



## **2023 Five Year Rule Review**

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

January 19, 2024



Oregon

Kate Brown, Governor

TEACHER STANDARDS AND PRACTICES COMMISSION

250 Division Street N.E. Salem, OR 97301

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January 25, 2024

**TO:** Administrative Rules, Secretary of State

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

**RE:** 2023 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.

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***Rules Adopted in 2018***

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## **Educator Preparation Program Approval Rules Redesign**

**State Approval Process for Educator Preparation Providers:** 584-400-0010; 584-400-0015; 584-400-0020; 584-400-0050; 584-400-0055; 584-400-0060; 584-400-0070; 584-400-0080; 584-400-0090; 584-400-0100; 584-400-0120; 584-400-0140; 584-400-0145; 584-400-0150; 584-400-0160; 584-400-0170; 584-400-0180; 584-400-0190.

**State Standards Educator Preparation Providers:** 584-410-0010; 584-410-0070; 584-410-0080; 584-410-0090; 584-410-0100.

As a result of the work of community partners and commissioners, TSPC revised the rules governing the approval of educator preparation providers and programs. This work has become the foundation of the educator preparation program standards process in the state and informs educator program decision.

1. Did the rule have the intended effect?  
Yes, the rules clarified the standards and processes that apply to educator preparation programs in Oregon.
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 Did subsequent changes in the law require the rule be repealed or amended?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, some rules have been amended over the years to clarify the requirements or adjust to regulatory change.



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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?	Subsequent Action
400-0010	Approval for EPPs	5/1/2018	Yes.	Amend 2/07/2023
400-0015	Approval for EPPs	5/1/2018	Yes.	Amend 02/25/2019; 11/23/2020; 2/07/2023
400-0020	Approval for EPPs	5/1/2018	Yes.	Amend 02/10/2020; 11/23/2020; 10/20/2022
400-0050	Approval for EPPs	5/1/2018	Yes.	None
400-0055	Approval for EPPs	5/1/2018	Yes.	None
400-0060	Approval for EPPs	5/1/2018	Yes.	Amend 2/07/2023
400-0070	Approval for EPPs	5/1/2018	Yes.	None
400-0080	Approval for EPPs	5/1/2018	Yes.	None
400-0090	Approval for EPPs	5/1/2018	Yes.	None
400-0100	Approval for EPPs	5/1/2018	Yes.	None
400-0120	Approval for EPPs	5/1/2018	Yes.	Amend 4/08/2019; 10/20/2022
400-0140	Approval for EPPs	5/1/2018	Yes.	Amend 2/10/2020; 11/23/2020; 10/20/22; 10/23/2023



Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Subsequent Action
400-0145	Approval for EPPs	5/1/2018	Yes.	Amend 10/20/2022
400-0150	Approval for EPPs	5/1/2018	Yes.	Amend 10/20/2022
400-0160	Approval for EPPs	5/1/2018	Yes.	Amend 12/4/2018; 04/08/2019; 11/23/2020; 10/20/2022; 02/07/2023
400-0170	Approval for EPPs	5/1/2018	Yes.	None
400-0180	Approval for EPPs	5/1/2018	Yes.	Amend 04/08/2019
400-0190	Approval for EPPs	5/1/2018	Yes.	None
410-0010	State Stds. for EPPs	5/1/2018	Yes.	Amend 11/23/2020; 02/07/2023
410-0070	State Stds .for EPPs	5/1/2018	Yes.	Amend 10/23/2023
410-0080	State Stds. for EPPs	5/1/2018	Yes.	None
410-0090	State Stds. for EPPs	5/1/2018	Yes.	Amend 02/07/2023
410-0100	State Stds. for EPPs	5/1/2018	Yes.	Amend 02/10/2020; 02/07/2023

## Disbursement of the National Board Certification Fund

584-200-0110

As a result of the legislation, TSPC was authorized to reimburse licensed teachers who also hold certification by the National Board for Professional Teaching Standards for expenses related to that certification. These rules detail how those funds will be distributed.





1. Did the rule have the intended effect?  
Yes, the rules guide TSPC on reimbursement parameters.
2. Was the anticipated fiscal impact underestimated or overestimated?  
The fiscal impact was overestimated, as the demand for reimbursement was almost nonexistent and the program was suspended in 2023.
3. Did subsequent changes in the law require the rule be repealed or amended?  
No. No changes have been made to the law.
4. Is there a continued need for the rule?  
Yes. The program is suspended, but the statute still exists and when the program is reinstated, the rule will be necessary.

Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Subsequent Action
200-0110	NBCF Disbursement	7/1/2018	Yes.	None

## Mathematics Instruction Leader 6-12 Specialization

**Licensing Standards:** 584-225-0110

**Program Standards:** 584-420-0655

As a result of the work of community partners and commissioners, TSPC created a license specialization to recognize the uniform standards applying to a licensed teacher specializing in middle and high school mathematics.

1. Did the rule have the intended effect?  
Yes, the specialization is held by a small but significant number of teachers.
2. Was the anticipated fiscal impact underestimated or overestimated?  
No; there was no fiscal impact anticipated and none occurred.



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3. Did subsequent changes in the law require the rule be repealed or amended?  
No. No changes have been made to the law.
4. Is there a continued need for the rule?  
Yes. There continues to be a desire to recognize the specialization.

Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Subsequent Action
225-0110	Math Instruct. Ldr 6-12 Spec.	1/1/2019	Yes.	None
420-0655	Math Instruct. Ldr 6-12 Spec.	1/1/2019	Yes.	None

## Career and Technical Education (CTE) Teaching Licenses

**Five-Year CTE Teaching License Standards:** 584-230-0045

**Reinstatement of CTE Teaching Licenses:** 584-230-0110

As a result of the work of community partners and commissioners, TSPC completed the redesign work on the CTE License. It created a CTE license for qualified legacy teachers that had a pre-2011 Three-year CTE Teaching License and supplied rules governing reinstatement of the CTE licenses.

1. Did the rule have the intended effect?  
Yes, legacy teachers were held harmless by the new license rules and a path was created for expired licenses to be reinstated.
2. Was the anticipated fiscal impact underestimated or overestimated?  
No; there was no fiscal impact anticipated and none occurred.



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3. Did subsequent changes in the law require the rule be repealed or amended?  
No. No changes have been made to the law.
4. Is there a continued need for the rule?  
Yes. There are still teachers under the old legacy rules and there will always be a need to reinstate expired licenses.

Division 584- Rule #	Relating To	Bulletin date	Did the rule have the intended effect?	Subsequent Action
230-0045	5-year CTE License	2/1/2018	Yes.	None
230-0110	CTE License Reinstatement	2/1/2018	Yes.	None



# Rule Review Report

<b>Rule: OAR 330-070-0076, -0078</b>	<b>Date rule adopted: 11/18/2014</b> <b>Date rule effective: 1/1/2015</b>
<b>Reviewed By: Program Staff</b>	<b>Division: Energy Development Services</b>
<b>Date Reviewed: 12/12/2023</b>	<b>Program Area: Renewable Energy Tax Credit</b>

**Was this a new rule adopted January 1, 2006 or after?**  No  Yes

*Does not apply to rules already in existence as of January 1, 2006, or for which notice was delivered to the Secretary of State before January 1, 2006.*

**If rule review required, are there exclusions that apply, under ORS 183.405:**

- Adopted to implement court orders or the settlement of civil proceedings
- Adopt federal laws or rules by reference
- Adopted to implement legislatively approved fee changes
- Adopted to correct errors or omissions
- No Exclusions

**Was there an Advisory Committee?**  No  Yes, provide a report on the review of this rule

## Rule and Process Review

Plain Language: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Operation of Program: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Statutory References Changes: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Changes:
Mandatory Report Requirements: <input checked="" type="checkbox"/> None <input type="checkbox"/> :
ODOE Policies: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Forms: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:

Has the rule had the intended effect? Yes

What was the intended effect? The rule provisions in -0076 rework the incentive calculation for wood and pellet stoves to equalize the RETC incentive among stove types with EPA efficiency testing. Non-catalytic stoves with efficiency testing were to receive a lower incentive while catalytic and pellet stoves with efficiency testing were to receive a greater incentive than currently provided. The rule also required that all dwellings installing a wood and pellet stove and applying for the incentive must have an approved carbon monoxide detector alarm device. The rule provisions in -0078 set eligibility standards for alternative fueling devices to receive a RETC incentive.

How did the rule succeed or fail in achieving this effect? The rule succeeded in achieving its intended effect.

Was the anticipated fiscal impact of the rule underestimated or overestimated? The fiscal impact was estimated correctly to ODOE's knowledge.

What was the estimated fiscal impact? ODOE estimated the rules would cause minimum fiscal impact for state and local government agencies, while members of the public applying for voluntary incentives under the program could have experienced increased installation costs or reduced incentive amounts under the rule.

What was the actual fiscal impact? ODOE does not have access to data about how many individual households needed to install carbon monoxide alarms to be eligible to apply for a

RETC incentive, or whether individual households changed their purchasing decisions due to the rule change.
Do subsequent changes in the law require that the rule be repealed or amended? The RETC program ended (sunset) on December 31, 2017, and final applications were due June 1, 2018. ODOE is no longer accepting applications for the program.
Is there a continued need for the rule? ODOE staff intends to review OAR Division 330-070 rules for the RETC program to determine if there is a continued need for all or part of this division in ODOE administrative rules.
Notes:

**Action:**  Amend  Repeal  No Change

**Submit review to:** Oregon Secretary of State (Adminrules.Archives@sos.oregon.gov)  Yes

# Agency Rule Review Report Under ORS 183.405

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Rule Number: 150-305-0085

Rule Title: Financial Institution Data Match

Date adopted: 12/13/2018

Date of review: 6/07/2023

This report was prepared and approved by: Mathew Oldfield, Collection Division

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members.

**First RAC 4/19/2018:** Steve Bouchard, JoAnn Martin, Marcus Cridge, Jill Coleman, Ken Ross, Satish Upadhyay, Deanna Mack, Lois Williams, Nia Ray, Rick Blackwell, Kevin Christensen, Betsy Steinberg, Eric H Smith, Jeff Morris, Emily Curry, Ken Sherman, David Curtis, Jeff Morris, Nikki Dobay

**Second RAC 5/14/2018:** Ken Sherman, Kevin Christianson, Betsy Steinberg, Dominic Swinig, Lois Williams, Deanna Mack, JoAnn Martin, Rance Pier, Jill Coleman, Nikki Dobay, Paul Peters, Holly Drobil, Emily Curry

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

Establish a rule for how the department must enter into a written agreement with each financial institution required to participate in the data match system under ORS 305.084, how financial institutions can share and match data, how financial institutions request a hardship waiver, and that that the department may impose penalties under ORS 305.994.

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

# Agency Rule Review Report Under ORS 183.405

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Rule Number: OAR 150-315-0121

Rule Title: Working Family Household and Dependent Care Credit

Date adopted: 01/01/2018

Date of review: 02/09/2023

This report was prepared and approved by: Robert Oakes/PTAC

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members. N/A

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

The Rule was intended to clearly identify the differences between Oregon and federal credits and provide guidance for taxpayers to appropriately claim the new Working Family Household and Dependent Care credit approved by the Legislature (ORS 315.264).

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

The rule provided clarity for eligible tax filers and tax preparers who claim the WFHDC credit on returns. DOR received 28,121 credit claims in tax year 2019 and 17,320 in 2020, with an average credit of about \$900.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

No fiscal impact was identified because the rule was amended only to create clarity for tax filers and tax preparers who claim the WFHDC credit.

b. What was the actual fiscal impact?

No fiscal impact.

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

The Legislature passed HB 2433 (2021 Regular Session), expanding WFHDC credit and allowing both married and non-married students to use imputed income to qualify for the credit. The WFHDC ties to IRC 21 (federal Child & Dependent Care Credit), which also allows imputed income for disabled individuals and students. Rules will be amended for these changes.

4. Is the rule still needed?

Yes

No

Explain:

The rule provides clarity for taxpayers claiming the WFHDC credit, or tax preparers who file returns for clients claiming the credit. Without the rule and not clearly explaining the credit, there might be an increase in the number of incorrect claims, adjustments required, and appeals to be processed.

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

Tax preparers who follow the rule will file tax returns properly, prevent incorrect claims and prevent potential increased costs for amended returns.



# Agency Rule Review Report Under ORS 183.405

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Rule Number: OAR 150-315-0125

Rule Title: Working Family Household and Dependent Care Penalty

Date adopted: 1/1/2018

Date of review: 2/09/2023

This report was prepared and approved by: Robert Oakes/PTAC

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members. N/A.

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

Under ORS 315.264(6), the Director can assess a penalty under the Working Family Household and Dependent Care credit. The details of this new penalty needed to be determined and described for taxpayers and tax practitioners to provide clarity for tax filers and prevent filing of ineligible credit claims.

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

The Rule provided clarity for taxpayers and tax practitioners and helped prevent filing of ineligible claims. Publication OR-WFHDC, based on this rule change, states that the penalty could be up to 25 percent of the credit claimed.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

No fiscal impact was identified because the rule was amended only to create clarity for tax filers and tax preparers and help prevent filing of ineligible claims.

b. What was the actual fiscal impact?

No fiscal impact.

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

4. Is the rule still needed?

Yes

No

Explain:

The rule provides clarity in how the WFHDC penalty is determined and calculated. This rule is needed in order to impose the penalty.

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

This rule could have an impact on tax preparers that have small businesses and file returns for clients claiming the WFHDC credit. The rule helps prevent filing of ineligible claims that could result in penalties or amended returns, reducing any potential costs to tax preparers.

# Agency Rule Review Report Under ORS 183.405

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Rule Number: 150-317-0651

Rule Title: Repatriation Tax Credit

Date adopted: 06/26/2018

Date of review: 05/10/2023

This report was prepared and approved by: Department of Revenue's Business Division, specifically the Corporation and Estate Unit.

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members.

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

The 2013 Oregon Legislature required that corporations doing business in Oregon add net income from unitary subsidiaries incorporated in foreign "listed jurisdictions" to their federal taxable income. This law applied to tax years between 2014 and 2016.

In 2017, Congress passed the Tax Cuts and Jobs Act (TCJA). The TCJA mandated that US corporations repatriate deferred current earnings and profits of controlled foreign corporations earned between 1986 and 2017 to the US. Accordingly, the possibility existed that some repatriation income would be included in Oregon taxable income twice: once during the listed jurisdiction year and again in the repatriation.

In 2018, the Oregon Legislature repealed the listed jurisdiction law. Section 33 of SB 1529 (2018) allowed taxpayers subject to both the listed jurisdiction and repatriation requirements to take a tax credit for tax year 2017 equal to the lesser of tax attributable to the listed jurisdiction law or the repatriation to prevent double taxation.

The department adopted OAR 150-317-0651 to implement Section 33 of SB 1529 through prescribing a method to calculate the tax credit with a view to preventing the kind of double taxation described above.

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

In the course of writing OAR 150-317-0651, the department learned that many taxpayers had a repatriation requirement in tax year 2018.

The rule succeeded in the sense that the department implemented Section 33 of SB 1529 and provided a means for taxpayers to calculate the tax credit. On the other hand, Section 33 of SB 1529 and OAR 150-317-0651 were unsuccessful in the sense that neither addressed taxpayers with a repatriation requirement in tax year 2018.

The department drafted OAR 150-317-0652 written under authority of ORS 317.038 to address taxpayers with a repatriation requirement in tax year 2018. ORS 317.038 prevents an item of income from being counted twice for corporate excise tax purposes.

Accordingly, OAR 150-317-0652 allows taxpayers to subtract income taxed under the listed jurisdiction law from their repatriation. OAR 150-317-0652 can also be applied to taxpayers with a repatriation requirement in tax year 2017. This may imply that OAR150-317-0651 and Section 33 of SB 1529 (2018) were unnecessary.

Be that as it may, OAR 150-317-0651 is still needed because the Oregon Legislature chose to provide a tax credit for listed jurisdiction income. Accordingly, the department needs to provide a method for taxpayers to calculate a tax credit for their listed jurisdiction income.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

There was no estimated fiscal impact associated with this rule.

b. What was the actual fiscal impact?

To the best of the department's knowledge, there was no fiscal impact.

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

4. Is the rule still needed?

Yes

No

Explain: The rule is still needed only because Section 33 of SB 1529 (2018) specifically provides for a tax credit and taxpayers need a method to calculate that tax credit.

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

The rule provides guidance regarding how to compute the repatriation tax credit. There should be a de minimis effect on those small businesses subject to the rule, as it is intended to be clarifying or interpretive in nature and does not significantly affect projected reporting, recordkeeping, or other administrative activities or costs. For small businesses that claim the repatriation, projected reporting, recordkeeping, and other administrative activities or costs should not be significantly different from their current practice under the listed jurisdiction addition law.

# Agency Rule Review Report Under ORS 183.405

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Rule Number: 150-317-0652

Rule Title: Modification for Listed Jurisdiction Amounts Previously Included in Income; Election in Lieu of Claiming the Repatriation Tax Credit

Date adopted: 10/15/2018

Date of review: 07/25/2023

This report was prepared and approved by: Department of Revenue's Business Division, specifically the Corporation and Estate Unit.

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members.

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

Oregon corporate taxpayers were required to include listed jurisdiction income in their Oregon taxable income for tax years 2014, 2015, and 2016. This listed jurisdiction income may be taxed again in tax years 2017 and 2018 because of a one-time mandatory repatriation of earnings and profits at the federal level under IRC 965 that flows through to Oregon taxable income. During the 2018 regular session, the Oregon Legislature attempted to address this issue through SB 1529 that allowed taxpayers a tax credit equal to the lesser of tax attributable to the 2014-2016 listed jurisdiction inclusion or the 2017 repatriation.

However, the tax credit provides no relief to taxpayers who have a repatriation obligation in tax year 2018. Also, the tax credit provides no relief to taxpayers who included listed jurisdiction income in at least one tax year between 2014 and 2016 but had no tax attributable to the listed jurisdiction income. ORS 317.038(1) provides that

nothing in ORS chapter 317 “shall be construed to require a corporation to include an item of income \* \* \* more than once in computing Oregon taxable income.”

OAR 150-317-0652 is intended to prescribe guidance for taxpayers to calculate the modification allowed under ORS 317.038 that will provide relief for taxpayers who are not granted relief under the tax credit and are otherwise required to include an item of income more than once in computing Oregon taxable income.

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

The department adopted OAR 150-317-0652 under authority of ORS 317.038 to address taxpayers with a repatriation requirement in tax year 2018. ORS 317.038 prevents an item of income from being counted twice for corporate excise tax purposes.

Accordingly, OAR 150-317-0652 successfully provides guidance to taxpayers to subtract income taxed under the listed jurisdiction law from their repatriation. OAR 150-317-0652 can also be applied to taxpayers with a repatriation requirement in tax year 2017.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

- a. What was the estimated fiscal impact?

There was no estimated fiscal impact associated with this rule.

- b. What was the actual fiscal impact?

To the best of the department’s knowledge, there was no fiscal impact.

- c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If ‘yes’ please explain:

4. Is the rule still needed?

Yes

No

Explain: The rule is still needed because taxpayers who may be filing or amending a 2017 or 2018 return need to have the guidance provided for under OAR 150-317-0652 for calculating the modification allowed under ORS 317.038 (in lieu of the repatriation tax credit allowed under SB 1529, 2018 Session) for listed jurisdiction income previously included in Oregon income.

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

Only corporate taxpayers who have been subject to the listed jurisdiction provisions before tax year 2017 are affected by this rule because they had a unitary subsidiary corporation in a listed foreign jurisdiction identified in ORS 317.716. For those corporations that have been subject to the listed jurisdiction provisions and are also small businesses, the department's rule is expected to ease compliance burdens by providing a clear method to be used in conjunction with tax return forms and instructions to avoid double inclusion of listed jurisdiction income.



# Agency Rule Review Report Under ORS 183.405

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Rule Number: 150-320-0400

Rule Title: Definitions for purposes of the transportation project taxes imposed under ORS 320.405 to 320.415

Date adopted: June 1, 2018

Date of review: June 1, 2023

This report was prepared and approved by: Department of Revenue Business Division, specifically the Oregon Small Business Programs.

1. Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members.

2. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

Provide guidance for taxpayers and vehicle dealers to correctly calculate “retail sales price” of taxable motor vehicles, define “all-terrain vehicle” that is exempt from vehicle privilege and use taxes, and clarify definition of “bicycle” for purposes of excise tax.

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

It succeeded by providing guidance for the computation of retail sale price of taxable motor vehicles.

3. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

There is no fiscal or economic impact due to these rule changes.

b. What was the actual fiscal impact?

To the best of the department's knowledge, there was no fiscal impact

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

OAR 150-320-0400 was adopted June 1, 2018. This rule provided several definitions regarding taxes imposed under ORS 320.405 to 320.415 including a definition for "Bicycle" which the rule defined as "a vehicle designed for human transportation."

During the 2021 regular legislative session, HB 3055 amended the definition of "Bicycle" under ORS 320.400(1)(a)(A) to "A vehicle that is designed to be operated on the ground on wheels for the transportation of humans and is propelled exclusively by human power."

Since ORS 320.400 has been amended, the department will amend this rule to remove the definition of "Bicycle" in OAR 150-320-0400(3).

5. Is the rule still needed?

Yes

No

Explain: Taxes imposed under ORS 320.405 to 320.415 are still in effect and the definitions and guidance provided in this rule are needed.

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

We estimated that there are approximately 425 Oregon vehicle, RV, and trailer dealers that sell taxable motor vehicles and 75 retailers that sell taxable bicycles that are subject to provisions in these rules. Small businesses make up roughly 98% of Oregon businesses. This rule provides definitions for small businesses and taxpayers in general to comply with ORS 320.405 to ORS 320.415. We don't anticipate additional impacts on small businesses due to the guidance in this rule.

# Agency Rule Review Report Under ORS 183.405

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Rule Number: 150-320-0410

Rule Title: Vehicle Use Tax – Proof of Payment of Tax

Date adopted: June 1, 2018

Date of review: June 1, 2023

This report was prepared and approved by: Department of Revenue Business Division, specifically the Oregon Small Business Programs.

1. Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members.

2. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

Provide guidance for taxpayers to request and obtain the documentation needed so that Oregon Driver and Motor Vehicle Services Division will title and register taxable motor vehicles purchased from out-of-state dealers.

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

Taxpayers have the necessary guidance to obtain proof of payment of tax comply to comply with ORS 320.410 and 320.420.

3. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

There is no fiscal or economic impact due to these rule changes.

b. What was the actual fiscal impact?

To the best of the department's knowledge, there was no fiscal impact

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

5. Is the rule still needed?

Yes

No

Explain:

Taxpayers and out of state dealers continue to need guidance to comply with ORS 320.410 and 320.420.

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

The rule provides guidance for taxpayer to comply with requirements under ORS 320.410 and ORS 320.420. We don't anticipate additional impacts on small businesses due to the guidance in this rule.

# Agency Rule Review Report Under ORS 183.405

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Rule Number: 150-320-0420

Rule Title: Resale Certificate – Documentation Required

Date adopted: June 1, 2018

Date of review: May 5, 2023

This report was prepared and approved by: Department of Revenue Business Division, specifically the Oregon Small Business Programs.

1. Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members.

2. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

Provide guidance for purchasers and sellers of taxable vehicles regarding the information that must be included in resale certificates provided under ORS 320.425(3).

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

Purchasers and sellers of taxable vehicles have the necessary guidance to comply with the requirements under ORS 320.425(3).

3. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

There is no fiscal or economic impact due to these rule changes.

b. What was the actual fiscal impact?

To the best of the department's knowledge, there was no fiscal impact

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

5. Is the rule still needed?

Yes

No

Explain:

ORS 320.425 still requires a resale certificate for exempted sales.

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

The rule provides guidance regarding the required information to include on a resale certificate. The resale certificate is a document required under ORS 320.425 (3). We don't anticipate additional impacts on small businesses due to the guidance in this rule.

# Agency Rule Review Report Under ORS 183.405

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Rule Number: 150-320-0510

Rule Title: Statewide Transit Tax Employer Penalty

Date adopted: January 1, 2018

Date of review: June 13, 2023

This report was prepared and approved by: Joil Southwell, Business Division

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members.

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

The rule was intended to establish criteria for how the department defines “knowingly” for purposes of assessing the penalty for knowingly failure to deduct and withhold statewide transit tax from employee wages as provided in ORS 320.550(9). The rule also establishes a DOR policy that the employer penalty is not eligible for discretionary waiver consideration under OAR 150-305-0068.

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

The rule provides the definition of “knowingly failing to deduct and withhold statewide transit tax” as well as stating clearly that the “knowingly” penalty assessed by DOR is not waivable under our authorities in ORS 305.145 and OAR 150-305-0068.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

This rule did not have an associated fiscal impact as the rule is clarifying in nature for assessing penalties under ORS 320.550(9).

b. What was the actual fiscal impact?

There was no fiscal impact to implement or enforce the current rule.

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

The original law, passed in 2017, subjected designated retirement distributions (e.g. pensions, annuity payments, etc.) to the statewide transit tax. However, the law was amended later in 2018 to remove these retirement distributions from being subject to statewide transit tax. The removal of this provision changed the numbering of the remaining subsections of the law and was never updated in the rule. Further, DOR renumbered another administrative rule also relating to the statewide transit tax to follow DOR's formatting of including the authorizing ORS chapter after DOR's agency number (i.e. OAR 150-316-0700 was changed to 150-305-0520). While these citations need to be corrected, the rule policy will not change.

4. Is the rule still needed?

Yes

No

Explain: The statewide transit tax program is entering its 6<sup>th</sup> year. Employer reporting and payment of statewide transit tax has steadily increased over this period. Total statewide transit tax amounts reported for the last three tax quarters (after administrative expenses are deducted) total as follows:

- Q3 2022 - \$30,934,761.75
- Q4 2022 - \$31,838,023.10
- Q1 2023 - \$32,844,527.83



The program provides dedicated funding for creating or expanding public transportation to access jobs and public services, improve mobility for disabled and elderly citizens, relieve traffic congestion, and reduce greenhouse gas emissions. This rule will continue to provide necessary guidance for employers to comply with program requirements.

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

The rule provides clarity for small businesses by establishing criteria for assessing employer penalty for knowingly failing to deduct and withhold statewide transit taxes and clarifies that knowingly penalties are not eligible for discretionary waiver consideration. DOR doesn't anticipate additional impacts on small businesses due to the guidance in this rule.

# Agency Rule Review Report Under ORS 183.405

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Rule Number: 150-320-0520

Rule Title: Statewide Transit Tax: Reporting and Payment Due Dates

Date adopted: July 1, 2018

Date of review: Jun 13, 2023

This report was prepared and approved by: Joil Southwell, Business Division

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members.

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect?

ORS 320.550(4) provides that "...[a]n employer shall report and pay the tax imposed under this section to the Department of Revenue at the time and in the manner determined by the department by rule." This rule provides clarification for when statewide transit tax returns are to be filed and taxes paid to DOR as required by law.

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

DOR adopted this rule that establishes that statewide transit tax returns and payments are due by the last day of the month following the end of a calendar quarter. These due dates generally correspond with the filing due date of the combined employer tax report (Form OQ), the annual reconciliation report (Form OR-WR), and the payment of taxes that appear on the Form OQ. DOR chose these due dates for ease of administration while providing efficiencies to subject employers by not requiring reporting and payment of tax on a separate schedule. This rule also provides due dates for filing return and paying statewide transit tax for Oregon residents who perform

services outside the state, but the employer decides not to perform courtesy withholding on behalf of their employee(s) as established in ORS 320.550(10).

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

The rule did not have an associated fiscal impact as the rule is clarifying in nature for establishing due dates for filing returns and paying statewide transit tax.

b. What was the actual fiscal impact?

There was no fiscal impact to implement or enforce the current rule.

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

4. Is the rule still needed?

Yes

No

Explain: The statewide transit tax program is entering its 6<sup>th</sup> year. Employer reporting and payment of statewide transit tax has steadily increased over this period. Total statewide transit tax amounts reported for the last three tax quarters (after administrative expenses are deducted) total as follows:

- Q3 2022 - \$30,934,761.75
- Q4 2022 - \$31,838,023.10
- Q1 2023 - \$32,844,527.83

The program provides dedicated funding for creating or expanding public transportation to access jobs and public services, improve mobility for disabled and elderly citizens, relieve traffic congestion, and reduce greenhouse gas emissions. This rule will continue to provide necessary guidance for employers to comply with program requirements.

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

The rule provides clarity for small businesses by establishing due dates for subject employers to file statewide transit tax returns and pay statewide transit tax amounts. DOR doesn't anticipate additional impacts on small businesses due to the guidance in this rule.

Department of Consumer and Business Services  
Workers' Compensation Division

Five-year Administrative Rule Review

**Rule division name and rule numbers:**

Worker Leasing: OAR chapter 436, division 180, rules:

0003	Administration of Rules
0005	Definitions
0008	Requests for Hearings or Administrative Review
0100	Responsibility for Providing Coverage under a Lease Arrangement
0110	Notice of Client Coverage; Changes to Coverage Information; Termination; Reinstatements
0120	Temporary Worker Distinguished from Leased Worker
0140	Qualifications, Applications, and Renewals for License as a Worker Leasing Company
0150	Recordkeeping and Reporting Requirements
0155	Reporting Requirements of a Self-Insured Worker Leasing Company
0160	Suspension or Revocation of License
0170	Monitoring and Auditing
0200	Assessment of Civil Penalties

**Date adopted:** June 7, 2018

**Date effective:** July 1, 2018

**Date reviewed:** May 11, 2023

**Advisory Committee Used:** Yes

The advisory committee met on Sept. 22, 2017, and October 16, 2017.

**1. Did the rules achieve their intended effects?** Unknown

**a. What were the intended effects?**

The "Need for the Rule(s)" as filed with the Secretary of State on 3/29/2018, was: "Changes are needed to streamline worker leasing requirements and to better align leasing in Oregon with related standards in other states."

Streamlining provisions included:

- Improving access to worker leasing regulations by consolidating worker leasing rules in a dedicated rule division, OAR 436-180;
- Increasing opportunities to conduct worker leasing by clarifying that, although a worker leasing company may not provide coverage for another worker

## Five-year administrative rule review

leasing company, this prohibition does not apply when two or more worker leasing companies that share common majority ownership are included as named insureds on a single policy; and

- Extending 14-day time frames for reporting leasing arrangements to 30 days.

Provisions to better align leasing requirements with other states included:

- Defining “professional employer organization,” the term commonly used outside of Oregon that includes worker leasing companies;
- Eliminating the requirement to maintain an Oregon location; and
- Allowing for limited licensing of leasing companies that are currently licensed or certified in another state with substantially similar regulations.

### **b. How did the rules succeed or fail in achieving these effects?**

Adoption of these rules may have had the intended effects. However, the agency does not have data to verify this, and invites input from stakeholders regarding their experience with the worker leasing rules and advice about ways to improve the rules generally.

## **2. Was the fiscal impact statement:**

- Underestimated
- Overestimated
- Just about right
- Unknown

### **a. What was the estimated fiscal impact?**

When filing proposed rules with the Secretary of State on 3/29/2018, the division included the following statement about fiscal impacts: “The agency projects there will be minor initial costs for leasing companies associated with required use of certain reporting forms, but that in the longer term, likely improvements in reporting accuracy should result in fewer form rejections and inquiries by the division. Overall, there should not be a significant impact, positive or negative.”

### **b. What was the actual fiscal impact?**

Unknown

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

The agency finds that its projected fiscal impacts were reasonable. However, the agency does not have data to verify that there have been no net costs to leasing companies, and invites input regarding actual costs or savings resulting from adoption of these rules.

Five-year administrative rule review

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

No

**4. Are the rules still needed? Yes**

These rules are needed to carry out provisions applicable to worker leasing companies (ORS 656.850 and ORS 656.855).

**5. What impacts have the rules had on small businesses?**

In its filing with the Secretary of State on 2/29/2018, the agency included the following:

“The businesses primarily affected by the proposed rules are licensed leasing companies, their clients, and temporary employee providers. Oregon has 201 licensed leasing companies, and as many as 175 of these companies are small businesses. Leasing companies may have thousands of clients at any given time, and probably a substantial majority of the clients are small businesses. Oregon has 766 temporary help services providers, and about 660 of these are small businesses.”

The agency estimated that there would be no net cost-of-compliance effects. However, the agency does not have data to verify the costs or savings, and invites input regarding actual costs or savings to small businesses.

**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.**

# 5-Year Rule Review Report 2018 12/18/2023



**Director: Michael Reese**

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**The mission of the Oregon Department of Corrections is to promote public safety by holding offenders accountable for their actions and reducing the risk of future criminal behavior.**



## BACKGROUND AND INTRODUCTION

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The Oregon Department of Corrections (DOC) is pleased to submit this report to the Secretary of State as directed by ORS 183.405. Paper copies of this report may be obtained from DOC Rules Coordinator, 3723 Fairview Industrial Drive SE, Suite 200, Salem, Oregon 97302.

ORS 183.405 requires all state agencies to review newly adopted rules not later than five years after adopting the rule, 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, DOC is submitting rule reviews for rules adopted 2018.

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) and (6), this rule review does not apply to the amendment or repeal of a rule, rules that are 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 changes, or rules adopted to correct errors or omissions.

## RULE REVIEWS 2018

DOC adopted a total of 17 rules subject to review as described in ORS 183.405(1).

These rulemakings involved four rule divisions.

Rule(s)	Effective Date
291-124-0042	1/22/2018
291-205-0120	5/15/2018
291-205-0200	5/15/2018
291-205-0210	5/15/2018
291-205-0220	5/15/2018
291-205-0230	5/15/2018
291-171-0005	8/10/2018
291-171-0010	8/10/2018
291-171-0015	8/10/2018

291-171-0020	8/10/2018
291-171-0025	8/10/2018
291-171-0030	8/10/2018
291-171-0035	8/10/2018
291-171-0040	8/10/2018
291-171-0045	8/10/2018
291-171-0050	8/10/2018
291-093-0006	8/10/2018

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Division 205 Victim Services Programs	8



### 5-Year Review Rule Review (ORS 183.405)

Review of Agency Rules Adopted Since 1/1/06

Rule Number(s): 291-093-0006 Definitions

Date Adopted:  
8/10/2018

Date Review Due:  
8/10/2023

Date Review Completed:  
7/21/23

Name of Reviewer:  
Kyle Page

- Advisory Committee Used
- Advisory Committee Not Used

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

#### Intended Effect

1. Did the rule(s) achieve its intended effect?  yes  no

a. What was the intended effect of this rule(s) adoption?

