vaughan	Land and Water Use Coordinator; Oregon Department of Fish & Wildlife

ORS 183.405 Questions

1) Did the rules have the intended effect?

Yes No

The rules have had the intended effect in that most applicants have been ports and marinas.

2) Was the anticipated fiscal impact overestimated or underestimated?

Overestimated Underestimated Neither overestimated nor underestimated

3) Have there been any subsequent changes in law that require the rules be amended or repealed?

Yes No

Explanation (if yes):

4) Is there continued need for these rules?

Yes No

Explanation: There is a continued need for these rules as there have been 10 general permits for maintenance dredging since the rules were adopted.

5) What impacts have these rules had on small businesses, if any?

No noticeable impacts have been observed on small businesses.

Additional Comments:

Division Name: Administrative Rules Governing the Issuance and Enforcement of General Permits within Waters of this State

Rule Numbers: 141-093-0285, -0290, -0295, -0300, -0305, -0310

Program Area: Removal-Fill Permits

Adoption Date: December 28, 2017

Review Due Date:
October 7, 2022

Review Date:
October 2, 2022

Reviewer's Name:
Bethany Harrington

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Jason Busch	Oregon Wave Energy Trust
Walter Chuck	Port of Newport
Nick Edwards	Commercial Fisherman
Robin Hartmann	Oregon Shores Conservation Coalition
Laurel Hillman	Oregon Parks and Recreation Department
Onno Husing	Lincoln County
Delia Kelly	Oregon Department of Fish and Wildlife
Justin Klure	Pacific Energy Ventures
Andy Lanier	Oregon Department of Land Conservation and Development
Hugh Link	Oregon Dungeness Crab Commission
Joanne Manson	Oregon Military Department-Master Planner
Scott McMullen	Oregon Fisherman's Cable Committee
Charlie Plybon	Surfrider Foundation
Keith Tymchuk	Former Mayor City of Reedsport, Port of Umpqua Commissioner, Regional Solutions Convener
Richard Williams	Leidos

ORS 183.405 Questions

1) Did the rules have the intended effect?

Yes No

2) Was the anticipated fiscal impact overestimated or underestimated?

Overestimated Underestimated Neither overestimated nor underestimated

- 3) Have there been any subsequent changes in law that require the rules be amended or repealed?
 Yes No

Explanation (if yes):

- 4) Is there continued need for these rules?
 Yes No

Explanation: This General Permit authorizes the placement and removal of certain ocean renewable energy facilities for research or demonstration projects in the territorial sea for a limited duration.

- 5) What impacts have these rules had on small businesses, if any?
No noticeable impacts have been observed on small businesses.

Additional Comments:

This General Permit has not been widely used so the success of this rulemaking effort is not known at this time. More time is needed to address its need and any impacts on small businesses.

In addition, House Bill 3375 was signed into law on June 23, 2021, setting a goal for the development of up to three gigawatts of floating offshore wind energy projects by 2030.

Rule/Division Name: Rules Governing the Placement of Ocean Energy Conversion Devices On, In or Over State-Owned Land within the Territorial Sea

Rule Numbers: 141-140-0045, -0095, -0105, -0115

Program Area: State Owned Waterways

Adoption Date: December 28, 2017

Review Due Date:

October 7, 2022

Review Date:

October 6, 2022

Reviewer's Name:

Blake Helm

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Jason Busch	Oregon Wave Energy Trust
Walter Chuck	Port of Newport
Nick Edwards	Commercial Fisherman
Robin Hartmann	Oregon Shores Conservation Coalition
Laurel Hillman	Oregon Parks and Recreation Department
Onno Husing	Lincoln County
Delia Kelly	Oregon Department of Fish and Wildlife
Justin Klure	Pacific Energy Ventures
Andy Lanier	Oregon Department of Land Conservation and Development
Hugh Link	Oregon Dungeness Crab Commission
Joanne Manson	Oregon Military Department-Master Planner
Scott McMullen	Oregon Fisherman's Cable Committee
Charlie Plybon	Surfrider Foundation
Keith Tymchuk	Former Mayor City of Reedsport, Port of Umpqua Commissioner, Regional Solutions Convener
Richard Williams	Leidos

ORS 183.405 Questions

1) Did the rules have the intended effect?

Yes No Unsure

The renewable wave energy industry is still in the beginning and testing phases, with most work and research done at upland facilities or in other waters outside of Oregon's jurisdiction. It is difficult to determine if the rule has had the intended effect as the Department has, to date, only utilized these rules a handful of times and doesn't anticipate using these rules in earnest for another 5 or 10 years.

2) Was the anticipated fiscal impact overestimated or underestimated?

Overestimated Underestimated Neither overestimated nor underestimated

Only 6 applications have been processed or received under these rules making it difficult to determine if the fiscal impact was overestimated or underestimated. However, the application fees and compensation are in line with federal regulations and the Department believes they should adequately recover administrative costs.

3) Have there been any subsequent changes in law that require the rules be amended or repealed?

Yes No

Explanation (if yes):

4) Is there continued need for these rules?

Yes No

Explanation: The statute is still in place and there is continued interest in renewable energy in Oregon's Territorial Sea.

5) What impacts have these rules had on small businesses, if any? To date, the Department has not witnessed or received any indication that the rule has impacted small businesses.

Additional Comments:

Rule/Division Name: Rules Governing the Oregon Ocean Science Trust

Rule Numbers: 141-141-0100, -0110, -0120, -0130, -0140, -0150, -0160

Program Area: State Owned Waterways

Adoption Date: June 15, 2017

Review Due Date:
October 14, 2022

Review Date:
October 12, 2022

Reviewer's Name:
Allison Daniel

Rule Advisory Committee Used

Rule Advisory Committee Not Used

Name	Affiliation
Heather Chase Alexander	National Fish and Wildlife Foundation
Bob Bailey	Retired; Oregon Department of Land Conservation and Development Coastal Program
Jena Carter	The Nature Conservancy
Laura Tesler	Oregon Department of Fish and Wildlife
Nancy Pustis	Oregon Department of State Lands
Louise Solliday	OST Executive Director
Shelby Walker	Oregon Sea Grant

ORS 183.405 Questions

1) Did the rules have the intended effect?

Yes No

2) Was the anticipated fiscal impact overestimated or underestimated?

Overestimated Underestimated Neither overestimated nor underestimated

3) Have there been any subsequent changes in law that require the rules be amended or repealed?

Yes No

Explanation (if yes):

4) Is there continued need for these rules?

Yes No

Explanation: Yes, to continue allowing for a competitive grants process and to clarify OOST's authority and the parameters for entering into formal agreements.

5) What impacts have these rules had on small businesses, if any? No impacts to small businesses.

Additional Comments:



Oregon

Kate Brown, Governor

TEACHER STANDARDS AND PRACTICES COMMISSION

250 Division Street N.E. Salem, OR 97301

Phone: (503) 378.3586

Fax: (503) 378.3758

February 14, 2022

TO: Administrative Rules, Secretary of State

FROM: Tom Wrosch, Administrative Rules Coordinator, Teacher Standards and Practices Commission

RE: 2021 Five Year New OAR Review

ORS 183.405 requires state agencies to review new administrative rules after five years and report to the Secretary of State.

Rules Adopted in 2016

Teacher License Redesign

Criminal Background Check: 584-050-0150.

Teaching Licenses: 584-200-0005, 584-200-0010, 584-200-0020, 584-200-0030, 584-200-0040, 584-200-0050, 584-200-0060, 584-200-0070, 584-200-0080, 584-200-0090, 584-200-0100, 584-210-0165.

Teaching License Specializations: 584-225-0010, 584-225-0020, 584-225-0030, 584-225-0040, 584-225-0050, 584-225-0070, 584-225-0090, 584-225-0100.

State Standards for Educator Preparation: 584-017-1100, 584-420-0010, 584-420-0020, 584-420-0030, 584-420-0040, 584-420-0300, 584-420-0310, 584-420-0345, 584-420-0360, 584-420-0365, 584-420-0375, 584-420-0390, 584-420-0415, 584-420-0420, 584-420-0425, 584-420-0440, 584-420-0460, 584-420-0475, 584-420-0490, 584-420-0600, 584-420-0610, 584-420-0620, 584-420-0630, 584-420-0640, 584-420-0650, 584-420-0660.

As a result of the work of stakeholders and commissioners, TSPC finalized the redesign of the teaching license system in 2015 to simplify educator career paths and make license issuance more efficient. This work has become the foundation of the licensing process in the state and informs every teaching license and endorsement decision. In 2016, this work was extended to the application process, teacher license specializations, and educator preparation standards.

1. Did the rule have the intended effect?

Yes, the rules simplified the process enough that it enabled electronic licensing, speeding the application process and improving data collection and retention.



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2. Was the anticipated fiscal impact underestimated or overestimated?
No; there was no fiscal impact anticipated and none occurred.
3. Did subsequent changes in the law require the rule be repealed or amended?
Yes, most rules have been amended over the years to clarify the requirements or adjust to statutory change.
4. Is there a continued need for the rule?
Yes. Although, some legacy license types may be discontinued at some point, the license redesign is the foundation of the majority of work that TSPC is required by statute to carry out.

Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Was the anticipated fiscal impact under/over estimated?	Did subsequent changes in the law require the rule be repealed or amended?
017-1100	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 7/1/2017; Repealed rule and moved it to new division 400 4/17/2018
050-0150	Teacher License Redesign	3/1/2016	Yes.	N/A	None
070-0510	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 6/20/2018; repealed and moved to new division 245 11/15/2021
200-0005	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 11/15/2017; 06/20/2018; 02/25/2019; 01/03/2022



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Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Was the anticipated fiscal impact under/over estimated?	Did subsequent changes in the law require the rule be repealed or amended?
200-0010	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 04/12/2017
200-0020	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 11/15/2017
200-0030	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 11/15/2017; 04/17/2018; 12/04/2018
200-0040	Teacher License Redesign	3/1/2016	Yes.	N/A	None
200-0050	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 4/12/2017; 06/20/2018; 12/01/2019; 11/10/2021
200-0060	Teacher License Redesign	3/1/2016	Yes.	N/A	None
200-0070	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 11/15/2017
200-0080	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 11/10/2021
200-0090	Teacher License Redesign	3/1/2016	Yes.	N/A	None
200-0100	Teacher License Redesign	3/1/2016	Yes.	N/A	None



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Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Was the anticipated fiscal impact under/over estimated?	Did subsequent changes in the law require the rule be repealed or amended?
210-0165	Teacher License Redesign	3/1/2016	Yes.	N/A	None
225-0010	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 11/15/2017
225-0020	Teacher License Redesign	3/1/2016	Yes.	N/A	None
225-0030	Teacher License Redesign	3/1/2016	Yes.	N/A	None
225-0040	Teacher License Redesign	3/1/2016	Yes.	N/A	None
225-0050	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017; 11/15/2017
225-0070	Teacher License Redesign	3/1/2016	Yes.	N/A	None
225-0090	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 12/04/2018
225-0100	Teacher License Redesign	3/1/2016	Yes.	N/A	None
420-0010	Teacher License Redesign	3/1/2016	Yes.	N/A	Repealed 04/17/2018



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Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Was the anticipated fiscal impact under/over estimated?	Did subsequent changes in the law require the rule be repealed or amended?
420-0020	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017; 04/08/2019
420-0030	Teacher License Redesign	3/1/2016	Yes.	N/A	None
420-0040	Teacher License Redesign	3/1/2016	Yes.	N/A	None
420-0300	Teacher License Redesign	3/1/2016	Yes.	N/A	Repealed 04/12/2017
420-0310	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017
420-0345	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017
420-0360	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017
420-0365	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2018
420-0375	Teacher License Redesign	3/1/2016	Yes.	N/A	Repealed 04/12/2017
420-0390	Teacher License Redesign	3/1/2016	Yes.	N/A	Repealed 04/12/2017



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Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Was the anticipated fiscal impact under/over estimated?	Did subsequent changes in the law require the rule be repealed or amended?
420-0415	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017
420-0420	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017
420-0425	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017
420-0440	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017
420-0460	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017
420-0475	Teacher License Redesign	3/1/2016	Yes.	N/A	None
420-0490	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017
420-0600	Teacher License Redesign	3/1/2016	Yes.	N/A	None
420-0610	Teacher License Redesign	3/1/2016	Yes.	N/A	None
420-0620	Teacher License Redesign	3/1/2016	Yes.	N/A	None



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Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Was the anticipated fiscal impact under/over estimated?	Did subsequent changes in the law require the rule be repealed or amended?
420-0630	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 2/1/2017; 12/4/2018
420-0640	Teacher License Redesign	3/1/2016	Yes.	N/A	None
420-0650	Teacher License Redesign	3/1/2016	Yes.	N/A	Amended 12/04/2018
420-0660	Teacher License Redesign	3/1/2016	Yes.	N/A	None

**Oregon Department of Human Services (ODHS)
Five Year Rule Review
ORS 183.405**

Rule Name: Child-in-Care Abuse Investigations

Rule Number(s):

- 407-045-0825, Screening Reports of Abuse.
- 407-045-0885, Investigating Reports of Abuse.
- 407-045-0886, Exception to Completing Investigation.
- 407-045-0887, Abuse Determination.
- 407-045-0895, Cross Reporting and Notifications.
- 407-045-0955, Confidentiality.

Program Area: Office of Training, Investigations and Safety (OTIS)

Adoption Date: December 1, 2016



Review Due Date:

2022



Review Date:

May 2022

Reviewer's Names:

Michelle Pfeiffer and
Tina Strahan



X*Advisory Committee Used

Committee Members	Contact Information (Email)
Janet Arenz Oregon Alliance of Children's Programs	janet@oregonalliance.org
Susan Boldt Kairos	sboldt@kairosnw.org
Diane Brandsma Salvation Army	Diane.Brandsmas@USW.SalvationArmy.org
Kyle Deets Catholic Community Services	kdeets@ccswv.org
Holly Hetrick	hhetrick@cyfs.net

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Margie MacLeod Morrison Child & Family Services	margaret.macleod@morrisonkids.org
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Peter Rosenblatt Albertina Kerr	PeterR@albertinakerr.org
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Mark Siegel Oregon Federation of Independent Schools	marks@ofisweb.org
Cindy Smith Trillium	csmith@trilliumfamily.org
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Carrie Wouda OHA	carrie.wouda@state.or.us

What was the intended effect of the rules adopted?
 To implement and comply with SB 1515 (2016) the Office of Adult Abuse Prevention and Investigations (OAAP) now known as the Office of Training,

Investigations and Safety (OTIS) restructured OAR 407-045-0800 to 407-045-0980:

407-045-0825 Established process for screeners when allegations of “abuse” (new terms defined) of a “child in care” (includes young adults up to the age of 21) are received in certain child-caring settings.

407-045-0885 Established new requirements for investigators when allegations of abuse are assigned.

407-045-0886 Described conditions when an assigned investigation may be closed; if opened in error or there is no abuse alleged.

407-045-0887 Defined the investigation outcome by a “reasonable cause to believe” standard for the new “abuse” terms defined, with required ODHS personnel notified of founded child abuses.

407-045-0895 Described new notifications to other agencies for collaboration and information sharing.

407-045-0955 Aligned the OAAPI/OTIS confidentiality rules with Child Welfare.

<p>X Yes</p>	<p>Has the rule had the intended effect? These rules continued to be amended as needed by legislative adjustments to these new laws for children in care, Department policy decisions, and alignment of operations with Child Welfare.</p>
<p>X No</p>	<p>Was the anticipated fiscal impact of the rule underestimated?</p>
<p>X No</p>	<p>Was the anticipated fiscal impact of the rule overestimated? These rules impact the costs to the Department’s OAAPI/OTIS as part of shared services with Child Welfare by service level agreement. Indeterminate at adoption with a legislative budget approved as part of the Act, due to expected increased costs with screening and investigating additional abuse terms defined. Additional resources provided related to legislations the following years (2017 through 2021) and budget rebalances due to Department leadership policy decisions, as OTIS responsibilities increased with additional providers and children in care defined, subject to these rules.</p>

	<p>The fiscal impact to CCA providers could not be estimated at the adoption of these rules and cannot be estimated at this five-year review.</p>
<p>X Yes</p>	<p>Have subsequent changes in the law required the rule to be repealed or amended?</p> <p>2017: <u>DHSD 8-2017 & DHSD 14-2017</u>, effective 7-17-2017 for HB 2903 (2017, OL Ch. 138) related to using the term respondent, prohibiting term "alleged perpetrator."</p> <p><u>DHSD 17-2017</u>, effective 1-1-2018 for SB 243 (2017, OL Ch. 733), expanded definition of "child in care" to include certified child foster homes and developmental disabilities residential facilities; SB 244 (2017, OL Ch. 448) established new notification requirements regarding reports of abuse of child in care; SB 245 (2017, OL Ch. 244) modified definitions of "child" and "child-caring agency."</p> <p><u>DHSD 14-2018</u>, effective 6-30-2018, further revised the Screening rule in 0825 to 2017 legislations and alignment with Child Welfare CPS. This rule was amended to initial screening activities around gathering info and preliminary inquiries, with 3 new rule sections adopted (0835, 0845, 0855). Also the abuse determinations rule in 0887 was revised to comply with SB 942 (2017), related to Child Welfare ORS 419B.026.</p> <p>2019: SB 181 (OL 2019, Chapter 513), modified the definition of "child-caring agency" to include county programs that provide care or services to children in custody of ODHS or Oregon Youth Authority; and SB 171 (OL 2019, Chapter 619, Section 13a) resulted in amendments to rules 0885 and 0955, for county programs [<u>DHSD 35-2019</u>, effective 1-1-2020].</p> <p>2020: <u>DHS 1-2020</u> (temp) & <u>DHS 4-2020</u> (perm), revised rule 0887 to include ODDS Host Homes, effective 1-17-2020.</p> <p>2021: <u>DHS 19-2021</u> (temp) & <u>DHS 4-2022</u>, (perm), amended the definitions of involuntary seclusion and wrongful restraint due to 2021 SB 710 for 407-046-0170 (renumber of 0887).</p> <p>The Department also made the following policy decisions:</p> <ul style="list-style-type: none"> • <u>DHSD 17-2017 & DHSD 7-2018</u>, revised notifications in 0895 to all required after an investigation, including initial notice to respondents for

	<p>determination of substantiated or inconclusive, as of 1-1-2018 (temp) and 4-28-2018 (perm).</p> <ul style="list-style-type: none"> • <u>DHSD 22-2018 & DHSD 29-2018</u> revised the OAAPI substantiated abuse review process for rule 0895 as of 7-10-2018 (temp) and 11-1-2018 (perm). • <u>DHSD 5-2019 & DHSD 13-2019</u>, revised due process to a contested case hearing as of 3-1-2019 (temp) and 8-1-2019 (perm). • Child foster homes regulated by ODHS ODDS were added to these rules, <u>DHS 2-2021</u> effective 3-1-2021. • These adopted rules were renumbered to its own Division 46 in OAR Chapter 407, <u>DHS 9-2021</u>, effective 7-1-2021: <ul style="list-style-type: none"> ○ 0825 (renumbered to OAR 407-046-0120). ○ 0885 (renumbered to OAR 407-046-0150). ○ 0886 (renumbered to OAR 407-046-0160). ○ 0887 (renumbered to OAR 407-046-0170). ○ 0895 (renumbered to OAR 407-046-0190). ○ 0955 (renumbered to OAR 407-046-0200).
<p>X Yes</p>	<p>Is there a continued need for the rules? OTIS continues to provide services to Child Welfare related to child abuse by professionals and in certain settings.</p>
	<p>What impact has the rule had on small businesses? The adopted rules did not place additional requirements on child-caring agencies and assisted in communications and transparency with providers who may be small businesses.</p>

Additional Comments: None.

Report approved by: Michelle Pfeiffer

6/6/2022

Date report sent to advisory committee members:

6/6/2022



OREGON LOTTERY®

ORS 183.405 Five Year Rule Review Report

Rule Number and Title:

OAR 177-099-0105, Bulls-Eye Option

Original Adoption Date/History of Amendments:

Adopted on 5/21/17 and never amended.

Advisory Committee Used?

Yes No

If yes, identify members and provide members with a copy of this completed report.