To define the housing of Adults in Custody who are sentenced to death in Oregon.

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

The rule effectively defined the housing. Death Row housing has now been disbanded.

#### Fiscal Impact

2. Was the fiscal impact statement (check one)

- underestimated     overestimated     just about right     unknown

a. What was the estimated fiscal impact?

No.

b. What was the actual fiscal impact?

None.

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

3. Have subsequent changes in the law required the rule be repealed or amended?  yes  no

If yes, explain.

4. Is the rule still needed?  yes  no

Explain.

Death Row housing has now been disbanded.



## 5-Year Review Rule Review (ORS 183.405)

Review of Agency Rules Adopted Since 1/1/06

**Rule Number(s):** 291-124-0042 Dental Care and Treatment

**Date Adopted:** 11/7/2017

**Date Review Due:** 11/7/2022

**Completed by and Date Completed:** 2/17/23 Dr. Shook

**Advisory Committee Used?** No

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

1. **Did the rule achieve its intended effect?** Yes
  - a. **What was the intended effect?** Clarity regarding AIC dental care
  - b. **How did the rule succeed or fail in achieving this effect?** Language is clear and concise
2. **Was the fiscal impact statement (check one) unknown**
  - a. **What was the estimated fiscal impact?** Minimal
  - b. **What was the actual fiscal impact?** Minimal
  - c. **If the answer to question 2 is unknown, briefly explain why.** OAR seeks to clarify dental treatment guidelines that have been in place for years – no current fiscal impact
3. **Have subsequent changes in the law required the rule be repealed or amended?** No

If yes, explain

4. **Is the rule still needed?** Yes

**Explain:** There needs to be clear rules in place that explain ODOC dental treatment. This rule is referred to frequently in response to grievances, tort claims, lawsuits, etc.



**5-Year Review Rule Review (ORS 183.405)**

Review of Agency Rules Adopted Since 1/1/06

**Rule Number(s):**

- 291-171-0005 Authority, Purpose, and Policy
- 291-171-0010 Definitions
- 291-171-0015 Offender-Staff Communications (General Principles)
- 291-171-0020 Grievance Review System
- 291-171-0025 Filing a Grievance
- 291-171-0030 Processing Offender Grievances
- 291-171-0035 Grievance Appeals
- 291-171-0040 Sexual Misconduct Grievances
- 291-171-0045 Abuse of Grievance Review System
- 291-171-0050 Retention and Filing of Offender Grievances

**Date Adopted:**  
8/10/2018

**Date Review Due:**  
8/10/2023

**Date Review Completed:**  
6/30/2023

**Name of Reviewer:**  
Megan Becker

- Advisory Committee Used
- Advisory Committee Not Used

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

**Intended Effect**

1. Did the rule(s) achieve its intended effect?  yes  no

a. What was the intended effect of this rule(s) adoption? To create a streamlined process to allow adults on supervision to address issues/concerns that cannot be resolved through informal dialog or written communication. To create a consistent process for responding to issues.

b. How did the rule(s) succeed or fail in achieving this effect? Successfully established a timely, trackable communication platform for adults on supervision and their supervising authorities to resolve any grievances that could not be resolved with informal communication.

**Fiscal Impact**

2. Was the fiscal impact statement (check one)

- underestimated
- overestimated
- just about right
- unknown

a. What was the estimated fiscal impact? No fiscal impact

b. What was the actual fiscal impact? None

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



## **5-Year Review Rule Review (ORS 183.405)**

Review of Agency Rules Adopted Since 1/1/06

3. Have subsequent changes in the law required the rule be repealed or amended?  yes  no

If yes, explain.

4. Is the rule still needed?  yes  no

**Explain. This rule will continue to be essential for tracking, recording, and resolving grievances for Community Corrections.**



### 5-Year Review Rule Review (ORS 183.405)

Review of Agency Rules Adopted Since 1/1/06

**Rule Number(s):** 291-205-0120 Confidentiality of Facilitated Dialog Communication, Exceptions

**Date Adopted:** 11/20/2017

**Date Review Due:** 11/20/2022

**Completed by and Date Completed:** 2/17/2023 Saydyie DeRosia

**Advisory Committee Used?** yes no

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

1. **Did the rule achieve its intended effect?** yes no

a. **What was the intended effect?** To add language of SB16 (2017) regarding Confidentiality for ODOC Victim Services programs (FDP and RLB)

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

It succeeded by allowing confidentiality for communications with Victims

2. **Was the fiscal impact statement (check one)**

under estimated

overestimated

just about right

unknown

a. **What was the estimated fiscal impact?** The estimate was zero impact

b. **What was the actual fiscal impact?** Zero

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

3. **Have subsequent changes in the law required the rule be repealed or amended?** No

If yes, explain

4. **Is the rule still needed?** yes no

#### Explain

There is great need in protecting Victims information and communications when participating in a ODOC Victim Services program; not be allowed for Public Records release



# Rule Review Report

<b>Rule: OAR 330-135-0031, -0036</b>	<b>Date rule adopted: 12/20/2017</b> <b>Date rule effective: 12/20/2017</b>
<b>Reviewed By: Program Staff – Blake Shelide, Wendy Simons</b>	<b>Division: P&amp;I</b>
<b>Date Reviewed: 12/19/2023</b>	<b>Program Area: 1.5% GET Program</b>

**Was this a new rule adopted January 1, 2006 or after?**  No  Yes

*Does not apply to rules already in existence as of January 1, 2006, or for which notice was delivered to the Secretary of State before January 1, 2006.*

**If rule review required, are there exclusions that apply, under ORS 183.405:**

- Adopted to implement court orders or the settlement of civil proceedings
- Adopt federal laws or rules by reference
- Adopted to implement legislatively approved fee changes
- Adopted to correct errors or omissions
- No Exclusions

**Was there an Advisory Committee?**  No  Yes, provide a report on the review of this rule

## Rule and Process Review

Plain Language: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Operation of Program: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Statutory References Changes: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Changes:
Mandatory Report Requirements: <input checked="" type="checkbox"/> None <input type="checkbox"/> :
ODOE Policies: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Forms: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:

<ul style="list-style-type: none"> <li>• Has the rule had the intended effect? Yes.</li> <li>• What was the intended effect? To provide additional detail for Woody Biomass Energy Technology (WBET) to be used as a Green Energy Technology alternative.</li> <li>• How did the rule succeed or fail in achieving this effect? It reinforces statutory requirements and gives public agencies the specific requirements for eligibility of Woody Biomass Energy Technology, such as efficiency thresholds, eligible end uses, and emissions criteria. It also specifies what may be included as an eligible cost for WBET to provide guidance for public agencies. WBET has successfully been used as an eligible alternative, although this is not common.</li> </ul>
<ul style="list-style-type: none"> <li>• Was the anticipated fiscal impact of the rule underestimated or overestimated? No</li> <li>• What was the estimated fiscal impact? The original rule changes were estimated to have little or no fiscal impact.</li> <li>• What was the actual fiscal impact? The actual fiscal impact appears to be nonexistent/minimal. The allowance of WBET as a GET alternative provides another optional pathway for public agencies to comply with the 1.5% GET requirement. It neither increases nor decreases the spending requirement so it does not lead to any fiscal impact.</li> </ul>
Do subsequent changes in the law require that the rule be repealed or amended? No



Is there a continued need for the rule? Yes, WBET remains a statutory alternative, so the need for administrative rules continues.

Notes: The rule language from 330-135-0031 and -0036 was moved to new rule numbers, -0032 and -0037 respectively, in a 2019 rulemaking which substantially amended the 1.5% GET program rules to implement HB 2496 (2019). The original language in -0031 and -0036 was not changed in the 2019 rulemaking.

**Action:**  Amend  Repeal  No Change

**Submit review to:** Oregon Secretary of State (Adminrules.archives@sos.oregon.gov)  Yes



# Rule Review Report

<b>Rule: OAR 330-160-0035, -0037, -0038, -0060, -0070</b>	<b>Date rule adopted: 2/10/2014</b> <b>Date rule effective: 2/10/2014</b>
<b>Reviewed By: Program Staff</b>	<b>Division: P&amp;I</b>
<b>Date Reviewed 12/19/2023</b>	<b>Program Area: Renewable Portfolio Standard</b>

**Was this a new rule adopted January 1, 2006 or after?**  No  Yes

*Does not apply to rules already in existence as of January 1, 2006, or for which notice was delivered to the Secretary of State before January 1, 2006.*

**If rule review required, are there exclusions that apply, under ORS 183.405:**

- Adopted to implement court orders or the settlement of civil proceedings
- Adopt federal laws or rules by reference
- Adopted to implement legislatively approved fee changes
- Adopted to correct errors or omissions
- No Exclusions

**Was there an Advisory Committee?**  No  Yes, provide a report on the review of this rule

### Rule and Process Review

Plain Language: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Operation of Program: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Statutory References Changes: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Changes:
Mandatory Report Requirements: <input checked="" type="checkbox"/> None <input type="checkbox"/> :
ODOE Policies: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:
Forms: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Needs work:

<p>Has the rule had the intended effect? <i>Yes, the rule amendments had the intended effect.</i></p> <p>What was the intended effect? <i>The intended effect of the rule amendments was to provide additional clarity on facility eligibility requirements under the Oregon RPS.</i></p> <p>How did the rule succeed or fail in achieving this effect? <i>The rule amendments succeeded in providing additional clarity around RPS eligibility requirements.</i></p>
<p>Was the anticipated fiscal impact of the rule underestimated or overestimated? <i>The anticipated fiscal impact was adequately estimated.</i></p> <p>What was the estimated fiscal impact? <i>Minimal fiscal impact</i></p> <p>What was the actual fiscal impact? <i>Minimal fiscal impact</i></p>
<p>Do subsequent changes in the law require that the rule be repealed or amended? <i>No.</i></p>
<p>Is there a continued need for the rule? <i>Yes, there is a continued need for the rule, which provides additional clarity on the resources eligible for certification under the Oregon RPS.</i></p>
<p>Notes:</p>

**Action:**  Amend  Repeal  No Change

**Submit review to:** Oregon Secretary of State (adminrules.archives@sos.oregon.gov)  Yes



State of Oregon Department of Environmental Quality

## **Five Year Rule Review** ([ORS 183.405](#))

### **2023 review of rules adopted in 2018**

Contact: [Emil Hnidey](#), Agency Rules Coordinator

## **The purpose of the review**

ORS 183.405 of the Administrative Procedures Act requires agencies to review all newly adopted rules within five years after adopting them. This document meets DEQ's responsibilities under that law.

## **Legal requirements**

The statute requires agencies to review new rules to determine whether:

- The rule had the intended effect
- The agency over- or underestimated the rule's anticipated fiscal impact
- Subsequent changes in the law required the agency to amend or repeal the rule
- There is a continued need for the rule

Agencies are only required to use available information to conduct this review.

If the agency appointed an advisory committee in developing the rule, the agency must provide the committee members a copy of the review.

## **Exemptions**

Rules are exempt from this review if they:

- Consist only of the repeal of or an amendment to an existing rule
- Are adopted to implement court orders or to settle civil proceedings
- Only adopt federal laws or rules by reference
- Implement legislatively approved fee changes
- Only correct omissions or errors

## **Distribution of the review**

DEQ's Agency Rules Coordinator:

- Provides a copy of this review to DEQ's Leadership Team
- Provides a copy of this review to any advisory committee members
- Posts a copy of the review on DEQ's rulemaking website

- Preserves a copy of the review in DEQ’s electronic rulemaking archives
- Sends a copy to the Oregon Secretary of State

## **EQC meetings in 2018**

On May 10, 11 and Nov. 15, 2018, the EQC adopted rules subject to review.

## **Rules subject to this review**

### **Title – Zero Emission and Electric Vehicle Rebates**

**Adopted date:** 5/11/18

**Rule numbers:** 340-270-0010, 0020, 0030, 0100, 0110, 0120, 0200, 0300, 0400, 0410, 0420, 0430, 0500

**Reviewer:** Rachel Sakata

### **Summary**

This rulemaking established a zero-emission vehicle rebate program in Oregon. The program contains two elements – one element provides rebates for the purchase or lease of a new zero-emission vehicles (referred to as standard rebates). The second element, called Charge Ahead rebate, provides rebates for the purchase or lease of a new or used zero-emission vehicles if a purchaser is from a low- or moderate-income household.

The adopted rules established program requirements including:

- Rebate amounts provided for the purchase or lease of certain zero-emission vehicles.
- Eligibility requirements for vehicles and purchases qualifying under the program.
- Program elements of the Charge Ahead rebate program, including eligibility criteria.

### **Did the rule have the intended effect?**

Yes. The rules were established to implement legislative goals of encouraging higher adoption of zero emission electric vehicles, reducing air pollution, and advancing progress towards the state’s greenhouse gas reduction goals.

### **Did the agency over- or underestimate the rule’s fiscal impact?**

DEQ accurately anticipated the fiscal impact of the rules and has not had to make any adjustment.

### **Do subsequent changes in the law require the agency to amend or repeal the rule?**

House Bill 4059 (2018) required the agency to amend the rules to incorporate changes to the program.

House Bill 2592 (2019), required the agency to amend the rules to allow plug-in hybrid electric vehicles to be eligible for the Charge Ahead Rebate and incorporate other modifications to the rebate program.

House Bill 2165 (2021), required the agency to amend the rules to increase the Charge Ahead Rebate amount, include low income service providers to be eligible for the Charge Ahead Rebate and incorporate other changes to the program.

**Is there a continued need for the rule?**

Yes, the Oregon Legislature directed DEQ to administer the rebate program and these rules are necessary to maintain and implement the program.

# Title – Underground Storage Tanks Regulations Revisions

**Adopted date:** 5/10/18

**Rule numbers:** 340-150-0137, 0315

**Reviewer:** David Livengood

## Summary

In 2015, EPA revised the federal UST regulations. The adopted rules incorporates those 2015 revisions. This means Oregon must revise OAR 340, Divisions 150 and 151, to comply by October 2018.

In 2017, the Oregon Legislature amended laws governing underground storage tank fees with the passage of House Bill 2168. The bill directed DEQ to adopt rules increasing the annual tank fee from \$135 per year to \$325 per year over four years.

Without the additional funding from the proposed fee increases, DEQ would be unable to carry out the program by conducting adequate inspections to verify if USTs are properly equipped, operated and maintained.

The Oregon Environmental Quality Commission approved the proposed rules allowing DEQ to continue verifying owners and operators properly equip, operate, and maintain USTs.

- The adopted rules require:
- Walkthrough inspections
- Overfill prevention equipment inspections
- Spill prevention equipment tests
- Containment sump tests and
- Operability tests for release detection equipment.

The adopted rules also addressed UST systems deferred in the 1988 regulation by:

- Removing the release detection deferral for emergency generator tanks
- Removing deferrals for airport hydrant fuel distribution systems and UST systems with field-constructed tanks and

Other adopted rule amendments include:

- Providing for other changes to improve release prevention and detection and program implementation. This includes such measures as requiring testing after repairs to spill and overfill prevention equipment and secondary containment; eliminating flow restrictors in vent lines as an overfill prevention option for all new tanks; and, when overfill prevention equipment is replaced, addressing responses to interstitial monitoring alarms; and establishing requirements for demonstrating compatibility with fuels containing greater than E10 and greater than B20.
- Referencing newer technologies, including explicitly adding continuous in-tank leak detection, as release detection methods;
- Updating codes of practice listed in the UST regulation; and
- Implementing law governing underground storage tanks by the 2017 Oregon Legislature (HB 2168) increasing the annual tank fee from \$135 per year to \$325 per year over four years using this schedule:

- For calendar year 2018, fees would be \$195 per tank
- For calendar year 2019, fees would be \$245 per tank
- For calendar year 2020, fees would be \$295 per tank and
- For calendar year 2021 and for each subsequent calendar year, fees would be \$325 per tank

This rulemaking proposal also improves existing UST regulations by making grammatical, editorial and technical corrections.

The proposed rules apply to all owners of regulated underground storage tankss in Oregon.

**Did the rule have the intended effect?**

Yes. The rules were established to bring program funding into line with resource requirements, and to incorporate into Oregon Administrative Rules the new Federal requirements for USTs. The rules serve this purpose by increasing tank fees and requiring new testing.

**Did the agency over- or underestimate the rule’s fiscal impact?**

DEQ accurately anticipated the fiscal impact of the rules.

**Do subsequent changes in the law require the agency to amend or repeal the rule?**

No subsequent changes in the law require the agency to amend or repeal the rules.

**Is there a continued need for the rule?**

UST program resource requirements continue to need funding support, and the Federal testing requirements will be in force going forward. We continue to need these rules.



## **Title – Cleaner Air Oregon**

**Adopted date:** 11/15/18

**Rule numbers:** 340-216-0069, 8030; 340-245-0005, 0010, 0020,0022, 0030, 0040, 0050, 0060, 0100, 0110, 0120, 0130, 0140, 0150, 0200, 0210, 0220, 0230, 0320, 0400, 8010, 9000, 9010, 9015, 9020, 9030, 9050, 9060, 9070, 9080,

**Reviewer:** JR Giska

### **Summary**

The Oregon Environmental Quality Commission adopted the Cleaner Air Oregon (CAO) program and rules, with amendments for related rules, to add public health-based protection from emissions of industrial toxic air contaminants to the state's existing air permitting regulatory framework. In April 2016, Governor Brown directed the DEQ and the Oregon Health Authority (OHA) to develop a health risk-based toxic air contaminant permitting program. The goal of the CAO program is to evaluate potential health risks to people near commercial and industrial facilities that emit regulated toxic air contaminants, communicate those results to affected communities, and ultimately reduce those risks below health-based standards. Affected facilities could include some that are not currently permitted for their air contaminant emissions, in addition to those that already have air quality permits.

The CAO program uses facility toxic air contaminant risk assessments for the implementation of the program. Facility toxic air contaminant risk assessments rely on emissions data specific to, and provided by, each facility. Facilities are required to calculate and report risks posed by their emissions where people would be exposed. Regulatory actions are triggered when the risk posed by a facility's emissions exceed specified Risk Action Levels. Risk Action Levels were adopted for new or reconstructed, and existing facilities. Different Risk Action Levels trigger different actions: requirements for community engagement, measures to reduce risk, or a demonstration that the facility has already incorporated all feasible measures to reduce risk.

If risk reductions are required under the CAO rules, facilities have flexibility in how they reduce emissions. Options include installing emission controls, incorporating pollution prevention, substituting less-hazardous materials for more-hazardous materials, or altering work practices. If risk from a facility's emissions is already below defined Risk Action Levels, the facility generally will only be required to report periodically on its emissions. If a facility has demonstrated it uses all the feasible emission reduction measures it can, the adopted regulations allow DEQ to approve continued operation at higher Risk Action Levels with periodic review for newly available technology or controls. The adopted regulations prohibit operation of facilities whose emissions pose risks that exceed an upper risk limit.

In addition to the adopted CAO regulations, DEQ has also adopted several changes to existing rules needed to integrate CAO rules with existing Air Quality program rules. This includes changes to the existing rules for emissions of toxic air contaminants from art glass manufacturers to make those requirements consistent with the adopted CAO rules. Some of the adopted changes to existing rules amended the Oregon Clean Air Act State Implementation Plan.

### **Did the rule have the intended effect?**

Yes. The rules were established to reduce air toxics and provide a health-based program to reduce Oregonian's exposure to toxic air pollutants. The rules established new tools to understand potential health risks for communities and to regulate facilities based on those health risks. To address regulatory gaps, rules included provisions to cover facilities and pollutants that were posing risk, set health-protective risk levels for communities impacted by one or more facilities (including sensitive and vulnerable populations), accomplished an accurate and streamlined assessment process, and ensured that affected communities have equal and adequate opportunities to participate and weigh in on proposed permitting decisions.

**Did the agency over- or underestimate the rule's fiscal impact?**

DEQ accurately anticipated the fiscal impact of the rules and has not had to make any adjustment.

**Do subsequent changes in the law require the agency to amend or repeal the rule?**

Yes, the Hazard Index Rulemaking of 2020 reduced the Risk Action Levels for existing sources emitting TACs from a noncancer Hazard Index value of 5 to 3 if the chemical is expected to cause developmental or other severe human health effects. The Air Toxics Alignment Implementation Rulemaking of 2021 created a new rule [OAR 340-247] to maintain the list of toxic air contaminants to report, as well as all the regulatory standards for toxic air contaminants for the Air Quality Division at DEQ. This rulemaking also updated CAO rules that were confusing or ambiguous, led to unintended outcomes in process, or could improve program efficiency for the agency and facilities. CAO is also in the process of reviewing Toxicity Reference Values (TRVs) as required by rule 340-247-0040.

**Is there a continued need for the rule?**

ORS 468A as amended in 2018 by SB1541 authorizes the Environmental Quality Commission to adopt program and rules to reduce public health risks from emissions of toxic air contaminants from individual stationary industrial and commercial air contamination sources. Because the CAO program is the only air quality permitting program that integrates public health directly into the establishment of permit conditions for industrial facilities, there is a continued need for these rules to continue to issue health-protective air quality permits.

## **Title – Clean Fuels Program Updates**

**Adopted date:** 11/15/18

**Rule numbers:** 340-253-0350

**Reviewer:** Bill Peters

### **Summary**

The Oregon Environmental Quality Commission adopted amendments to the Oregon Clean Fuels Program rules under Division 253 of Chapter 340 of the Oregon Administrative Rules. The adopted rule changes:

- updated the models used to determine the carbon intensities of fuels and the resulting changes to the lookup table values, clean fuel standards, energy economy ratios, and temporary fuel pathway codes;
- added new categories of fuel applications that can be used to generate credits, including forklifts and transport refrigeration units, and add new fuels that could generate credits such as alternative jet fuel and renewable propane; and
- made some additional housekeeping changes and updates.

DEQ also adopted amendments to rules under Division 12 of Chapter 340 of the Oregon Administrative Rules to classify certain violations and establish or clarify enforcement criteria for violations of the Oregon Clean Fuels Program.

### **Did the rule have the intended effect?**

Yes. This rule allowed alternative jet fuel, also known as sustainable aviation fuel, supplied to planes in Oregon to generate credits under the Clean Fuels Program.

### **Did the agency over- or underestimate the rule’s fiscal impact?**

DEQ accurately anticipated the fiscal impact of the rules and has not had to make any adjustment.

### **Do subsequent changes in the law require the agency to amend or repeal the rule?**

No.

### **Is there a continued need for the rule?**

Yes. The production of alternative jet fuel is still growing and very little has been used in Oregon to displace fossil jet. Alternative low-carbon fuel and engine technologies to jet and propeller engines for the aviation sector are limited and renewable hydrocarbons from plant and animal oils and fats are currently the main plausible decarbonization pathway, though hydrogen fuel cells and electric batteries may prove effective for certain subsets of the aviation sector. The credit generation opportunity created by the addition of OAR 340-253-0350 improves the economics for airlines and aircraft operators in Oregon to use this low-carbon fuel.

**Translation or other formats**

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

**Rule Under Review (Adopted 09/08/2017):**

- 413-017-0060 - Purpose of the CIRT
- 413-017-0070 - CIRT Timelines and Reports
- 413-017-0080 - CIRT Membership and Functioning
- 413-017-0090 - Purpose of the DCIRT
- 413-017-0100 - DCIRT Timelines and Reports
- 413-017-0110 - DCIRT Membership and Functioning

- Rule 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 adopted temporary rules to establish the Department's responsibilities when a child fatality occurs, and a Critical Incident Response Team (CIRT) must be convened under ORS 419B.024 as amended by SB 819 (2017). The rules also described when the Department had discretion to convene a review team (called a Discretionary Critical Incident Response Team (DCRIT)) even though a CIRT is not required by law.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><b>Have these rule adoptions had the intended effect?</b></p> <p>413-017-0060 Purpose of the CIRT was repealed and Child Welfare adopted 413-017-0045 Purpose of a CIRT to reorder the rule for clarity and to make minor corrections. 413-017-0070 - CIRT Timelines and Reports and 413-017-0080 - CIRT Membership and Functioning have been amended and are currently in practice. Updates include SB832 from 2019 Legislation.</p> <p>413-017-0090 - Purpose of the DCIRT, 413-017-0100 - DCIRT Timelines and Reports and 413-017-0110 - DCIRT Membership and Functioning temporary adopted rules were suspended due to the result of serious prejudice to the public interest and the Department because current rules needed to align with Department practices.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><b>Was the anticipated fiscal impact of this rule underestimated?</b></p> <p>The Department estimated adopting these rules would have no fiscal impact on state agencies, including the Department, clients, providers, the public, local government, or business, including small business, however, there ended up being a fiscal impact with adopting these rules that the Office of Child Welfare Programs endured.</p>

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p><b>Was the anticipated fiscal impact of this rule overestimated?</b></p> <p>The Department estimated adopting these rules would have no fiscal impact on state agencies, including the Department, clients, providers, the public, local government, or business, including small business. No small businesses are subject to this rule. There is no cost of compliance for small business.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><b>Have there been any subsequent changes in the law that require this rule to be amended or repealed?</b></p> <p>413-017-0060 Purpose of the CIRT was repealed and Child Welfare adopted 413-017-0045 Purpose of a CIRT to reorder the rule for clarity and to make minor corrections. 413-017-0070 - CIRT Timelines and Reports and 413-017-0080 - CIRT Membership and Functioning have been amended and are currently in practice. Updates include SB832 from 2019 Legislation.</p> <p>413-017-0090 - Purpose of the DCIRT, 413-017-0100 - DCIRT Timelines and Reports and 413-017-0110 - DCIRT Membership and Functioning temporary adopted rules were suspended due to the result of serious prejudice to the public interest and the Department because current rules needed to align with Department practices.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><b>Is there a continued need for this rule?</b></p> <p>These temporary adopted rules have been repealed, suspended and/or amended since adoption and continue to be applied in Child Welfare practices.</p>
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p><b>Has this rule had an impact on small businesses?</b></p> <p>The Department estimated temporary adopting these rules would have no fiscal impact on state agencies, including the Department, clients, providers, the public, local government, or business, including small business. No small businesses are subject to this rule. There is no cost of compliance for small business.</p>
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**Report Prepared On: 04/10/2023**

**Report Approved By: Child Welfare Policy Unit and Deb Carnaghi Child Fatality Prevention & Review**

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

**Rule Under Review:**

- 413-090-0051 – Department Review of Foster Care Payments Rates (Adopted 07/05/17)

- 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 intended effect was that the Department must review the established foster care payment rates every two years in conjunction with the Department budget preparation processes for submission of the Agency Request Budget to the Governor. The purpose of this review is to consider the rates the state is providing in comparison to the USDA Cost of Raising a Child or similar reports.

- Yes  
 No
- Have these rule adoptions had the intended effect?**  
Adopted Administrative rules are still in effect today.

- Yes  
 No
- Was the anticipated fiscal impact of this rule underestimated?**  
The Department estimated adopting this rule 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 are subject to this rule. There is no cost of compliance for small business.

- Yes  
 No
- Was the anticipated fiscal impact of this rule overestimated?**  
The Department estimated adopting this rule 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 are subject to this rule. There is no cost of compliance for small business.

- Yes  
 No
- Have there been any subsequent changes in the law that require this rule to be amended or repealed?**  
There have been no updates to the rule since it was adopted. There is POP to increase the resource parent maintenance payments, so if POP is approved by Legislation there would need to be amendments.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Is there a continued need for this rule?</b> Adopted administrative rule is currently still effective.
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Has this rule had an impact on small businesses?</b> The Department estimated adopting this rule 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 are subject to this rule. There is no cost of compliance for small business.
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**Report Prepared On: 04/03/2023**

**Report Approved By: Child Welfare Policy Unit and Donna Haney Foster Care Assistant Program Manager**

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

Rule Under Review (Adopted 08/06/2017):

- 413-115-0000 - ICWA Definitions
413-115-0010 - ICWA History: Purpose and Applicability
413-115-0020 - ICWA Department Authority
413-115-0030 ICWA Tribal Membership and Enrollment
413-115-0040 - ICWA Inquiry and Actions to Determine a Child's Tribal Membership or Enrollment Under the ICWA; Notification to the Tribe of Initial Contact
413-115-0050 - ICWA Notification to the Tribe of Placement or Change in Placement
413-115-0060 - ICWA Active Efforts
413-115-0070 - ICWA Emergency Removal and Return Upon Demand
413-115-0080 - ICWA Required Documentation Prior to a Non-Emergency Removal
413-115-0090 - ICWA Placement of Indian Children
413-115-0100 - ICWA Voluntary Placement Agreements
413-115-0110 - ICWA Consent to Termination of Parental Rights and Voluntary Relinquishment of Parental Rights
413-115-0120 - ICWA Notice Required Prior to a Child Custody Proceeding or Court Hearing
413-115-0130 - ICWA Standards of Evidence and Minimum Qualifications for a Qualified Expert Witness
413-115-0140 - ICWA Tribal-State Agreement
413-115-0150 - ICWA Full Faith and Credit

- Checked box: Rule Advisory Committee Used Prior to Initial Adoption of Permanent Rule
Unchecked box: 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?

On June 14, 2016, the Bureau of Indian Affairs (BIA) published rules relating to implementation of the Indian Child Welfare Act (ICWA). ICWA is the federal law controlling the welfare of Indian children and on February 7, 2017, the Department of Human Services, Office of Child Welfare Programs, adopted rules to comply with these regulations relating to the Department's responsibilities when serving Indian children.

Form with checkboxes for 'Yes' and 'No' and text: 'Have these rule adoptions had the intended effect? Adopted Administrative rules are still in effect and have been updated with the passing of SB562A and the implementation of ORICWA.'

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p><b>Was the anticipated fiscal impact of this rule underestimated?</b></p> <p>The Department estimated adopting this rule 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 are subject to this rule. There is no cost of compliance for small business.</p>
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p><b>Was the anticipated fiscal impact of this rule overestimated?</b></p> <p>The Department estimated adopting this rule 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 are subject to this rule. There is no cost of compliance for small business.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><b>Have there been any subsequent changes in the law that require this rule to be amended or repealed?</b></p> <p>These adopted rules were updated on 01/01/2022 with the passing of SB562A and the implementation of ORICWA.</p>
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<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p><b>Is there a continued need for this rule?</b></p> <p>These adopted rules were updated on 01/01/2022 with the passing of SB562A and the implementation of ORICWA and continued to be practice by Child Welfare.</p>
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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p><b>Has this rule had an impact on small businesses?</b></p> <p>The Department estimated adopting this rule 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 are subject to this rule. There is no cost of compliance for small business.</p>
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**Report Prepared On: 04/03/2023**  
**Report Approved By: Child Welfare Policy Unit and Emily Hawkins Tribal Affairs ORICWA Consultant**

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Department of Consumer and Business Services  
Workers' Compensation Division

Five-year Administrative Rule Review

**Rule division name and rule numbers:** OAR chapter 436, division 001, "Procedural Rules, Attorney Fees, and General Provisions," rules:

0600, "Multilingual Help Page" and  
0610, "Duty to Forward Misdirected Request."\*\*

**Date adopted:** March 11, 2019

**Date reviewed:** December 11, 2023

**Advisory Committee Used:** Yes

A rulemaking advisory committee met on May 30, 2018\* and Nov. 5, 2018.\*\*

\*The content of new rule 0600, "Multilingual Help Page," was discussed by the rulemaking advisory committee on May 30, 2018.

\*\*The content of new rule 0610, "Duty to Forward Misdirected Request," was a housekeeping item on the agenda for the rulemaking advisory committee on Nov. 5, 2018, but prompted no discussion. The provision addressing the proper routing of misdirected requests for hearing or administrative review was moved, without amendment, to new rule 0610 from (existing) rule 0027, in order to place this information with other rules of general applicability. This relocation did not have any effect on document handling or fiscal impacts.

**1. Did the rule achieve its intended effect?** Yes (based on limited data)

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

The intent was to help workers with limited English proficiency to understand the importance of certain documents they receive, such as notices about appeal rights or about actions necessary to avert a loss of benefits. The adopted rule requires that Form 5377, "Workers' Compensation Multilingual Help Page," accompany many important notices sent to workers. Form 5377 explains, in several languages, that the document the worker has received is important, that they may lose a right or benefit unless they take action by a deadline given, and that for language assistance regarding the document, they may call the State of Oregon, Ombuds Office for Oregon Workers.

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

The division’s senior field auditor reports that Form 5377 is commonly seen in claims processors’ claim files. The Ombuds Office for Oregon Workers reports that they frequently hear from Spanish-speaking workers who refer to Form 5377, and that it is helpful to them, though the 5377 is sometimes distributed with routine correspondence having nothing to do with a possible loss of benefits, which can be upsetting, because the 5377 has “URGENT!” in its text.

The division does not record or track language proficiency. Such data might allow for a comparison of benefits provided before and after prescription of the multilingual help page.

The division invites feedback from worker representatives, claims processors, and others about the effects of the help page.

**2. Was the fiscal impact statement:**

- Underestimated
- Overestimated
- Just about right
- Unknown

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

The Workers’ Compensation Division estimated annual costs for printing and mailing:

\$605	Workers’ Compensation Division*
\$650	Managed Care Organizations
\$15,210	Insurers, self-insured employers, and service companies

\*The rule does not require the division to use the multilingual help page, but its use was incorporated into the division’s procedures for issuing key documents; projected costs were included in its notice of proposed rulemaking hearing filed with the Secretary of State 1/24/2019.

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

Unknown

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

Claims processors and managed care organizations were not required to track or report costs for use of the multilingual help page to the Workers’ Compensation Division. The division did not receive public testimony about its cost estimates in 2019, but invites feedback now about the actual costs for printing and mailing.

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

No

**4. Is the rule still needed? Yes**

There is a continuing need for information to serve workers with limited English proficiency to understand time-sensitive documents they receive.

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

When the division proposed adoption of this rule, it included in its cost-of-compliance effect for small businesses: “One of the MCOs is a small business. At least one service company (claims processor) is a small business. We estimate that more than 200 attorneys represent the interests of injured workers, and many of these attorneys work for firms that are small businesses.” At that time, there was no data to show that the cost-of-compliance effect would be significantly adverse. The division continues to support this assessment, but invites feedback from small (and large) businesses regarding any adverse effects of the rule.

**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.**

## Agency Review of Administrative Rules

Rule number: OAR 459-005-0300      Reviewed by: Anne Marie Vu  
Date reviewed: 6/20/2023

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: 2/2/2018

Date review due: 2/2/2023

Advisory committee used to draft Rule?

Yes     No

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

1. Did the rule achieve the intended effect?

Yes     No

a. What was the intended effect?

Clarify post-doctoral scholar administration under ORS 243.800, OL 2017, Ch. 569

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

Provided clarification on who qualifies for post-doctoral scholar classification.

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

Underestimated     Just about right

Overestimated     Unknown

a. What was the estimated fiscal impact?

No known fiscal impact.

b. What was the actual fiscal impact?

No known fiscal impact.

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

Fiscal impact is indeterminate because this kind of clarification is normally a part of PERS routine business and therefore absorbed into our regular budget.

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

Yes     No

If yes, explain.

4. Is the rule still needed?

Yes     No

Explain.

This rule will be required so long as post-doctoral scholars are excluded from PERS membership eligibility under ORS.

5. Does the rule impact small businesses?

Yes     No

Explain.

Any impact of this rule would be to individuals employed by the public universities or OHSU, or those entities themselves.

## Agency Review of Administrative Rules

Rule number: OAR 459-080-0015      Reviewed by: Yong Yang  
Date reviewed: 2/2/2023

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: 2/2/2018

Date review due: 2/2/2023

Advisory committee used to draft Rule?

Yes     No

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

1. Did the rule achieve the intended effect?

Yes     No

a. What was the intended effect?

This rule acknowledges as a default that members' IAP account balances will be invested in target date funds based upon their respective birth years. In order to further facilitate the implementation of the target date fund structure, the rule also lays out how target date fund investing would be handled in the following three specific factual scenarios:

(1) In the event of a divorce decree that creates a separate IAP account for an alternate payee, the AP's account balance will be invested in a target date fund based on the alternate payee's birth year in the calendar year that PERS administers the divorce decree.

(2) Retired members who took an installment payment option will have their remaining IAP account balance and any new contributions invested in the retirement allocation fund if they reestablish active membership by returning to PERS employment.

(3) The IAP account balance of a member who dies pre-retirement will be moved to the retirement allocation fund until the money is paid out to a beneficiary or beneficiaries.

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

This rule succeeded by acknowledging that IAP account balances will by default be invested in target date funds based upon members' respective birth years unless a non-retired IAP account member makes a different and valid target date fund election.

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 stating in rule how the target date funds will be administered

b. What was the actual fiscal impact?

## Agency Review of Administrative Rules

There are no discrete costs attributable to stating in rule how the target date funds will be administered

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

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

Yes  No

If yes, explain.

4. Is the rule still needed?

Yes  No

Explain.

The OIC adopted the TDF investment structure effective on January 1, 2018. The TDF investment structure is still in effect and this rule is needed to implement that investment structure.

5. Does the rule impact small businesses?

Yes  No

Explain.





# Oregon

Tina Kotek, Governor

Oregon State Police  
Oregon State Athletic Commission  
500 Airport Rd. SE  
Salem, Oregon 97317  
503-871-5091  
503-540-1440 Fax

## Oregon State Athletic Commission (OSAC) Five Year Review of 2018 OSAC Rulemaking

<b>Rule Number(S)</b>	<b>Adopted Date</b>	<b>Review Date</b>
230-080-0400, 230-080-0420, 230-080-0510, 230-080-0680,	1/9/2018	12/01/2023
230-110-0090,	1/9/2018	12/01/2023
230-120-0490, 230-120-0400, 230-120-0410, 230-120-0420, 230-120-0430, 230-120-0450, 230-120-0460, 230-120-0470, 230-120-0480, 230-120-0500, 230-120-0510, 230-120-0520, 230-120-0530, 230-120-0540, 230-120-0550, 230-120-0560, 230-120-0570, 230-120-0580, 230-120-0590, 230-120-0600, 230-120-0610, 230-120-0620, 230-120-0630, 230-120-0640, 230-120-0650, 230-120-0660, 230-120-0670, 230-120-0680,	1/9/2018	12/01/2023
230-130-0400, 230-130-0410, 230-130-0420, 230-130-0430, 230-130-0440, 230-130-0450, 230-130-0460, 230-130-0470, 230-130-0480, 230-130-0490, 230-130-0500, 230-130-0510, 230-130-0520, 230-130-0530, 230-130-0540, 230-130-0550, 230-130-0560, 230-130-0570, 230-130-0580, 230-130-0590, 230-130-0600, 230-130-0610, 230-130-0620, 230-130-0630, 230-130-0640, 230-130-0650, 230-130-0660, 230-130-0670, 230-130-0680,	1/9/2018	12/01/2023
230-140-0410, 230-140-0420, 230-140-0430, 230-140-0440, 230-140-0450, 230-140-0470, 230-140-0480, 230-140-0490, 230-140-0500, 230-140-0510, 230-140-0520, 230-140-0530, 230-140-0540, 230-140-0550, 230-140-0570, 230-140, 0580, 230-140-0610, 230-140-0620, 230-140-0630, 230-140-0640, 230-140-0660.	1/9/2018	12/1/2023



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230-150-0010, 230-150-0020, 230-150-0040, 230-150-0050, 230-150-0060, 230-150-0070, 230-150-0090, 230-150-0100, 230-150-0110, 230-150-0120, 230-150-0130, 230-150-0140, 230-150-0080, 230-150-0030	1/9/2018	12/1/2023
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## Five Year Review of New Rules Checklist

Date: 12/1/2023

OAR's Adopted: 230-080-0400, 230-080-0420, 230-080-0510, 230-080-0680,

Adoption Date: 1/9/2018

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 emissions  Y  N

### Did rule:

Have intended effect	<b>YES</b>
a. What was the intended effect?	<b>These rules were a part of a bulk re-write of several rule divisions intended to bring Oregon rules in line with current standards and the most recent version of the unified rules of boxing.</b>
b. How did rule succeed or fail in achieving this effect	<b>This rule enabled OSAC and its officials to operate boxing events under rules that are standard across the country</b>
Was fiscal impact underestimated, overestimated, just about right, or unknown?	<b>The fiscal impact was appropriately estimated.</b>
a. What was the estimated fiscal impact	<b>There was no estimated fiscal impact to OSAC, its licensees, or the public</b>
b. What was the actual fiscal impact	<b>The actual fiscal impact of this rule was zero.</b>



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

Have continued need? YES

Impact on small businesses? This rule had no impact on small businesses



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## Five Year Review of New Rules Checklist

Date: 12/1/2023

OAR's Adopted: 230-110-0090

Adoption Date: 1/9/2018

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 emissions  Y  N

### Did rule:

Have intended effect	<b>YES</b>
c. What was the intended effect?	<b>This rule outlines the appeal procedure for licensees who receive sanctions on their license as a result of rule violations</b>
d. How did rule succeed or fail in achieving this effect	<b>This rule ensured OSAC and its licensees follow due process requirements.</b>
Was fiscal impact underestimated, overestimated, just about right, or unknown?	<b>The fiscal impact was appropriately estimated.</b>
d. What was the estimated fiscal impact	<b>There was no estimated fiscal impact to OSAC, its licensees, or the public</b>
e. What was the actual fiscal impact	<b>The actual fiscal impact of this rule was zero.</b>
f. If the answer to "b" is unknown, briefly explain why:	



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Have continued need? YES

Impact on small businesses? This rule had no impact on small businesses



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## Five Year Review of New Rules Checklist

Date: 12/1/2023

OAR's Adopted: 230-120-0490, 230-120-0400, 230-120-0410, 230-120-0420, 230-120-0430, 230-120-0450, 230-120-0460, 230-120-0470, 230-120-0480, 230-120-0500, 230-120-0510, 230-120-0520, 230-120-0530, 230-120-0540, 230-120-0550, 230-120-0560, 230-120-0570, 230-120-0580, 230-120-0590, 230-120-0600, 230-120-0610, 230-120-0620, 230-120-0630, 230-120-0640, 230-120-0650, 230-120-0660, 230-120-0670, 230-120-0680,

Adoption Date: 07/06/2018

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 emissions  Y  N

### Did rule:

Have intended effect	YES
e. What was the intended effect?	<b>These rules were a part of a bulk re-write of several rule divisions intended to bring Oregon rules in line with current standards and to fix minor drafting error in previous rules All rules were technical in nature, made minor corrections and had no estimated fiscal impact.</b>
f. How did rule succeed or fail in achieving this effect	<b>The rule outlined the rules of conduct for promoters seek to hold kickboxing events within the state of Oregon. It failed to appropriately bring the rule division up to currently industry standards and led to</b>



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	<b>difficulties in sanctioning kickboxing events within the state. As a result, the entire rules division was repealed in 2023.</b>
Was fiscal impact underestimated, overestimated, just about right, or unknown?	<b>The fiscal impact was appropriately estimated.</b>
g. What was the estimated fiscal impact	<b>There was no estimated fiscal impact to OSAC, its licensees, or the public</b>
h. What was the actual fiscal impact	<b>The actual fiscal impact of this rule was zero.</b>
i. If the answer to "b" is unknown, briefly explain why:	

Have continued need? No. OSAC repealed division 120 of its administrative rules in 2023 because the rule division was not up to industry standard or enabling the growth of the sport

Impact on small businesses? This rule had no impact on small businesses





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## Five Year Review of New Rules Checklist

Date: 12/1/2023

OAR's Adopted: 230-130-0400, 230-130-0410, 230-130-0420, 230-130-0430, 230-130-0440, 230-130-0450, 230-130-0460, 230-130-0470, 230-130-0480, 230-130-0490, 230-130-0500, 230-130-0510, 230-130-0520, 230-130-0530, 230-130-0540, 230-130-0550, 230-130-0560, 230-130-0570, 230-130-0580, 230-130-0590, 230-130-0600, 230-130-0610, 230-130-0620, 230-130-0630, 230-130-0640, 230-130-0650, 230-130-0660, 230-130-0670, 230-130-0680

Adoption Date: 1/9/23

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 emissions  Y  N

### Did rule:

Have intended effect	YES
g. What was the intended effect?	<b>These rules were a part of a bulk re-write of several rule divisions intended to bring Oregon rules in line with current standards and to fix minor drafting error in previous rules All rules were technical in nature, made minor corrections and had no estimated fiscal impact.</b>
h. How did rule succeed or fail in achieving this effect	<b>The rule outlined the rules of conduct for promoters seek to hold Muay Thai events within the state of Oregon. Although the rule largely outlines the industry standard for Muay Thai bouts, it was deficient in multiple areas. Additionally, OSAC was</b>



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	<b>unprepared to sanction these events given the lack of officials appropriately trained in overseeing Muay Thai events. As a result of the noted deficiencies in division 130 as well as 120, OSAC amended division 130 to bring it within recognized industry standards and allow for the greatest degree of administrative flexibility.</b>
Was fiscal impact underestimated, overestimated, just about right, or unknown?	<b>The fiscal impact was appropriately estimated.</b>
j. What was the estimated fiscal impact	<b>There was no estimated fiscal impact to OSAC, its licensees, or the public</b>
k. What was the actual fiscal impact	<b>The actual fiscal impact of this rule was zero.</b>
l. If the answer to "b" is unknown, briefly explain why:	

Have continued need? YES.

Impact on small businesses? This rule had no impact on small businesses



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## Five Year Review of New Rules Checklist

Date: 12/1/2023

OAR's Adopted: 230-140-0410, 230-140-0420, 230-140-0430, 230-140-0440, 230-140-0450, 230-140-0470, 230-140-0480, 230-140-0490, 230-140-0500, 230-140-0510, 230-140-0520, 230-140-0530, 230-140-0540, 230-140-0550, 230-140-0570, 230-140, 0580, 230-140-0610, 230-140-0620, 230-140-0630, 230-140-0640, 230-140-0660

Adoption Date: 1/9/2018

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 emissions  Y  N

### Did rule:

Have intended effect	YES
i. What was the intended effect?	<b>These rules were a part of a bulk re-write of several rule divisions intended to bring Oregon rules in line with current standards and to fix minor drafting error in previous rules All rules were technical in nature, made minor corrections and had no estimated fiscal impact.</b>
j. How did rule succeed or fail in achieving this effect	<b>These rules improved the ability of OSAC to hold and regulate mixed martial arts events and to bring it in line with the unified rules at the time.</b>
Was fiscal impact underestimated, overestimated, just about right, or unknown?	<b>The fiscal impact was appropriately estimated.</b>



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m. What was the estimated fiscal impact	<b>There was no estimated fiscal impact to OSAC, its licensees, or the public</b>
n. What was the actual fiscal impact	<b>The actual fiscal impact of this rule was zero.</b>
o. If the answer to "b" is unknown, briefly explain why:	

Have continued need? YES

Impact on small businesses? This rule had no impact on small businesses



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## Five Year Review of New Rules Checklist

Date: 12/01/2023

OAR's Adopted: 230-150-0010, 230-150-0020, 230-150-0040, 230-150-0050, 230-150-0060, 230-150-0070, 230-150-0090, 230-150-0100, 230-150-0110, 230-150-0120, 230-150-0130, 230-150-0140, 230-150-0080, 230-150-0030

Adoption Date: 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 emissions  Y  N

### Did rule:

Have intended effect	YES
k. What was the intended effect?	<b>The rules associated with division 150 were implemented to maintain USA boxing as the primary sanctioning body for amateur boxing in the State of Oregon. This rule making was to make permanent temporary rules that had establish a process by which Amateur Athletic Organization can apply to be recognized by the Oregon State Athletic Commission and to limit amateur boxing sanctioning to one organization, USA Boxing, as required by federal law.</b>
l. How did rule succeed or fail in achieving this effect	<b>OSAC does not sanction amateur boxing. Federal law identifies one organization, and its subsidiaries as the federally recognized sanctioning organization for amateur boxing within the United States</b>



# Oregon

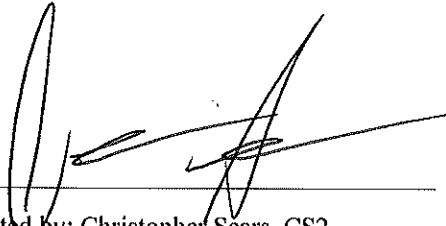
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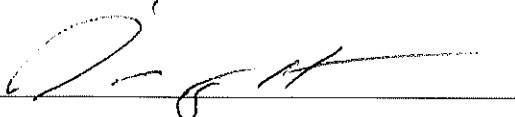
	<b>USA boxing has successfully regulated several events since this adoption and is in invaluable organization for ensuring the safety of Amateur Boxers in Oregon as well as offering a valuable training environment for officials seeking to enter Boxing officiating.</b>
Was fiscal impact underestimated, overestimated, just about right, or unknown?	<b>The fiscal impact was appropriately estimated.</b>
p. What was the estimated fiscal impact	<b>There was no estimated fiscal impact to OSAC, its licensees, or the public</b>
q. What was the actual fiscal impact	<b>The actual fiscal impact of this rule was zero.</b>
r. If the answer to "b" is unknown, briefly explain why:	

Have continued need? YES

Impact on small businesses? No impact on small businesses.

  
Completed by: Christopher Sears, CS2

12/15/2023  
Date:

  
Report Reviewed By: Dave Hagen, Administrator

12/15/2023  
Date:



## Agency Review of Rules Report

Pursuant to ORS 183.405, 2022

This report was prepared by Michelle Sigmund-Gaines of the Oregon Board of Physical Therapy.  
January 2023



## STATUTORY REQUIREMENT

ORS 183.405 requires that:

- (1) Not later than five years after adopting a rule, an agency shall review the rule for the purpose of determining:
  - (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.
- (2) Upon request of an agency, the Small Business Rules Advisory Committee established in [ORS 183.407 \(Small Business Rules Advisory Committee\)](#) may agree to complete the review and reporting required by this section for the agency.
- (3) An agency or the Small Business Rules Advisory Committee shall utilize available information in complying with the requirements of subsection (1) of this section.
- (4) An agency or the Small Business Rules Advisory Committee shall provide a report on each review of a rule conducted under this section:
  - (a) To the Secretary of State;
  - (b) To the Small Business Rules Advisory Committee, unless the committee completed the review under subsection (2) of this section; and
  - (c) If the agency appointed an advisory committee pursuant to [ORS 183.333 \(Policy statement\)](#) for consideration of a rule subject to the requirements of this section, to the advisory committee.
- (5) The provisions of this section do not apply to the amendment or repeal of a rule.
- (6) The provisions of this section do 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.
- (7) The Secretary of State shall compile the reports submitted under this section during each calendar year and submit an annual report to the Legislative Assembly in the manner required by [ORS 192.245 \(Form of report to legislature\)](#).

## 2022 OBPT AGENCY REPORT – REVIEW OF RULES ADOPTED IN 2017

The Oregon Board of Physical Therapy administrative rules are included in the following chapters:

- o Chapter 848: Oregon Board of Physical Therapy

In 2017, the OBPT processed **0** permanent rulemaking actions that adopted 0 administrative rules, detailed by chapter in the following sections. Therefore, there were no 5-year reviews for this reporting year.

-END OF REPORT-

Oregon Board of Chiropractic Examiners

# Annual Legislative Rulemaking Report Rules Adopted in 2022

([ORS 183.403](#); [ORS 192.245](#))

Contact: Mackenzie Purnell, Agency Rules Coordinator  
530 Center St NE, Suite 620  
Salem, 97301

## 1) Introduction

This report satisfies the requirements of ORS 183.403 and ORS 192.245 that require administrative agencies to annually submit a report to the legislature describing their rulemaking activities.

## 2) Permanent Rules

The Oregon Board of Chiropractic Examiners adopted, amended, repealed, or suspended 10 rules during 2022.

## 3) Temporary Rules

The Oregon Board of Chiropractic Examiners adopted, amended, or suspended 0 temporary rules during 2022.

## List of Temporary Rules Amended

none

## Accessibility

OBCE can provide documents in an alternate format or in a language other than English upon request. Call the OBCE at 503-378-5816 or email [info@obce.oregon.gov](mailto:info@obce.oregon.gov).

## Obtaining copies of report

Any person can obtain a copy of the report by:

- Using the link to the report posted on OBCE's rulemaking web page: [OBCE Rulemaking Web Page](#)
- Contacting the OBCE Agency Rules Coordinator at: 530 Center St NE, Suite 620, Salem, OR 97301

**5-Year Rule Review Report  
2014-2016  
February 16, 2023**



**Acting Director: Heidi Steward**

**The mission of the Oregon Department of Corrections is to promote public safety by holding offenders accountable for their actions and reducing the risk of future criminal behavior**

## **BACKGROUND AND INTRODUCTION**

---

The Oregon Department of Corrections (DOC) is pleased to submit this report to the Secretary of State as directed by ORS 183.405. Paper copies of this report may be obtained from DOC Rules Coordinator, 3723 Fairview Industrial Drive SE, Suite 200, Salem, Oregon 97302.

ORS 183.405 requires all state agencies to review newly adopted rules not later than five years after adopting the rule, 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, DOC is submitting rule reviews for rules adopted 2014-2016. This report consists of the rule reviews that appear to have been missed in prior submissions and is being reported to ensure the department's compliance with the reporting requirements in the statute.

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) and (6), this rule review does not apply to the amendment or repeal of a rule, rules that are 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 changes, or rules adopted to correct errors or omissions.

### **RULE REVIEWS 2014-2016**

In 2014, the department adopted 14 rules subject to review. These adoptions involved seven rule divisions. Prior reports contained the rule reviews for six of these rules, which involved four rule divisions; the remaining rule reviews involve eight rules in three rule divisions and are collected in this report.

In 2015, the department adopted 9 rules subject to review. The review reports for all of these rules are collected in this report. These adoptions involve two rule divisions.

In 2016, the department adopted 2 rules. The review reports for all of these rules are collected in this report. These adoptions involve two rule divisions.

Here are the rule reviews contained in this report.

<b>Rule(s)</b>	<b>Effective Date</b>
291-016-0120	12/3/2014
291-052-0100	10/20/2015
291-052-0110	10/20/2015
291-052-0120	10/20/2015
291-052-0130	10/20/2015
291-052-0140	10/20/2015
291-052-0150	10/20/2015
291-052-0160	10/20/2015
291-052-0170	10/20/2015
291-073-0100	3/3/2014
291-073-0110	3/3/2014
291-097-0236	9/15/2016
291-130-0025	8/31/2015
291-131-0026	5/10/2016
291-209-0010	11/4/2014
291-209-0020	11/4/2014
291-209-0030	11/4/2014
291-209-0040	11/4/2014
291-209-0070	11/4/2014

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Division 97 Prison Term Modification	8
Division 130 Telephones	10
Division 131 Mail	12
Division 209 Earned Discharge	14

## Review of Agency Rules Adopted Since 1/1/06

**Rule Number(s): 291-016-0120 Possession and Storage of Personal Handguns at Facilities Owned and Occupied by the Department of Corrections**

**Date Adopted:** 12/3/2014

**Date Review Due:** 1/1/2020

**Completed by and Date Completed:** 2-10-2023 Mike Yoder

**Advisory Committee Used?** \_\_\_yes      X no

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

**1. Did the rule achieve its intended effect?** X yes      \_\_\_no

**a. What was the intended effect?** Establish rule language to address legislation enacted in 2015.

**b. How did the rule succeed or fail in achieving this effect?** The rule provided a necessary framework to allow Institutions to establish procedures allowing staff to be able to bring personally owned firearms on DOC property, secure them safely while they are at work.

**2. Was the fiscal impact statement (check one)**

\_\_\_under estimated

\_\_\_overestimated

X just about right

\_\_\_unknown

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

Unknown.

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

Minimal. Unknown exactly, however facilities added lockers in secure locations on site to allow for staff to lock their weapons while at work.

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

I was not a part of the original rule language adoption, so I am not privy to the exact estimates of fiscal impact, nor am I personally aware of what actions were taken at each location where lockers were installed. Implementing the rule required minimal physical plant changes and no additional staffing, so costs were minimal.

**3. Have subsequent changes in the law required the rule be repealed or amended?** No

**If yes, explain**

**4. Is the rule still needed?** yes no

**Explain:** The legislation allowing staff to bring weapons to and from their work location has not changed.



## Review of Agency Rules Adopted Since 1/1/06

Rule Number(s): 291-052-0100, 291-052-0110, 291-052-0120, 291-052-0130, 291-052-0140, 291-052-0150, 291-052-0160, 291-052-0170

Date Adopted: 10/20/2015

Date Review Due: 10/20/2020

Completed by and Date Completed: 1/31/2023 Jamie Breyman

Advisory Committee Used? \_\_\_yes \_\_\_X\_no

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

1. Did the rule achieve its intended effect? \_\_\_X\_\_\_yes \_\_\_no

a. What was the intended effect? Clear direction in housing DOC youth and managing the second look process.

b. How did the rule succeed or fail in achieving this effect? Successfully provided clear direction.

2. Was the fiscal impact statement (check one)

\_\_\_under estimated

\_\_\_overestimated

\_X\_just about right

\_\_\_unknown

a. What was the estimated fiscal impact? No fiscal impact.

b. What was the actual fiscal impact? No fiscal impact.

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

3. Have subsequent changes in the law required the rule be repealed or amended? No

If yes, explain

4. Is the rule still needed? \_X\_\_\_yes \_\_\_no

Explain – Process and laws are still in place and necessary.  
**Review of Agency Rules  
Adopted Since 1/1/06**

**Rule Number(s):** 291-073-0100 and 291-073-0110

**Date Adopted:** 3/3/14

**Date Review Due:** 5/3/19

**Completed by and Date Completed:** 6/25/19

**Advisory Committee Used?**  yes  no

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

**1. Did the rule achieve its intended effect?**  yes  no

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

**a. To protect the Natural resources contained on the impacted lands.**

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

**a. These lands and resources have been and will continue to be protected**

**2. Was the fiscal impact statement (check one)**

under estimated

overestimated

just about right

unknown

**a. What was the estimated fiscal impact?** There was no anticipated fiscal impact.

**b. What was the actual fiscal impact?** None

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

**a. Protecting these lands will not require significant resources to maintain**

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

No

**4. Is the rule still needed?**  yes  no

## Review of Agency Rules Adopted Since 1/1/06

Rule Number(s): 291-097-0236 ETC for Life Sentences for Murder and Ag Murder

Date Adopted: 9/15/2016

Date Review Due: 9/15/2021

Completed by and Date Completed: Dianne Erickson, 02/15/2023

Advisory Committee Used?  yes  no

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

1. Did the rule achieve its intended effect?  yes  no

a. What was the intended effect? To capture the 2013 Oregon Supreme Court decision to allow earned time reductions applied to the prison term imposed by the Board of Parole and Post-Prison Supervision on life sentences for murder and aggravated murder and the clarification from House Bill 2423 (2015) for crimes committed on or after July 1, 2015, for murder and aggravated murder are no longer eligible for the earned time reductions.

b. How did the rule succeed or fail in achieving this effect? It has succeeded by providing this information for adults in custody and the public to access.

2. Was the fiscal impact statement (check one)

under estimated

overestimated

just about right

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. I don't have any fiscal impact documentation for this rule.

3. Have subsequent changes in the law required the rule be repealed or amended? No

If yes, explain

4. Is the rule still needed?  yes  no

**Explain: The application of earned time reductions for these sentences is still the current law and the rule is still needed to explain this application.**

## Review of Agency Rules Adopted Since 1/1/06

Rule Number(s): 291-130-0025

Date Adopted: DOC 12-2015, f. & cert. ef. 8-31-15 - Last review completed 6-31-2020

Date Review Due: 6-30-2025

Completed by and Date Completed: General Rule 291-130 total review was started in March 2019, final completion date was June 2020 -- PMO is unclear on formal rule ownership or who completed it --(may need to check Birdie's files on same).

Advisory Committee Used? yes no XX Unknown

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

1. Did the rule achieve its intended effect? yes no

a. What was the intended effect? - Properly lay out AIC access and ODOC protocols for VIP activities

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

Succeeded - In establishing proper use protocols for this privilege, correct usage guidance was provided / communicated to both AIC and ODOC Staff regarding the use of VIP calls. CO's and CCS PMO have been successful in using the terms in the rule to enforce proper oversight and privilege access for this activity and to support other related rules and well-established conduct and behaviors.

2. Was the fiscal impact statement (check one)

under estimated

overestimated

just about right

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.

NOTE: Unknown OAR DOC owner/ author. Unknown access or OAR development files provided so this author is unaware of any past fiscal impact statement(s) to evaluate.

Presently OPS PMO-CCS unit will likely subsume management authority on this OAR later this year (2023). PMO can observe that under current operational conditions there are minimal if any direct fiscal impacts to either ODOC or the State of Oregon for the installation, maintenance, or operation of this CCS system for sustained access and use. CCS oversight of VIP Call cost elements are covered by agency re-imbursement under contract terms . AIC cost impacts are purely discretionary as system use is optional and pre-paid for by either the call AIC or the F&F member if selected for use.

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

**If yes, explain**

Rule will need to be administratively updated to incorporate legislated terminology changes from 'INMATE" to "Adult In Custody - {AIC}" within rule body.

**4. Is the rule still needed? yes no**

**Explain**

ODOC CCS system still employs VIP Calling systems to provide and support this type of AIC Communication means with F&F members as supported by current State CCS contract. Furthermore, terms and protocols for permitted use still require definition and communication for proper enforcement to meet the lawful and security defined correctional objectives.

## Review of Agency Rules Adopted Since 1/1/06

**Rule Number(s):** 291-131-0026 Electronic Messaging

**Date Adopted:** 5/10/2016

**Date Review Due:** 5/10/2021

**Completed by and Date Completed:** 2-15-2023 Mike Yoder

**Advisory Committee Used?**  yes  no

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

**1. Did the rule achieve its intended effect?**  yes  no

**a. What was the intended effect? To allow AICs to have additional outlets to maintain contact with outside parties at a lower rate than traditional mail options. Also reduces delay in communication between AICs and outside parties.**

**b. How did the rule succeed or fail in achieving this effect? The rule allowed the ODOC to contract with a 3<sup>rd</sup> party vendor to operate the e-mail system and ensure the emails would be treated the same as other correspondence under the rule.**

**2. Was the fiscal impact statement (check one)**

under estimated

overestimated

just about right

unknown

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

Unknown, however there are minimal costs associated with this rule change as the cost of the emails is covered by the AICs or outside parties. No additional staff resources were required.

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

Unknown, however there are minimal costs associated with this rule change as the cost of the emails is covered by the AICs or outside parties. No additional staff resources were required.

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

I was not involved at the time of rule revision.

3. Have subsequent changes in the law required the rule be repealed or amended? No.

If yes, explain

4. Is the rule still needed?  yes  no

Explain



## Review of Agency Rules Adopted Since 1/1/06

**Rule Number(s): 291-209-0010, 0020, 0030, 0040, and 0070**

**Date Adopted:** 11/4/2014

**Date Review Due:** 11/14/2019

**Completed by and Date Completed:** 1/31/2023

**Advisory Committee Used?**  yes  no

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

- Chris Hoy, Director, Clackamas Co Community Corrections
- Kelly Kuklenski, Supervisor, Clackamas Co Community Corrections
- Wende Jackson, Community Justice Mgr, Multnomah Co Adult Community Justice
- Laura Ritchie, District Mgr, Multnomah Co Adult Community Justice
- Jake Greer, Director, Lake Co Community Corrections
- Denise Pena, Community Justice Mgr, Multnomah Co Adult Community Justice
- Mary Hunt, Ops/Policy Analyst, Dept of Corrections
- Denise Sitler, Budget/Policy Analyst, Dept of Corrections

**1. Did the rule achieve its intended effect?**  yes  no

- What was the intended effect? Provide a process for an individual to discharge supervision early as a result of completing the necessary requirements that would be required by the sentencing authority.**
- How did the rule succeed or fail in achieving this effect? As of this date, almost 9000 individuals have been discharged early and more than 90% remain discharged and have not been convicted of a funded misdemeanor or felony case in Oregon.**

**2. Was the fiscal impact statement (check one)**

- under estimated  
 overestimated  
 just about right  
 unknown

- What was the estimated fiscal impact?** There would have been no fiscal impact as the statute provides continued funding to counties to the original maximum date for the individual regardless of their earned discharge status.
- What was the actual fiscal impact?** None
- If the answer to question 2 is unknown, briefly explain why.**

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

**If yes, explain**

**HB 3070 (2015) – Clarified the eligible population and replaced the time credit calculation process with a simpler requirement that was then addressed in rule rather than statute**

**HB 2355 (2017) – Expanded eligible population to include Designated Drug related Misdemeanors**

**HB 2712 (2021) – Expanded the eligible population to those under the authority of the BOPPS and added several crime restrictions**

**4. Is the rule still needed? yes no**

**Explain: The rule is still needed because the EDIS program continues.**

# **5-Year Rule Review Report 2017 February 23, 2023**



**Acting Director: Heidi Steward**

**The mission of the Oregon Department of Corrections is to promote public safety by holding offenders accountable for their actions and reducing the risk of future criminal behavior.**

## BACKGROUND AND INTRODUCTION

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The Oregon Department of Corrections (DOC) is pleased to submit this report to the Secretary of State as directed by ORS 183.405. Paper copies of this report may be obtained from DOC Rules Coordinator, 3723 Fairview Industrial Drive SE, Suite 200, Salem, Oregon 97302.

ORS 183.405 requires all state agencies to review newly adopted rules not later than five years after adopting the rule, 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, DOC is submitting rule reviews for rules adopted in 2017. Due to a staffing transition in the Rule Coordinator position, this report is overdue.

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) and (6), this rule review does not apply to the amendment or repeal of a rule, rules that are 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 changes, or rules adopted to correct errors or omissions.

## RULE REVIEWS 2022

In 2017, DOC adopted a total of 23 rules subject to review. These adoptions involved six rule divisions.

Rule(s)	Effective Date
291-001-0115	2/1/2017
291-058-0047	5/17/2017
291-058-0066	5/17/2017
291-058-0067	5/17/2017
291-063-0130	6/12/2017
291-063-0150	6/12/2017
291-063-1000	6/12/2017

291-063-1010	6/12/2017
291-139-0100	9/1/2017
291-139-0110	9/1/2017
291-139-0120	9/1/2017
291-139-0130	9/1/2017
291-139-0140	9/1/2017
291-139-0150	9/1/2017
291-139-0160	9/1/2017
291-139-0170	9/1/2017
291-139-0180	9/1/2017
291-139-0190	9/1/2017
291-143-0112	11/1/2017
291-143-0115	11/1/2017
291-143-0125	11/1/2017
291-210-0040	6/8/2017
291-210-0050	6/8/2017

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**Statutorily Required Review (ORS 183.405)  
Review of Agency Rules Adopted Since 1/1/06**

**Rule Number(s): 291-001-0115 Confidentiality and Inadmissibility of Mediation Communications**

**Date Adopted:** 2/1/2017

**Date Review Due:** 2/1/2022

**Completed by and Date Completed:** 2/15/2023 Jason Brown

**Advisory Committee Used?** \_\_\_yes \_\_\_**XX**\_no

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

1. **Did the rule achieve its intended effect?** \_\_\_**XX**\_\_\_yes \_\_\_no
  - a. **What was the intended effect?** To preserve the confidentiality and inadmissibility of mediation communications
  - b. **How did the rule succeed or fail in achieving this effect?** The rule succeeded by allowing DOC to sign and be bound to confidentiality agreements pursuant to mediation.
  
2. **Was the fiscal impact statement (check one)**  
\_\_\_underestimated  
\_\_\_overestimated  
\_\_\_just about right  
\_\_\_**xx**\_\_\_unknown
  - a. **What was the estimated fiscal impact?** None.
  - b. **What was the actual fiscal impact?** None.
  - c. **If the answer to question 2 is unknown, briefly explain why.** There is no fiscal impact statement in the rulemaking record or in the SOS Oregon Administrative Rule Database.
  
3. **Have subsequent changes in the law required the rule be repealed or amended?** No.

**If yes, explain**

4. **Is the rule still needed?** \_\_\_**XX**\_\_\_yes \_\_\_no

**Explain**

The rule is still needed to provide for the conduct and confidentiality of mediations and mediation communications.