1. Did the rule achieve its intended effect?

Yes No

a. What was the intended effect?

The intended effect of this rule was to authorize a new game feature in Keno and Special Keno called the Bulls-Eye Option. The rule explains the feature, the cost, and how to win, and provides its own prize structure within the rule. The rule provides a detailed explanation of the various circumstances under which the prize amount varies or becomes pari-mutuel, etc.

b. How did the rule succeed or fail in achieving this effect?

The rule has supported the successful offering of the Bulls-Eye Option since it was adopted. This is currently a feature offered by the Lottery and the option is popular with players.

2. The fiscal impact statement was: (Check One)

Underestimated Overestimated
 Just about right Unknown

a. What was the estimated fiscal impact?

The Lottery had estimated no fiscal impact except that the enhanced game feature may result in increased sales for the Lottery, which in turn provides additional revenue for state agencies and units of local government who benefit from Lottery revenue. The Lottery also estimated possible increased revenue to Lottery Keno retailers, many of whom are small businesses as defined in the Administrative Procedures Act. However, the Lottery was unable to provide any estimates of the possible fiscal impact just because it would depend on how much the enhanced feature increased player interest and sales in Keno generally, which the Lottery did not have enough data to make an estimate.

b. What was the actual fiscal impact?

The bulls-eye option resulted in increased sales after the initial launch, but that increase has not sustained over time. But Keno remains a profitable product with a small core of devoted players, resulting in commissions to retailers and transfers to the state for public programs that receive lottery revenue. Below, we've provided annual Keno sales over time, showing changes from launch of Bulls-eye feature. Also attached see a report on the sales impact of the feature.

- 2016 (prior to Bulls-eye feature) \$95,276,505
- 2017 \$101,075,458 (after launch of Bulls-eye feature)
- 2018 \$103,648,020
- 2019 \$102,413,713
- 2020 \$92,959,000
- 2021 \$98,763,901

c. If the answer to question two is unknown, briefly explain why:

N/A.

3. Have subsequent changes in the law required the rule to be repealed or amended?

Yes No

4. Is the rule still needed?

Yes No

5. What impacts has the rule had on small businesses?

There are about 3,200 retailers that offer Keno. Lottery does not have sufficient information to say how many of these retailers are small businesses, but in Lottery's experience, most, but not all, are small businesses. These businesses earn eight percent sales commissions on their Keno sales. So, for example, in 2021, Lottery paid around \$790,000 in commissions to retailers based on Keno sales.

6. Personal certification.

I certify that the Lottery has reviewed these rules and answered all questions on this form truthfully and to the best of my knowledge in consultation with subject matter experts.

Kris Skaro

Kris Skaro, rules and policy analyst

6/3/22

Date

Attached (click paperclip to open in PDF): Keno sales report 2017

Rule number(s): [OAR 416-435-0010](#), [416-435-0020](#), [416-435-0030](#), [416-435-0040](#), [416-435-0050](#)

Date adopted: 12/22/2017

Date reviewed: 12/22/2022

Advisory committee used? No

1. Did the rule achieve its intended effect? Yes

a. What was the intended effect?

The rules were to establish standards for the identification, assessment, review, and case-by-case management of transgender, gender diverse, gender fluid, and intersex youth in OYA custody.

b. How did the rule succeed or fail in achieving this effect? The rules did establish standards for the identification, assessment, review, and case-by-case management of transgender, gender diverse, gender fluid, and intersex youth in OYA custody.

2. Was the fiscal impact statement (check one): Underestimated or Overestimated or Just about right or Unknown

a. What was the estimated fiscal impact?

b. What was the actual fiscal impact?

c. If the answer to question 2 is unknown, briefly explain why.

Caring for youth in custody is fiscally within OYA's operating budget.

3. Have subsequent changes in the law required the rule be repealed or amended?

No, but amendments have occurred since the rule's initial adoption.

4. Is the rule still needed?

Yes. The rules are still needed to provide specific standards for the identification, assessment, review, and case-by-case management of transgender, gender diverse, gender fluid, and intersex youth in OYA custody.

5. What impacts does the rule have on small businesses?

There does not appear to be an impact on small businesses as the rule affects agency operations and individual youth in custody.

Department of Consumer and Business Services
Workers' Compensation Division
Five-year Administrative Rule Review

Rule division name and rule numbers:

- OAR chapter 436, division 015, Managed Care Organizations
 - Rule 0037 MCO-Insurer Contracts
 - Rule 0065 Monitoring and Auditing

Date adopted: March 13, 2018

Date reviewed: Dec. 13, 2022

Advisory Committee Used: Yes

The advisory committee met on July 25, 2017, and Nov. 27, 2017. Review relevant to this report occurred at the July meeting.

1. Did the rule achieve its intended effect? Unknown

Rule 0037 and rule 0065 were adopted to support some reorganization of division 015, and the revisions to the reorganized content were described as “minor” in the rulemaking summaries filed with the Secretary of State:

Adopted (new) rule 0037, “MCO-Insurer Contracts,” is comprised of provisions moved in, with minor revisions, from other rules, mostly from rule 0035.
Adopted (new) rule 0065, “Monitoring and Auditing,” includes the text of repealed rule 0100, with minor wording changes.

a. What was the intended effect?

In the statement regarding the “Need for the Rule(s)” filed with the Secretary of State on 1/19/2018, one of the objectives was “to enhance clarity and understanding of the rules.”

b. How did the rule succeed or fail in achieving this effect?

Much of the content of the new rule 0037 was moved in from rule 0035, thus limiting the scope of each rule to more specific subject matter: coverage responsibility of an MCO under rule 0035, and MCO-insurer contracts under rule 0037. Rule 0065, regarding monitoring and auditing of MCOs, absorbed the content of repealed rule 0100, with only minor wording changes. Clarity and understanding may have been achieved by these revisions. However, the division does not have relevant data, and it invites advice from stakeholders on whether the objective was achieved or if more can be done to improve understanding.

2. Was the fiscal impact statement:

- Underestimated
- Overestimated
- Just about right
- Unknown

a. What was the estimated fiscal impact?

The division didn't project any fiscal impacts for these minor changes.

b. What was the actual fiscal impact?

The adopted rules were not expected to increase costs for compliance. However, the division invites input regarding any unintended effects, including effects on the cost of compliance.

c. If the answer to question 2 is unknown, briefly explain why.

Not applicable.

3. Have subsequent changes in the law required the rule be repealed or amended?

Though not based on a change to Oregon statutes or case law, rule 0037 was amended effective April 1, 2019, to require that an MCO-insurer contract must allow workers to continue to treat with their current medical service providers for at least 14 days, instead of seven days, after the mailing date of the notice of enrollment. The division did not expect this change to affect the cost of compliance, but invites input about any related costs experienced since the rule was amended.

Rule 0065 has not been revised since it was adopted.

4. Is the rule still needed? Yes

The adopted rules absorbed content from existing rules and are essential for effective application of Oregon laws affecting managed care organizations.

5. What impacts has the rule had on small businesses?

The division projected that there would be no cost-of-compliance impacts on businesses (large or small), but invites input regarding any costs or other effects experienced since the rules were adopted.

The department must review each administrative rule not later than five years after its adoption. Under ORS 183.405, the agency must determine:

- (a) Whether the rule has had the intended effect;
- (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- (c) Whether subsequent changes in the law require that the rule be repealed or amended;
- (d) Whether there is continued need for the rule; and
- (e) What impacts the rule has on small businesses.

The department must report its findings to any advisory committee appointed under ORS 183.333, to the Secretary of State, and to the Small Business Advisory Committee.



December 12, 2022

Secretary of State
Via Email

Re: Five Year Rule Review Report from the Oregon Board of Pharmacy

To Whom it May Concern:

We are pleased to submit our Annual Five-Year Rule report for rules adopted in 2017 as required pursuant to ORS 183.405. Please see the following:

OAR 855-010-0100, OAR 855-010-0110 – State & Nationwide Criminal Background Checks for Licensure , Employees, Volunteers and Employment Applicants

- Did the rule have the intended effect?
 - *Yes, this rule did have the intended effect.*
- Anticipated fiscal impact under or overestimated?
 - *Unknown*
- Subsequent changes in the law require that the rule be repealed or amended?
 - *Unknown*
- Continued need for the rule?
 - *Yes, it's in statute.*
- What impacts the rule has on small businesses?
 - *Unknown*
- Was there a Rules Advisory Committee?
 - *No*

OAR 855-010-0016 – Board Administration and Policies: Pharmacy Board Member and Public Health and Pharmacy Formulary Advisory Committee Member Compensation

- Did the rule have the intended effect?
 - *Yes, the rule did have the intended effect.*
- Anticipated fiscal impact under or overestimated?
 - *Unknown*
- Subsequent changes in the law require that the rule be repealed or amended?
 - *Ruled was amended in 2021 as a directive of 2021 HB 2992, eff. 12/16/2021.*
- Continued need for the rule?
 - *Yes, it's in statute.*

- What impacts the rule has on small businesses?
 - *Unknown*
- Was there a Rules Advisory Committee?
 - No

OAR 855-041-5050, OAR 855-041-5055 – Remote Distribution Facility – Definitions

- Did the rule have the intended effect?
 - *Unknown. At the time of this report, the agency currently has 4 registrants utilizing this license type.*
- Anticipated fiscal impact under or overestimated?
 - *Unknown*
- Subsequent changes in the law require that the rule be repealed or amended?
 - *Unknown*
- Continued need for the rule?
 - *Rules may need to be amended or repealed, unsure at this time if Remote Dispensing Site Pharmacy rules impact Remote Distribution Facility rules. The board is in the process of procedural rules review for Chapter 855 and may make future amendments to Remote Distribution Facility rules.*
- What impacts the rule has on small businesses?
 - *Unknown*
- Was there a Rules Advisory Committee?
 - *No*

OAR 855-043-0505, OAR 855-043-0510, OAR 855-043-0520, OAR 855-043-0525, OAR 855-043-0530, OAR 855-043-0535, OAR 855-043-0540, OAR 855-043-0545, OAR 855-043-0550, OAR 855-043-0560 – Dispensing Practitioner Drug Outlets (DPDO)