**Statutorily Required Review (ORS 183.405)  
Review of Agency Rules Adopted Since 1/1/06**

**Rule Number(s):** 291-058-0047, 291-058-0066, and 291-058-0067

**Date Adopted:** 5/17/2017

**Date Review Due:** 5/17/2022

**Completed by and Date Completed:** Tracey Coffman 2/15/23

**Advisory Committee Used?** \_\_\_yes \_\_\_X\_\_\_no

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

**1. Did the rule achieve its intended effect?** \_\_\_X\_\_\_yes \_\_\_no

**a. What was the intended effect?** To adopt rules that establish the process for imposing and reporting structured sanctions imposed on AICs on short-term trans leave and non-prison leave .

**b. How did the rule succeed or fail in achieving this effect?** The rules clearly established the process that Parole and Probation Officers should follow when imposing sanctions and identifies the responsible authority to review and make final determination of action on sanctions.

**2. Was the fiscal impact statement (check one)**

\_\_\_underestimated

\_\_\_overestimated

\_\_\_X\_\_\_just about right

\_\_\_unknown

**a. What was the estimated fiscal impact?** None

**b. What was the actual fiscal impact?** None

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

**3. Have subsequent changes in the law required the rule be repealed or amended?** No

**If yes, explain**

**4. Is the rule still needed?** \_\_\_X\_\_\_yes \_\_\_no

**Explain:** In accordance with Oregon Revised Statute, DOC must establish short-term trans leave and AIP programs and then adopt rules to carry out those programs. Statute has not been repealed and DOC is still carrying out the requirements to release AICs under the provisions of these programs, and therefore needs the rules that clearly define the processes.

**Statutorily Required Review (ORS 183.405)  
Review of Agency Rules Adopted Since 1/1/06**

**Rule Number(s):** 291-063-0130, 291-063-0150, 291-063-1000, and 291-063-1010

**Date Adopted:** 6/12/2017

**Date Review Due:** 6/12/2022

**Completed by and Date Completed:** Tracey Coffman 2/15/23

**Advisory Committee Used?**  yes  no

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

**1. Did the rule achieve its intended effect?**  yes  no

**a. What was the intended effect? To adopt rules in accordance with ORS 421.168, that describe the parameters of the short-term transitional leave (STTL) program, eligibility requirements, duration of program, and conditions of supervision while on STTL.**

**b. How did the rule succeed or fail in achieving this effect? The rules clearly defined the program and established criteria to carry out statute.**

**2. Was the fiscal impact statement (check one)**

underestimated

overestimated

just about right

unknown

**a. What was the estimated fiscal impact?** None

**b. What was the actual fiscal impact?** None

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

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

**If yes, explain:** In 2021 Legislation updated the parameters and terminology used in statute to describe these programs and AICs (formerly inmates). The rules were adopted to align with those changes.

**4. Is the rule still needed?**  yes  no

**Explain:** In accordance with Oregon Revised Statute, DOC must establish short-term trans leave and AIP programs and then adopt rules to carry out those programs. Statute has not been repealed and DOC is still carrying out the requirements to release AICs under the provisions of these programs, and therefore needs the rules that clearly define the processes.



**Statutorily Required Review (ORS 183.405)  
Review of Agency Rules Adopted Since 1/1/06**

**Rule Number(s):** 291-139-0100, 291-139-0110, 291-139-0120, 291-139-0130, 291-139-0140, 291-139-0150, 291-139-0160, 291-139-0170, 291-139-0180, 291-139-0190

**Date Adopted:** 9/1/2017

**Date Review Due:** 9/1/2022

**Completed by and Date Completed:**

**Advisory Committee Used?**  yes  no

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

**1. Did the rule achieve its intended effect?**  yes  no

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

Prior to the rule update in 2017, the rule was over 20 years old. The 2017 revision sought to capture changes in technology such as the implementation of online legal research database (Fastcase), AIC computer use for word processing and issuing AICs thumb drives for use. Outside of AICs who are unable to visit the library in person (special housing), the shift to Fastcase removed DOC's need to keep hard copy legal research books.

The amendments also created the definitions of "General User " and "Priority User" for the purpose of determining an AIC's permission to use supplies and equipment for personal legal matters based on qualifications specified in 139-0120 Section 2. It provided the foundation for DOC to recoup costs for printing, copying, and mail outs. The amendments also provided a process for indigent AICs to avail themselves of library services by charging the AICs account and allowing DOC to collect funds as they became available.

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

The 2017 revision was successful and did achieve the intended results.

**2. Was the fiscal impact statement (check one)**

- underestimated
- overestimated
- just about right
- unknown

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

In 2017, the fiscal impact statement indicated:

The amendments proposed would limit the number of inmates allowed to use these supplies and equipment to those that are defined as "Priority Users". The amendments would reduce department supplies and equipment maintenance costs and shift a portion of these costs to inmates. The amendments would not create any additional workload and would not require any

additional staffing. DOC does not currently have data to be able to determine the number of inmates that could be impacted by the proposed changes but expects that there were only be minor fiscal impact to the department and inmates. In addition, the frequency of use of legal supplies and equipment use will fluctuate depending on the number of inmates choosing to use the supplies and equipment.

For these reasons, DOC determines that there is an indeterminate fiscal impact on both the department and inmates.

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

There is no way to ascertain the actual fiscal impact of shifting away from books for legal research to use of Fastcase.

The fiscal impacts of charging for copies, postage, and printing are captured below.

	2022	2021	2020	2019	2018	2017
Legal Postage Sales	\$5,443.09	\$5,334.91	\$3,506.59	\$2,189.23	\$975.75	\$427.18
Legal Copies Sales	\$21,609.66	\$17,750.59	\$9,750.40	\$7,313.19	\$1,664.18	\$283.90
Legal Postage AIC Advances	\$2,464.28	\$1,598.70	\$2,519.14	\$2,089.45	\$779.56	\$20.05
Legal Copies AIC Advances	\$7,894.36	\$3,222.60	\$7,851.30	\$4,966.38	\$919.86	\$0.00

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

**3. Have subsequent changes in the law required the rule be repealed or amended? No**

**If yes, explain**

**4. Is the rule still needed? yes no**

**Explain.**

In 1977, the United States Supreme Court held that persons incarcerated in prison enjoy a fundamental constitutional right of access to the courts guaranteed by the Fourteenth Amendment—a right that required prison authorities to make available to AICs the means to prepare and file meaningful legal papers in the court by providing AICs with adequate law libraries or adequate assistance from person training the law. *Bounds v. Smith, 430 U.S. 871(1977)*.

In 1996, the United States Supreme Court clarified that very limited nature and scope of the federal constitutional right of access to the courts that it had announced in *Bounds*, holding that AICs in prison do not have an abstract, free-standing right to a law library or to legal assistance, but rather the right to the means to prepare and file in the courts nonfrivolous legal claims to attack their sentences, directly or collaterally, and the calendar the conditions of their prison confinement. *Lewis v. Casey, 518 (U.S. 343 (1996))*

Library resources are limited. DOC has made a policy decision to offer access to courts beyond what is required in *Lewis v. Casey*. This rule ensures that we do not impede AIC’s constitutional right of access and allows us to prioritize access to library resources to those afforded under the Fourteenth Amendment and clarified in the *Lewis v. Casey* ruling. Further, this resource allows DOC to recoup funds to cover actual costs of printing, copying, and mailing of items to the court and Paroling Authority.

**Statutorily Required Review (ORS 183.405)  
Review of Agency Rules Adopted Since 1/1/06**

**Rule Number(s):** 291-143-0112, 291-143-0115, and 291-143-0125

**Date Adopted:** 11/1/2017

**Date Review Due:** 02/05/2023

**Completed by and Date Completed:** Daryl Borello 02/16/2023

**Advisory Committee Used?** \_\_\_yes \_\_\_**X**no

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

**1. Did the rule achieve its intended effect?** \_\_\_**X**\_\_\_yes \_\_\_no

**a. What was the intended effect?** Statewide consistency and updates per DOJ advice.

**b. How did the rule succeed or fail in achieving this effect?** The Rule achieved its effect. However, due to updated case law and DOJ advice, this Rule (291-143) is currently under a major review and update.

**2. Was the fiscal impact statement (check one)**

\_\_\_underestimated

\_\_\_overestimated

\_\_\_just about right

\_\_\_N/A\_\_\_unknown

**a. What was the estimated fiscal impact?** N/A

**b. What was the actual fiscal impact?** N/A

**c. If the answer to question 2 is unknown, briefly explain why.** It was anticipated that more AICs would participate in special religious meals after this update. This would result in more special religious diets which cost more than a regular AIC meal. This did not appear to happen.

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

**If yes, explain:** Yes, Rule 291-143 is currently under final DOJ review due to a major update. It is anticipated to be complete by April 2023.

**4. Is the rule still needed?** \_\_\_**X**\_\_\_yes \_\_\_no

**Explain:** Federal and State laws require that all AICs can express their religious and spiritual beliefs within the confines of legitimate correctional safety and security operations. This Rule governs the expression of those rights by AICs and is required by law.

**Statutorily Required Review (ORS 183.405)  
Review of Agency Rules Adopted Since 1/1/06**

**Rule Number(s):** 291-210-0040 and 291-210-0050

**Date Adopted:** 6/8/2017

**Date Review Due:** 6/8/2022

**Completed by and Date Completed:** Jamie Breyman 2/2/2023

**Advisory Committee Used?**  yes  no

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

**1. Did the rule achieve its intended effect?**  yes  no

**a. What was the intended effect? To provide further direction regarding the housing and management of transgender and intersex AICs.**

**b. How did the rule succeed or fail in achieving this effect? It provided the direction intended.**

**2. Was the fiscal impact statement (check one)**

underestimated

overestimated

just about right

unknown

**a. What was the estimated fiscal impact? None**

**b. What was the actual fiscal impact? None**

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

**3. Have subsequent changes in the law required the rule be repealed or amended? No**

**If yes, explain**

**4. Is the rule still needed?**  yes  no

**Explain.**

Rules on managing the transgender and intersex AICs in our custody is still necessary.



# OREGON LOTTERY®

## ORS 183.405 Five Year Rule Review Report

Rule Number and Title:

### Division 38, Lottery Procurement Rules:

- 177-038-0000, Definitions
- 177-038-0010, Application and General Policy
- 177-038-0020, Procurement Activity
- 177-038-0030, Affirmative Action
- 177-038-0040, Environmentally Preferable Procurement General Policy
- 177-038-0050, Offeror Disclosure Requirements
- 177-038-0060, Cooperative Procurement
- 177-038-0070, Source Selection Methods
- 177-038-0080, Brand Name or Equal Specification
- 177-038-0090, Alternative Procurements
- 177-038-0100, Public Notice of Solicitation Documents
- 177-038-0110, Modification or Cancellation of Solicitation Process
- 177-038-0120, Requests for Changes to or Clarification of a Solicitation Document
- 177-038-0130, Late Submission of Bids or Proposals, Modifications, and Withdrawal
- 177-038-0140, Submission, Receipt, Opening, and Recording of Offers; Confidentiality of Offers
- 177-038-0150, Offer Evaluation; Clarification of Offers; Award
- 177-038-0160, Bid and Proposal Rejection
- 177-038-0170, Minor Informalities
- 177-038-0180, Responsible Offerors; Rejection for Offeror Non-Responsibility
- 177-038-0190, Cancellation of a Solicitation Document, Offer, or Award
- 177-038-0200, Identical Bids; Preference for Oregon Goods and Services
- 177-038-0210, Award Notice
- 177-038-0220, Protest of Large Contract Awards and Alternative Procurements; Appeals; Judicial Review
- 177-038-0230, Negotiations
- 177-038-0240, Contract Amendments
- 177-038-0250, Performance Security
- 177-038-0260, Suspension of Persons

Original Adoption Date/History of Amendments:

Adopted effective October 1, 2018.

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 Lottery reorganized and rewrote its procurement rules effective October 1, 2018, including adopting division 38 as a new division of procurement rules. The intent of the rule changes was to update and modernize its procurement rules to provide a clean and accurate description of how the Lottery conducts its procurement of goods and services, while permitting the Lottery to be nimble and responsive to its unique business needs. The Lottery set forth its methodology for the procurement of goods and services in a new division, Division 38 and repealed its previous procurement rules in division 36. The intent was to provide vendors with an accurate description of how the Lottery conducts its contracting affairs in an open, competitive manner; cleaning-up current procurement rules including reorganization of sections, clarification of existing definitions, and deletion of unnecessary language; and by expanding existing and establishing new procurement tools.

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

Division 38 has succeeded in supporting the Lottery's procurement procedures.

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

Underestimated       Overestimated  
 Just about right       Unknown

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

The Lottery estimated no fiscal impact, except to say that the Lottery did intend for the rule updates to result in savings, both for Lottery and vendors applying to do business with the Lottery. Ultimately, any savings to the Lottery translates into higher transfers to the public programs that receive Lottery funding. However, the Lottery was unable to make any predictions about cost savings because it would vary by procurement and no drastic savings was expected.

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

It remains difficult to estimate any fiscal impact because the changes were intended to modestly streamline procurement processes generally and therefore, it's hard to track any actual fiscal savings.

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

See above. The updates were intended to modestly update and streamline the procurement process. The rules successfully support the Lottery's approach to procurement, but the Lottery does not have data available to track if these rules actually saved time or money on any particular procurement.

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

Yes       No

4. Are the rules still needed?

Yes       No

Pursuant to ORS 461.440, the Lottery is expected to adopt rules to govern the Lottery's contracting processes. Therefore, these rules are important to comply with state law. The rules also ensure a consistent, fair, and transparent procurement process.

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

The Lottery intended for the new rules to have a positive impact in increasing supplier diversity and sustainability goals including small businesses. While we have more procurement tools to reach out to small businesses we have not seen any numbers demonstrating an increase in small businesses participation in Lottery procurements.

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, including Jose Perfecto, Procurement Manager at the Lottery and sponsor of the rule changes.

*Kris Skaro*

\_\_\_\_\_  
Kris Skaro, rules coordinator

7/18/23

\_\_\_\_\_  
Date

Rule number(s): [OAR 416-255-0010](#); [416-255-0020](#); [416-255-0030](#)

Date adopted: 04/02/2018

Date reviewed: 04/12/2023

Advisory committee used? No

1. Did the rule achieve its intended effect? Yes

a. What was the intended effect?

The rules establish guidelines for the Oregon Youth Authority in providing reentry support and services for Department of Corrections youth in custody who are released from a youth correction facility.

b. How did the rule succeed or fail in achieving this effect? The rules did establish guidelines for the Oregon Youth Authority in providing reentry support and services for DOC youth in custody who are released from a youth correction facility. The rules are required by ORS 420A.130.

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.

Providing reentry support and services for DOC 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 and required by ORS 420A.130.

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

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



Rule number(s): [OAR 416-345-0010](#), [416-345-0020](#), [416-345-0030](#), [416-345-0040](#)

Date adopted: 06/05/2018

Date reviewed: 06/05/2023

Advisory committee used? No

1. Did the rule achieve its intended effect? Yes

a. What was the intended effect?

The rules were intended to establish categories for youth in custody medical care and treatment in youth correction facilities through priority levels. Each priority level also has a prescribed authorization process.

b. How did the rule succeed or fail in achieving this effect? The rules did establish categories for youth in custody medical care and treatment within youth correctional facilities through priority levels. The priority level authorization processes are followed.

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?

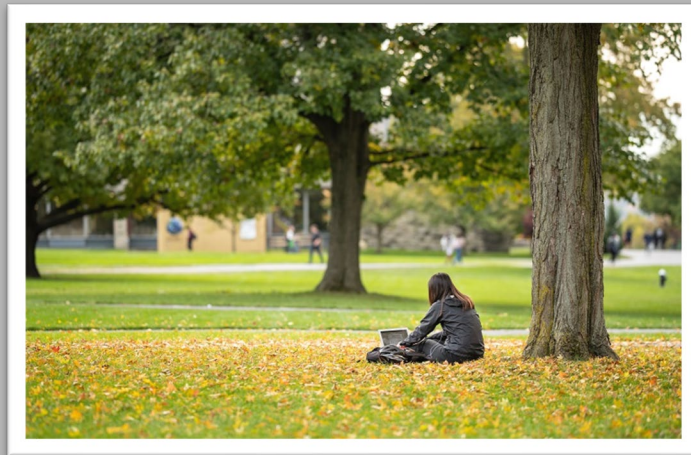
Yes. The rules are still needed to provide categories for youth in custody medical care and treatment in youth correction facilities through priority levels.

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.

# Agency Review of Rules Report

## ORS 183.405, 2022



This report was prepared by Guthrie Stafford of the Oregon Higher Education Coordinating Commission.  
December 2022.

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# EXECUTIVE SUMMARY

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## STATUTORY REQUIREMENT

ORS 183.405 requires that:

- (1) Not later than five years after adopting a rule, an agency shall review the rule for the purpose of determining:
  - (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.
- (2) Upon request of an agency, the Small Business Rules Advisory Committee established in [ORS 183.407 \(Small Business Rules Advisory Committee\)](#) may agree to complete the review and reporting required by this section for the agency.
- (3) An agency or the Small Business Rules Advisory Committee shall utilize available information in complying with the requirements of subsection (1) of this section.
- (4) An agency or the Small Business Rules Advisory Committee shall provide a report on each review of a rule conducted under this section:
  - (a) To the Secretary of State;
  - (b) To the Small Business Rules Advisory Committee, unless the committee completed the review under subsection (2) of this section; and
  - (c) If the agency appointed an advisory committee pursuant to [ORS 183.333 \(Policy statement\)](#) for consideration of a rule subject to the requirements of this section, to the advisory committee.
- (5) The provisions of this section do not apply to the amendment or repeal of a rule.
- (6) The provisions of this section do 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.
- (7) The Secretary of State shall compile the reports submitted under this section during each calendar year and submit an annual report to the Legislative Assembly in the manner required by [ORS 192.245 \(Form of report to legislature\)](#) no later than February 1 of the following year. [2005 c.807 §3; 2017 c.518 §6; 2018 c.20 §4]

## 2022 HECC AGENCY REPORT

The Higher Education Coordinating Commission administrative rules are included in the following chapters:

- Chapter 575: HECC Office of Student Access and Completion (OSAC)
- Chapter 583: HECC Office of Degree Authorization (ODA)
- Chapter 589: HECC Office of Community Colleges and Workforce Development (CCWD)
- Chapter 715: Higher Education Coordinating Commission

In 2017, the HECC processed 0 permanent rulemaking actions that adopted 0 administrative rules, detailed by chapter in the following sections.

### CHAPTER 575

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**Higher Education Coordinating Commission,  
Office of Student Access and Completion  
Administrative Rules Annual Report  
HB 4106 (2016 Session)**

Report contains rules filed during calendar year January 01, 2022 through December 31, 2022

**Rules Adopted [ORS 183.335(2) and (3)]**

<b>Adopted</b>	<b>0</b>
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In 2017, the HECC processed 0 permanent rulemaking actions that adopted 0 administrative rules in Chapter 575.

### CHAPTER 583

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**Higher Education Coordinating Commission,  
Office of Degree Authorization  
Administrative Rules Annual Report  
HB 4106 (2016 Session)**

Report contains rules filed during calendar year January 01, 2022 through December 31, 2022

**Rules Adopted [ORS 183.335(2) and (3)]**

<b>Adopted</b>	<b>0</b>
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In 2017, the HECC processed 0 permanent rulemaking actions that adopted 0 administrative rules in Chapter 583.

## CHAPTER 589

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**Higher Education Coordinating Commission,  
Office of Community Colleges and Workforce Development  
Administrative Rules Annual Report  
HB 4106 (2016 Session)**

Report contains rules filed during calendar year January 01, 2022 through December 31, 2022

**Rules Adopted [ORS 183.335(2) and (3)]**

<b>Adopted</b>	<b>0</b>
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In 2017, the HECC processed 0 permanent rulemaking actions that adopted 0 administrative rules in Chapter 589.

## CHAPTER 715

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**Higher Education Coordinating Commission  
Administrative Rules Annual Report  
HB 4106 (2016 Session)**

Report contains rules filed during calendar year January 01, 2022 through December 31, 2022

**Rules Adopted [ORS 183.335(2) and (3)]**

<b>Adopted</b>	<b>0</b>
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In 2017, the HECC processed 0 permanent rulemaking actions that adopted 0 administrative rules in Chapter 715.

HIGHER  
EDUCATION  
COORDINATING  
COMMISSION





Landscape Contractors Board  
Five-year Administrative Rule Review

**Rule division name and rule number:**

808-002-0451 – Improper Work

**Date adopted:** September 17, 2018

**Date Reviewed:** January 6, 2023

**Advisory Committee Used:** Yes, the Board acts as its own Advisory Committee

1. **Did the rule achieve the intended effect?** Yes
2. **Was the fiscal impact statement:**
  - Underestimated
  - Overestimated
  - Just about right
  - Unknown
3. **Have the rules been repealed or amended?** No
4. **Are the rules still needed?** Yes  
The statute that requires these laws is still in effect. The Board uses this definition to review claims and determine improper work. This definition is still needed.

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**The agency must review each adopted 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 a continued need for the rule.

The agency must report its findings to the Secretary of State and any Advisory Committee appointed under ORS 183.333. This agency has a Board that acts as the Advisory Committee.

The review requirement does not apply to rules adopted to:

- implement court orders or settle civil proceedings;
- adopt federal laws or rules by reference;
- implement legislatively-approved fee changes; or
- correct errors or omissions.

Department of Public Safety Standards and Training

**OAR Five-Year Review**

(ORS 183.405)

---

Rule Number: **OAR 259-009-0125 and 259-009-0130**

Adoption Date: **08-01-2018**

Original Committees Involved:

- Fire Policy Committee, May 23, 2018
- Board on Public Safety Standards & Training, July 26, 2018

Five-Year Rule Review Completed by the DPSST and Reported to:

- Fire Policy Committee, May 24, 2023
  - Board on Public Safety Standards & Training, July 27, 2023
- 

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

a. What was the intended effect?

***These rules were adopted to reorganize OAR 259-009-0070, which was one long, complex rule.***

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

***Adopting these rules had the intended effect of transferring the existing procedural parts of OAR 259-009-0070 into separate process-specific rules.***

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

a. What was the estimated fiscal impact?

***There were no fiscal impacts identified when proposing adoption of the rule.***

b. What was the actual fiscal impact?

***There is no information on record indicating that the rule had a fiscal impact after its adoption.***

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? ***No. However, these rules have been amended by FPC and Board approved changes to the fire service professional denial and revocation standards and processes.***

If yes, explain. *n/a*

4. Is the rule still needed? ***Yes***

Explain.

***The DPSST and the Board need to maintain these rules to provide clear and consistent guidance for the review of professional standards cases and due rights processes.***

5. What impacts the rule has on small businesses.

***This rule does not impact small businesses. There are approximately five fire service agencies that are private safety agencies and may be considered small businesses. Adoption of these rules did not change or create new requirements for fire service agencies.***

Department of Public Safety Standards and Training

## OAR Five-Year Review

(ORS 183.405)

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Rule Number: **OAR 259-012-0001**

Adoption Date: **06-22-2018**

Original Committees Involved:

- Board on Public Safety Standards & Training, April 26, 2018

Five-Year Rule Review Completed by the DPSST and Reported to:

- Board on Public Safety Standards & Training, July 27, 2023
- 

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

a. What was the intended effect?

*The rule was adopted to establish definitions for the interpretation and application of OAR Chapter 259 Division 12.*

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

*The adoption of this definition rule allowed for abbreviations to be used in references throughout the rule set without having to identify abbreviations in each rule. Additionally, the definition established for “student” clearly identified that the application of the rules for student conduct and violations of the standards of student conduct apply to the criminal justice disciplines.*

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

a. What was the estimated fiscal impact?

*There were no fiscal impacts identified when proposing adoption of the rule.*

b. What was the actual fiscal impact?

***There is no information on record indicating that the rule had a fiscal impact after its adoption.***

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? *No*

If yes, explain. *n/a*

4. Is the rule still needed? *Yes*

Explain.

***There is a continued need for this rule. Unless OAR Chapter 259 Division 12 is amended or repealed, the definitions found in OAR 259-012-0001 will continue to provide supporting meanings and interpretations.***

5. What impacts the rule has on small businesses.

***This rule does not impact small businesses. The small businesses subject to this rule and rule division 12 are the private ambulance companies that employ emergency medical dispatchers certified by the DPSST. These entities are not impacted by this rule because their emergency medical dispatchers complete the required basic EMD training using a DPSST-approved equivalent course and do not attend the Academy for the training requirement.***

Department of Public Safety Standards and Training

## OAR Five-Year Review

(ORS 183.405)

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Rule Number: **OAR 259-061-0195**

Adoption Date: **08-01-2018**

Original Committees Involved:

- Private Security and Investigator Policy Committee, June 5, 2018
- Board on Public Safety Standards & Training, July 26, 2018

Five-Year Rule Review Completed by the DPSST and Reported to:

- Private Security and Investigator Policy Committee, August 15, 2023
  - Board on Public Safety Standards & Training, July 27, 2023
- 

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

a. What was the intended effect?

*OAR 259-061-0195 was adopted to re-establish an administrative rule for professional conduct and provide standards for maintaining client confidentiality.*

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

*The rule was adopted to establish rules of investigator professional conduct per ORS 703.480 and ORS 703.450, including how to address client confidentiality. Adoption of the rule also provided an opportunity for the Department to codify how staff facilitate the review of complaints that are received related to violations of client confidentiality. What is considered confidential information is to be determined between the investigator and their client. For the Department's enforcement of client confidentiality, the determination of what is confidential must be documented between the licensed investigator and their client.*

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

- a. What was the estimated fiscal impact?

*The fiscal impact statements included with the proposed rule identified a potential, but minimal fiscal impact. A private investigator could experience recordkeeping costs and increased administrative activities to comply with the rule changes related to determining what information is to be considered confidential with each client. Fiscal impacts were expected to be minimal because investigators are already required to notify their clients of their right to a contract and the consideration of confidential information may be addressed through the contract.*

- b. What was the actual fiscal impact?

*There is no information on record indicating that the rule had a fiscal impact after its adoption.*

- 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? *No*

If yes, explain. *n/a*

4. Is the rule still needed? *Yes*

Explain.

*ORS 703.480 directs the Board on Public Safety Standards and Training, in collaboration with the Private Security and Investigator Policy Committee, to establish rules of professional conduct to be followed by investigators. This rule meets that statutory requirement.*

5. What impacts the rule has on small businesses.

*Individuals licensed as private investigators may be considered small businesses. The adoption of the rule did not impose new requirements on investigators. Section (1) incorporated by reference the existing requirements of conduct found in ORS 703.450. Section (2) is a pre-existing rule that was transferred out of OAR 259-061-0018. Section (3) addressed confidentiality requirements and provided parameters for the Department to use when investigating a complaint against an investigator*

*for a violation of confidentiality. The investigator is responsible for determining what information is to be considered confidential with each client. ORS 703.450(8) requires investigators to notify their client of their right to a contract and the consideration of confidential information may be addressed through the contract.*



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

**Rule Name:** Adult Mental Health Abuse Rules

**Rule Number(s):** OAR Chapter 407, Division 45, Rules 0120, 0130, 0140, 0150, 0160, 0170, 0180, 0190, 0200, 0210, 0220, 0230, 0240.

**Program Area:** Office of Training, Investigations & Safety (OTIS), ODHS|OHA

**Adoption Date:** February 27, 2018



**Review Due Date:**  
26 Feb 2023



**Review Date:**  
02-09-2023

**Reviewer's Name:**  
T. Strahan, OTIS



**X \*Advisory Committee Used**

*Members	Representing	Contact Information:
LuAnn E Meulink, OHA HSD Licensing Manager		Luann.E.Meulink@dhsaha.state.or.us
Becky Hawkins, OHA OSH Sr. HR Analyst		Becky.Hawkins@dhsaha.state.or.us
Michael Morris, OHA Behavioral Health Policy Admin.		Michael.N.Morris@dhsaha.state.or.us
Sarah Lochner, OHA Legislative Coord. External Relations		Sarah.J.Lochner@dhsaha.state.or.us
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Carol Morris, MH & DD adult abuse investigator, Yamhill Co.		MORRISC@co.yamhill.or.us

**What was the intended effect of this rule adoption?**

To ensure the Oregon Dept. of Human Services OTIS and their designee community mental health programs (CMHP) limit their adult abuse investigations to the populations of adults defined for the types of abuse that are covered by the law in ORS 430.735 for adults enrolled in

<p>CMHP services or residents of treatment care facilities and foster care homes regulated (licensed, certified, or operated) by the Oregon Health Authority’s Health Systems Division.</p>	
<p><b>X</b> Yes</p>	<p><b>Has the rule had the intended effect?</b>                  ODHS OTIS and their designee CMHP abuse investigators cite the relevant ORS 430.735, defined terms for “abuse” and an “adult” in all cases investigated and approved for closing with an abuse finding determined.</p>
<p><b>X</b> Yes</p>	<p><b>Was the anticipated fiscal impact of the rule underestimated?</b>                  Subsequent legislation (2018 SB 1540) expanded the population of certain “adults” in behavioral health services covered under “abuse” terms defined in ORS 430.735. Also, OHA received additional funding to operate two, Secure Residential Treatment facilities (SRTF, 16-bed capacity each) at the OSH Junction City campus that are investigated under these adopted rules.</p>
<p><b>X</b> No</p>	<p><b>Was the anticipated fiscal impact of the rule overestimated?</b>                  Less alleged abuses meeting criteria for investigation was expected; due to more adults under the state health plan receiving outpatient treatment services from coordinated care organizations. ODHS implemented a centralized abuse management (CAM) system that reduced administrative costs with a secure, electronic record-keeping database for community mental health programs designee investigators to document allegations received and investigated.</p>
<p><b>X</b> Yes</p>	<p><b>Have subsequent changes in the law required the rule to be repealed or amended?</b>                  2018 SB 1540, Section 2, revised the statutory definitions of “abuse” and “adult” in ORS 430.735 (enrolled April 3, 2018), were amended as follows:  <a href="#">DHSD 23-2018, temporary amend filed 08/09/2018, effective 08/15/2018 through 02/10/2019</a>  <a href="#">DHSD 1-2019, temporary amend filed 02/12/2019, effective 02/12/2019 through 08/10/2019</a>  <a href="#">DHSD 8-2019, amend filed 06/28/2019, effective 07/01/2019</a></p>
<p><b>X</b> Yes</p>	<p><b>Is there a continued need for the rule?</b>                  These rules are part of the ODHS Shared Services OTIS provides to the OHA for abuse investigations within behavioral health services under OAR 943-045-0000, to assure compliance to the laws for mandatory abuse reporting in ORS 430.731, 430.735 to 430.765 and 430.768. Specifically, receiving, conducting or coordinating investigations and assessing protective services for alleged abuse of an adult in certain OHA Health System Division regulated behavioral health services, residential care including adult foster homes, including OHA-operated secure residential treatment facilities or homes.                   Also per OAR 407-045-0180, ODHS and their CMHP designees conduct adult Death Reviews on behalf of OHA’s Health Systems Division. ODHS OTIS assures all CMHP abuse investigators are trained to the core competency standards established for Adult Abuse Investigators, as described in 407-045-0140; and assures a notice of rights to an appeal for any abuse substantiated is provided to the accused person or provider, per 407-045-0210.</p>

	<p><b>What impact has the rule had on small businesses?</b>                  Community Mental Health Programs, non-profit treatment agencies and Coordinated Care Organizations are not defined as small businesses in ORS 183.310. These rules in and of themselves did not place additional costs of compliance on residential mental health treatment facilities, adult foster homes or OHA-contracted treatment providers, who may meet the definitions of a small business in ORS 183.310.</p>
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**Report approved by:** Dave Manley

02-09-2023

**Date report sent to advisory committee members:**

02-10-2023

**Date report sent to SOS Archives & Small Business Association**

02-10-2023



**RULES REVIEW INFORMATION**  
**ORS 183.405**  
**Review Year: 2017**

**OREGON DEPARTMENT OF FISH & WILDLIFE**  
**ORS 183.405**  
**Review Year: January 1, 2017 through December 31, 2017**  
**Date: January 1, 2023**

**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.**

*See Next Page for Reviews*

## Staff Review

<b>Division/Rule Number</b>	635-075-0024
<b>Rule Name</b>	Issuing Leftover Limited Landowner Hunting Preference Tags
<b>Link to Rule</b>	SOS Bookmark
<b>Date Adopted</b>	4/24/2017
<b>Staff Contact &amp; Program</b>	Game Program Manager (Brian Wolfer), Game Program

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

1. Has the rule had its intended effect? Yes

Landowner Preference (LOP) deer and elk hunting tags are issued to registered landowners based on acreage as set forth in ORS 635-075-0005. The the number of LOP available is further limited in special seasons or for mule deer hunts in wildlife management units where the mule deer population is below management objective. These limited LOP tags are issued through the June controlled hunt drawing with an application deadline of May 15. There may be LOP tags "leftover" after the June controlled hunt drawing and this rule establishes criteria to make those tags available to landowners who have not received all of the tags their property qualifies for based on acreage as set forth in 635-075-0005.

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 continues to be necessary to make "leftover" LOP tags available to landowners who have not received all of the tags their property qualifies for based on acreage as set forth in 635-075-0005.

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

None

**Name:** Brian Wolfer

**Date:** 11/28/2022

## DIRECTOR'S OFFICE REVIEW:

**Comments:**

**Name:** Debbie Colbert

**Date:** 12/19/2022

## Staff Review

<b>Division/Rule Number</b>	635-200-0140
<b>Rule Name</b>	Sale of Covered Animal Species
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-200-0140">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-200-0140</a>
<b>Date Adopted</b>	12/19/2017
<b>Staff Contact &amp; Program</b>	Invasive Species/Wildlife Integrity Coordinator (Rick Boatner),

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

1. Has the rule had its intended effect? No

Unknown at this time. The rule implements ORS 498.022, however, the department has not confiscated or imposed a civil penalty on anyone for violation of "Covered animals species"

2. Did the agency overestimate or underestimate the rule's fiscal impact? No

ODFW has not had the opportunity to pursue a violation of the Covered Animal rule or has received information that someone has been in violation of the rule.

3. Do subsequent changes in the law require a change in the rule? No

ORS 498.022 has not changed since this rule was enacted.

4. Does the rule continue to be necessary? Yes

Although the department has not confiscated or disposed of any covered animal parts pursuant to this rule, the rule is still necessary to implement ORS 498.022.

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

Very little. Could impact antique stores or estate sales

**Name:** Rick Boatner

**Date:** 11/15/2022

## DIRECTOR'S OFFICE REVIEW:

**Comments:**

**Name:** Debbie Colbert

**Date:** 12/19/22

## Staff Review

<b>Division/Rule Number</b>	635-200-0135
<b>Rule Name</b>	Confiscation, Disposal, or Cancellation or Non-Renewal of Authorization to Possess Parts or Products from Covered Animal Species
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-200-0135">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-200-0135</a>
<b>Date Adopted</b>	12/19/2017
<b>Staff Contact &amp; Program</b>	Invasive Species/Wildlife Integrity Coordinator (Rick Boatner),

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

1. Has the rule had its intended effect? No

This rule implements ORS 498.022 prohibiting the sale of certain animal parts and products with some exceptions. It is unknown to what degree this rule has restricted the sale of prohibited parts, however, the awareness has increased with more people contacting ODFW with questions about products they could sell since the rule went into effect.

2. Did the agency overestimate or underestimate the rule's fiscal impact? No

The rule has not generated any fiscal impact at this time

3. Do subsequent changes in the law require a change in the rule? No

ORS 498.022 has not changed since the rule was adopted.

4. Does the rule continue to be necessary? Yes.

The rule does duplicate several Federal rules, but it continues to implement ORS 498.022.

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

Very little. The rule may have prevented some antique shops or estate sale business from selling some products made with parts from covered species.

**Name:** Rick Boatner

**Date:** 11/15/2022

## DIRECTOR'S OFFICE REVIEW:

**Comments:**

**Name:** Debbie Colbert

**Date:** 12/19/22

## Staff Review

<b>Division/Rule Number</b>	635-041-0550
<b>Rule Name</b>	Coquille Tribal Clam Harvest
<b>Link to Rule</b>	SOS Bookmark
<b>Date Adopted</b>	6/12/2017
<b>Staff Contact &amp; Program</b>	MRP Manager (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

The rule codifies a Memorandum of Understanding between ODFW and Coquille Tribe establishing a Special Gathering Permit for Clams for the Coquille Tribe which must be issued annually. The permit has been issued each year since the rule was adopted.

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? No

The intent of this rule continues to be necessary. However, the new Memoranda of Agreement with the Coquille Tribe addressing tribal harvest of additional marine and estuarine species was recently adopted under OAR 635-800-0100. The regulations contained within the new tribal agreement supersedes the need OAR 635-041-0550. Consequently, OAR 635-041-0550 is no longer needed.

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

There are no known or quantifiable impacts on small businesses. Small businesses that could be affected by the rule are commercial shellfishers and those that provide goods and services to recreational shellfishers, to the extent that tribal harvest above non-tribal recreational limits may affect the availability of clams to recreational and commercial shellfishers. However the number of tribal harvesters is small and there have been no quantifiable or reported impacts on non-tribal recreational or commercial shellfish harvesters.

**Name:** Troy Buell and Steve Rumrill

**Date:** 11/4/2022

## DIRECTOR'S OFFICE REVIEW:

**Comments:**

**Name:** Debbie Colbert

**Date:** 12/19/22





## **Report to the Secretary of State: 5-Year Rule Review (January 2018 – December 2018)**

[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 2018 Calendar Year. A copy of this report shall be made available on the [OHCS website](#) or by contacting Jaci Davis ([Jaci.Davis@hcs.oregon.gov](mailto:Jaci.Davis@hcs.oregon.gov)).

### **January 1, 2018 – December 31, 2018**

OHCS adopted a total of 43 rules.

These rulemakings impacted seven (7) divisions and programs.

- Affordable Housing Land Acquisition Revolving Loan Program (Division 37)
- Severe Rent Burden Reporting (Division 112)
- Publicly Supported Housing Preservation Program (Division 115)
- Low Income Weatherization Assistance Program (Division 205)
- State Home Oil Weatherization (Division 207)
- Wildfire Damage Housing Relief Program (Division 330)
- Rent Guarantee Program (Division 365)

# Oregon Housing and Community Services Administrative Rules 5-year Review Lookback to 2018

Report Contact:  
OHCS Rules Coordinator,  
Jaci Davis,  
[Jaci.Davis@hcs.oregon.gov](mailto:Jaci.Davis@hcs.oregon.gov)  
April 24, 2023

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**5-Year Rule Review  
Adopted Rules of Chapter 813**

**Division No. 37 (Affordable Housing Land Acquisition Revolving Loan Program):**

Rules Adopted: 813-037-0005

Date Adopted (Filing No.): 10-24-2018 (OHCS 16-2018)

Rule Advisory Committee Used: yes

If not, please explain: N/A

<b>OAR 813-037-0005: Purpose and Objectives</b>	
<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 adoption met the initial need but needed to be updated the following year to provide further program guidance.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The program had under-utilized funds, which prompted the rule amendment in 2019.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Yes, the agency referenced a program manual within this department of rule in 2019.
<i>Is the rule still necessary?</i>	Yes

## 5-Year Rule Review Adopted Rules of Chapter 813

**Division No. 112 (Severely Rent Burden Reporting):**

Rules Adopted: 813-200-0001

Date Adopted (Filing No.): 10-25-2018 (OHCS 18-2018)

Rule Advisory Committee Used: Yes

If not, please explain: N/a

<b>OAR 813-112-0000: Applicability and Purpose</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	The agency has not had a need to amend this rule. There have been no statutory or legislative updates to this requirement to necessitate a rule change.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-112-0010: Definitions</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been</i>	The agency has not had a need to amend this rule. There have been no statutory or legislative updates to

**2023 5-Year Rule Review (Look back to 2018)**

<i>identified that require the agency to amend or repeal the rule?</i>	this requirement to necessitate a rule change.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-112-0020: Cities Rent Burden Determination</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	The agency has not had a need to amend this rule. There have been no statutory or legislative updates to this requirement to necessitate a rule change.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-112-0030: Public Meeting</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	The agency has not had a need to amend this rule. There have been no statutory or legislative updates to this requirement to necessitate a rule change.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-112-0040: Housing Affordability Survey</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program.
<i>How did the anticipated fiscal impact identified on the notice of</i>	There was no anticipated fiscal impact and that continues to be the same.

**2023 5-Year Rule Review (Look back to 2018)**

<i>rulemaking compare to the actual fiscal impact?</i>	
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	The agency has not had a need to amend this rule. There have been no statutory or legislative updates to this requirement to necessitate a rule change.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-112-0050: Reporting Requirements</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	The agency has not had a need to amend this rule. There have been no statutory or legislative updates to this requirement to necessitate a rule change.
<i>Is the rule still necessary?</i>	Yes

**5-Year Rule Review  
Adopted Rules of Chapter 813**

**Division No. 115 (Publicly Supported Housing Preservation Program):**

Rules Adopted: 813-115-0001

Date Adopted (Filing No.): 9-05-2018 (OHCS 13-2018)

Rule Advisory Committee Used: Yes

If not, please explain: n/a

<b>OAR 813-115-0001: Purpose</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	Initially, the fiscal impact estimated was minimal to personnel. From a budget perspective, the fiscal impact has been on other agency funding sources that have had to subsidize the costs of this program. We had originally had General Funds to do this work but has been reduced since the original bill.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	There have been a number of legislative updates to this program that have required additional rule updates; HB 2002 (2017), HB 2022 (2019), HB 2020 (2019), HB 2095 (2021)
<i>Is the rule still necessary?</i>	Yes



**5-Year Rule Review  
Adopted Rules of Chapter 813**

**Division No. 205 (Low Income Weatherization Assistance Program):**

Rules Adopted: 813-205-0005

Date Adopted (Filing No.): 12-21-18 (OHCS 20-2018)

Rule Advisory Committee Used: No

If not, please explain: The department used constant outreach and involvement with the subgrantees, and the changes reflected how the program is operated with the public and represented correct program guidance.

<b>OAR 813-205-0005: Definitions</b>	
<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>	The rule adoption ensured for correct interpretation of definitions used within the Low-Income Weatherization Assistance Program. This rule has been amended to make further definition refinement.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no originally identified fiscal impact identified for the definitions. As these definitions clarified the existing program operations, there was no fiscal impact expected. This is the same as what the actual was.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since adoption to further clarify definitions.
<i>Is the rule still necessary?</i>	Yes

## 5-Year Rule Review Adopted Rules of Chapter 813

**Division No. 207 (State Home Oil Weatherization):**

Rules Adopted: 813-207-0000, 813-207-0010, 813-207-0020, 813-207-0030, 813-207-0040, 813-207-0050, 813-207-0060, 813-207-0070, 813-207-0080, 813-207-0090

Date Adopted (Filing No.): 9-10-2018 (OHCS 15-2018)

Rule Advisory Committee Used: Yes

If not, please explain: N/A

<b>OAR 813-207-0000: Program Administration, Applicability, and Purpose</b>	
<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 established the purpose of the division of rules. This rule met the intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts, support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since adoption to clarify the purpose and objective.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-207-0010: Definitions</b>	
<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 established the definitions of the division of rules. This rule met the intended effect.

**2023 5-Year Rule Review (Look back to 2018)**

<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts, support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since its adoption to clarify program requirements and align with better implementation.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-207-0020: Program Funding</b>	
<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 established the funding source of the program and explained the Petroleum Supplier Assessment process. This rule met the intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts, support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since its adoption to clarify the funding process.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-207-0030: Procurement of Grant Agreements</b>	
<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 established the grant agreement procurement process for this program. This rule met the intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts,

**2023 5-Year Rule Review (Look back to 2018)**

	support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended to release the requirement to procure grant agreements and rather allow for them as an option.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-207-0040: Eligible Applicants</b>	
<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 established the eligible participants for the program. This rule met the intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts, support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since its adoption to further clarify eligible applicants.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-207-0050: Application Procedure</b>	
<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 established the application process and required documents for the program. This rule met the intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts, support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.

**2023 5-Year Rule Review (Look back to 2018)**

<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since its adoption to allow for more submission methods for applying.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-207-0060: Specifications of Cash Payments</b>	
<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 established the cash payments awarded to eligible applicants. This rule met the intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts, support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since its adoption to increase the eligible cash incentives and update them appropriate for the market needs.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-207-0070: Eligible energy Conservation Items and Measures</b>	
<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 established the eligible measures to receive cash payments for this program. This rule met the intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts, support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since its adoption to clarify measures and expand where applicable.

**2023 5-Year Rule Review (Look back to 2018)**

<i>Is the rule still necessary?</i>	Yes
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<b>OAR 813-207-0080: Contractor and Program Grantee Warranty Requirements</b>	
<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 established the requirements for contractors and program grantees. This rule met the intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts, support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since its adoption to allow for more flexibility.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-207-0090: Penalties and Remedies</b>	
<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 established the penalties and remedies of falsifying information on the program application. This rule met the intended effect.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	The fiscal impact estimated was minimal to the general public and small businesses. The rules actually provided additional funding to support homeowners and grantees to further energy conservation efforts, support local heating oil companies, and supported this dwindling heating source for homeowners without other resources.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	This rule has been amended since its adoption to clarify based on actual implementation.
<i>Is the rule still necessary?</i>	Yes

**5-Year Rule Review  
Adopted Rules of Chapter 813**

**Division No. 330 (Wildfire Damage Housing Relief Program):**

Rules Adopted: 813-330-0030, 813-330-0040

Date Adopted (Filing No.): 2-28-2018 (OHCS 5-2018)

Rule Advisory Committee Used: Yes

If not, please explain: n/a

<b>OAR 813-330-0030:</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program. There were statutory minor corrections in 2019 and due to the 2020 wildfires, that called for an amendments and temporary rule changes between 9/2020-9/2021.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<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 statutory minor correction in July 2019. Amended statutory reference and creates consistency in language between divisions filed Dec 2019. Amended temp date of loss and grant amount Feb 2018. Amended temp rules filed Sept 2020 to Sept 2021 to include tenants as allowed by statute.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-330-0040:</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program. Amend Rules for the Wildfire Damage Housing Relief Account HB 2742 that included changes to income eligibility requirements and raising the amount of assistance an applicant could qualify for
<i>How did the anticipated fiscal</i>	There was no anticipated fiscal impact and that continues

**2023 5-Year Rule Review (Look back to 2018)**

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<i>impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	to be the same.
<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 statutory minor correction in July 2019. Amended statutory reference and creates consistency in language between divisions filed Dec 2019. Amended temp date of loss and grant amount Feb 2018. Amended temp rules filed Sept 2020 to Sept 2021 to include tenants as allowed by statute.
<i>Is the rule still necessary?</i>	Yes



## 5-Year Rule Review Adopted Rules of Chapter 813

**Division No. 365 (Rent Guarantee Program):**

Rules Adopted: 813-365-0000, 813-365-0011, 813-365-0021, 813-365-0045, 813-365-0050,  
813-365-0061, 813-365-0065

Date Adopted (Filing No.): 3-02-2018 (OHCS 6-2018)

Rule Advisory Committee Used: Yes

If not, please explain: n/a

<b>OAR 813-365-0000:</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program. This rule was to identify the purpose and objective of the Rent Guarantee Program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Amendment Dec 2019 to statutory reference and creates consistency in language between divisions
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-365-0011:</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program. This rule was to identify the purpose and objective of the Rent Guarantee Program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.

**2023 5-Year Rule Review (Look back to 2018)**

<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Amend definitions in July 2019 and incorporated 2019 operations manual. In August 2020, amendment to the program for updated processes and procedures to adopt into rule.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-365-0021:</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program. New rule to identify how Oregon Housing and Community Services will administer the Rent Guarantee Program
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Amendment July 2019 to create consistency in language between divisions and amends definitions.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-365-0045:</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program. New rule to identify how program funds will be used in the Rent Guarantee Program
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Amendment in July 2019 to provide clarity on claimant eligibility criteria.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-365-0050:</b>	
<i>Based on the need for the rule identified on the notice of</i>	The rule met the intended effect of establishing a purpose and objectives section for this program. New

**2023 5-Year Rule Review (Look back to 2018)**

<i>rulemaking, how did the rule meet or fail to meet its intended effect?</i>	rule to identify how a program provider can apply to receive funds from the Rent Guarantee Program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	The agency has not had a need to amend this rule. There have been no statutory or legislative updates to this requirement to necessitate a rule change.
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-365-0061:</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program. New rule to identify what reporting and recordkeeping requirements will apply to the Rent Guarantee Program
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Amendment in July 2019 to create consistency in language between divisions, amends definitions, and clarifies reporting and recordkeeping requirements
<i>Is the rule still necessary?</i>	Yes

<b>OAR 813-365-0065:</b>	
<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>	The rule met the intended effect of establishing a purpose and objectives section for this program. New rule to identify what monitoring requirements will apply to the Rent Guarantee Program.
<i>How did the anticipated fiscal impact identified on the notice of rulemaking compare to the actual fiscal impact?</i>	There was no anticipated fiscal impact and that continues to be the same.
<i>What Legislative events or agency activities, if any, have been identified that require the agency to amend or repeal the rule?</i>	Amendment in July 2019 to create consistency in language between divisions, amends definitions, and clarifies monitoring requirements.

**2023 5-Year Rule Review (Look back to 2018)**

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<i>Is the rule still necessary?</i>	Yes
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# Oregon

Tina Kotek, Governor

State Board of Architect Examiners

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[Oregon.gov/OSBAE](http://Oregon.gov/OSBAE)

August 17, 2023

TO: Oregon Secretary of State, Administrative Rules

CC: Small Business Rules Advisory Committee

FROM: Lisa Howard, Executive Director

SUBJECT: ORS 183.405 Five Year Rule Review Report

## RULES ADOPTED IN 2019

ORS 183.405 requires state agencies to review new administrative rules within five years of adoption and to submit a report to the Secretary of State.

Original Adoption Date/History of Amendments: April 5, 2019

Was an Advisory Committee used to review these rules for this report?

Yes  No

### Rule Number and Title: 806-010-0001, Definitions

1. Did the rule achieve its intended effect?

Yes

No

What was the intended effect? Definitions added or moved for clarity and consistency.

2. The fiscal impact statement was (check one):

Underestimated

Overestimated

Just about right

Unknown

What was the estimated fiscal impact? No material fiscal impact to registrants or small businesses was anticipated.

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

Yes, SB 224 (2023) revised definitions

No

4. Is the rule still needed?

Yes

No

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

There has been no known material impact on small businesses.

**Rule Number and Title: 806-010-0002, Definitions of Building Size Limitations**

1. Did the rule achieve its intended effect?

Yes

No

What was the intended effect? Definitions moved and amended for clarity.

2. The fiscal impact statement was (check one):

Underestimated

Overestimated

Just about right

Unknown

What was the estimated fiscal impact? No material fiscal impact to registrants or small businesses was anticipated.

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 impact has the rule had on small businesses?

There has been no known material impact on small businesses.

**Rule Number and Title: 806-010-0106, Public Record Requests**

1. Did the rule achieve its intended effect?

Yes

No

What was the intended effect? Rules were added to accommodate public record requests.

2. The fiscal impact statement was (check one):

Underestimated

Overestimated

Just about right

Unknown

What was the estimated fiscal impact? No material fiscal impact to registrants or small businesses was anticipated.

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 impact has the rule had on small businesses?

There has been no known material impact on small businesses.

## Oregon State Marine Board: Administrative Rule Review Under ORS 183.405

Agency Rule Reviewer: See instructions on Page 6 of this document

<p>Filing Number(s) w/ caption(s), effective date(s), rule(s)</p>	<p><b>OSMB 15-2011</b> Caption: Outfitter and Guide Program Update Effective: 11/1/11 Rules: Repeal Div 16, replace with 250-16-0020 – 250-16-0085</p> <p><b>OSMB 4-2014</b> Caption: Amend Guide Advisory Committee membership rules and maintain Columbia River reciprocity (this was reviewed in 2019) Effective: 1/15/2014 Rules: 250-16-0080; 250-16-0090</p> <p><b>OSMB 7-2015</b> Caption: Defined serious and repeated; amended application requirements and revocation notification process Effective: 7/1/2015 Rules: 250-16-0020; 250-16-0035; 250-16-0050</p> <p><b>OSMB-17-2016</b> Caption: Amend Outfitter/Guide rules to modify non-resident tag program fees and adopt civil penalties. Effective: 1/1/2017 Rules: 250-16-0095; 250-16-0100; 250-16-0020; 250-16-0035; 250-16-0040</p> <p><b>OSMB-3-2017</b> Caption: Rules specify health, drug, and boat knowledge testing, safety equipment and incident reporting requirements. Effective: 1/1/2018 Rules: 250-16-0031; 250-16-0036; 250-16-0038; 250-16-0075; 250-16-0076; 250-16-0077</p> <p><b>OSMB-2-2018</b> Caption: Hunt Tag Program Fee Revision Effective: 3/1/2018 Rule: 250-16-0040</p> <p><b>OSMB-15-2018</b> Caption: Outfitter Guide Rules and Non-Resident Hunt Tag Program Rules Effective: 1/1/2019 Rules: 250-16-0020; 250-16-0025; 250-16-0040; 250-16-0041; 250-16-0050</p> <p><b>OSMB-11-2019</b> Caption: Provides whitewater helmet specifications per Oregon Legislature direction. Effective: 1/1/2020 Rule: 250-16-0075</p> <p><b>OSMB-9-2020</b> Caption: Amends notice requirements of expiration dates of CPR/First Aid certification for Outfitters and Guides. Effective: 6/1/2020 Rule: 250-16-0025</p>	
<p>Review Date</p>	<p>5-16-2023</p>	
<p>Reviewed by</p>	<p>(Name) Dorothy Diehl</p>	<p>(Title) Policy Program Coordinator</p>
<p>Reviewed by</p>	<p>(Name)</p>	<p>(Title)</p>



Names, titles, of all those who were consulted as part of the rule review, whether or not an advisory committee was formed:

Brian Paulsen, Boating Safety Program Manager  
Cyndi Bolduc, Outfitter Guide Program  
Gary Early, Outfitter Guide community  
Jim Blount, Outfitter Guide community

Did any of the rule changes fail to have the intended effect? Explain.

Yes, OSMB-17-2016 had to be revised in OSMB-2-2018 as fee change authority may have not been clarified in statute. The fees were deemed necessary to offset the staff time this program requires with minimal fees collected and the additional resources needed for illegal outfitter guide enforcement contracts with OSP Special Investigative Unit, but they were repealed shortly after adoption and have not been reinstated.

Anticipated fiscal impact of the rule:

**OSMB 15-2011**

“Marine Board and County and State Law Enforcement may be impacted by these rules. Specific costs of compliance unknown.”

**OSMB 4-2014**

“While House Bill 2039 increases fees, the administrative rule changes proposed in this rulemaking, have limited or no fiscal or economic impact.”

**OSMB 7-2015**

“Proposed rules do not change outfitter and guide application or reporting procedures.”

**OSMB-17-2016**

“Fiscal and Economic Impact will result from rulemaking. Implementing penalties will impact the agency’s administrative program costs in terms of staff hours and additional recordkeeping. . . . Forty guide businesses participate in the non-resident tag program. The proposed increase in the non-resident tag fee will increase each participant’s an average of \$25.00. The maximum increase would be \$75.00.”

**OSMB-3-2017**

“The agency estimates that there will be a moderate fiscal impact resulting from the modification to these rules. It will cost approximately \$200.00 for guides operating on sole state waters (250) to obtain health screens, pre-employment drug testing and consortium membership (once every 5 years). . . . If a guide operating on sole state waters (250) does not currently have the required safety equipment, it is estimated that the cost to obtain the equipment is \$1,000.00.”

**OSMB-2-2018**

“The fee schedule was not implemented, this there is no fiscal impact.”

**OSMB-15-2018**

“. . . 250-016-0020 may have a fiscal impact to those Oregon residents who also claim residency in another state as the non-resident registration fee may be higher (0-\$1665) than the resident fee according to ORS 704.020.”

**OSMB-11-2019**

“The fiscal and economic impact of these new requirements were assessed during the legislative process.”

**OSMB-9-2020**

“This rule change will have a slight positive fiscal impact on the Oregon State Marine Board because the amount of staff time dedicated to documenting CPR/First Aid certifications of Outfitter and Guides will be reduced.”

Was the anticipated impact of the rule underestimated or overestimated? (Explain)

Impact is not measurable based on overall registered outfitter guide feedback. Nothing indicates that the anticipated impact of the rules were overestimated. No other feedback or examples in the time period since the rules went into effect point to any other issues with the rules.

Have there been any subsequent law changes that require repeal or amendment of the rule? No

Original stated need for the rule:

**OSMB 15-2011**

“These rules improve OSMB ability to enforce existing laws, help guides comply with existing rules and laws, and aids law enforcement in application of existing rules.”

**OSMB 4-2014**

“These rules are needed to implement the intent of House Bill 2039; specifically, to apply a new selection process for the Guide Advisory Committee and maintain the current reciprocal recognition with the state of Washington for charter guide operation on the Columbia River.”

**OSMB 7-2015**

“Modifications will more clearly define language referenced in statute; clarify ability for the Marine Board to sanction Outfitter and Guides in situations where certain violations have occurred. Will clarify date of registration license issuance of certain types of guides.”

**OSMB-17-2016**

“The agency needs to adopt civil penalties to comply with Oregon Revised Statutes and amend rules to remove unauthorized exclusions. The non-resident tag program will ease issues concerning the prolonged time period to obtain federal permits and also address complaints that non-Oregon guides are taking advantage of program gaps. The non-residence tag application fee will be increased to cover administrative costs associated with hunt certifications.”

**OSMB-3-2017**

“The rule amendments are needed to comply with and implement provisions consistent with Oregon Revised Statute 704.”

**OSMB-2-2018**

“This rule change proposes to revert OAR 250-016-0040 to the previous fee schedule. The fee change, previously adopted, requires additional consideration by the Oregon Legislature before it can be enacted . . .”

**OSMB-15-2018**

“Rule amendments are needed to define Oregon residency and allow for secondary residences and exclusions as they pertain to the Outfitter Guide Program (250-016-0020); designate and define Outfitter Guide employee notification requirements (250-016-0025); outline and apply Non-Resident Hunt Tag Program application standards (250-016-0040 and 250-016-0041); and extend the reprimand period (250-

016-0050) to match the Oregon Revised Statute (ORS) 704.040.”

**OSMB-11-2019**

“. . . to clarify the requirement that helmets must be provided to customers by liveries operating in whitewater rivers.

**OSMB-9-2020**

“Current rules put an unnecessary burden on Outfitter and Guides by requiring them to notify the Marine Board whenever an employee's CPR/First Aid Certification expires or is renewed. By implementing these new rules, the amount of work required of Outfitter and Guides to meet OSMB obligations.”

Continued need for the rule:

All rules are continued to be needed.

One future consideration would be biannual Outfitter Guide registration to reduce workload on registered Outfitter Guides, but also the workload on OSMB limited staff.

Anticipated impact on small businesses

**OSMB 15-2011**

“Up to 300 individual guides” [are subject to the rule]

**OSMB 4-2014**

“There are approximately 900 individually licensed guides operating in Oregon”

**OSMB 7-2015**

“There are approximately 1,100 individually registered outfitters and guides in Oregon”

**OSMB-17-2016**

“There are 1,410 Outfitter Guides of which 171 are non-boating. Forty guide businesses participate in the non-resident tag program.”

**OSMB-3-2017**

“There are 250 guides operating on sole state waters and 1,500 outfitter/guides who are subject to these rules.”

**OSMB-2-2018**

“Outfitter guides are small businesses that would be directly affected by a fee increase, but this change prevents the fee implementation . . .”

**OSMB-15-2018**

“Small businesses, Outfitter Guides, may experience an additional application cost based on their individual choice of state residency (0-\$1665) as defined in 250-016-0020. It is anticipated that there would be no cost to Oregon residents.”

**OSMB-11-2019**

“Hundreds of small businesses will be affected by the helmet requirements put forth in HB 2652, but the clarifications provided in rule will not further affect these businesses.”

**OSMB-9-2020**

“There are roughly 1,400 registered Outfitter and Guide businesses in Oregon that will be positively impacted by this rule change. (b) Because the rule change reduces reporting

requirements, costs will be reduced for the affected small businesses. (c) No other additional costs will be incurred by small businesses as a result of this rule change.”

Actual impact on small businesses

Impact is not measurable based on overall registered outfitter guide feedback. No other feedback or examples in the time period since the rules went into effect point to any other issues with the rules.

List any attachments here:

Survey  
Email invitation to Outfitter Guides to complete survey  
Survey Responses

**Instructions for agency's Administrative Rule Reviewer:**

**ORS 183.405 requires that a review of each new administrative rule be conducted and reported to the Secretary of State's office no later than 5 years after adoption with respect to the following:**

- (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
- (e) What impacts the rule has on small businesses.

**The following administrative rules are exempt from the review requirement:**

- (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
- (d) Rules adopted to correct errors or omissions

**The Secretary of State's Office shall compile the reviews throughout the year and submit a report to the Legislative Assembly no later than February 1 of the following year.**

The reviewer must utilize all available information to complete the review. This may include following up with key stakeholders, agency partners, law enforcement, land managers, business owners, and others. Provide as much detailed information as possible in support of your answers to the questions on Pages 1-4.

When Pages 1-4 are complete, save a copy as a pdf, using the naming format "OSMB\_Rule\_Review\_202X\_A". Send it as an attachment to the email address below. CC the OSMB Policy Program Manager and the Rules Coordinator. In the body, state that the attachment is the 5 year rule review as required by ORS 183.405, and request that a copy be forwarded to the Small Business Advisory Committee. You should receive a confirmation that the report was received. Save a copy of the confirmation.

[Adminrules.Archives@oregon.gov](mailto:Adminrules.Archives@oregon.gov)

## View results

Respondent

1 Anonymous

23:55

Time to complete

1. In 2011, rulemaking OSMB-15-2011 repealed ALL of Division 16 and replaced it. The original statement of need for the rulemaking was "These rules improve OSMB ability to enforce existing laws, help guides comply with existing rules and laws, and aids law enforcement in application of existing rules." The Agency predicted up to 300 guides may impacted and that the specific costs of compliance were unknown.

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

None that have any affect on me

2. In 2014, rulemaking OSMB-4-2014 amended the Guide Advisory Committee membership and maintained Columbia River Reciprocity. The original statement of need for the rulemaking was "These rules are needed to implement the intent of House Bill 2039; specifically, to apply a new selection process for the Guide Advisory Committee and maintain the current reciprocal recognition with the state of Washington for charter guide operation on the Columbia River." The Agency predicted up to 900 guides may be impacted and stated "While House Bill 2039 increases fees, the administrative rule changes proposed in this rulemaking, have limited or no fiscal or economic impact." .

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

I'm not sure if I have the right affect as it was intended

3. In 2015, Rulemaking OSMB-7-2015 defined "*serious*" and "*repeated*" and amended application requirements and the revocation notification process. The original statement of need for the rulemaking was "Modifications will more clearly define language referenced in statute; clarify ability for the Marine Board to sanction Outfitter and Guides in situations where certain violations have occurred. Will clarify date of registration license issuance of certain types of guides." The agency predicted up to 1,100 guides may be impacted and stated "Proposed rules do not change outfitter and guide application or reporting procedures."

More options for Responses

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

The ruling did exactly what it was intended to do, making the guide industry more responsible

4. In 2016, Rulemaking OSMB-17-2016 amended Outfitter/Guide rules to modify non-resident tag program \*fees and adopt civil penalties. The original statement of need for the rulemaking was "The agency needs to adopt civil penalties to comply with Oregon Revised Statutes and amend rules to remove unauthorized exclusions. The non-resident tag program will ease issues concerning the prolonged time period to obtain federal permits and also address complaints that non-Oregon guides are taking advantage of program gaps. The non-resident tag application fee will be increased to cover administrative costs associated with hunt certifications." The agency stated that 40 guide businesses participating in the non-resident tag program, and stated "Fiscal and Economic Impact will result from rulemaking. Implementing penalties will impact the agency's administrative program costs in terms of staff hours and additional recordkeeping. . . . Forty guide businesses participate in the non-resident tag program. The proposed increase in the non-resident tag fee will increase each participant's an average of \$25.00. The maximum increase would be \$75.00." (\*Note from staff 4/12/23: The fee increase part of this rulemaking was never implemented due to unclear authority, and a subsequent repeal of the fee increase language took place. Please ignore the language regarding the fee increase)

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

Talking to outfitters about how it affects there business it's sounds like it needs some more work

5. In 2017, Rulemaking OSMB-3-2017 specified health, drug, and boat knowledge testing, safety equipment and incident reporting requirements. The original statement of need for the rulemaking was "The rule amendments are needed to comply with and implement provisions consistent with Oregon Revised Statute 704." The agency predicted that 1500 outfitter/guides would be subject to the rules, and stated "The agency estimates that there will be a moderate fiscal impact resulting from the modification to these rules. It will cost approximately \$200.00 for guides operating on sole state waters (250) to obtain health screens, pre-employment drug testing and consortium membership (once every 5 years). . . . If a guide operating on sole state waters (250) does not currently have the required safety equipment, it is estimated that the cost to obtain the equipment is \$1,000.00."

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

No impact from this

6. In 2018, Rulemaking OSMB-15-2018 amended Outfitter Guide Rules and Non-Resident Hunt Tag Program Rules. The original statement of need for the rulemaking was "Rule amendments are needed to define Oregon residency and allow for secondary residences and exclusions as they pertain to the Outfitter Guide Program (250-016-0020); designated and define Outfitter Guide employee notification requirements (250-016-0025); outline and apply Non-Resident Hunt Tag Program application standards (250-016-0040 and 250-016-0041); and extend the reprimand period (250-016-0050) to match the Oregon Revised Statute (ORS) 704.040." The agency predicted that "Small businesses, Outfitter Guides, may experience an additional application cost based on their individual choice of state residency (0-\$1665) as defined in 250-016-0020. It is anticipated that there would be no cost to Oregon residents" and ". . . 250-016-0020 may have a fiscal impact to those Oregon residents who also claim residency in another state as the non-resident registration fee may be higher (0-\$1665) than the resident fee according to ORS 704.020."

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

The ruling was justified

7. In 2019, Rulemaking OSMB-11-2019 provided whitewater helmet specifications per Oregon Legislature direction. The original statement of need for the rulemaking was “. . . to clarify the requirement that helmets must be offered to customers by liveries operating in whitewater rivers.” The agency stated that “The fiscal and economic impact of these new requirements were assessed during the legislative process” and that “Hundreds of small businesses will be affected by the helmet requirements put forth in HB 2652, but the clarifications provided in rule will not further affect these businesses.”

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

It's a good rule

8. In 2020, Rulemaking OSMB-9-2020 amended notice requirements of expiration dates of CPR/First Aid certification for Outfitters and Guides. The original statement of need for the rulemaking was “Current rules put an unnecessary burden on Outfitter and Guides by requiring them to notify the Marine Board whenever an employee's CPR/First Aid Certification expires or is renewed. By implementing these new rules, the amount of work required of Outfitter and Guides to meet OSMB obligations.” The agency predicted “There are roughly 1,400 registered Outfitter and Guide businesses in Oregon that will be positively impacted by this rule change. (b) Because the rule change reduces reporting requirements, costs will be reduced for the affected small businesses. (c) No other additional costs will be incurred by small businesses as a result of this rule change” and “this rule change will have a slight positive fiscal impact on the Oregon State Marine Board because the amount of staff time dedicated to documenting CPR/First Aid certifications of Outfitter and Guides will be reduced.”

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

None that I am aware of

9. Please enter your name and email address.

Gary Early garyearlyfishing@ gmail . Com



## View results

Respondent

2 Anonymous

04:43

Time to complete

1. In 2011, rulemaking OSMB-15-2011 repealed ALL of Division 16 and replaced it. The original statement of need for the rulemaking was "These rules improve OSMB ability to enforce existing laws, help guides comply with existing rules and laws, and aids law enforcement in application of existing rules." The Agency predicted up to 300 guides may impacted and that the specific costs of compliance were unknown.

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

I am not aware of any impacts or whether the rule change met the stated need.

2. In 2014, rulemaking OSMB-4-2014 amended the Guide Advisory Committee membership and maintained Columbia River Reciprocity. The original statement of need for the rulemaking was "These rules are needed to implement the intent of House Bill 2039; specifically, to apply a new selection process for the Guide Advisory Committee and maintain the current reciprocal recognition with the state of Washington for charter guide operation on the Columbia River." The Agency predicted up to 900 guides may be impacted and stated "While House Bill 2039 increases fees, the administrative rule changes proposed in this rulemaking, have limited or no fiscal or economic impact." .