- Did the rule have the intended effect?
 - *Yes*
- Anticipated fiscal impact under or overestimated?
 - *Unknown*
- Subsequent changes in the law require that the rule be repealed or amended?
 - *No*
- Continued need for the rule?
 - *Yes*
- What impacts the rule has on small businesses?
 - *Unknown*
- Was there a Rules Advisory Committee?
 - *No*

OAR 855-019-0123 – Liability Limitations for Volunteers

- Did the rule have the intended effect?
 - *Yes*
- Anticipated fiscal impact under or overestimated?
 - *Unknown*
- Subsequent changes in the law require that the rule be repealed or amended?
 - *No*
- Continued need for the rule?
 - *Yes, it's in statute.*
- What impacts the rule has on small businesses?
 - *Unknown*
- Was there a Rules Advisory Committee?
 - *No*

OAR 855-041-1046 – Secure and Responsible Drug Disposal

- Did the rule have the intended effect?
 - *Yes*
- Anticipated fiscal impact under or overestimated?
 - *Unknown*
- Subsequent changes in the law require that the rule be repealed or amended?
 - *Yes. Rule was amended in 2020.*
- Continued need for the rule?
 - *Yes*
- What impacts the rule has on small businesses?
 - *Unknown*
- Was there a Rules Advisory Committee?
 - *No*

OREGON DEPARTMENT OF FISH & WILDLIFE

ORS 183.405

Review Year: January 1, 2016 through December 31, 2016

Date: January 25, 2022

Review of New Rules

Agencies must review new rules, with some exceptions, within five years of adoption. ORS 183.405. Although this requirement applies only to new rules, agencies should as a practical matter conduct an on-going review of all administrative rules to ensure that rules remain viable. Agency rules may also require periodic review of all rules.

ORS 183.405 requires agencies to review a rule not later than five years after adopting it. The requirement for review does not apply to:

- Rules already in existence as of January 1, 2006, or for which notice of proposed rule making was delivered to the Secretary of State before January 1, 2006;
- The amendment or repeal of a rule, but does apply to the adoption of new rules;
- Any rules that are required by a court order or settlement or a civil proceeding, ORS 183.405(4);
- Any rules adopting a federal law or rule by reference, ORS 183.405(5)(b);
- Any rules adopted to implement legislatively approved fee changes, ORS 183.405(5)(c); and
- Any rules adopted to correct errors or omissions, ORS 183.405(5)(d).

When an agency reviews a new rule under this provision, the agency must consider five specific factors:

1. Has the rule had its intended effect?
2. Did the agency overestimate or underestimate the rule's fiscal impact?
3. Do subsequent changes in the law require a change in the rule?
4. Does the rule continue to be necessary?
5. What impact does the rule have on small business?

Note: A YES answer to any of the above questions requires an explanation.

WILDLIFE DIVISION

Reviewed by Staff as indicated below
Reviewed by Deputy Director, Wildlife Division (Kevin Blakely)
Reviewed by Directors Office

Date Adopted	Division & Rule Number	Rule Caption	Division: Assigned Staff
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PROTECTED WILDLIFE, HOLDING, AND GAME BIRD PROPAGATING RULES

Note: In June 2016, the Wildlife Rehabilitation section was removed and placed in a new Division (62).

6-2016	635-044-0420	Definition of Terms	Rick Boatner
	635-044-0440	Capture and Holding of Wildlife	Rick Boatner
	635-044-0480	Holding of Nongame Wildlife	Rick Boatner
	635-044-0580	Disposition of Wildlife Upon License Suspension, Revocation, Nonrenewal or Denial	Rick Boatner
	635-044-0590	Control of Disease Outbreaks in Captive Wildlife	Rick Boatner

DEPARTMENT OF FISH AND WILDLIFE LANDS

6-2016	635-008-0112	Junction City Pond (Lane County)	Keith Kohl
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See Next Page for Reviews

Staff Review

Division/Rule Number	635-044-0420
Rule Name	Definition of Terms
Link to Rule	635-044-0420
Year Adopted	2016
Staff Contact & Program	Rick Boatner, Wildlife Division

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. The addition of the definitions helps clarify the understanding of the Division 44 rules

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. Definitions continue to add clarity to Division 44 rules

5. What impact does the rule have on small business?

None

Name: Rick Boatner

Date: 11/18/2021

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-044-0440
Rule Name	Capture and Holding of Wildlife
Link to Rule	635-044-0440
Year Adopted	2016
Staff Contact & Program	Rick Boatner, Wildlife Division

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?
Yes. 635-044-0440 lays out the required permits and authorizations that a person would need to be able to remove and hold native wildlife in Oregon.
2. Did the agency overestimate or underestimate the rule's fiscal impact?
No.
3. Do subsequent changes in the law require a change in the rule?
No.
4. Does the rule continue to be necessary?
Yes. 635-044-0440 lays out the required permits and authorizations that a person would need to be able to remove and hold native wildlife in Oregon.
5. What impact does the rule have on small business?
None.

Name: Rick Boatner

Date: 11/18/2021

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-044-0480
Rule Name	Holding of Nongame Wildlife
Link to Rule	635-044-0480
Year Adopted	2016
Staff Contact & Program	Rick Boatner, Wildlife Division

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. 635-044-0480 informs the public of the species of wildlife determined to be demonstrably widespread, abundant, and secure and therefore can be allowed to be kept as a pet in Oregon.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. This rule lists certain species of native wildlife that could be removed from the wild and held by the general public as a pet.

5. What impact does the rule have on small business?

None.

Name: Rick Boatner

Date: 11/18/2021

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-044-0580
Rule Name	Disposition of Wildlife Upon License Suspension, Revocation, Nonrenewal or Denial
Link to Rule	635-044-0580
Year Adopted	2016
Staff Contact & Program	Rick Boatner, Wildlife Division

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?
Yes. This rule clarifies and explains the procedures for the disposition of wildlife being held under a permit or authorization if the authorization for holding wildlife is revoked.
2. Did the agency overestimate or underestimate the rule's fiscal impact?
No.
3. Do subsequent changes in the law require a change in the rule?
No.
4. Does the rule continue to be necessary?
Yes. This rule clarifies and explains the procedures for the disposition of wildlife being held under a permit or authorization if the authorization for holding wildlife is revoked.
5. What impact does the rule have on small business?
None.

Name: Rick Boatner

Date: 11/18/2021

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-044-0590
Rule Name	Control of Disease Outbreaks in Captive Wildlife
Link to Rule	635-044-0590
Year Adopted	2016
Program and Staff Contact	Rick Boatner, Wildlife Division

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. Detection and response to disease outbreaks is vital for the protection of native wildlife and humans. This rule allows the department to take immediate action for the control and eradication of a zoonotic disease outbreak.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. Detection and response to disease outbreaks is vital for the protection of native wildlife and humans. This rule allows the department to take immediate action for the control and eradication of a disease outbreak.

5. What impact does the rule have on small business?

None.

Name: Rick Boatner

Date: 11/19/21

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-008-0112
Rule Name	Junction City Pond (Lane County)
Link to Rule	635-008-0112
Year Adopted	2016
Staff Contact & Program	Keith Kohl, Wildlife Division

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?
Yes. The rules have allowed the public to use these lands in a reasonable way to make public use safe and protect ODFW lands.
2. Did the agency overestimate or underestimate the rule's fiscal impact?
No.
3. Do subsequent changes in the law require a change in the rule?
No.
4. Does the rule continue to be necessary?
Yes. ODFW lands need to be maintained for present and future generations.
5. What impact does the rule have on small business?
None.

Name: Keith Kohl

Date: 11/2/2021

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

FISH DIVISION

Reviewed by Staff as indicated below
 Reviewed by Fish Division (John North)
 Reviewed by Directors Office

Date Adopted	Division & Rule Number	Rule Caption	Division: Assigned Staff
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COMMERCIAL FISHERIES OTHER THAN SALMON OR SHELLFISH

	004-0223	Restrictions on Shared Ecosystem Component Species Applicable to All Commercial Fisheries	Troy Buell
	004-0377	Fishing Gear	Troy Buell
	004-0378	Bycatch Restrictions	Troy Buell
	004-0379	No Reduction Fishery Allowed	Greg Krutzikowsky

COMMERCIAL SHELLFISH AND MARINE INVERTEBRATE FISHERIES

	005-0263	Restrictions on Shared Ecosystem Component Species Applicable to All Commercial Fisheries	Troy Buell
	005-0931	Fishing Gear — Squid Fishery	Troy Buell
	005-0932	Bycatch Restrictions — Squid Fishery	Troy Buell
	005-0933	No Reduction Fishery Allowed — Squid Fishery	Troy Buell

COMMERCIAL FISHERIES: GEAR, LICENSES, POUNDAGE FEES, RECORDS AND REPORTS

	005-0136	License Holder Consent to Inspection	Caren Braby
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Staff Review

Division/Rule Number	635-004-0223
Rule Name	Restrictions on Shared Ecosystem Component Species Applicable to All Commercial Fisheries
Link to Rule	Oregon Secretary of State Administrative Rules
Date Adopted	12-7-16
Staff Contact & Program	Troy Buell, Marine Resources Program

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. The intent of the rule is to prevent uncontrolled development of commercial fisheries for forage fish species that are not currently targeted and are not highly managed. No such fisheries have developed since implementation of this rule.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. Absent this rule, the potential for uncontrolled development of fisheries targeting forage fish species that are otherwise not highly managed still exists.

5. What impact does the rule have on small business?

Small businesses that participate in commercial fisheries as catching vessels or processors are not allowed access to these species exceeding the limits defining directed fishing. Since no such fisheries existed at the time this rule was adopted, the impacts are limited to opportunity costs.

Name: Troy Buell

Date: 1/4/2022

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-004-0377
Rule Name	Fishing Gear
Link to Rule	Oregon Secretary of State Administrative Rules
Date Adopted	6-13-16
Staff Contact & Program	Troy Buell, Marine Resources Program

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. The rule is intended to extend rules previously adopted for the commercial sardine purse seine fisheries to commercial purse seine fisheries for other Coastal Pelagic Species (CPS; including but not limited to anchovy, herring, mackerel, and sardine) in anticipation of climate or market driven shifts in target species. Specifically, the rule is intended to:

- 1) Reduce bycatch mortality of larger fish species.
- 2) Allow commercial CPS fishing vessels to pump catch from another vessel's net in limited circumstances to reduce potential wastage from a vessel needing to release CPS from a pursed net, for example if the net entrains more squid than the catching vessel has capacity for.