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

I am not aware of any impacts or whether the rule change met the stated need.

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More options for Responses

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

I am not aware of any impacts or whether the rule change met the stated need.

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Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

I am not aware of any impacts or whether the rule change met the stated need.

5. In 2017, Rulemaking OSMB-3-2017 specified health, drug, and boat knowledge testing, safety equipment and incident reporting requirements. The original statement of need for the rulemaking was "The rule amendments are needed to comply with and implement provisions consistent with Oregon Revised Statute 704." The agency predicted that 1500 outfitter/guides would be subject to the rules, and stated "The agency estimates that there will be a moderate fiscal impact resulting from the modification to these rules. It will cost approximately \$200.00 for guides operating on sole state waters (250) to obtain health screens, pre-employment drug testing and consortium membership (once every 5 years). . . . If a guide operating on sole state waters (250) does not currently have the required safety equipment, it is estimated that the cost to obtain the equipment is \$1,000.00."

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

I am not aware of any impacts or whether the rule change met the stated need.

6. In 2018, Rulemaking OSMB-15-2018 amended Outfitter Guide Rules and Non-Resident Hunt Tag Program Rules. The original statement of need for the rulemaking was "Rule amendments are needed to define Oregon residency and allow for secondary residences and exclusions as they pertain to the Outfitter Guide Program (250-016-0020); designated and define Outfitter Guide employee notification requirements (250-016-0025); outline and apply Non-Resident Hunt Tag Program application standards (250-016-0040 and 250-016-0041); and extend the reprimand period (250-016-0050) to match the Oregon Revised Statute (ORS) 704.040." The agency predicted that "Small businesses, Outfitter Guides, may experience an additional application cost based on their individual choice of state residency (0-\$1665) as defined in 250-016-0020. It is anticipated that there would be no cost to Oregon residents" and ". . . 250-016-0020 may have a fiscal impact to those Oregon residents who also claim residency in another state as the non-resident registration fee may be higher (0-\$1665) than the resident fee according to ORS 704.020."

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

I am not aware of any impacts or whether the rule change met the stated need.

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Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

I am not aware of any impacts or whether the rule change met the stated need.

8. In 2020, Rulemaking OSMB-9-2020 amended notice requirements of expiration dates of CPR/First Aid certification for Outfitters and Guides. The original statement of need for the rulemaking was “Current rules put an unnecessary burden on Outfitter and Guides by requiring them to notify the Marine Board whenever an employee's CPR/First Aid Certification expires or is renewed. By implementing these new rules, the amount of work required of Outfitter and Guides to meet OSMB obligations.” The agency predicted “There are roughly 1,400 registered Outfitter and Guide businesses in Oregon that will be positively impacted by this rule change. (b) Because the rule change reduces reporting requirements, costs will be reduced for the affected small businesses. (c) No other additional costs will be incurred by small businesses as a result of this rule change” and “this rule change will have a slight positive fiscal impact on the Oregon State Marine Board because the amount of staff time dedicated to documenting CPR/First Aid certifications of Outfitter and Guides will be reduced.”

Based on your experience, please comment on any fiscal impacts you're aware of, any impacts on small businesses, and whether the rule change met the stated need.

I am not aware of any impacts or whether the rule change met the stated need.

9. Please enter your name and email address.

Jim Blount jimbl@peakssportsnw.com

**From:** [BOLDUC Cyndi \\* BOAT](#)  
**To:** [garyearlyfishing@gmail.com](mailto:garyearlyfishing@gmail.com); [Bob Rees](#); [Joe Rohleder](#); [Brian Sykes](#); [ripariantours@gmail.com](mailto:ripariantours@gmail.com); [Cliff Agocs](#); [Jim Blount](#); [Cody Cole](#); [Bill Monroe Jr](#); [Jason Schultz](#); [Mia Sheppard](#)  
**Cc:** [PAULSEN Brian \\* BOAT](#); [DIEHL Dorothy \\* BOAT](#)  
**Subject:** Outfitter Guide rule changes  
**Date:** Friday, April 28, 2023 10:47:14 AM  
**Attachments:** [image001.png](#)  
[All changes compiled.pdf](#)  
[image003.png](#)  
[image002.png](#)

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Hi all –

You have homework! As a state agency, we are required to do periodic follow ups on our rule-making process. We need to do that now with our Outfitter Guide rule changes (RULES – those that the Marine Board makes, not STATUTES – those that the Legislature implements for us). The primary questions the agency must ask are:

- *Did the rule change have the intended effect?*
- *Did the agency correctly estimate the fiscal impact of the rule change?*
- *How has the rule change impacted small businesses (as opposed to what we thought it would do)?*

This is not a review to say we need another rule change, but just “how well did we anticipate?” We need your help to review all eight of the Outfitter Guide rule changes since 2011. The actual language of the rule changes are attached to this email to show the previous language and how it was changed. The wording provided in this survey for the agency’s original intentions and predictions was taken directly from the documents filed at that time. The survey form linked here will summarize the changes that were made, and ask you to briefly comment in response to the questions listed.

Link to survey form: <https://forms.office.com/g/XN8wvELhyQ>

Or use the QR code:



Please finish the survey by May 12<sup>th</sup>.

Let me know if you have any questions.

Thank you for your help – we couldn’t do this without you!

**Cyndi Bolduc, Outfitter Guide Program Coordinator**  
Boating Safety Program  
Oregon State Marine Board  
Ph: (503) 910-8666  
PO Box 14145, Salem, OR 97309-5065  
[Boat.Oregon.gov/guides](http://Boat.Oregon.gov/guides)

## Oregon State Marine Board: Administrative Rule Review Under ORS 183.405

Filing Number(s) w/ captions(s), effective date(s), rule(s)	<p>OSMB-4-2017 Rule action will update division definitions, clarify safety equipment requirements and establish incident reporting requirements. Effective: 1/01/2018 Rules: 250-015-0001; 250-015-0009; 250-015-0010; 250-015-0012</p> <p>OSMB-11-2021 Provides optional charter licensing for uninspected passenger vessels Effective: 1/1/2022 Rules: 250-015-0001; 250-015-0004; 250-015-0005; 250-015-0012; 250-015-0035</p> <p>OSMB-6-2022 Removes inspection requirement for small, optionally licensed charter boats Effective: 10/6/2022 Rules: 250-015-0004</p>	
Review Date	January, 2023	
Reviewed by	(Name) Dorothy Diehl	(Title) Policy Program Coordinator
Reviewed by	(Name) NA	(Title) NA
<p>Did any of the rule changes fail to have the intended effect? Explain.</p> <p>The adoption of 250-015-0004 on 1/1/22 provided optional charter licensing for small uninspected passenger vessels, but incidentally subjected them to the same marine survey and inspection requirements of traditional charter vessels, which was unnecessarily burdensome. This was relieved by an amendment to the rule on 10/6/22 which removed these requirements.</p>		
<p>Anticipated fiscal impact of the rule:</p> <p>The agency anticipated no significant fiscal impact associated with these rules. The only potential costs identified by staff were minimal costs (under \$100) to charter operators who did not already carry the safety equipment required by the rules.</p>		
<p>Was the anticipated impact of the rule underestimated or overestimated? (Explain)</p> <p>The fiscal impact was underestimated for the adoption of 250-015-0004 on 1/1/22 as described above. This was repaired by an amendment to the rule, also described above.</p>		
<p>Have there been any subsequent law changes that require repeal or amendment of the rule?</p> <p>No</p>		

Original stated need for the rule:

OSMB-4-2017

"The rule amendments are needed to comply with and implement provisions consistent with Oregon Revised Statute 830"

OSMB-11-2021

"These rule changes are needed due to the passage of HB 2777 in the 2021 session of the Oregon Legislature. This bill required that the Oregon State Marine Board provide for optional licensing as a charter boat for boats used to carry fewer than seven passengers for hire."

OSMB-6-2022

"This amendment is needed to eliminate an onerous, costly, and unnecessary burden to operators of boats carrying fewer than seven passengers for hire for angling, sightseeing, or other recreational purposes that desire to obtain an optional charter license for small passenger vessels."

Continued need for the rule:

These rules are necessary to comply with and implement state and federal law.

Anticipated impact on small businesses

The agency anticipated no significant impact on small businesses.

Actual impact on small businesses

The agency is not aware of any unintended impacts to small business from these rules as amended.

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

**Rule Name:** Child in Care Abuse Rules

**Rule Number(s):** OAR Chapter 407, Division 45, Rules:  
0835, Determining OTIS Response and OTIS Response Timeline.  
0845, Screening Report Form Timeline and Requirements.  
0855, Notifications at the Conclusion of Screening.

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

**Adoption Date:** June 30, 2018

**Review Due Date:**  
June 29, 2023

**Review Date:**  
4-27-2023

**Reviewer's Name:**  
T. Strahan, OTIS

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<p><b>What was the intended effect of this rule adoption?</b>                  Rules on screening (0825, adopted 12-1-2016) were separated with these three, adopted rules to improve alignment with the Department's child protective services rules, revised due to 2017 legislations, effective 1-1-2018:</p> <ul style="list-style-type: none"> <li>• 0835: Processes to determine assignment or closure, and the timeline for investigator initial contact with the alleged victim.</li> <li>• 0845: Timeline for completing the screening, info in a screening report.</li> <li>• 0855: Requirements at the end of screening, including new notifications for developmental disabilities licensed group homes for children.</li> </ul>	
<p><b>X Yes</b></p>	<p><b>Has the rule had the intended effect?</b>                  The changes ensured compliance and consistency with Child Welfare rules by reflecting when OAAPI/OTIS was responsible for a report of alleged child abuse for a child in care.</p>
<p><b>X No</b></p>	<p><b>Was the anticipated fiscal impact of the rule underestimated?</b>                  The Department anticipated increased costs to OAAPI/OTIS with fiscal impacts addressed as part of the 2017 legislative costs appropriated for each bill with additional appropriations and budget rebalances occurring for increased OTIS workload subsequently, due to additional legislations affecting child safety:</p> <ul style="list-style-type: none"> <li>• SB 243 (2017, OL Ch. 733) Expands definition of "child in care" to include certified child foster homes and developmental disabilities residential facilities.</li> <li>• SB 244 (2017, OL Ch. 448) Establishes new notification requirements regarding reports of abuse of child in care.</li> <li>• SB 245 (2017, OL Ch. 244) Modifies definitions of "child" and "child-caring agency."</li> <li>• HB 2903 (2017, OL Ch. 138) Authorizes immediate conditions on child-caring agency prior to hearing if department finds there is serious danger to public health or safety.</li> </ul>
<p><b>X No</b></p>	<p><b>Was the anticipated fiscal impact of the rule overestimated?</b>                  These new rules were part of the required amending of 0800 through 0955 due to 2017 legislations that further defined ODHS partnerships and responsibilities for child in care abuse reporting and investigating to make findings of child abuse.</p>



<p>X Yes</p>	<p><b>Have subsequent changes in the law required the rule to be repealed or amended?</b>  <b>2019:</b> 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 [DHSD 35-2019, effective 1-1-2020].</p> <p>The Department made the following policy decisions:</p> <ul style="list-style-type: none"> <li>• <u>DHSD 1-2020 (temp) &amp; DHSD 4-2020 (perm)</u>, amended 0845 by updating the reference to response time from "within 5 days" to "within 72 hours" effective 1-17-2020 &amp; 3-27-2020. ODDS Host Homes also added.</li> <li>• <u>DHS 2-2021</u>, Child foster homes regulated by ODHS ODDS were added to these rules, effective 3-1-2021.</li> <li>• <u>DHS 9-2021</u>, effective 7-1-2021, renumbered the OTIS child-in-care abuse investigations to its own Division 46 in Chapter 407.             <ul style="list-style-type: none"> <li>○ 0855 Renumbered to OAR 407-046-0140.</li> <li>○ 0835 Renumbered to OAR 407-046-0130.</li> <li>○ 0845 Repealed (<i>relevant text added to OAR 407-046-0140</i>)</li> </ul> </li> <li>• DHS 29-2022, eff. 8-1-2022: The renumbered rules were amended to add "within 10 business days" response time to align with Child Welfare, and create option for deviation to notifications with approval by OTIS supervisor {as OAR 407-046-0130 and 407-046-0140, respectively}.</li> </ul>
<p>X Yes</p>	<p><b>Is there a continued need for the rule?</b>                  Part of the shared services OTIS provides to Child Welfare, related to mandatory child abuse investigations for children in care defined in ORS 418.257.</p>
	<p><b>What impact has the rule had on small businesses?</b>                  The Department was unable to estimate how many of the agencies that meet the definitions of a residential facility providing services to a child in care, met the definition of a small business in ORS 183.310. No fiscal impact estimated for these new rules for providers in compliance to laws for reporting and prohibiting abuse in services.</p>

**Report approved by: Dave Manley, OTIS Director,**

**May 3, 2023**

**Date report sent to advisory committee members:**

**May 3, 2023**

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

**Rule Name:** Child in Care Abuse Rules

**Rule Number(s):** OAR Chapter 407, Division 45, Rules:

**0905**, Requesting an OAAPI Review of a Substantiated or Inconclusive Abuse Determination.

**0909**, Additional Notice and Review Responsibilities.

**0915**, Issuing Final Orders.

**Program Area:** Office of Training, Investigations and Safety (OTIS)  
*(formerly known as Office of Adult Abuse Prevention and Investigations, OAAPI)*

**Adoption Date:** 04/28/2018

**Review Due Date:**

Apr 27, 2023

**Review Date:**

4-27-2023

**Reviewer's Name:**

T. Strahan, OTIS

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**What was the intended effect of this rule adoption?**

**0905:** Describes how a person (“respondent”) may request an OAAPI review of a substantiated or inconclusive abuse determination, including the timeline for request and information that must be included with the request.

**0909:** Additional OAAPI responsibilities, including the information to maintain relating to notice and review, and how OAAPI must handle inquiries about OAAPI reviews.

**0915:** New requirement for OAAPI to issue final orders for all reports of abuse that are either substantiated or inconclusive; includes the timeline for completion, contents of the final order, approval requirements, and distribution.

<b>X Yes</b>	<b>Has the rule had the intended effect?</b> These rules assured compliance with ORS 183 for the Department’s actions taken upon a timely respondent request for an OAAPI review of substantiated abuse of a child-in care prior to issuing a final order..
<b>X No</b>	<b>Was the anticipated fiscal impact of the rule underestimated?</b> The Department anticipated increased costs to OAAPI/OTIS related requirements and legal counsel assistance with new due process operations. Cost of adopted rules is part of several amended rules costs that were stated as unknown.
<b>X No</b>	<b>Was the anticipated fiscal impact of the rule overestimated?</b>
<b>X No</b>	<b>Have subsequent changes in the law required the rule to be repealed or amended?</b> The Department made the following policy decisions:

	<p><b>0909:</b> Repealed 11-1-2018, as internal agency process that do not need to be in rule.</p> <p><b>0915:</b> Repealed 3-1-2019, ODHS leadership determined to change to a contested case hearing process with new rules adopted.</p> <p><b>0905:</b> Renumbered as of 7-1-2021 to OAR 407-046-0210, see <u>DHS 9-2021</u>. Repealed 8-1-2022, DHS 29-2022, with alignment of all child abuse administrative processes.</p> <p>Other minor amendments (prior to the repeal of these rules) included:</p> <ul style="list-style-type: none"> <li>• <u>DHSD 22-2018 &amp; DHSD 29-2018</u> revised the substantiated abuse review process as of 7-10-2018 (temp) and 11-1-2018 (perm).</li> <li>• <u>DHSD 5-2019 (temp) &amp; DHSD 13-2019 (perm)</u>, revised due process to a contested case hearing as of 3-1-2019 (temp) and 8-1-2019 (perm).</li> <li>• <u>DHS 2-2021</u>, effective 3-1-2021 aligned OTIS child abuse investigation rules.</li> </ul>
<p><b>X No</b></p>	<p><b>Is there a continued need for the rule?</b></p> <p>Repealed with rules for due process moved to new OTIS division 44 for administrative practices for all child abuse rules in chapter 407.</p>
	<p><b>What impact has the rule had on small businesses?</b></p> <p>The Department estimated no fiscal impact to providers with standardized ODHS OTIS processes for contested case hearings.</p>

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**Report approved by: Dave Manley, OTIS Director** **May 3, 2023**

**Date report sent to advisory committee members:** **May 3, 2023**

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

**Rule Name:** Oregon State Hospital Patient Abuse Investigation Rules

**Rule Number(s):** OAR Chapter 407, Division 45, Rules 0405, 0415, 0425, 0435, 0445, 0455, 0465, 0475, 0485, 0495.

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

**Adoption Date:** October 1, 2018

**Review Due Date:**

Sept 30, 2023

**Review Date:**

4-18-2023

**Reviewer's Name:**

T. Strahan, OTIS

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<b>What was the intended effect of this rule adoption?</b>	
To ensure the Oregon Dept. of Human Services (ODHS) limit their adult abuse investigations to the populations defined for the types of abuse that are covered by the law in ORS 430.735 for patients of the Oregon State Hospitals (OSH).	
<b>X Yes</b>	<b>Has the rule had the intended effect?</b> ODHS OTIS cite the relevant ORS 430.735, defined terms for “abuse” and an “adult” in all investigations of alleged patient abuse reports completed for the Oregon Health Authority at the State Hospitals.
<b>x No</b>	<b>Was the anticipated fiscal impact of the rule underestimated?</b>
<b>x No</b>	<b>Was the anticipated fiscal impact of the rule overestimated?</b> Indeterminate fiscal impact as court mandates and Covid-19 restrictions impacted patient populations (admission/discharges), operations and workforce, including volunteers and visitors at the hospitals for a majority of the past five-years.
<b>X No</b>	<b>Have subsequent changes in the law required the rule to be repealed or amended?</b> The Department of Human Services amended these adopted rules to accommodate an OTIS change to a contested case hearing process in March 2019.

	<p><a href="#">DHSD 3-2019, temporary amend filed 03/01/2019, effective 03/01/2019 through 08/27/2019</a>  <a href="#">DHSD 12-2019, amend filed 08/01/2019, effective 08/01/2019</a></p>
<p>X Yes</p>	<p><b>Is there a continued need for the rule?</b>                  These rules describe the level of services ODHS OTIS provides to the Oregon Health Authority by shared service agreements described in OAR chapter 943, division 45 to help assure compliance to the laws for mandatory adult abuse reporting in ORS 430.731, 430.735 to 430.765 and 430.768.                   Specifically, ODHS responsibility for receiving reports of alleged abuse, assisting the OSH Superintendent’s Office with assessing protective services, coordinating with law enforcement agencies, conducting investigations to make findings on alleged abuse of a patient by an OSH “staff” (employee, contractor or volunteer) or “visitor”.                   Rules also assure all accused with a substantiated abuse finding are provided written notice of rights to an ODHS contested case hearing, conducted by the Office of Administrative Hearings, prior to the issuance of a final order that is given to OHA.</p>
	<p><b>What impact has the rule had on small businesses?</b>                  Contracted service providers may meet the definitions of a small business. No additional costs were expected for those who were in compliance with OHA OSH policies prohibiting patient abuse.</p>

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**Report approved by: Dave Manley, OTIS Director** **May 3, 2023**  
**Date report sent to advisory committee members:** **May 3, 2023**

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

**Rule Name:** ODHS Notice & Review Process for Substantiated Abuse Findings, Prior to Issuance of Final Orders for Abuse

**Rule Number(s):** OAR Chapter 407, Division 45, Rules:

- 0025, Notice of Substantiated Outcome
- 0055, Requesting a Review of a Substantiated Abuse Finding
- 0085, OTIS Substantiated Abuse Review Process
- 0115, Issuing Final Orders

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

**Adoption Date:** August 27, 2018.

**Review Due Date:**  
Aug 26, 2023

**Review Date:**  
5-1-2023

**Reviewer's Name:**  
T. Strahan, OTIS

**X\*Advisory Committee Used**

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Ryan Stafford	OSH-SEIU	<a href="mailto:RYAN.STAFFORD@state.or.us">RYAN.STAFFORD@state.or.us</a>

**What was the intended effect of this rule adoption?**

To provide all accused persons or providers a written notice of substantiated abuse findings with their rights to have the findings reconsidered (appealed) prior to a final order being issued under ORS 183.484, for an adult abuse investigation under OAR 407, Division 45.

<b>X Yes</b>	<b>Has the rule had the intended effect?</b> These adopted rules reflected an OTIS leadership decision to transition from a Review Panel process for some accused persons/providers for certain abuses substantiated (determined by severity matrix), to all accused persons/providers with any substantiated adult abuse finding.
<b>X No</b>	<b>Was the anticipated fiscal impact of the rule underestimated or overestimated?</b> OTIS was able to manage within budgeted resources for the one-year these rules were in effect.
<b>X No</b>	<b>Have subsequent changes in the law required the rule to be repealed or amended?</b> OTIS determined to repeal these rules (OAR 407-045-0000 through 0115) and adopt new rules for Contested Case Hearings with Lay Representations, effective 3-1-2019, [DHSD 2-2019, temporary adopt filed 03/01/2019 and DHSD 10-2019, adopt filed 08/01/2019, effective 08/01/2019].
<b>X No</b>	<b>Is there a continued need for the rule?</b> Repealed March 1, 2019.
	<b>What impact has the rule had on small businesses?</b> Any costs for record-keeping upon receipt of a Department notification did not change; with costs mitigated by OTIS moving from postal mail to email, and electronic case record-keeping by a centralized abuse management system for relevant and required investigation documents for this administrative practice.

**Report approved by: Dave Manley, Interim Director**  
**Date report sent to advisory committee members:**

**5-11-2023**  
**5-12-2023**

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

**Rule Name:** Abuse Reporting, Investigation and Protective Services for Adults with Developmental Disabilities

**Rule Number(s): OAR Chapter 407, Division 45, Rules**  
**0285**, Initial Action on Complaints of Alleged Abuse,  
**0291**, Screening Activities and Initial Notices,  
**0295**, Assessment for and Provision of Protective Services to the Adult,  
**0298**, Death Reporting,  
**0325**, Notifications at the Conclusion of an Investigation

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

**Adoption Date: 08/27/2018**

**Review Due Date:**  
Aug 26, 2023

**Review Date:**  
4-21-2023

**Reviewer's Name:**  
T. Strahan, OTIS

**\*Advisory Committee Used**

**\*Committee Members:**

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<p><b>What was the intended effect of this rule adoption?</b>                  To update the abuse investigation rules in community developmental disabilities program services and residential facilities to assure notice of rights to appeal (reconsideration process) occurs for every “abuse” substantiated under these rules, OAR 407-0450-0240 to 0370 prior to the issuance of a Department final order under ORS 183.484. Department leadership decisions required adoption of new rules to ensure alignments with the statutes, and OTIS rules adopted in Feb 2018 for adults with mental illness.</p>	
<p><b>X Yes</b></p>	<p><b>Has the rule had the intended effect?</b>                  The reconsideration process that prompted these rules being restructured with new rule sections adopted helped assure these rules reflected updated policy and operations for a timely, consistent and fair process; and every accused person or provider to be provided written notification of the finding, and right to challenge the substantiated abuses determined before a final Department order was issued.</p>
<p><b>X No</b></p>	<p><b>Was the anticipated fiscal impact of the rule underestimated?</b>                  ODHS expected some nominal costs associated with updating forms and required training of investigators on these new rules.</p>
<p><b>X No</b></p>	<p><b>Was the anticipated fiscal impact of the rule overestimated?</b>                  CDDPs receive a majority of the initial reports and conduct a majority of the investigations under these rules. Rule was amended to reduce notification requirements and allow a screening window of three business days to assure the appropriate screening determination (thereby saving investigative time and money).</p>
<p><b>X No</b></p>	<p><b>Have subsequent changes in the law required the rule to be repealed or amended?</b>                  OTIS determined in 2019 to change from the reconsideration review to a contested case hearing with lay representations required some amending to these rules to ensure effective implementation. [See DHSD 4-2019, temporary amend filed 03/01/2019, effective 03/01/2019 through 08/27/2019 and DHSD 11-2019, amend filed 08/01/2019, effective 08/01/2019.]                   2019 Senate Bill 155 created new standards for child abuse in school settings: OTIS made a policy decision to align these adult abuse rules to include complaints due to the accused’s role as an education provider (school employee, agent, contractor, or volunteer). [See DHSD 33-2019, amend filed 12/30/2019, effective 01/01/2020.]                   The rule for Death Reporting (OAR 407-045-0298) was amended in Nov 2019 to accommodate ODDS policy for the adoption of OAR 407-0450-645 Death Reporting Reviews for Adults in Developmental Disabilities Services. [See DHSD 17-2019, temporary amend effective 11/01/2019 and DHSD 29-2019, perm effective 11/15/2019.]</p>
<p><b>X Yes</b></p>	<p><b>Is there a continued need for the rule?</b>                  These rules are part of the services ODHS OTIS provides to ODDS for uniform investigations as required in ORS 430.731, related to ORS 430.735 to 430.768.</p>

	<p><b>What impact has the rule had on small businesses?</b> Community developmental disabilities programs are not small businesses. These rules in and of themselves did not place additional costs of compliance on licensed residential homes, adult foster homes, caregivers or support providers who may meet the definitions of a small business in ORS 183.310.</p>
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<b>Report approved by: Dave Manley, Interim Director</b>	<b>5-11-2023</b>
<b>Date report sent to advisory committee members:</b>	<b>5-12-2023</b>

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Under the provisions of this rule, and as of this review, 110 out of the identified 114 financial institutions operating in Oregon have entered into agreements with the Oregon Department of Revenue. The remaining 4 financial institutions are in conversations currently to enter into agreements.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

It was estimated that the rule would not generation any fiscal or economic impacts.

b. What was the actual fiscal impact?

The rule did not generate any fiscal or economic impacts.

c. Was the fiscal impact statement:

Underestimated

Overestimated

Just about right

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain: N/A

4. Is the rule still needed?

Yes

No

Explain: ORS 305.094 requires the department to adopt rules necessary for the administration of the FIDM program. The rule provides direction for the third-party aggregator and financial institutions participating in the data matching process.

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

According to the federal Small Business Administration, Oregon has approximately 402,928 small businesses with fewer than 500 employees, which employs approximately 54.4% of the state's workforce. Based on this information and information from the Oregon Employment Department Withholding Employer file reporting number of employees, we estimate that 128,652 small businesses in the state of Oregon, with fewer than 50 employees, are subject to this rule. However, most financial institutions subject to this rule

do not meet the definition of a small business and therefore the impact of this rule on small businesses is less than the estimated 128,652.

1 U.S. Small Business Administration Office of Advocacy <https://cdn.advocacy.sba.gov/wp-content/uploads/2022/08/30121330/Small-Business-Economic-Profile-OR.pdf>

2 Oregon Employment Department Withholding Information. Data Warehouse. (Dec. 2022)

# 2023 Five-Year Rule Review

December 29, 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 in 2023.

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

In 2023, the Department adopted 1 set of rules subject to review.

Rule(s)	Adopted
141-089-0823, -0827	May 7, 2018; July 1, 2018



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

**Rule Numbers:** 141-089-0823, -0827

**Program Area:** Aquatic Resource Management

**Adoption Date:** May 7, 2018; July 1, 2018

**Review Due Date:**  
December 8, 2023

**Review Date:**  
November 22, 2023

**Reviewer's Name:**  
Richard Fitzgerald

**Rule Advisory Committee Used**

**Rule Advisory Committee Not Used**

Name	Affiliation
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Kelly Coates	Cow Creek Band of Umpqua Tribe of Indians
Stacey Detwiler	Rogue Riverkeeper
Charles Gehr	Flywater Travel
Mike Hunter	Willamette Valley Mining Association
Tom Kitchar	Waldo Mining District
Glen Spain	Pacific Coast Federation of Fishermen's Associations
Shelley Stumbo	Armadillo Mining Shop
Joy Vaughan	Oregon Department of Fish and Wildlife

**ORS 183.405 Questions**

- 1) Did the rule 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 rule be amended or repealed?  
 Yes  No

Explanation (if yes):

- 4) Is there continued need for this rule?  
 Yes  No

Explanation: The 2018 modification to Division 89 was effected to harmonize our General Authorization for Recreational Placer Mining with the applicable provisions of SB 3 (2017). During the rulemaking, DSL determined that the rulemaking would not have a fiscal impact on

state agencies, local government, the public, or small business. DSL is not aware of any changes to that determination. DSL is not aware of any subsequent changes to law that modify the provisions of SB 3 (2017).

- 5) What impacts has this rule had on small businesses, if any? DSL is not aware of any impacts on small businesses resulting from the rule change.

**Additional Comments:**



# Oregon

Tina Kotek, Governor

**Oregon Board of Pharmacy**

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December 2023

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 2018 as required pursuant to ORS 183.405. Please see the following:

#### **OAR 855-020-0105 – Public Health and Pharmacy Formulary Advisory Committee**

- 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?
  - *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. Legislative mandate of 2017 HB 2397.*

#### **OAR 855-020-0110 – Prescribing Practices**

- Did the rule have the intended effect?
  - *Yes, the rule did have the intended effect.*
- Anticipated fiscal impact under or overestimated?
  - *N/A – Participation is voluntary*
- 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*

*The Oregon Board of Pharmacy serves to promote and protect public health, safety, and welfare by ensuring high standards in the practice of pharmacy and through effective regulation of the manufacture and distribution of drugs.*



# Oregon

Tina Kotek, Governor

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- Was there a Rules Advisory Committee?
  - *No. Legislative mandate of 2017 HB 2397.*

### OAR 855-020-0120 Prescribing Prohibited Practices

- Did the rule have the intended effect?
  - *Yes*
- Anticipated fiscal impact under or overestimated?
  - *N/A – Participation is voluntary*
- 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. Legislative mandate of 2017 HB 2397.*

### OAR 855-020-0200 - Formulary Compendium

- Did the rule have the intended effect?
  - *Yes*
- Anticipated fiscal impact under or overestimated?
  - *N/A – Participation is voluntary*
- 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. Legislative mandate of 2017 HB 2397.*

*The Oregon Board of Pharmacy serves to promote and protect public health, safety, and welfare by ensuring high standards in the practice of pharmacy and through effective regulation of the manufacture and distribution of drugs.*



# Oregon

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## **OAR 855-020-0300 – Protocol Compendium**

- Did the rule have the intended effect?
  - Yes
- Anticipated fiscal impact under or overestimated?
  - *N/A – Participation is voluntary*
- Subsequent changes in the law require that the rule be repealed or amended?
  - *No. PEP and PrEP were added to the statute.*
- 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. Legislative mandate of 2017 HB 2397.*

*The Oregon Board of Pharmacy serves to promote and protect public health, safety, and welfare by ensuring high standards in the practice of pharmacy and through effective regulation of the manufacture and distribution of drugs.*

# Agency Review of Rules Report - 2023 (ORS 183.405)



This report was prepared by Guthrie Stafford of the Oregon Higher Education Coordinating Commission.  
December 2023.

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# EXECUTIVE SUMMARY

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## STATUTORY REQUIREMENT

ORS 183.405 requires that:

- (1) Not later than five years after adopting a rule, an agency shall review the rule for the purpose of determining:
  - (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.
- (2) Upon request of an agency, the Small Business Rules Advisory Committee established in [ORS 183.407 \(Small Business Rules Advisory Committee\)](#) may agree to complete the review and reporting required by this section for the agency.
- (3) An agency or the Small Business Rules Advisory Committee shall utilize available information in complying with the requirements of subsection (1) of this section.
- (4) An agency or the Small Business Rules Advisory Committee shall provide a report on each review of a rule conducted under this section:
  - (a) To the Secretary of State;
  - (b) To the Small Business Rules Advisory Committee, unless the committee completed the review under subsection (2) of this section; and
  - (c) If the agency appointed an advisory committee pursuant to [ORS 183.333 \(Policy statement\)](#) for consideration of a rule subject to the requirements of this section, to the advisory committee.
- (5) The provisions of this section do not apply to the amendment or repeal of a rule.
- (6) The provisions of this section do 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.
- (7) The Secretary of State shall compile the reports submitted under this section during each calendar year and submit an annual report to the Legislative Assembly in the manner required by [ORS 192.245 \(Form of report to legislature\)](#) no later than February 1 of the following year. [2005 c.807 §3; 2017 c.518 §6; 2018 c.20 §4]

## 2023 HECC AGENCY REPORT

The Higher Education Coordinating Commission administrative rules are included in the following chapters:

- Chapter 575: HECC Office of Student Access and Completion (OSAC)
- Chapter 583: HECC Office of Degree Authorization (ODA)
- Chapter 589: HECC Office of Community Colleges and Workforce Development (CCWD)
- Chapter 715: Higher Education Coordinating Commission

In 2018, the HECC adopted 20 administrative rules, detailed, and reviewed by chapter in the following sections.

In summary, per ORS 183.405 (1)(a) - (e), this report concludes that each 2018 rule reviewed:

- a) achieved it's intended effect,
- b) did not over or underestimate its fiscal impact,
- c) does not require amendment or repeal due to a subsequent change in the law,
- d) that there is a continued need for the rule,
- e) and it has not had an impact on small business.

## CHAPTER 575

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**Higher Education Coordinating Commission,  
Office of Student Access and Completion  
Administrative Rules Annual Report  
HB 4106 (2016 Session)**

Report contains rules filed during calendar year January 01, 2018 through December 31, 2018

### Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

<b>Adopted</b>	<b>0</b>
<b>Amended</b>	<b>6</b>
<b>Repealed</b>	<b>0</b>

In 2018, the HECC adopted 0 administrative rules in Chapter 575.

## CHAPTER 583

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**Higher Education Coordinating Commission,  
Office of Degree Authorization  
Administrative Rules Annual Report**

## HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2018 through December 31, 2018

### Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

<b>Adopted</b>	<b>0</b>
<b>Amended</b>	<b>0</b>
<b>Repealed</b>	<b>0</b>

In 2018, the HECC adopted 0 administrative rules in Chapter 583.

## CHAPTER 589

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**Higher Education Coordinating Commission,  
Office of Community Colleges and Workforce Development  
Administrative Rules Annual Report  
HB 4106 (2016 Session)**

Report contains rules filed during calendar year January 01, 2018 through December 31, 2018

### Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

<b>Adopted</b>	<b>0</b>
<b>Amended</b>	<b>6</b>
<b>Repealed</b>	<b>7</b>

In 2018, the HECC adopted 0 administrative rules in Chapter 589.