Commercial fisheries for CPS other than market squid (addressed in a different rule) have not been active in recent years, but they could become so over a short time frame and these rules have the intended effect of having management measures in place in anticipation of potential rapid development commercial fisheries for CPS other than sardine or market squid.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. While commercial fisheries for CPS other than market squid have not been active in recent years, climate driven changes in species abundance and distribution, as well as changes in markets, can and have resulted in rapid shifts in target species, and this rule continues to be necessary so that management measures are in place when this happens.

5. What impact does the rule have on small business?

Small businesses that participate in or enter CPS fisheries other than market squid must purchase and install sorting grates. The rule also increases efficiency of CPS fishing vessels in limited circumstances and reduces wastage of the resource, which benefits small businesses.

Name: Troy Buell

Date: 1/4/2022

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-004-0378
Rule Name	Bycatch Restrictions
Link to Rule	Oregon Secretary of State Administrative Rules
Date Adopted	6-13-16
Staff Contact & Program	Troy Buell, Marine Resources Program

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. The rule is intended to extend rules previously adopted for the commercial sardine purse seine fisheries to commercial purse seine fisheries for other Coastal Pelagic Species (CPS; including but not limited to anchovy, herring, mackerel, and sardine) in anticipation of climate or market driven shifts in target species. Specifically, the rule is intended to reduce groundfish and salmon bycatch mortality associated with the commercial CPS fisheries. Salmon and groundfish are important target species in other commercial and sport fisheries and provide ecosystem services as prey for larger predators. Minimizing bycatch mortality to the maximum extent practicable is consistent with state and federal law and policy.

Commercial fisheries for CPS other than market squid (addressed in a different rule) have not been active in recent years, but they could become so over a short time frame and these rules have the intended effect of having management measures in place in anticipation of potential rapid development commercial fisheries for CPS other than sardine or market squid.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. While commercial fisheries for CPS other than market squid have not been active in recent years, climate driven changes in species abundance and distribution, as well as changes in markets, can and have resulted in rapid shifts in target species, and this rule continues to be necessary so that management measures are in place when this happens.

5. What impact does the rule have on small business?

Participants in commercial CPS fisheries must dedicate some labor to removing groundfish and salmon from their nets before the catch is pumped aboard the vessel. This labor cost is trivial compared to the value of CPS harvested.

Name: Troy Buell

Date: 1/4/2022

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-004-0379
Rule Name	No Reduction Fishery Allowed
Link to Rule	Oregon Secretary of State Administrative Rules
Date Adopted	6-13-16
Staff Contact & Program	Greg Krutzikowsky, Marine Resources Program

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. The rule is intended to extend rules previously adopted for the commercial sardine purse seine fisheries to commercial purse seine fisheries for other Coastal Pelagic Species (CPS; including but not limited to anchovy, herring, mackerel, and sardine) in anticipation of climate or market driven shifts in target species. Specifically, the rule is intended to optimize the use of Oregon's CPS by limiting high volume, low value product forms in the commercial fishery.

Commercial fisheries for CPS other than market squid (addressed in a different rule) have not been active in recent years, but they could become so over a short time frame and these rules have the intended effect of having management measures in place in anticipation of potential rapid development of commercial fisheries for CPS other than sardine or market squid.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. While commercial fisheries for CPS other than market squid have not been active in recent years, climate driven changes in species abundance and distribution, as well as changes in markets, can and have resulted in rapid shifts in target species, and this rule continues to be necessary so that management measures are in place when this happens.

5. What impact does the rule have on small business?

Name: Troy Buell

Date: 1/4/2022

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-005-0263
Rule Name	Restrictions on Shared Ecosystem Component Species Applicable to All Commercial Fisheries
Link to Rule	Oregon Secretary of State Administrative Rules
Date Adopted	12-7-16
Staff Contact & Program	Troy Buell, Marine Resources Program

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. The intent of the rule is to prevent uncontrolled development of commercial fisheries for forage fish species that are not currently targeted and are not highly managed. No such fisheries have developed since implementation of this rule.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. Absent this rule, the potential for uncontrolled development of fisheries targeting forage fish species that are otherwise not highly managed still exists.

5. What impact does the rule have on small business?

Small businesses that participate in commercial fisheries as catching vessels or processors are not allowed to access these species exceeding the limits defining directed fishing. Since no such fisheries existed at the time this rule was adopted, the impacts are limited to opportunity costs.

Name: Troy Buell

Date: 1/4/2022

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-005-0931
Rule Name	Fishing Gear — Squid Fishery
Link to Rule	Oregon Secretary of State Administrative Rules
Date Adopted	6-13-16
Staff Contact & Program	Troy Buell, Marine Resources Program

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. The rule is intended to allow commercial market squid fishing vessels using seine gear to pump catch from another vessel's seine net in limited circumstances to reduce potential wastage from a vessel needing to release squid from a pursed seine net, for example if the net entrains more squid than the catching vessel has capacity for. Logbook data shows the allowance has been used occasionally, as expected.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. The market squid fishery continues to be active in Oregon and the need for the rule has not changed.

5. What impact does the rule have on small business?

It increases efficiency of squid fishing vessels in limited circumstances and reduces wastage of the resource, which benefits small businesses.

Name: Troy Buell

Date: 1/4/2022

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-005-0932
Rule Name	Bycatch Restrictions — Squid Fishery
Link to Rule	Oregon Secretary of State Administrative Rules
Date Adopted	6-13-16
Staff Contact & Program	Troy Buell, Marine Resources Program

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. The rule is intended to reduce groundfish and salmon bycatch mortality associated with the commercial market squid fishery. Salmon and groundfish are important target species in other commercial and sport fisheries and provide ecosystem services as prey for larger predators. Minimizing bycatch mortality to the maximum extent practical is consistent with state and federal law and policy.

There is not valid baseline data to compare bycatch before and after this rule was implemented because the market squid fishery only became active in Oregon in 2016. However, bycatch of all species has been less than 1% of total catch in the fishery since then, and salmon and groundfish have been minor components of that bycatch.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. The market squid fishery continues to be active in Oregon and the rule is necessary to achieve management goals. Salmon and groundfish are important target species in other commercial and sport fisheries and provide ecosystem services as prey for larger predators. Minimizing bycatch mortality to the maximum extent practicable is consistent with state and federal law and policy.

5. What impact does the rule have on small business?

Participants in commercial market squid fisheries must dedicate some labor to removing groundfish and salmon from their nets before the catch is pumped aboard the vessel. This labor cost is trivial compared to the value of squid harvested. ODFW has not received any complaints regarding the cost of this rule since implementation.

Name: Troy Buell

Date: 1/4/2022

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-005-0933
Rule Name	No Reduction Fishery Allowed — Squid Fishery
Link to Rule	Oregon Secretary of State Administrative Rules
Date Adopted	6-13-16
Staff Contact & Program	Troy Buell, Marine Resources Program

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. The rule is intended to optimize the use of Oregon's market squid resource by limiting high volume, low value product forms in the commercial fishery. Market squid harvested in Oregon since 2016 have largely been processed for human consumption, with a minor amount processed for bait, and negligible amounts processed for other purposes.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. The market squid fishery continues to be active in Oregon and the need for the rule has not changed.

5. What impact does the rule have on small business?

The rule prevents processors from converting more than 10% of a market squid landing to high volume, low value product forms and requires them to market at least 90% of each landing for human consumption or bait. ODFW has not received any requests for an exemption to the 10% limit since 2016, which is allowed by the rule, indicating the limit is not having a significant negative impact on these businesses.

Name: Troy Buell

Date: 1/5/2022

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Staff Review

Division/Rule Number	635-006-0136
Rule Name	License Holder Consent to Inspection
Link to Rule	Oregon Secretary of State Administrative Rules
Date Adopted	6-13-16
Staff Contact & Program	Caren Braby, Marine Resources Program

Questions: Note: A YES answer to any of the following questions requires an explanation.

1. Has the rule had its intended effect?

Yes. Oregon State Police (OSP) observes a high compliance rate within the industry of allowing various inspections (i.e., licenses, gear, and wildlife) which provides for effective regulatory schemes across commercial fishing activities. This regulation provides consistency with the consent to inspection found in the recreational fishing and hunting regulations. Due to the high compliance rate, there has rarely been a challenge to this inspection authority since the rule was implemented.

2. Did the agency overestimate or underestimate the rule's fiscal impact?

No.

3. Do subsequent changes in the law require a change in the rule?

No.

4. Does the rule continue to be necessary?

Yes. The rule is necessary to ensure that OSP continues to have the ability to enforce commercial fishing regulations related to fishing gear, fish, license, animal, or plant life, and prevent commercial fishing license holders from circumventing regulations by refusing to consent to inspection.

5. What impact does the rule have on small business?

The rule requires small businesses that hold any commercial fishing license or permit to consent to inspection of their fishing gear, fish, or parts thereof, or license(s) for inspection on request by peace officers of the state or ODFW employees. The burden of submitting fishing gear, fish, or parts thereof, or license(s) for inspection is minimal. OSP is cognizant of the impacts inspections create on businesses and takes this into account as it conducts enforcement efforts, minimizing where feasible the overall impact to the business while still ensuring compliance and regulatory integrity.

Name: Troy Buell

Date: 1/5/2022

DIRECTOR'S OFFICE REVIEW:

Comments: None

Name: Debbie Colbert

Date: 01/25/2022

Wholesale-Retail Relations; Sale at Both Wholesale and Retail

OAR 845-013-0100

Date Adopted: 3/1/2017

Date Review Due: 2/28/2022

Date Review Completed: 1/27/2023

Advisory Committee (AC) used? Yes. The Advisory Committee meeting was held on 11/9/2016.

AC members: Danelle Romain, David Rocker, Amanda Hess

OLCC Staff:

1) **Did the rule achieve its intended effect?** Yes.

a) **What was the intended effect?**

845-013-0100 outlines some of the prohibitions that are required by the three-tier system established in statute. The amendments remove the prohibition of an employee working at both a wholesaler or manufacturer and a retail licensee or brewery-public house licensee provided the retail licensee or brewery-public house licensee does not sell or offer for sale any alcoholic beverages sold, distributed, or produced by the manufacturer, wholesaler, or brewery-public house licensee at which the employee works.

b) **How did the rule succeed or fail in achieving this effect?** It allows many more employees to be employed at the same time by both a wholesaler/manufacturer of alcoholic beverages and a retailer of alcoholic beverages.