## CHAPTER 715

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**Higher Education Coordinating Commission  
Administrative Rules Annual Report  
HB 4106 (2016 Session)**

Report contains rules filed during calendar year January 01, 2018 through December 31, 2018

### Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

<b>Adopted</b>	<b>20</b>
<b>Amended</b>	<b>3</b>
<b>Repealed</b>	<b>0</b>

In 2018, the HECC adopted 20 administrative rules in Chapter 715, detailed and reviewed by filing below.

FILING CAPTION: Student complaints against public universities, community colleges, private non-profit institutions, and private career schools.

ADOPT: 715-011-0005, 715-011-0010, 715-011-0015, 715-011-0020, 715-011-0025, 715-011-0030, 715-011-0035, 715-011-0040, 715-011-0045, 715-011-0050, 715-011-0055, 715-011-0060, 715-011-0065, 715-011-0070, 715-011-0075, 715-011-0080, 715-011-0085, 715-011-0090

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**Rule Number:**

715-011-0005

**Rule Title:**

Definitions

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0005>

**Did the rule achieve its intended effect?**

Yes, by defining terms used in Chapter 715 Division 11.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact on prohibiting discrimination and retaliation in rule.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0010

**Rule Title:**

Discrimination Prohibition

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0010>

**Did the rule achieve its intended effect?**

Yes, by establishing a general prohibition on Discrimination in postsecondary education.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination.

**Is there continued need for the rule?**

Yes.

---

**Rule Number:**

715-011-0015

**Rule Title:**

Prohibition in Providing Courses

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0015>

**Did the rule achieve its intended effect?**

Yes, by establishing a general prohibition on Discrimination in access to and provision of classes, courses of study, or other educational programs or activities.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination in a specific identified context.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0020

**Rule Title:**

Prohibition in Providing Financial Assistance

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0020>

**Did the rule achieve its intended effect?**

Yes, by establishing a specific prohibition on Discrimination in Providing Financial Assistance.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination in a specific context.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0025

**Rule Title:**

Prohibition in Admission

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0025>

**Did the rule achieve its intended effect?**

Yes, by identifying specific prohibitions related to discrimination when admitting students academic courses and programs.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination in a specific identified context.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0030

**Rule Title:**

Prohibition in Housing

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0030>

**Did the rule achieve its intended effect?**

Yes, by identifying specific prohibitions related to discrimination when providing students with housing.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination in a specific identified context.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0035

**Rule Title:**

Prohibition in Health Insurance Benefits and Services

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0035>

**Did the rule achieve its intended effect?**

Yes, by identifying specific prohibitions related to discrimination when offering students health plans and insurance benefits.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination in a specific identified context.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0040

**Rule Title:**

Prohibition in Recruitment

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0040>

**Did the rule achieve its intended effect?**

Yes, by identifying specific prohibitions related to discrimination when recruiting students.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination in a specific identified context.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0045

**Rule Title:**

Prohibition in Employment

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0045>

**Did the rule achieve its intended effect?**

Yes, by identifying specific prohibitions related to discrimination when offering employment opportunities to students.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination in a specific identified context.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0050

**Rule Title:**

Prohibition in Providing Education Programs, Services or Activities

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0050>

**Did the rule achieve its intended effect?**

Yes, by creating a catch-all prohibition against discrimination in education when such discrimination occurs in ways not specifically identified elsewhere in OAR 715 Division 11.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.



**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination in an educational context.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0055

**Rule Title:**

Textbooks and Curricular Materials

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0055>

**Did the rule achieve its intended effect?**

Yes, by clarifying concerns of academic freedom and obligations related to potentially discriminatory impacts of textbooks and curricular materials.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting discrimination in a specific identified context.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0060

**Rule Title:**

Retaliation Prohibited

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0060>

**Did the rule achieve its intended effect?**

Yes, it prohibits retaliation in postsecondary education as defined by statute.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of prohibiting retaliation.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0065

**Rule Title:**

Requirements of Post-Secondary Education Programs

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0065>

**Did the rule achieve its intended effect?**

Yes, by establishing a requirement that schools adopt and publicize procedures for complaints involving discrimination or retaliation.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the minimal, intended impact of requiring the adoption and publication of relevant policies.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0070

**Rule Title:**

Investigation of Career Schools

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0070>

**Did the rule achieve its intended effect?**

Yes, by linking the enforcement of statutes prohibiting discrimination and retaliation to the separate rules and complaint processes established for private career schools.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No. However note that ORS 350.075 was amended this year to ensure that private career schools remained under the complaint jurisdiction of the HECC. Otherwise, this rule would not continue to have the same authority in statute.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, other than the intended impact of providing rules for investigation of alleged discrimination or retaliation in private career schools.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0075

**Rule Title:**

Types of Complaints

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0075>

**Did the rule achieve its intended effect?**

Yes, by clarifying which complaints alleging discrimination and retaliation may be filed with the HECC and what the HECC should do with other complaints, depending on what types of institution the complaint involves.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0080

**Rule Title:**

Institutional Processes and Complaints to the Commission

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0080>

**Did the rule achieve its intended effect?**

Yes, by establishing a process for the HECC's receipt and handling of student complaints involving alleged discrimination or retaliation.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0085

**Rule Title:**

Determination

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0085>

**Did the rule achieve its intended effect?**

Yes by describing the possible outcomes of a complaint investigation by the HECC that involves alleged discrimination or retaliation.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No.

**Is there continued need for the rule?**

Yes.

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**Rule Number:**

715-011-0090

**Rule Title:**

Hearing

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/view.action?ruleNumber=715-011-0090>

**Did the rule achieve its intended effect?**

Yes by explicitly providing for a hearing pursuant to the APA after the agency's finding in a complaint investigation.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No.

**Is there continued need for the rule?**

Yes.

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FILING CAPTION: Educational Attainment Goal for Adult Oregonians  
ADOPT: 715-017-0002

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**Rule Number:**

715-017-0002

**Rule Title:**

Academic Policy

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=254467>

**Did the rule achieve its intended effect?**

Yes, the rule supports the ongoing effort to reach the Adult Attainment Goal 300,000 adult Oregonians earning a new postsecondary degree, certificate, or credential of value by 2030.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No.

**Is there continued need for the rule?**

Yes, it is needed to support the ongoing effort to reach the Adult Attainment Goal by 2030.

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FILING CAPTION: High School Based College Credit Partnerships  
ADOPT: 715-017-0005

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**Rule Number:**

715-017-0005

**Rule Title:**

High School Based College Credit Partnerships

**Link to Rule Text:**

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=254468>

**Did the rule achieve its intended effect?**

Yes. The rule compels colleges and universities to follow state standards for alignment of academic programming for college courses taught in the high school.

**Was the fiscal impact of the rule was overestimated or underestimated?**

No, the estimated fiscal impact was consistent with predictions. College credits earned in high schools generally held constant with some statewide decreases over the past five years.

**Has there been changes in the law that require the rule be amended or repealed?**

No.

**Has this rule had an impact on small businesses? If so, what were the impacts?**

No, the rule does not impact small businesses.

**Is there continued need for the rule?**

Yes, the rule supports colleges and universities in their college credit partnerships with Oregon high schools.



HIGHER  
EDUCATION  
COORDINATING  
COMMISSION





Department of Consumer and Business Services

**Department of Consumer and Business Services  
Division of Financial Regulation (DFR)  
5 Year Review of 2018 DFR Rulemaking**

Admin Order #	Rule Number	Adopted date	Call up date	Review date
<b>FSR 2-2018</b> Federal Crowdfunding Offerings and Sales Under JOBS Act	441-049-1061	1/30/2018	Analyst: Nicole	10/16/2023  FSR 2-2018.docx
<b>FSR 3-2018</b> Licensing of Mortgage Servicers	441-890-0005, 441-890-0010, 441-890-0015, 441-890-0020, 441-890-0025, 441-890-0030, 441-890-0035, 441-890-0040, 441-890-0045, 441-890-0050, 441-890-0055, 441-890-0060, 441-890-0065, 441-890-0070	4/17/2018	Analyst: Lauren	8/10/2023  FSR 3-2018.docx
<b>FSR 4-2018</b> Debt Buyer Licensing and Compliance	441-820-0010, 441-820-0020, 441-820-0030, 441-820-0040, 441-820-0050, 441-820-0060, 441-820-0070, 441-820-0080, 441-820-0090, 441-820-0100, 441-820-0110, 441-820-0120, 441-820-0130, 441-820-0140, 441-820-0150, 441-820-0160, 441-820-0170, 441-820-0180	4/24/2018	Analyst: Teddy	7/10/2023  FSR 4-2018.docx



<b>FSR 5-2018</b> Small Offering Abbreviated Registration (SOAR)	441-065-0221, 441-065-0222, 441-065-0223, 441-065-0224	5/1/2018	Analyst: Nicole	8/23/2023  FSR 5-2018.docx
<b>ID 3-2018</b> Definitions of Coordinated Care and Case Management	836-053-1403	3/1/2018	Analyst: Brooke	9/14/2023  ID 3-2018.docx
<b>ID 4-2018</b> Health Carrier Reporting Requirements to PCPHs	836-053-1520, 836-053-1525, 836-053-1530	3/9/2018	Analyst: Lisa	8/16/2023  ID 4-2018.docx
<b>ID 7-2018</b> Well-Woman Preventative Care Services	836-053-0435	4/23/2018	Analyst: Michael	8/31/2023  ID 7-2018.docx
<b>ID 8-2018</b> Process for Rate Filing for Health Benefit Plans	836-053-0474	4/24/2018	Analyst: Ethan	6/26/2023  ID 8-2018.docx
<b>ID 10-2018</b> Shortened Period of Market Prohibition	836-053-0014	6/19/2018	Analyst: Brian	12/29/2023  ID 10-2018 - Final.docx

## 2018 Marijuana Packaging & Labeling Package

*Amend Division 25*

**Date Adopted:** 5/17/2018

**Date Review Due:** 5/31/2023

**Date Review Completed:** 5/25/2023

**Advisory Committee (AC) used?** Yes

**AC members:** Sally Alworth, Margaret Flerchinger, Erin Kennedy, James Mortensen, Dr. Matt Noble, Cassie Peters, Melissa Sandstrom, Christine Smith, Geoff Sugarman, Gesinee Tolman, Orlando Vega, Mary Wolf

**OLCC Staff:** Amanda Borup, Jamie Dickinson, Bryant Haley, Shannon O’Fallon, Patrick Owen, TJ Sheehy, Jesse Sweet, Alexandra Zirschky

### 1) Did the rule achieve its intended effect?

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

Senate Bill 1057, passed during the 2017 legislative session, shifted the responsibility of marijuana labeling rules from the Oregon Health Authority – Oregon Medical Marijuana Program to the Oregon Liquor Control Commission. This package makes amendments to the previous Oregon Health Authority Rules (OAR 333-007) that clarify and re-organize the packaging and labeling rules.

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:

- **845-025-7000** – Packaging & Labeling - Definitions
- **845-025-7020** – Packaging for Sale to Consumer
- **845-025-7030** – Labeling for Sale to Consumer

The Oregon Liquor & Cannabis Commission adopted the following rules:

- **845-025-7010** – Purpose, Scope, and Effective Date
- **845-025-7045** – Marijuana Plant Labeling Requirements
- **845-025-7050** – Marijuana Seed Labeling Requirements
- **845-025-7070** – Usable Marijuana Labeling Requirements
- **845-025-7080** – Cannabinoid Topical Labeling Requirements
- **845-025-7090** – Cannabinoid Edible Labeling Requirements
- **845-025-7100** – Cannabinoid Concentrate and Extract Labeling Requirements
- **845-025-7110** – Cannabinoid Tincture and Capsule Labeling Requirements

- **845-025-7120** – Cannabinoid Products Other than Cannabinoid Edibles, Topicals, Tinctures or Capsules
- **845-025-7130** – Labeling Requirements for Medical Registrants Registered with the Oregon Health Authority
- **845-025-7140** – Labeling Requirements for Industrial Hemp Commodities or Products Intended for Human Consumption or Use
- **845-025-7150** – Wholesaler and Retailer Packaging and Labeling Compliance Requirements
- **845-025-7160** – Packaging and Labeling Pre-approval Process
- **845-025-7170** – Packaging & Labeling Prohibited Conduct
- **845-025-7180** – Approval Withdrawal
- **845-025-7190** – Effective Date

The Oregon Liquor & Cannabis Commission repealed the following rules:

- **845-025-7040** - Wholesaler and Retailer Packaging and Labeling Compliance Requirements
- **845-025-7060** – Packaging and Labeling Pre-approval Process

b) **How did the rule succeed or fail in achieving this effect?** The rules succeeded in this effect by continuing and expanding upon packaging and labeling rules adopted by the Oregon Health Authority.

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

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

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

(a) Recreational Marijuana Licensees: The Commission expects the proposed rule to have a fiscal impact recreational marijuana licensees whom package and label marijuana items. Specifically, the amendments to the rules will require licensees to reapply for packaging and labeling approval. Licensees may incur fees from having their labels re-designed by a graphics design company.

(b) Local Government: The Commission expects the proposed amendments to have no impact upon local governments, as the rules does not apply to them.

(c) State Agencies: The Commission expects the proposed rule to have a positive impact on the Oregon Health Authority, as they will no longer provide oversight or rulemaking on packaging and labeling issues.

(d) The Public: The Commission expects the proposed rule to have a positive and negative fiscal impact on the public. The Commission foresees a positive impact to the extent that the amendments both clarify and increase the safety of the packaging of marijuana items. However, the consumer may see an increase in cost, as any cost increase to improve safety of products could filter down to the consumer. The Commission received and considered public comment on this issue in order to balance public safety and costs.

Cost of Compliance: (1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Commission anticipated no new costs to comply with the proposed amendments for most state agencies and local government. However, the Commission will have sole ownership and increased responsibilities in approving, denying, enforcing and administratively adjudicating packaging and labeling violations. The consumer may see an increase in cost, as any cost increase to improve safety of products could filter down to the consumer.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: As of March 19, 2018; the Commission had 1,795 recreational marijuana licensees. The packaging and labeling rules effect marijuana licensees differently based upon their operations. Specifically, some licensees may not package or label their products, but may sell their wares to retailers, processors or wholesalers whom repackage the products and design a product label for a product. Thus, the effects of these rules fall to licensees whom are either making the terminal sale of a marijuana item to a consumer or designing a label for a product.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Licensees whom are either designing a product for final sale or making a sale to a consumer will need to comply with these rules. In doing so, they must submit and gain approval of their packaging and labeling. This will incur approval fees and the maintaining of approved packaging and labeling. Retail Licensees will need to ensure products on their shelves have been approved and properly packaged when leaving the retail premises.

c. Equipment, supplies, labor and increased administration required for compliance: Licensees whom are either designing a product for final sale or making a sale to a consumer will need to comply with these rules. In doing so, they must submit and gain approval of their packaging and labeling. This will incur approval fees and the maintaining of approved packaging and labeling. Retail Licensees will need to ensure products on their shelves have been approved and properly packaged when leaving the retail premises.

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

The actual fiscal impact is unknown.

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

It is unknown because the OLCC lacks the legal authority to compel licensees to

provide this information. However, it is likely that the estimated fiscal impact was accurate to all applicable stakeholders.

3) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.** In 2021 SB 408 mandated that the OLCC could not require child-resistant packaging for usable marijuana and hemp, which required a minor modification to OAR 845-025-7020. Additionally, in 2021 HB 3000 gave the OLCC regulatory authority over artificially derived cannabinoids. In response, the OLCC created new labeling standards for these products via rulemaking.

4) **Is the rule still needed? Yes Explain:** The OLCC is still required by ORS 475C to establish packaging and labeling rules to protect the public health and safety.

5) **What, if any, is the impact on small businesses?** The impact on small businesses have not changed from the initial estimates in 2018.

**Review Completed By:**

Nicole M. Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	5/25/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Executive Review:**

Nathan Rix		Deputy Director	May 25, 2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

REVIEW OF ADOPTED RULES – ORS 183.405

**Marijuana Sales to Minors**

(OAR 845-025-5590; 845-025-8520; 845-025-8590)

**Date Adopted:** 8/1/2018

**Date Review Due:** 7/31/2023

**Date Review Completed:** 8/9/2023

**Advisory Committee (AC) used?** Yes. An Advisory Committee meeting was held on April 12, 2018.

**AC members:** Leland Berger, Molly Conroy, Genevieve Ellis, Brandon Goldner, Trevor Higgins, Casey Houlihan, Jeff Kuhns, Kelly Locey, William Simpson, JR Ugifusa, Tara Weston, Pam Wilson

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

- a) **What was the intended effect?** The Commission is charged with regulating the sale of marijuana items. From the inception of the marijuana program, one of the key public safety concerns has been preventing the sale of marijuana items to minors. The Commission has implemented a training program and subsequent permitting process for all persons involved in the industry known as the “marijuana worker permit.” In the training, the Commission clearly states: “Only marijuana retail businesses are allowed to sell marijuana and marijuana products to consumers, so those businesses and their employees are vital in preventing minor’s access to marijuana items.”

During the initial set of minor decoy operations in December of 2017, staff discovered a concerning amount of sales to OLCC minor decoys. In response, the Commission temporarily amended OAR 845-025-5590, 845-025-8520 & 845-025-8590. The amendments increased the penalty for an unintentional sale to minor to a 30-day license suspension or a fine of four thousand nine hundred and fifty dollars for the first offense. Further, the Commission increased an intentional sale of marijuana to a minor to Category I violation.

During rulemaking, staff heard general support for the changes. Several industry representatives were interested in creating compliance options for first time violators similar to alcohol (e.g. Responsible Vendor Program & Age Verification Equipment). Further, marijuana representatives were curious as to why the Commission is not also increasing the fines on retailers of alcohol that sell to a minor. These concepts are appropriate feedback but are outside the bounds of this rulemaking effort.

It is important to note that subsequent Minor Decoy Operations the Commission found a drastic increase in compliance. Generally, the industry voiced frustration that any sales were occurring in the first place and supported the Commissions’

response to the problem.

- b) **How did the rule succeed or fail in achieving this effect?** At this point it time it appears the rule succeeded in reducing sales to minors, making the violations for those sales more stringent serves as a deterrent.

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) Marijuana Licensees and Permittees; (b) Local Government; (c) State Agencies; and (d) the Public.

- a) **Marijuana Licensees and Permittees:** The Commission anticipates that the proposed amendments will have a possible negative fiscal impact on both licensees and permittees, whom illegally sell marijuana to a minor.
- b) **Local Government:** The Commission expects the proposed amendments have no impact upon local governments, as the rule does not apply to them.
- c) **State Agencies:** The Commission expects the proposed rule amendments 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 amendments to have a positive fiscal impact on the public to the extent that increases in penalties for sale to a minor will prevent sales to minors.

**Cost of Compliance:**

1. **Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):** The Commission anticipates no new costs to comply with the proposed amendments for outside state agencies, local government or members of the public.

2. **Cost of compliance effect on small business (ORS 183.336):**

a. **Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:** 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 that licensees and permittees may incur costs in the event they illegally sell marijuana to a minor.

b. **Projected reporting, record keeping and other administrative activities required for compliance, including costs of professional services:** The

Commission anticipates that some licensees and permittees may create more systems and education for staff to prevent a sale of marijuana to a minor.

**c. Equipment, supplies, labor and increased administration required for compliance:** The Commission anticipates that some licensees and permittees may create more systems and education for staff to prevent a sale of marijuana to a minor.

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.** Yes, but not the portion of rule related to the penalties for sales to minors.

4) **Is the rule still needed? Yes. Explain:** It remains fundamentally important that minors do not have access to marijuana items.

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

**Review Completed By:**

Nicole Blossé	Rules Coordinator	8/9/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>
		<b>Date</b>

**Executive Review:**

Danica Foster	Danica Foster	Executive Review	8/11/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Signature:** Danica Foster  
Danica Foster (Aug 11, 2023 10:14 PDT)

**Email:** danica.foster@oregon.gov



**Harvest Notification**

(OAR 845-025-2090)

**Date Adopted:** 8/1/2018

**Date Review Due:** 7/31/2018

**Date Review Completed:** 8/9/2023

**Advisory Committee (AC) used?** Yes. An Advisory Committee meeting was held on May 23, 2018.

**AC members:** Danny Baldwin, Molly Conroy, Cedar Grey, Cindy Gua, Cheryl Johnson, Sunny Jones, Jeff Kuhns, Justin Reed, Marissa Rodriguez

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

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

The Commission is tasked with regulating the recreational market. One key task of regulation is to prevent diversion of marijuana into other markets. Staff identified harvest as an opportunity for diversion and adopted a notification requirement for outdoor growers. This rule requires outdoor growers to notify the Commission of any harvest activity. This notification will allow enforcement staff to more closely monitor harvests and ensure compliance with pertinent laws and rules.

**b) How did the rule succeed or fail in achieving this effect?** The rule succeeded by allowing the Commission to more efficiently allocate its resources to inspect producers actively harvesting on a given day. The rule provided greater ability for the Commission to actively monitor outdoor harvests and ensure that untracked marijuana was not leaving the licensed system. Particularly due to the nature of outdoor grows, the time required per visit is higher (on average these grows are more remote than other licenses). Requiring notification of harvest provided the Commission information to minimize “wasted trips” where the licensee was not conducting any activity during the day in question. This has become even more important in recent years, as more and more outdoor producers maintain their active license but reduce their harvest activity (or cease operations altogether), due to the current cannabis market conditions.

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

Unknown

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

**Fiscal & Economic Impact:**

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

(a) Marijuana Licensees: The Commission expected the proposed rule to have a negative fiscal impact on outdoor marijuana producer licensees, as the rule requires more reporting within the seed to sale tracking system. This is projected to add administrative costs and may affect harvesting timelines.

(b) Local Government: The Commission expected the proposed rule to have no impact upon local governments, as the rule does not apply to them.

(c) State Agencies: The Commission expected the proposed rule to have no fiscal impact on outside state agencies because these rules do not apply to outside state agencies. The Commission was projected to be impacted by this rule, as the Commission will need to devote resources to inspect harvest notifications.

(d) The Public: The Commission expected the proposed rule to have a positive fiscal impact on the public to the extent that the rule aims to decrease diversion to secondary markets. However, the Commission is aware of that any increase in compliance costs may result in increased prices to the consumer.

### **Cost of Compliance:**

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Commission anticipated no new costs to comply with the proposed rule for outside state agencies, local government and the public. The Commission will be impacted by this rule, as the Commission will need to devote resources to inspect harvest notifications.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: As of May 25, 2018, the Commission has 362 outdoor marijuana producers . The Commission anticipates that outdoor marijuana licensees will face increased costs of compliance, as the rule requires more reporting within the seed to sale tracking system. The proposed rule will add administrative costs and may affect harvesting timelines.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: The purpose of the rule is to more closely track harvesting of marijuana. The Commission is instituting this requirement to both learn more about marijuana harvesting and more closely track large harvests. This will require producers to notify the Commission in the seed to

sale system prior to harvesting. The proposed rule will require producers to forecast their labor staffing, ripeness of the marijuana plants and submit the harvest notice to the Commission. Further, when the Commission does arrive to inspect a harvest, licensees will need to escort inspectors around the premise to complete an inspection.

c. Equipment, supplies, labor and increased administration required for compliance: The purpose of the rule is to more closely track harvesting of marijuana. The Commission is instituting this requirement to both learn more about marijuana harvesting and more closely track large harvests. This will require producers to notify the Commission in the seed to sale system prior to harvesting. The proposed rule will require producers to forecast their labor staffing, ripeness of the marijuana plants and submit the harvest notice to the Commission. Further, when the Commission does arrive to inspect a harvest, licensees will need to escort inspectors around the premise to complete an inspection.

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

Unknown

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

Cost to licensees: it is unknown what the exact cost to licensees of the rule is, but it is minimal. Licensees are already required to track activity in Metrc (including the actual weights harvested and waste from the harvest), and the harvest notification is a minimal increase in the amount of work required. Licensees already have staff for cannabis tracking requirements, and it is extremely unlikely that licensees have needed to hire any more staff purely to meet this harvest notification requirement.

Cost to consumers: it is unknown the affect this requirement would have had on prices that consumers pay, but currently market prices are historically low for Oregon cannabis consumers.

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:** As noted above, due to current market conditions, more producer licensees (particularly outdoor growers) are maintaining their active license but are not actively operating their business. This makes it more difficult for the Commission to ascertain which licensees would or would not be harvesting on a particular day. The harvest notification requirement is still needed to ensure that Commission staff are reducing the number of unnecessary or unproductive visits during the harvest season, and are focusing compliance resources efficiently.

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

**Review Completed By:**

Nicole Blossé

Rules Coordinator

8/9/2023

**Name**

**Signature**

**Title**

**Date**

**Executive Review:**

Danica Foster	DF	Executive Review	8/11/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Signature:** Danica Foster  
Danica Foster (Aug 11, 2023 10:15 PDT)

**Email:** danica.foster@oregon.gov

**Age Verification; Minors on Licensed Premises**

OAR 845-006-0335

**Date Adopted:** 4/19/2018

**Date Review Due:** 4/30/2023

**Date Review Completed:** 4/24/2023

**Advisory Committee (AC) used?** No

**AC members:** N/A

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

a) **What was the intended effect?** Senate Bill 1044 passed the 2017 Oregon Legislature. Section 5 amended ORS 471.130 to revise the types of identification acceptable for providing proof of an individual having reached 21 years of age. The intended effect of the amendments to 845-006-0335 was to align the acceptable forms of identification in subsection (1)(d) of the rule with the statute.

b) **How did the rule succeed or fail in achieving this effect?** It aligned the acceptable forms of identification in subsection (1)(d) of the rule with the statute.

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

Just about right.

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

Fiscal and Economic Impact Statement:

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 the amendments both clarify and expand acceptable identification an individual may provide to purchase or be served alcoholic beverages.

(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 the amendments both clarify and

expand acceptable identification an individual may provide to purchase or be served alcoholic beverages.

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.** Yes, there have been law changes that have amended ORS 471.130 in a way that required amending OAR 845-006-0336(1)(d) to align with the statute changes.

**4) Is the rule still needed? Yes. Explain:** The OLCC is the agency responsible for regulating the sale and service of alcoholic beverages in Oregon. OAR 845-006-0335 addresses age verification requirements and minors on a licensed premises. This rule is still needed to help the OLCC support businesses, public safety, and community livability through education and the enforcement of liquor laws.

**5) What, if any, is the impact on small businesses?** Senate Bill 1044 was a large omnibus bill that cleaned up various technical issues within ORS chapter 471. The Commission anticipates no costs of compliance for small business, as the amendments both clarify and expand acceptable identification an individual may provide to purchase or be served alcoholic beverages.

**Review Completed By:**

Nicole M. Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	4/24/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Executive Review:**

Nathan Rix	Nathan K Rix	Deputy Director	4/24/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Signature:**   
Nathan Rix (Apr 24, 2023 14:06 PDT)

**Email:** nathan.rix@oregon.gov

**Noisy, Disorderly or Unlawful Activity and Drinking Alcohol Outside the Premises**

OAR 845-006-0347

**Date Adopted:** 3/1/2018

**Date Review Due:** 2/28/2023

**Date Review Completed:** 02/10/2023

**Advisory Committee (AC) used?** Yes. An Advisory Committee meeting was held on November 28, 2017.

**AC members:** Anne Holm, Ken Brenneman

**OLCC Staff:** Bryant Haley, Carolyn Moreno, Jesse Sweet, Siobhan Triska

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

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

This rule prohibits a permittee or licensee from permitting noisy, disorderly or unlawful activities on a licensed premises, defines those terms and lists penalties for violating various sections of the rule. This rule clarified two issues staff had become aware of: social gaming and eviction of persons.

Commission staff were monitoring issues around gambling and social gaming within OLCC licensed establishments. OLCC licensees often contract with the Oregon Lottery to provide customers with a legal avenue for state sanctioned gambling. Further, municipalities may pass local ordinances allowing social gaming. Staff has added pertinent statutory definitions for both practices and subsequent clarifying language.

Further, the Commission was made aware of issues within establishments not evicting their own staff or contractors when they are involved in unlawful acts. In response, staff proposed to remove the word patrons and replace it with persons. This change requires the licensee to remove all persons engaged in unlawful activity from the licensed premises for 24 hours.

b) **How did the rule succeed or fail in achieving this effect?** The clarifications allowed the industry and staff to better understand the concepts, which in turn, led to improved compliance.

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 rules to have a possible negative impact on licensees. First, the social gaming restrictions will further clarify that it is up to a locality to allow gaming or not. This may lead to localities recognizing the issue and charging a fee for such activity. Further, if a licensee is found to have a violation, they may be in jeopardy of losing their contract with the Oregon Lottery.

Secondly, licensees will now be required to evict their employees or contractors, if they engage in illegal conduct. This could effect a licensees ability to adequately staff their operation.

(b) Local Government:

The Commission expects the proposed amendments to have a possible impact upon local governments, as the rule only applies to them if localities choose to enforce either a fee or a ban upon social gaming.

(c) State Agencies:

The Commission expects the proposed rule to have a possible fiscal impact on the Oregon Lottery, as a violation of the proposed language may lead the Lottery to cancel a licensees Oregon Lottery contract. This in affect could lead to more administrative work for the Lottery.

(d) The Public:

The Commission foresees a possible impact, as it will encourage licensees to follow local ordinances and maintain staff whom act professionally.

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.** No.

4) **Is the rule still needed? Yes. Explain:** The rule is needed to continue to addresses many important public safety requirements.

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

**Review Completed By:**

Nicole Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	2/27/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>



**AP&P Review:**

Nathan Rix	Nathan K Rix	Executive Review	2/27/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Signature:**   
Nathan Rix (Feb 27, 2023 17:29 PST)

**Email:** nathan.rix@oregon.gov

**Medical Marijuana Registrant Cannabis Tracking System Registration**

OAR 845-025-2110 & 845-025-2120

**Date Adopted:** 9/28/2018

**Date Review Due:** 9/28/2023

**Date Review Completed:** 9/25/2023

**Advisory Committee (AC) used?** No

**AC members:** N/A

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

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

Senate Bill 1057, passed during the 2017 legislative session, altered various aspects of the medical marijuana program. Commission staff worked with the Oregon Health Authority to coordinate rule and process issues, as registered medical growers had begun to track their grow sites within the Cannabis Tracking System.

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

The rule was generally successful in incorporating medical marijuana grow sites and dispensaries into the Cannabis Tracking System. The rule used cross-referencing to existing tracking requirements found in rule for those recreational marijuana licensed businesses with similar operations. This leveraged existing language to create consistency between the requirements for similar operations.

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

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

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

**(a) Licensees:** The Commission forecasted that the amendments would have no impact on Recreational Marijuana Licensees, as these rules don't apply to their businesses.

**(b) Medical Registrants:** The Commission forecasted that the amendments could have a negative fiscal impact on Medical Registrants, as they would now be required to track their grows more closely in the Cannabis Tracking System. In

addition to the time cost, each facility operator is responsible for an annual \$480 user fee for the cannabis tracking software as well as plant and package tags. These rules required Medical Registrants to input more data about their operations than was previously required under the Oregon Medical Marijuana Program.

**(c) Local Government:** The Commission expected the proposed amendments to have no impact upon local governments, as the rules do not apply to them.

**(d) State Agencies:** The Commission expects the proposed rules to have an impact upon both the Commission and the Oregon Health Authority. Both agencies have already engaged in coordinating the roll out of registering Medical Registrants and responding to issues that have arisen. The Commission and OHA will continue to gauge these impacts.

**(e) The Public:** The Commission expected the proposed rule to have no impact on the general public.

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

The fiscal impact was as projected.

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:** OAR 845-025-2110 Medical Marijuana Registrant CTS Registration, -2120 Medical Registrant CTS Requirements, -2130 Grow Site Transfers to Processor or Wholesaler Licensees, -2140 Registrant to Patient Transfers, -2150 Medical Marijuana Inspections and Compliance, and segments of rule pertaining to CTS tracking have been amended to reflect statutory reference changes. However, except for minor technical changes, these rules have not required significant functional amendment.

4) **Is the rule still needed?** Yes **Explain:** CTS tracking is still required by statute and OHA rules for certain medical registrants.

5) **What, if any, is the impact on small businesses?** The Commission worked with various partners to continue honing these rules. The Commission also collaborated directly with medical marijuana partners later that year to get feedback on the initial roll out of the medical registrant program.

**Review Completed By:**

Nicole M. Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	9/25/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Executive Review:**

Craig Prins	<i>Craig Prins</i>	Executive Director (Interim)	Oct 2, 2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

REVIEW OF ADOPTED RULES – ORS 183.405

**Definitions**

OAR 845-015-0101

**Date Adopted:** 11/1/2018

**Date Review Due:** 10/31/2023

**Date Review Completed:** 10/31/2023

**Advisory Committee (AC) used?** Yes

**AC members:** Greg Astley, Amanda Cue, Jim Hall, Mike Lesch, Mark Merrick, Judy Osterhout, Ryan Shortt, Chris Trenhozme

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

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

The rule amendments intended to clarify the delegation of authority to the executive director for actions or decisions specified in Division 15; and to clarify which persons are considered to be a retail sales agent when a legal entity is involved.

Note: The Notice of Proposed Rulemaking (Notice) also included amendments to OAR 845-015-0115, which sought to remove the prohibition on Retail Sales Agents from obtaining a Limited License for a separate location. Because amendments to OAR 845-015-0115 were not made permanent at that time, the information described in the Need for the Rules and Fiscal/Economic Impact sections of the Notice are not applicable to the amendments made in OAR 845-015-0101.

b) **How did the rule succeed or fail in achieving this effect?** The amendments provided clarity to definitions as intended.

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

The anticipated fiscal impact was just about right.

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

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

(a) Licensees: The Commission expected that the proposed amendments would have no impact upon licensees, as the rule solely clarifies definitions.

(b) Retail Sales Agents: The Commission expected that the proposed amendments would have no impact upon retail sales agents, as the rule solely clarifies definitions.

(c) Local Government: The Commission expected that the proposed amendments would have no impact upon local governments, as the rule solely clarifies definitions.

(d) State Agencies: The Commission expected that the proposed amendments would have no impact upon state agencies, as the rule solely clarifies definitions.

(e) The Public: The Commission expected that the proposed amendments would have no impact upon the public, as the rule solely clarifies definitions.

b) **What was the actual fiscal impact?** No fiscal impact.