2) **Was the fiscal impact underestimated, overestimated, just about right, or unknown?** Just about right.

a) **What was the estimated fiscal impact?**

This statement takes into account the fiscal impact on: (a) Liquor Licensees; (b) Local Government; (c) State Agencies; and (d) the Public.

(a) Liquor Licensees:

The Commission expects the proposed rule to have a positive fiscal impact on licensees, as more employees will be able to work in more than one establishment.

(b) Local Government:

The Commission expects the proposed amendments to have no impact upon local governments, as the rule does not apply to them.

(c) State Agencies:

The Commission expects the proposed rule to have no fiscal impact on outside state agencies because these rules do not apply to outside state agencies.

(d) The Public:

The Commission expects the proposed rule to have a positive fiscal impact on the public to the extent that it will increase opportunities for employees.

The Commission anticipates no new costs to comply with the proposed amendments for outside state agencies.

The Commission assumes that the majority of its licensees are small businesses. However, the Commission does not categorize its licensees, or applicants for a license, according to the size of their underlying business operations. The Commission anticipates no costs of compliance for small business, as the amendments remove the previous prohibitions.

b) **What was the actual fiscal impact?**

Unknown, but with that said, likely no negative impact.

c) **If the answer to question 2 is unknown, briefly explain why.**

OLCC doesn't not require employees of businesses with a liquor license to register with the OLCC; thus, the OLCC has no data on the actual fiscal impact.

3) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.** No.

4.) **Is the rule still needed?** Yes. **Explain:** Prior to the rule change, employees were not legally allowed to be employed at the same time by both a wholesaler/manufacturer of alcoholic beverages and a retailer of alcoholic beverages. With the rule, this situation is no longer prevented.

5.) **What, if any, is the impact on small businesses?** Unknown, but with that said, likely no negative impact.

Review Completed By:

Nicole Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	1/30/2023
Name	Signature	Title	Date

AP&P Review:

Nathan Rix	Nathan K Rix	Executive Review	1/30/2023
Name	Signature	Title	Date

Signature: 
Nathan Rix (Jan 30, 2023 10:37 PST)

Email: nathan.rix@oregon.gov

Special Events Brewery License

OAR 845-005-0412

Date Adopted: 1/1/2017

Date Review Due: 12/31/2021

Date Review Completed: 1/27/2023

Advisory Committee (AC) used? No.

1) **Did the rule achieve its intended effect?** Yes.

a) **What was the intended effect?**

To implement the revisions to ORS 471.221 (the statute that authorizes the Brewery license) brought on by the passage of House Bill 4053 during the 2016 Legislative session; specifically, to allow a Brewery licensee to obtain a special events brewery (SEB) license.

An SEB license allows a Brewery licensee to obtain a special license for events off of the licensee's annually licensed premises in order to make:

1. Retail sales of malt beverages, wine, and cider for consumption on or off the licensed premises; and
2. Retail sales of malt beverages, wine, and cider in a securely covered container (growler).

b) **How did the rule succeed or fail in achieving this effect?** It allows Brewery licensees to obtain a special license for special events off the licensee's annually licensed premises.

2) **Was the fiscal impact underestimated, overestimated, just about right, or unknown?** Just about right.

a) **What was the estimated fiscal impact?**

This statement takes into account the fiscal impact on: (a) Liquor Licensees; (b) Local Government; (c) State Agencies; and (d) the Public.

(a) Liquor Licensees:

The Commission expects the proposed rule to have a positive fiscal impact on Brewery licensees by giving them the ability to hold special events off of their annually licensed premises.

(b) Local Government:

The Commission expects the proposed rule to have both a slightly unfavorable and favorable impact. Unfavorable because Brewery licensees may file more applications with a local government; which in turn, may require more staff interaction. Favorable because ORS 471.166 allows the local government to charge a \$35 processing fee for each application.

(c) State Agencies:

The Commission expects the proposed rule to have a neutral fiscal impact on outside state agencies because these rules do not apply to outside state agencies.

(d) The Public:

The Commission expects the proposed rule to have a positive fiscal impact on the public to the extent that it will provide an increased opportunity for breweries to have events for the public to attend.

The Commission anticipates no new costs to comply with the proposed rules package for outside state agencies. However, the rule may have some record keeping increases on local governments that require permits for special events.

The Commission anticipates minimal costs of compliance to obtain a Special Events Brewery Permit.

b) **What was the actual fiscal impact?** Unknown for local governments; but as estimated for all others.

c) **If the answer to question 2 is unknown, briefly explain why.** The OLCC does not have authority over local governments to compel them to report to the OLCC; thus OLCC has no data on the actual fiscal impact to local governments.

3.) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.** No.

4.) **Is the rule still needed? Yes. Explain:** The rule is needed to continue to allow Brewery licensees to obtain an SEB.

5.) **What, if any, is the impact on small businesses?** Unknown.

Review Completed By:

Nicole Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	1/30/2023
Name	Signature	Title	Date

AP&P Review:

Nathan Rix	Nathan K Rix	Executive Review	1/30/2023
Name	Signature	Title	Date

Signature: 
Nathan Rix (Jan 30, 2023 10:36 PST)

Email: nathan.rix@oregon.gov

Remote Distiller Shipments to a Retail Sales Agent

OAR 845-015-0142

Date Adopted: 3/1/2017

Date Review Due: 2/28/2022

Date Review Completed: 1/27/2023

Advisory Committee (AC) used? Yes. The Advisory Committee meeting was held on 12/1/2016.

AC members: Brad Irwin, Christian Krogstad, Barb Moore, Ron Quinonez, Paul Romain

OLCC Staff: Graham Alderson, Brian Flemming, Bryant Haley, Will Higlin, Nikki Leslie, Steve Marks, Bill Schuette, Jesse Sweet

1) Did the rule achieve its intended effect?

- a) **What was the intended effect?** Distillery licensees were required to send their products to the OLCC Milwaukie warehouse for subsequent distribution to Retail Sales Agents. This was a particularly significant burden for remotely located distillery licensees. This rule contemplated allowing remotely located distillery licensees to ship products to local retail sales agents without first sending those products to the warehouse on a limited basis. This would be restricted to distillery licensees that ship 1 -25 cases to the Commission on a monthly basis. The stores must be within 50-mile radius of distillery. A distillery must locate at least 75 miles driving distance from the OLCC warehouse.
- b) **How did the rule succeed or fail in achieving this effect?** The rule achieved the effect by allowing for delivery from a distiller to a liquor store generally in the distillers community without having to travel to our main warehouse.

2) Was the fiscal impact underestimated, overestimated, just about right, or unknown? The estimate was little to no impact which is just about right.

- a) **What was the estimated fiscal impact?** Zero to little fiscal impact for this rule.

This statement takes into account the fiscal impact on: (a) Liquor Licensees; (b) Local Government; (c) State Agencies; and (d) the Public.

(a) Liquor Licensees:

The Commission expects the proposed rules package to have a positive fiscal impact on remotely located distillery licensees and retail sales agents. Specifically, the new rule proposes to enable remotely located distillery licensees to ship their products to their local retail sales agent without going through the Milwaukie warehouse. This will

reduce transportation costs for remotely located distillers that ship their products to the commission. The industry informed the commission that this would be very beneficial to their operations.

(b) Local Government:

The Commission expects the proposed rules package to have a neutral fiscal impact on local government because these rules do not apply to local governments.

(c) State Agencies:

The Commission expects the proposed rule to have a neutral fiscal impact on outside state agencies because these rules do not apply to outside state agencies. The Commission itself will absorb a minimal impact on processing any shipments.

(d) The Public:

The Commission anticipates that the proposed rule to have a positive fiscal impact on the public, as the public may see more availability of locally distilled spirits.

The Commission anticipated no new costs to comply with the proposed rule for outside state agencies, units of local government or members of the public because these rules do not apply to these entities and do not include any new reporting or recordkeeping requirements. Commission staff would be required to process more paper work to complete the shipments.

The Commission estimates that three distillery licensees will be able to use the new permissions in this rule to ship their wares to a local retail sales agent.

Distillery licensees and retail sales agents will be required to file minimal paper work with the Commission to complete shipments.

The proposed rule will allow for remotely located distillery licensees, who qualify, to ship products directly to a local retail sales agent. This is an optional program which will reduce transportation costs for distilleries whom so choose to partake.

b) **What was the actual fiscal impact?**

As projected above.

c) **If the answer to question 2 is unknown, briefly explain why.**

N/A

3.) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.** Currently no need to amend or repeal this rule. This rule is rarely used however allows flexibility for an Oregon distiller periodically.

4.) **Is the rule still needed? Yes. Explain:** This rule is rarely used however allows flexibility for an Oregon distiller periodically.

5.) **What, if any, is the impact on small businesses?** Little to no impact. Can be a positive impact on our smallest distillers when a liquor store in close proximity needs some product without the cases traveling along to the Milwaukie warehouse.

Review Completed By:

Nicole Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	1/30/2023
Name	Signature	Title	Date

Nathan Rix	Nathan K Rix	Executive Review	1/30/2023
Name	Signature	Title	Date

Signature: 
Nathan Rix (Jan 30, 2023 10:35 PST)

Email: nathan.rix@oregon.gov

2017 Marijuana Bill and Technical Package

Amend Division 25

Date Adopted: 12/28/2017

Date Review Due: 12/27/2022

Date Review Completed: 1/27/2023

Advisory Committee (AC) used? Yes. The Commission held three advisory committees for this rules package: 8/18/2017, 9/13/2017, and 10/4/2017.

AC members: Sally Alworth, Rob Bovett, Daniel Gevurtz, Cedar Grey, John Harbour, Jeff Hilber, Ayla Hofler, Howard Hogle, Casey Houlihan, Melissa Jackson, Sunny Jones, Devra Karlebach, Mark Kelley, Jeff Kuhns, Courtney & James Lyons, Amy Margolis, Derek McBaine, Shannon O’Fallon, Trista Okel, Christi Powell, Laura Rivero, Carla Quisenberry, Ian Shaughnessy, Geoff Sugerman, Anna Symonds, Dan Williams

OLCC Staff: Amanda Borup, Roslyn Espinosa, Bryant Haley, Danica Hibpshman, Steve Marks, Jesse Sweet

1) Did the rule achieve its intended effect? Yes

a) What was the intended effect?

The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Oregon Liquor & Cannabis Commission (OLCC), previously the Oregon Liquor Control Commission, voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845.

- Senate Bill 56
 - Allows OLCC-licensed Micro Tier I and Micro Tier II recreational marijuana producers to process marijuana into cannabinoid concentrates through specified methods.
 - Allows OLCC to restrict, suspend, or refuse to renew a license issued if the OLCC concludes the licensee has sold, stored, or transferred marijuana in a manner not permitted by their license.
 - Allows transfer of marijuana between dispensaries owned or substantially owned by the same persons.
 - Provides additional sanctioning authority for OLCC with specific findings against an applicant or licensee.
- Senate Bill 1015
 - Industrial hemp, industrial hemp concentrates and industrial hemp extracts may be transferred to processor licensees. A processor may process industrial hemp, including blending hemp and marijuana, and sell those products to retail licensees.
- Senate Bill 1057

- Provides that a licensee, under certain conditions, may transport marijuana items to and exhibit marijuana items at trade show, Oregon State Fair, or similar event.
- Directs Oregon Health Authority (OHA) to create database for sharing registry identification cardholder information with OLCC.
- Transfers duty to adopt labeling standards from OHA to OLCC.
- Requires certain medical marijuana grow sites, processors, and dispensaries to be tracked by the CTS, similar to tracking of activities conducted by licensees of commission.
- House Bill 2198
 - Allows marijuana grow sites to transfer up to 20 pounds of usable marijuana per year to a recreational marijuana processor or wholesaler if certain requirements are met.
 - Authorizes OLCC to issue an order to temporarily reduce or suspend the amount of marijuana that can be transferred into the recreational market by OMMP growers if supply exceeds customer demand and if the market will not self-correct.
 - Permits OLCC to issue restricted licenses and require mandatory training for licensees or licensee representative if it makes certain findings against the licensee or applicant.
 - Permits marijuana retailers to be placed within 1,000 feet of a school if they are not located within 500 feet of a school and the OLCC determines there is a physical or geographic barrier preventing children from accessing the marijuana retailer.
 - Directs OLCC to monitor the lawful transfer of usable marijuana.

This rulemaking package sought to adopt the legislative changes, as well as technical amendments/changes made by the Commission in response to issues that arose within the market.

As a result, the Oregon Liquor & Cannabis Commission amended the following rules:

- **845-025-1015** - Definitions
- **845-025-1030** - Application Process
- **845-025-1045** - True Name on Application; Interest in Business
- **845-025-1060** - Fees
- **845-025-1080** - Criminal Background Checks
- **845-025-1090** - Application Review
- **845-025-1115** - Denial of Application
- **845-025-1160** - Notification of Changes
- **845-025-1175** - Changing, Altering, or Modifying Licenses Premises
- **845-025-1190** - License Renewal
- **845-025-1230** - Licensed Premises Restrictions and Requirements
- **845-025-1275** - Closure of Business
- **845-025-1300** - Licensee Prohibitions
- **845-025-1330** - Trade Samples
- **845-025-1400** - Security Plans
- **845-025-1430** - Video Surveillance Equipment
- **845-025-2000** - Canopy Definitions
- **845-025-2020** - Producer Privileges; Prohibitions

- **845-025-2040** - Production Size Limitations
- **845-025-2060** - Recreational Marijuana Producers – Start-up Inventory
- **845-025-2070** - Pesticides, Fertilizers and Agricultural Chemicals
- **845-025-2080** - Harvest Lot Segregation
- **845-025-2100** - Transfer of Medical Marijuana Grower Inventory
- **845-025-2500** - Registration to Produce Usable Marijuana for Patients
- **845-025-2550** - Requirements for Producing and Providing Marijuana for Patients
- **845-025-2560** - Cancellation of Registration; Violations
- **845-025-2800** - Retailer Privileges; Prohibitions
- **845-025-2820** - Retailer Operational Requirements
- **845-025-2840** - Retailer Premises
- **845-025-2880** - Delivery of Marijuana Items by Retailer
- **845-025-2890** - Marijuana Retailers – Collection of Taxes
- **845-025-2900** - Retail Sale of Marijuana for Medical Purposes
- **845-025-3210** - Retail Marijuana Processors - Endorsements
- **845-025-3215** - Processor Privileges; Prohibitions
- **845-025-3220** - General Processor Requirements
- **845-025-3260** - Cannabinoid Concentrate and Extract Processor Requirements
- **845-025-3290** - Processors Recordkeeping
- **845-025-3500** - Wholesale License Privileges; Prohibitions
- **845-025-3510** - Micro-Wholesaler License Privileges
- **845-025-5030** - Laboratory Licensing Requirements
- **845-025-5045** - Laboratory Tracking and Reporting
- **845-025-5500** - Marijuana Worker Permit
- **845-025-5520** - Marijuana Worker Applications
- **845-025-5540** - Marijuana Worker Permit Denial Criteria
- **845-025-5580** - Marijuana Worker Renewal Requirements
- **845-025-5700** - Licensee Testing Requirements
- **845-025-5760** - Audit, Compliance, and Random Testing
- **845-025-7570** - Seed-To-Sale Tracking – Cultivation Batches
- **845-025-7580** - Reconciliation with Inventory
- **845-025-7700** - Transportation and Delivery of Marijuana Items
- **845-025-7750** - Waste Management
- **845-025-8040** - Advertising Restrictions
- **845-025-8060** - Advertising Media, Coupons, and Promotions
- **845-025-8520** - Prohibited Conduct
- **845-025-8560** - Inspections
- **845-025-8590** - Suspension, Cancellation, Civil Penalties, Sanction Schedule

The Oregon Liquor & Cannabis Commission adopted the following rules:

- **845-025-1335** - Marijuana Promotional Events
- **845-025-2025** - Micro Tier Processing, Privileges; Prohibitions
- **845-025-2045** - Propagation Endorsement
- **845-025-2110** - Medical Marijuana Registrant CTS Registration
- **845-025-2120** - Medical Registrant CTS Requirements
- **845-025-2130** - Grow Site Transfers to Processor or Wholesaler Licensees
- **845-025-2140** - Registrant to Patient Transfers

- **845-025-2150** - Medical Marijuana Inspections and Compliance
- **845-025-2700** - Application for Industrial Hemp Certificate
- **845-025-2750** - Industrial Hemp Certificate Privileges; Prohibitions
- **845-025-3285** - Industrial Hemp Processor Requirements
- **845-025-3305** - Processing for Cardholders
- **845-025-3505** – Wholesaler For-Hire Trimming Privilege

The Oregon Liquor & Cannabis Commission repealed the following rules:

- **845-025-2510** - Licensed Producer and Patient Agreements
- **845-025-2520** - Termination of Producer and Patient Agreements
- **845-025-2530** - Adding or Replacing Patients Agreements
- **845-025-2540** - Grow Canopy Limitation for Producers Registered to Produce Marijuana for Patients

- b) **How did the rule succeed or fail in achieving this effect?** The rules amended, adopted and repealed successfully implemented the 2017 legislation and included the modifications needed to support the emerging recreational marijuana market.

2) **Was the fiscal impact underestimated, overestimated, just about right, or unknown?**

Just about right

a) **What was the estimated fiscal impact?**

The Commission anticipated some potential for a positive fiscal impact relating to additional privileges for processors, laboratories, wholesalers, and retailers related to additional privileges and product streams that the 2017 legislation made available. The Commission anticipated some potential for negative fiscal impact to producers based on medical marijuana growers and hemp growers having the potential to introduce some cannabis material into the market.

b) **What was the actual fiscal impact?**

The fiscal impact for this rulemaking is difficult to measure because the enacted rules have been modified by legislation for the past 5 years, resulting in new and amended rules that change the impact over time. However, the fiscal impact appears to be accurate based on licensees and other businesses utilizing these rules in largely the manner that the Commission envisioned.

c) **If the answer to question 2 is unknown, briefly explain why.**

N/A

3) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.**

Yes. Because the legalized cannabis industry is so new, there have been legislative changes to ORS 475B (now ORS 475C) every year:

2018

- HB 4089 Hemp Legislation
- SB 1544 Medical Marijuana, Hemp and Illegal Marijuana Market Enforcement Grant Program

2019

- SB 218 Authorizing production license refusal
- SB 365 Prohibits local government from imposing marijuana systems development charge
- SB 420 Procedures for setting aside marijuana conviction
- HB 3067 Requires annual certification of eligible for distribution of marijuana monies
- SB 582 Authorizes Governor to enter into inter-state regulatory agreements for marijuana export
- HB 2098 Policy and technical fixes for marijuana statutes
- HB 3200 Requires consent of owner for marijuana production

2020

- HB 3000 – Regulations for artificially derived cannabinoids, hemp, and presumptive marijuana testing

2021

- SB 96 – Hemp Vapes, testing and labeling
- SB 408 – Enforcement reform – Producer allowance to receive products from processors – 100 mg edibles
- HB 2519 – Local jurisdiction opt-in delivery from neighboring jurisdictions
- HB 3000 – Hemp – Adult use Cannabinoids, Artificially Derived Cannabinoids, package limits, Task force

2022

- HB 1564 – Additions to HB 3000 Task Force, dates for hemp licenses
- HB 4016 – OLCC license moratorium, License reassignment program, allowing a store to move if school discovered
- HB 4061 – Changes to water law (OLCC to communicate changes to licensees)
- HB 4074 – Trafficking reporting, allowing a store to move if school discovered, Lab Worker Permits, Hemp testing rebuttal, CBO's to CJC grants, CJC funding

4.) **Is the rule still needed?** Yes. **Explain:** The rules enacted in 2017 are part of the foundation of the adult use marijuana regulated market. Although, as noted above, the rules are amended, and adopted on an annual basis, the legislation and rules from 2015, 2016 and 2017 have informed legislation we have seen in the years following, and will continue to be built upon to support businesses, consumers, and the public health and safety of Oregonians.

5.) **What, if any, is the impact on small businesses?** The OLCC currently has 2,861 licensed marijuana businesses, with most meeting the definition of a small business. OLCC continually works with its licensees and through legislative direction to adopt, amend and repeal rules that impact small businesses.

Review Completed By:

Nicole Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	1/30/2023
Name	Signature	Title	Date

AP&P Review:

Nathan Rix	Nathan K Rix	Executive Review	1/30/2023
Name	Signature	Title	Date

Signature: 
Nathan Rix (Jan 30, 2023 10:15 PST)

Email: nathan.rix@oregon.gov

Bump-Up Canopy Package

Date Adopted: 5/1/2017

Date Review Due: 4/30/2022

Date Review Completed: 1/27/2023

Advisory Committee (AC) used? Yes – Two Advisory Committee Meetings were held for this rules package. The first was held on 11/4/2016, and the second on 1/31/2017.

AC members: Sally Alworth, Jocelyn Anderson, Peter Gendron, Mowgli Holmes, Jesce Horton, Anthony Johnson, Brent Kenyon, Jeff Kuhns, Kelly Madding, Donald Morse, Laura Rivero & Anthony Taylor

OLCC Staff: Amanda Borup, Roslyn Espinosa, Bryant Haley, Danica Hibpshman, Will Higlin, Steve Marks & Jesse Sweet

1) Did the rule achieve its intended effect? Yes

- a) **What was the intended effect?** The Oregon Legislature adopted several bills during the 2016 legislative session that made significant alterations to ORS 475B. Specifically, Senate Bill 1511 directed the Oregon Liquor & Cannabis Commission to register qualified marijuana producers, marijuana processors, marijuana wholesalers and marijuana retailers for purposes of producing, processing and selling medically designated marijuana items.

Previously, the Commission implemented a rule package to cover processors, wholesalers and retailers; however, it did not include marijuana producers. The statutes governing production of a medically designated marijuana canopy were sufficiently complex enough that staff felt the permanent rule making process was more appropriate to fully develop the rule concept.

As a result, the Oregon Liquor & Cannabis Commission amended the following rule:

- **845-025-1060** - Fees

The Oregon Liquor & Cannabis Commission adopted the following rules:

- **845-025-2500** - Registration to Produce Usable Marijuana for Patients
- **845-025-2510** – Licensed Producer and Patient Agreements
- **845-025-2520** – Termination of Producer and Patient Agreements
- **845-025-2530** – Adding or Replacing Patients Agreements
- **845-025-2540** – Grow Canopy Limitation for Producers Registered to Produce Marijuana for Patients
- **845-025-2550** - Requirements for Producing and Providing Marijuana for Patients

- **845-025-2560** – Cancellation of Registration; Violations

b) **How did the rule succeed or fail in achieving this effect?** The rule succeeded in establishing a method for producers to enter into agreements with patients as described in 2016 SB 1511 Section 2, giving OLCC producer licensee opportunities to support medical cardholders. However, within a month of the rules being amended and adopted, the legislature passed 2017 SB 1057, which rewrote the authorizing statute to replace the patient agreement model with an alternative model for producers to grow marijuana and provide it to cardholders. As a consequence, the effect of this rulemaking action was very short-lived.

2) **Was the fiscal impact underestimated, overestimated, just about right, or unknown?** Overestimated

a) **What was the estimated fiscal impact?**

The Commission anticipated the potential for some negative fiscal impacts for producers to register with the commission and meet the physical separation requirements to engage in this privilege.

b) **What was the actual fiscal impact?**

Negligible. Many OLCC producer licensees showed great interest in the “bump-up” but never utilized the privilege. This was due in part to the narrow window of opportunity to register for the “bump-up” privilege before it was replaced by the subsequent medically designated canopy model. As a result, no negative fiscal impacts materialized. To increase the possibility of more producers producing marijuana for cardholders, the OLCC removed the additional licensing fee of \$100 in 2022.

c) **If the answer to question 2 is unknown, briefly explain why.**

N/A.

3) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.**

Yes. In 2017, the legislature passed SB 1057. Section 19 of this bill removed the “bump-up” option and replaced it with an alternative framework where producers could register with the Commission to grow an additional 10% beyond their adult use canopy designation, as long as 75% of the usable marijuana harvested from that additional canopy is given to medical cardholders at no cost; the remaining 25% could be sold to other OLCC licensees to offset the cost of growing for the cardholders.

Section 19 of 2017 SB 1057 took effect May 30, 2017, removing the option for any producers to register for the “bump-up” privilege. OLCC temporarily suspended OARs 845-025-2500 through 845-025-2560 from August 1, 2017 through December 27, 2017 while engaged in rulemaking to implement Section 19 of SB 1057. Effective December 28, 2017, OLCC amended OARs 845-025-2500, 845-025-2550, and 845-025-2560 and repealed OARs 845-025-2510, 845-025-2520, 845-025-2530, 845-025-2540.

4.) **Is the rule still needed?** Yes. **Explain:** In Oregon, and all states that had an existing medical marijuana program prior to adult use legalization, it is important to keep patient access at the forefront of laws and policies.

5.) **What, if any, is the impact on small businesses?** None. As stated above, very few if any licensees took advantage of the “bump-up” privilege before it was replaced with an alternative framework.

Review Completed By:

Nicole Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	1/30/2023
Name	Signature	Title	Date

AP&P Review:

Nathan Rix	Nathan K Rix	Executive Review	1/30/2023
Name	Signature	Title	Date

Signature: 
Nathan Rix (Jan 30, 2023 09:58 PST)

Email: nathan.rix@oregon.gov

Beverage Containers & Redemption Centers Package

Date Adopted: 1/1/2018

Date Review Due: 12/31/2022

Date Review Completed: 01/30/2023

Advisory Committee (AC) used? Yes

AC members: Jules Bailey, Amanda Dalton, Phil Donovan, Joe Gilliam, Chad Horgan, Reagan Matsler, Katy McDowell, Gina Mordeaux, Christopher Parta, Pam Peck, Jonathan Polonsky, Paul Romain & Deverie Tye

OLCC Staff: Jamie Dickinson, Bryant Haley, Carolyn Moreno, Kelly Routt, Jesse Sweet & Becky Voelkel

1) **Did the rule achieve its intended effect?** Yes

- a) **What was the intended effect?** This rule package updated Division 20 of Chapter 845 – Beverage Containers and Redemption Centers. The Commission amended and adopted rules within this package to provide technical corrections, clarifications and to update the language in anticipation of the expansion of containers which have a redeemable value. The expansion of containers covered under the Bottle Bill was statutorily set for January 1, 2018.

As a result, the Oregon Liquor & Cannabis Commission amended the following rules:

OAR 845-020-0005 - Definitions

OAR 845-020-0020 - Redemption Centers

OAR 845-020-0025 - Application for Approval of Redemption Center

OAR 845-020-0030 - Standards of Cleanliness for Redemption Centers

OAR 845-020-0035 - When Dealer Not Required to Accept Containers

The Oregon Liquor & Cannabis Commission adopted the following rules:

OAR 845-020-0016 - Container Exemptions

OAR 845-020-0040 - Sanctions and Civil Penalties

OAR 845-020-0060 - Independent Audit Standards and Procedures

- b) **How did the rule succeed or fail in achieving this effect?** The rule was successful in implementing the statutory requirements to include a broader range of redeemable container types. Alongside the redemption value increase from 5¢ to 10¢, more containers were redeemed in Oregon. The statewide redemption rate can be compared year over year as follows:

2012 – 70.95%
2013 – 70.97%
2014 – 68.26%
2015 – 64.45%
2016 – 64.31%
2017 – 73.33%
2018 – 81.02%
2019 – 85.78%
2020 – 77.21% (period of non-enforcement due to COVID-19)
2021 – 80.60%

- 2) **Was the fiscal impact underestimated, overestimated, just about right, or unknown?** The financial impact was limited in scope with slight increase in workload for OLCC commission staff that was absorbed by existing recourses. Dealers and the Oregon Beverage Recycling Cooperative also saw an increase in workload due to a high container return rate. The primary financial impact was labor associated with the sale and return of more container types considered redeemable and the compliance efforts of the OLCC to ensure accuracy and accountability of the rule changes.
- a) **What was the estimated fiscal impact?** The estimated fiscal impact was not estimated or assigned a formal forecast, but OLCC representatives met with external stakeholders to review the statutory changes and discussed which container types to exempt, including nutritional supplements and how both seniors and infants depend on such commodities.
 - b) **What was the actual fiscal impact?** The actual fiscal impact was not formally quantified, but container returns increased 7.69% from 2017 to 2018. Dealers and redemption centers saw an increase in labor and handling. The existing infrastructure of reverse vending equipment, facility square footage and logistics absorbed some of the increase.
 - c) **If the answer to question 2 is unknown, briefly explain why.**
N/A

3.) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.** Yes, ORS 459A was updated in September 2022 in response to Senate Bill 1520, which directed OLCC to develop and provide signage to dealers describing the reasons a dealer may refuse to accept and to pay the refund value for empty beverage containers. Senate Bill 1520 also requires distributors who are not a member of a distributor cooperative and who sold more than 500,000 containers in Oregon in the previous calendar year to establish a program to provide redemption services in a distributor's distribution area that are comparable to services provided by a distributor cooperative. Further, Senate Bill 1520 set out fees to be paid by distributors and distributor cooperatives. The proposed amendments incorporate these fees into OLCC's rules. The provisions of Senate Bill 1520 and the OLCC rule amendments & adoptions became operative on January 1, 2023.

4.) **Is the rule still needed? Yes Explain:** These rules establish a comprehensive framework for the regulation of the Oregon Bottle Bill Program.

5.) **What, if any, is the impact on small businesses?** Container returns have been required in Oregon since the Oregon Beverage Container Act was passed in 1971. Small businesses incurred an increase in handling costs associated with the 7.69% increase in container return volume from 2017 to 2018.

Review Completed By:

Nicole Blossé	<i>Nicole M. Blosse</i>	Rules Coordinator	1/30/2023
Name	Signature	Title	Date

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Nathan Rix	Nathan K Rix	Executive Review	1/30/2023
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