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.** No

4) **Is the rule still needed?** Yes. **Explain:** The rule provides necessary definitions and clarity.

5) **What, if any, is the impact on small businesses?** None

**Review Completed By:**

Nicole Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	11/1/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Executive Review:**

Danica Foster	<i>Danica Foster</i> <small>Danica Foster (Nov 1, 2023 09:59 PDT)</small>	Director of Licensing	11/1/2023
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**2018 OLCC Marijuana Legislative & Technical Rules Package**  
**Amend Division 25**

**Date Adopted:** 12/28/2018

**Date Review Due:** 12/27/2023

**Date Review Completed:** 1/9/2024

**Advisory Committee (AC) used?** Yes. The Commission held four (4) advisory committees in order to fully address the legislative changes. Specifically, the Commission held advisory committees on the following topics:

- August 16, 2018 - Waste Sub-Group
  - The Commission met with industry partners to review changes to how licensees handle waste. The group discussed how best to tighten up waste rules, as the Commission had become aware of instances of diversion.
- September 7, 2018 – Processor Issues
  - The Commission held an advisory committee with both industry and public safety partners on how best to adjust the rules. The committee particularly focused upon building occupancy and fire code issues.
- September 19, 2018 - Medical Marijuana Limits
  - The Commission met with industry partners to review the changes to the amount of marijuana a licensee could sell to a patient or primary caregiver. The Commission had become aware large purchases of medical marijuana and enacted limits to curb the behavior. The committee discussed appropriate ways to limit diversion and discussed patient access concerns.
- October 22, 2018 - Bill and Technical Package
  - This group discussed the changes enacted by SB 1544 and discussed staff's proposed technical revisions.

**AC members:** Alex Berger, Patrick Bernards, Molly Conroy, Bill Cyr, Laura Day, Margaret Flerchinger, Brandon Goldner, Crystal Hoffman, Jesce Horton, Casey Houlihan, Alice Johnson, Brent Kenyon, Genny Kiley, Jeremy Klettke, Dr. Rachel Knox, Jeff Kuhns, Jonathan Loiterman, Courtney Moran, Ruby McConnell, Norris Monson, Jack Natio, Shannon O'Fallon, Trista Okel, Jesse Peters, Marissa Rodriguez, Todd Smith, Mitra Stricklen, Geoff Sugerman, Sunny Summers, Anthony Taylor, Cliff Thomasen, Matt Walsatter, Beau Whitney, Dan Williams, Erin Williams, Scott Winkels

**OLCC Staff:** Bryant Haley, Danica Hibpshman, Matt Maletis, Steve Marks

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

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

Division 25 of Chapter 845 of the Oregon Administrative Rules sets forth the privileges and prohibitions for licensees and permittees of the Commission in regards to the recreational marijuana market. The revisions within this package align Division 25 with the changes made by the 2018 Oregon legislature (SB 1544) and make technical adjustments in response to lessons learned.

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
- **845-025-1060** - Fees
- **845-025-1115** - Denial of Application
- **845-025-1160** - Notification of Changes
- **845-025-1190** - License Renewal
- **845-025-1230** - Licensed Premises Restrictions and Requirements
- **845-025-1330** - Trade Samples
- **845-025-1360** – Quality Control Samples
- **845-025-1410** – Security Requirements
- **845-025-1430** – Video Surveillance Equipment
- **845-025-1440** - Required Camera Coverage and Camera Placement
- **845-025-1450** - Video Recording Requirements for Licensed Facilities
- **845-025-2000** - Canopy Definitions
- **845-025-2025** - Micro Tier Processing. Privileges; Prohibitions
- **845-025-2040** - Production Size Limitations
- **845-025-2045** - Propagation Endorsement
- **845-025-2060** - Recreational Marijuana Producers – Start-up Inventory
- **845-025-2090** - Harvest Notification
- **845-025-2100** - Transfer of Medical Marijuana Grower Inventory
- **845-025-2130** - Grow site Transfers to Processor or Wholesaler Licensees
- **845-025-2550** - Requirements for Producing and Providing Marijuana for Patients
- **845-025-2800** - Retailer Privileges; Prohibitions
- **845-025-2840** - Retailer Premises
- **845-025-2880** - Delivery of Marijuana Items by Retailer
- **845-025-3200** - Marijuana Processors - Definitions
- **845-025-3210** - Marijuana Processors - Endorsements
- **845-025-3215** - Processor Privileges; Prohibitions
- **845-025-3250** - Cannabinoid Edible Processor Requirements
- **845-025-3255** - Alternating Proprietors
- **845-025-3260** - Cannabinoid Concentrate and Extract Processor Requirements
- **845-025-3305** - Processing for Cardholders
- **845-025-3500** - Wholesale License Privileges; Prohibitions
- **845-025-3510** - Micro-Wholesaler License Privileges

- **845-025-5000** - Laboratory License Privileges; Requirements
- **845-025-5500** - Marijuana Worker Permit
- **845-025-5540** - Marijuana Worker Permit Denial Criteria
- **845-025-5590** - Suspension or Revocation
- **845-025-7000** - Packaging and Labeling - Definitions
- **845-025-7030** - Labeling for Sale to Consumer
- **845-025-7160** - Packaging and Labeling Pre-approval Process
- **845-025-7570** - Seed-To-Sale Tracking - Cultivation Batches
- **845-025-7700** - Transportation and Delivery of Marijuana Items
- **845-025-7750** – Waste Management
- **845-025-8520** - Prohibited Conduct
- **845-025-8580** - Suspended Licenses: Posting of Suspension Notice Sign, Activities Allowed During Suspension
- **845-025-8590** - Suspension, Cancellation, Civil Penalties, Sanction Schedule

The Oregon Liquor & Cannabis Commission adopted the following rule:

- **845-025-8575** - Restricting License Privileges and Conduct of Operations

- b) **How did the rule succeed or fail in achieving this effect?** The rules succeed in aligning Division 25 with the changes made by the 2018 Oregon legislature (SB 1544) and make technical adjustments in response to lessons learned and changing market conditions.

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

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

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

(a) Marijuana Licensees: These rules implement both legislative changes made by the 2018 Oregon legislature and technical revisions to Division 25. Licensees of the Commission may experience varying effects based upon the legislative and technical changes. Those changes include:

The amendments to OAR 845-025-1230 enable licensees to license unenclosed areas of a licensed premises. The change would enable licensees to demonstrate adequate security measures in lieu of having a fully enclosed facility. The Commission would maintain approval/denial on a case-by-case basis. The Commission forecasts this will provide more leeway for licensees and have a positive fiscal impact.

The amendments to OAR 845-025-1190 & 845-025-5540 enable the Commission to prescribe a time period in which an applicant for a license or a worker permit must submit required materials. Further, it gives the Commission the authority to deny applications that are missing required information, materials or fees. This



would enable the Commission to lighten some of the backlog and provide service to licensees and permittees that have properly submitted all required materials. The Commission forecasts this will have a positive fiscal impact upon the industry as a whole.

The amendments to OAR 845-025-1060 and 845-025-7160 enable the Commission to charge a fee for licensees transferring package and label applications between licenses. The transfer of an application from one account to another requires staff to perform an additional review of the package or label to ensure the package or label is still in compliance with the rules. The Commission forecasts this that this will have a financial impact for some licensees; however, the packaging and labeling program is a fee-funded program.

The amendments to OAR 845-025-1015 and 845-025-1115 enable an applicant for a license to show good cause to overcome a prior criminal conviction that is a basis for license denial. The Commission forecasts that this will have a positive impact upon applicants, as they will have more clarity on how the Commission evaluates licensees ability based on prior criminal convictions.

The amendments to OAR 845-025-1430, 845-025-1440 and 845-025-1450 amend the camera coverage rules in several ways. First, the amendments to OAR 845-025-1440 clarify the Commission's expectations around marijuana waste surveillance. Second, the amendments to OAR 845-025-1440 and 845-025-1450 propose a tiered sanction schedule for days of missing surveillance recordings per amount of missing footage and re-imagine the violation structure for violations of the camera rules due to issues within the industry. The Commission forecasts that these changes will have a positive impact upon the industry.

The amendments to OAR 845-025-2040 clarify that canopies must either be quadrilateral or that producers must use a surveyor licensed by the State of Oregon to prove that their canopies are within their licensed allowance. The Commission forecasts this will have a positive fiscal impact upon the industry, as it will provide licensees with an option to certify that their canopy is within the licensed limits regardless of shape. That said, licensees may incur costs to use this option.

The amendments to OAR 845-025-2060 reinstate the deadline of July 1, 2018 for producer applicants to qualify for the ability to bring marijuana genetics (i.e. plants, seeds, tissue cultures) into the regulated market, so long as they have submitted an application by the deadline. This concept was appropriate for the start of the market but essentially is a loophole in the seed-to-sale tracking system. The Commission forecasts that the continued allowance to bring genetics into the system will have a positive impact for applicants, as they will be able to bring new strains into the industry.

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and retail stores; however, the Commission has heard significant comment on this issue and will take comments on the amounts into consideration.

The amendments to OAR 845-025-3255 sunset the shared kitchen allowance for edible makers on January 1, 2019. The Commission has found the concept to be particularly burdensome for compliance. Specifically, licensees implementing this business model have had difficulty maintaining schedules which in turn has caused trouble for OLCC enforcement staff. The Commission will allow current licensees to continue to operate and renew their licenses. The Commission does foresee that repealing this license operation type will have a potential negative impact to future applicants, but deems it necessary from a compliance standpoint to repeal the concept.

The amendments to OAR 845-025-3260 clarify the Commission's requirements in regards to building and fire code certifications. The Commission has worked with processors and public safety officials to correctly apply the pertinent codes to these licensees. The Commission forecasts that these issues may continue to have a financial impact upon processor licensees. This is due to jurisdictional issues and the availability of personnel available to make such approvals in differing areas of the state.

The amendments to OAR 845-025-7750 clarify the Commission's expectations of licensees around storage, security and camera coverage of marijuana waste. The Commission has adjusted the requirements for camera coverage of waste with more prescriptive language due to issues of diversion. The Commission forecasts these amendments may have an impact upon licensees.

The amendments to OAR 845-025-8520 clarify that the Commission considers a loss of access to the licensed premises a Category 1 violation, as the licensee has essentially lost control of marijuana items. The Commission forecasts that this could have an impact upon licensees who rent their location.

The proposed adoption of OAR 845-025-8575 clarifies the Commission's practice of restricting license privileges when a licensee agrees to restrictions rather than pursue a contested case hearing. The Commission forecasts that this will have a positive fiscal impact upon licensees who face possible cancellation or a serious violation. Specifically, the rule will enable licensees to enter into an agreement with the Commission to continue to operate in a restricted manner and not lose their license.

The amendments to OAR 845-025-8580 clarify what activities are allowed during a license suspension. The Commission forecasts that these changes will help enable a licensee decide whether to pay a civil penalty or take a suspension when facing an administrative violation.

The amendments to OAR 845-025-8590 clarify how the Commission will treat a situation when the Commission discovers an unapproved interest in a license. Specifically, any individual found to have an unapproved interest in a license will be given a record of a poor record of compliance. This will be discoverable if the individual ever attempts to become licensed with the Commission. The

Commission forecasts that this will have a neutral impact upon current licensees who are abiding by the law.

(b) Local Government: The Commission expects that local governments that choose to engage in allowing and licensing recreational marijuana businesses with have both a positive and negative fiscal impact. At this time, the Commission cannot estimate whether those licensing fees and taxes will offset the costs of regulation, as the market is still evolving.

(c) State Agencies: These rules will incur costs to state agencies for code enforcement, compliance with other regulations and safety issues. The effected agencies include but are not limited to the Oregon Liquor Control Commission, Oregon Health Authority and Oregon Department of Agriculture. However, the recreational marijuana market is still emerging and the Commission cannot fully quantify those costs at this time. That said, during the Advisory Committee the Commission held on marijuana processors, local officials discussed the difficulty of building and fire code enforcement. Particularly, committee members discussed how Oregon has a patch work of compliance bodies and that certain jurisdictions simply do not have the resources that other jurisdictions have. This led to a robust conversation about what the Commission should require to meet safety standards.

(d) The Public: The Commission forecasts that the public should continue to benefit from the regulation and taxation of marijuana. However, regulation and enforcement will incur costs.

#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Commission expects that local governments that choose to engage in allowing and licensing recreational marijuana businesses will have both a positive and negative fiscal impact. Further, several state agencies will continue to be impacted by the continued emergence and consolidation of the recreational market. At this time, the Commission cannot estimate whether those licensing fees and taxes will offset the costs of regulation, as the market is still evolving. The Commission forecasts that the public should continue to benefit from the regulation and taxation of marijuana. However, regulation and enforcement will incur costs.

2. Cost of compliance, effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: As of October 30, 2018, the Commission has 2,079 licenses of the five recreational marijuana license types (producer, processor, wholesaler, laboratory and retailer).

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: In order to comply with ORS 475B and subsequent legislation passed by the 2018 Oregon Legislature, licensees will incur costs relating to reporting, record keeping and other administrative activities required for compliance. The Commission has continued to listen and work with various interests to create rules that meet the legal requirements while sensibly establishing compliance standards.

c. Equipment, supplies, labor and increased administration required for compliance: In order to comply with ORS 475B and subsequent legislation passed by the 2018 Oregon Legislature, licensees will incur costs relating to reporting, record keeping and other administrative activities required for compliance. The Commission has continued to listen and work with various interests to create rules that meet the legal requirements while sensibly establishing compliance standards.

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

c) **If the answer to question 2 is unknown, briefly explain why:** This rule set was at a time when the market was still changing at a dramatic pace and only highlights legislation and rule modifications from 2018, since then the legislature has passed many bills resulting in needed rule changes and the agency has continued to update rules as market conditions and licensee needs change.

3.) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.** Most if not all of the rules in the 2018 rule package have been amended due to continued changes to 475C and regulatory and licensee needs.

4.) **Is the rule still needed? Yes. Explain:** In order to adequately regulate the adult use marijuana market division 25 is needed.

5.) **What, if any, is the impact on small businesses?** Minimal, most adult use marijuana businesses are small businesses and the fiscal impact of all rulemaking and amendments to rules is addressed before, during and after the rulemaking process.

Signature: Bryant Haley  
Bryant Haley (Jan 9, 2024 11:34 PST)

Email: bryant.haley@oregon.gov

**Review Completed By:**

Nicole M. Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	1/9/2024
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Executive Review:**

Bryant Haley	Bryant Haley	Public Records Manager	1/9/2024
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**2018 OLCC Marijuana Legislative & Technical Rules Package**  
**Amend Division 25**

**Date Adopted:** 12/28/2018

**Date Review Due:** 12/27/2023

**Date Review Completed:** 1/9/2024

**Advisory Committee (AC) used?** Yes. The Commission held four (4) advisory committees in order to fully address the legislative changes. Specifically, the Commission held advisory committees on the following topics:

- August 16, 2018 - Waste Sub-Group
  - The Commission met with industry partners to review changes to how licensees handle waste. The group discussed how best to tighten up waste rules, as the Commission had become aware of instances of diversion.
- September 7, 2018 – Processor Issues
  - The Commission held an advisory committee with both industry and public safety partners on how best to adjust the rules. The committee particularly focused upon building occupancy and fire code issues.
- September 19, 2018 - Medical Marijuana Limits
  - The Commission met with industry partners to review the changes to the amount of marijuana a licensee could sell to a patient or primary caregiver. The Commission had become aware large purchases of medical marijuana and enacted limits to curb the behavior. The committee discussed appropriate ways to limit diversion and discussed patient access concerns.
- October 22, 2018 - Bill and Technical Package
  - This group discussed the changes enacted by SB 1544 and discussed staff's proposed technical revisions.

**AC members:** Alex Berger, Patrick Bernards, Molly Conroy, Bill Cyr, Laura Day, Margaret Flerchinger, Brandon Goldner, Crystal Hoffman, Jesce Horton, Casey Houlihan, Alice Johnson, Brent Kenyon, Genny Kiley, Jeremy Klettke, Dr. Rachel Knox, Jeff Kuhns, Jonathan Loiterman, Courtney Moran, Ruby McConnell, Norris Monson, Jack Natio, Shannon O'Fallon, Trista Okel, Jesse Peters, Marissa Rodriguez, Todd Smith, Mitra Stricklen, Geoff Sugerman, Sunny Summers, Anthony Taylor, Cliff Thomasen, Matt Walsatter, Beau Whitney, Dan Williams, Erin Williams, Scott Winkels

**OLCC Staff:** Bryant Haley, Danica Hibpshman, Matt Maletis, Steve Marks

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

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

Division 25 of Chapter 845 of the Oregon Administrative Rules sets forth the privileges and prohibitions for licensees and permittees of the Commission in regards to the recreational marijuana market. The revisions within this package align Division 25 with the changes made by the 2018 Oregon legislature (SB 1544) and make technical adjustments in response to lessons learned.

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
- **845-025-1060** - Fees
- **845-025-1115** - Denial of Application
- **845-025-1160** - Notification of Changes
- **845-025-1190** - License Renewal
- **845-025-1230** - Licensed Premises Restrictions and Requirements
- **845-025-1330** - Trade Samples
- **845-025-1360** – Quality Control Samples
- **845-025-1410** – Security Requirements
- **845-025-1430** – Video Surveillance Equipment
- **845-025-1440** - Required Camera Coverage and Camera Placement
- **845-025-1450** - Video Recording Requirements for Licensed Facilities
- **845-025-2000** - Canopy Definitions
- **845-025-2025** - Micro Tier Processing. Privileges; Prohibitions
- **845-025-2040** - Production Size Limitations
- **845-025-2045** - Propagation Endorsement
- **845-025-2060** - Recreational Marijuana Producers – Start-up Inventory
- **845-025-2090** - Harvest Notification
- **845-025-2100** - Transfer of Medical Marijuana Grower Inventory
- **845-025-2130** - Grow site Transfers to Processor or Wholesaler Licensees
- **845-025-2550** - Requirements for Producing and Providing Marijuana for Patients
- **845-025-2800** - Retailer Privileges; Prohibitions
- **845-025-2840** - Retailer Premises
- **845-025-2880** - Delivery of Marijuana Items by Retailer
- **845-025-3200** - Marijuana Processors - Definitions
- **845-025-3210** - Marijuana Processors - Endorsements
- **845-025-3215** - Processor Privileges; Prohibitions
- **845-025-3250** - Cannabinoid Edible Processor Requirements
- **845-025-3255** - Alternating Proprietors
- **845-025-3260** - Cannabinoid Concentrate and Extract Processor Requirements
- **845-025-3305** - Processing for Cardholders
- **845-025-3500** - Wholesale License Privileges; Prohibitions
- **845-025-3510** - Micro-Wholesaler License Privileges

- **845-025-5000** - Laboratory License Privileges; Requirements
- **845-025-5500** - Marijuana Worker Permit
- **845-025-5540** - Marijuana Worker Permit Denial Criteria
- **845-025-5590** - Suspension or Revocation
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The Oregon Liquor & Cannabis Commission adopted the following rule:

- **845-025-8575** - Restricting License Privileges and Conduct of Operations

b) **How did the rule succeed or fail in achieving this effect?** The rules succeed in aligning Division 25 with the changes made by the 2018 Oregon legislature (SB 1544) and make technical adjustments in response to lessons learned and changing market conditions.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

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a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: As of October 30, 2018, the Commission has 2,079 licenses of the five recreational marijuana license types (producer, processor, wholesaler, laboratory and retailer).

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

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3.) **Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain.** Most if not all of the rules in the 2018 rule package have been amended due to continued changes to 475C and regulatory and licensee needs.

4.) **Is the rule still needed? Yes. Explain:** In order to adequately regulate the adult use marijuana market division 25 is needed.

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Signature: Bryant Haley  
Bryant Haley (Jan 9, 2024 11:34 PST)

Email: bryant.haley@oregon.gov

**Review Completed By:**

Nicole M. Blossé	<i>Nicole M. Blossé</i>	Rules Coordinator	1/9/2024
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

**Executive Review:**

Bryant Haley	Bryant Haley	Public Records Manager	1/9/2024
<b>Name</b>	<b>Signature</b>	<b>Title</b>	<b>Date</b>

## OSBN Board Rule Activities Report

Administrative Rules Review – Jan. 2019 through Dec. 2019  
(pursuant to ORS 183.405-review not later than five years after adoption of rule)

OAR NUMBER	ADOPTED DATE	REVIEW	DATE OF RULE REVIEW	DESCRIPTION – REASON/NEED FOR RULE
851-006-0000	08/01/2019 BN 3-2019	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input checked="" type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	12/20/23	Standardization and consolidation of Chapter 851 definitions into one division 6 (006-0000(1-128)) for ease of public and licensee use. Requires repealing all other definitions currently within each Division of Chapter 851. <b>AM Note 11/28/23-</b> Current rev 08/01/2023 created new rule numbers for each letter of alphabet for sequencing the definitions. 851-006-0010; 851-006-0020; 851-006-0030; 851-006-0040; 851-006-0050; 851-006-0060; 851-006-0080; 851-006-0090; 851-006-0120; 851-006-0130; 851-006-0140; 851-006-0150; 851-006-0160; 851-006-0180; 851-006-0190; 851-006-0200; 851-006-0210
851-062-0011	08/01/2019 BN 5-2019	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input checked="" type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	12/20/2023	Relocation of OAR 851-062-0120 with wording changes for clarity and removal of language related to process for Name, Address and Employer of Record.
851-062-0012	08/01/2019 BN 5-2019	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input checked="" type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	12/20/2023	Relocation of current OAR 851-062-0130. Board requirement for maintaining a CNA Registry.
851-062-0052	08/01/2019 BN 5-2019	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input checked="" type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	12/20/23	<u>CNA 2 Certification Eligibility</u> : Addition of a section on CNA 2 certification eligibility for consistency in rule language throughout the Nurse Practice Act. Proposed changes include addition of requirement of 75 clinical hours in nursing assistant level one training or a combination of clinical hours and CNA employment hours to equal 75 hours for eligibility to take CNA 2 training.
851-062-0071	08/01/2019 BN 5-2019	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact?	12/20/23	<u>Reactivation of CNA 1 and 2 Certification</u> : Addition of a section specifically for reactivation for consistency in rule language

		<input checked="" type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?		throughout Nurse Practice Act and makes a provision for individuals who previously held Oregon CNA to reactivate their certification if they worked 400 hours in the previous two years, under a nurse, in another state where they held current CNA certification.
851-062-0072	08/01/2019 BN 5-2019	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input checked="" type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	12/20/23	<u>CNA 1 and 2 Re-Entry</u> : Addition of a section of CNA Re-entry for consistency in rule language throughout Nurse Practice Act.
851-062-0114	08/01/2019 BN 5-2019	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input checked="" type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	12/20/23	<u>CMA Reactivation</u> : Addition of a section for CMA Reactivation for consistency in rule language throughout Nurse Practice Act
851-062-0115	08/01/2019 BN 5-2019	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input checked="" type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	12/20/23	<u>CMA Re-Entry</u> : Addition of a section for CMA Re-entry for consistency in rule language throughout Nurse Practice Act
851-062-0116	08/01/2019 BN 5-2019	<input checked="" type="checkbox"/> Did rule have intended effect? <input checked="" type="checkbox"/> Correct anticipated fiscal impact? <input checked="" type="checkbox"/> Laws to repeal or amend? <input checked="" type="checkbox"/> Continued need for rule?	12/20/23	<u>CMA Reinstatement</u> : Addition of a section for CMA Reinstatement for consistency in rule language throughout Nurse Practice Act.



**RULES REVIEW INFORMATION**  
**ORS 183.405**  
**REVIEW YEAR: 2018«Review\_Year»**  
**OREGON DEPARTMENT OF FISH & WILDLIFE**  
**ORS 183.405**  
**Review Year: January 1, 2018, through December 31, 2018**  
**Submitted: January 2024**

**Review of New Rules**

Oregon Revised Statute 183.405 requires agencies to review new rules within five years of adoption. The requirement for review does not apply to:

- Rules in existence as of January 1, 2006, or for which notice of proposed rulemaking 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;
- Any rules adopting a federal law or rule by reference;
- Any rules adopted to implement legislatively approved fee changes; and
- Any rules adopted to correct errors or omissions.

**The agency must review the rule to determine the following:**

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?

*See Next Page for Reviews*

<b>Division/Rule Number</b>	635-010-0019
<b>Rule Name</b>	License and Tag Exchanges
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0019">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0019</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule has had its intended effect relating to process for license and tag exchanges.

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 process license and tag exchanges.

5. What impact does the rule have on small business? No impact

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-043-0140
<b>Rule Name</b>	Warm Springs Hunting Agreement
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0140">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0140</a>
<b>Date Adopted</b>	7/11/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

This rule incorporates by reference the Memorandum of Agreement between the Confederated Tribes of the Warm Springs Reservation and the State of Oregon regarding off-reservation hunting subject to the 1855 Treaty With the Tribes of Middle Oregon. Through this MOA, the parties agree on issues including the wildlife species covered, the geographic area covered, hunting regulations, enforcement, and dispute resolution. This rule and the referenced MOA have had the intended effect of codifying and communicating the agreement between the two parties. This rule has subsequently been renumbered as OAR 635-800-0700.

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 MOA between the parties is still in effect and needs to be codified in rule.

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

There are no record keeping or compliance requirements for small business. Small businesses that provide services to hunters or wildlife viewers could be impacted by this rule but it is unlikely these businesses experience any significant revenue loss.

**Name:** Brian Wolfer

**Date:** 12/28/2023



<b>Division/Rule Number</b>	635-100-0137
<b>Rule Name</b>	Advisory Survival Guidelines for Marbled Murrelet
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-100-0137">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-100-0137</a>
<b>Date Adopted</b>	8/7/2018
<b>Staff Contact &amp; Program</b>	Threatened and Endangered Species Coordinator (Martin Nugent), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

635-100-0137 amended rules were adopted as mandatory in July 2021 when the species was reclassified from threatened to endangered. Survival guidelines were superseded in April 2023 on state lands upon approval of ten Endangered Species Management Plans for the Marbled Murrelet (635-100-0140).

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

Consultations occurred with state agencies to ensure management actions were consistent with survival guidelines and compliant with the Federal Endangered Species Act. ODFW's fiscal estimate of 'low' and 'very low' in the "Notice of Proposed Rulemaking to four state agencies was consistent.

3. Do subsequent changes in the law require a change in the rule? No

4. Does the rule continue to be necessary? No

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

The rules applies only to state lands. There is no direct impact to small businesses.

**Name:** Martin J. Nugent, Threatened, Endangered and Sensitive Species Coordinator, Wildlife Division

**Date:** 11/22/2023

<b>Division/Rule Number</b>	635-001-0150
<b>Rule Name</b>	Purpose
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-100-0150">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-100-0150</a>
<b>Date Adopted</b>	9/17/2018
<b>Staff Contact &amp; Program</b>	Ungulate Coordinator (Don Whitaker), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

House Bill 3158 (2017) required the Fish and Wildlife Commission to implement a program to encourage persons to report violations of the wildlife laws by offering preference points or cash rewards for information leading to citation or arrest for certain violations. This rule implements HB 3158.

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 continuation of this program is required by ORS 497.112.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-001-0155
<b>Rule Name</b>	Individual Participation
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0155">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0155</a>
<b>Date Adopted</b>	9/17/2018
<b>Staff Contact &amp; Program</b>	Ungulate Coordinator (Don Whitaker), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

House Bill 3158 (2017) required the Fish and Wildlife Commission to implement a program to encourage persons to report violations of the wildlife laws by offering preference points or cash rewards for information leading to citation or arrest for certain violations. This rule establishes what persons are eligible to receive preference points.

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 continuation of this program is required by ORS 497.112.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-001-0160
<b>Rule Name</b>	Preference Points Awarded
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0160">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0160</a>
<b>Date Adopted</b>	9/17/2018
<b>Staff Contact &amp; Program</b>	Ungulate Coordinator (Don Whitaker), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

House Bill 3158 (2017) required the Fish and Wildlife Commission to implement a program to encourage persons to report violations of the wildlife laws by offering preference points or cash rewards for information leading to citation or arrest for certain violations. This rule establishes the scaled approach to awarding preference points depending on the wildlife species involved in the violation.

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 continuation of this program is required by ORS 497.112.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-001-0165
<b>Rule Name</b>	Process for Awarding Preference Points
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0165">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0165</a>
<b>Date Adopted</b>	9/17/2018
<b>Staff Contact &amp; Program</b>	Ungulate Coordinator (Don Whitaker), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

House Bill 3158 (2017) required the Fish and Wildlife Commission to implement a program to encourage persons to report violations of the wildlife laws by offering preference points or cash rewards for information leading to citation or arrest for certain violations. This rule establishes the process for awarding preference points including the roles of the department and Oregon State Police.

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 continuation of this program is required by ORS 497.112.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-010-0000
<b>Rule Name</b>	Purpose
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0000">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0000</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule establishes the purpose of our rules relating to licensing and continues to inform as intended.

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

Yes, the rule continues to be necessary to adequately process and operate the ODFW licensing program.

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

No impact

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-010-0008
<b>Rule Name</b>	Electronic Licensing System
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0008">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0008</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

As intended, the rule ensures that the agency and all licensing agents, utilize the electronic licensing system (ELS) to issue licensing documents, and the ELS system serves as the system of record for all licensing documents. In addition, the rule requires licensees to input accurate information into the licensing system to ensure that communication can be accurately and adequately disseminated to license holders from the department. The rule continues to be effective, as intended.

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 continues to be needed in order to adequately operate the agency's licensing system and meet program needs.

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

Businesses that serve as licensing agents are required to utilize the electronic licensing system to issue licenses. No specialized equipment or extra costs are associated, so impacts are minimal or positive.

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-006-0201
<b>Rule Name</b>	Required Records for Dungeness Crab Traceability
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-006-0201">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-006-0201</a>
<b>Date Adopted</b>	5/2/2018
<b>Staff Contact &amp; Program</b>	Manager (Justin Ainsworth), Fish Division Marine Resources Program

**Questions:**

1. Has the rule had its intended effect? Yes

The rule improved traceability of Dungeness crab throughout the supply chain, enabling faster and better management responses when elevated biotoxin levels are found in sampled crab. There have been several such events since adoption of this rule. Management response may include mandatory evisceration or recall, as required by the Oregon Department of Agriculture. Requiring records of which area crab were harvested from to follow the crab through the supply chain enables suppliers and retailers to treat product on hand appropriately, reduces the amount of crab affected, and helps agencies communicate with potentially affected businesses.

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

Conditions that led to the adoption of this rule have not changed and they are still necessary to protect the public from biotoxin exposure from commercially harvested Dungeness crab. Elevated levels of the biotoxin domoic acid have necessitated management action several times since adoption of the rule.

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

The rule increases recordkeeping and reporting requirements for licensed reporting wholesale fish dealers, and recordkeeping requirements for non-reporting wholesale fish dealers and retailers. We cannot estimate how many fish dealers and retailers meet the definition of a small business.

**Name:** Troy Buell

**Date:** 12/6/2023



<b>Division/Rule Number</b>	635-010-0012
<b>Rule Name</b>	Service Fees
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0012">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0012</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule has had its intended effect relating to shipping and handling fees.

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 will be necessary as long as ODFW continues to charge shipping and handling fees.

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

No impact.

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-043-0290
<b>Rule Name</b>	Salvage of Deer
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0290">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0290</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes the requirements and options for salvage of deer carcasses and parts when a deer is taken by a city for deer population control.

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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on December 30, 2021, to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023

<b>Division/Rule Number</b>	635-010-0027
<b>Rule Name</b>	License Refunds
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0027">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0027</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule continues to be used for license refunds, as intended.

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 continues to be necessary for ODFW to continue to process refunds.

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

No impact

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-010-0162
<b>Rule Name</b>	Agent Eligibility; Application Requirements
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0162">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0162</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule has had its intended effect for regulating agent eligibility and processing agent applications.

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 continues to be necessary for regulating and processing agents.

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

Many of our licensing agents are small businesses. However, the impacts on small businesses serving as our agents is low or positive.

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-010-0180
<b>Rule Name</b>	Agent Operational Requirements
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0180">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0180</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule provides requirements for licensing agents as intended.

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 provide requirements for agents.

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

Some licensing agents are small businesses. However, impacts to those businesses are minimal or positive.

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-010-0200
<b>Rule Name</b>	Tribal I.D. in Lieu of Licenses
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0200">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0200</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule continues to have its intended effect to allow tribal ID cards in lieu of fishing licenses for Columbia River Treaty Tribe members.

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 continues to be necessary to allow for tribal IDs to be used in lieu of a fishing license for Columbia River Treaty Tribe members.

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

No impact

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-043-0150
<b>Rule Name</b>	Burns Paiute Ceremonial Harvest Permits
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0150">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0150</a>
<b>Date Adopted</b>	12/13/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

This rule authorizes the department to allow the Burns Paiute Tribe, a federally recognized tribe of Northern Paiute Indians in Harney County, to annually take a limited number of game animals for ceremonial and cultural purposes. Pursuant to this rule, the department annually issues a limited number of permits to the Burns Paiute Tribe allowing the take of deer, elk, and pronghorn antelope.

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 continues to be necessary so the department may issue permits allowing the Burns Paiute Tribe to harvest game animals for ceremonial and cultural purposes.

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

There are no record keeping or compliance requirements for small business. Small businesses that provide services to hunters or wildlife viewers could be impacted by this rule but it is unlikely these businesses experience any significant revenue loss.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-043-0250
<b>Rule Name</b>	Purpose of the Urban Deer Population Control Pilot Program
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0250">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0250</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes the purpose of that program and associated 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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on 12/30/2021 to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023



<b>Division/Rule Number</b>	635-043-0260
<b>Rule Name</b>	Permit to Control Urban Deer Application Requirements
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0260">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0260</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes the actions a city must take prior to petitioning the Department of Fish and Wildlife for kill permits under this program.

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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on December 30, 2021, to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023

<b>Division/Rule Number</b>	635-043-0270
<b>Rule Name</b>	Department and City Responsibilities
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0270">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0270</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes the responsibilities of the Department of Fish and Wildlife and the city when a city requests a kill permit to conduct urban deer population control.

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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on December 30, 2021, to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023

<b>Division/Rule Number</b>	635-043-0280
<b>Rule Name</b>	Agent Authorization to Take Deer on Other than City Owned Property
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0280">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0280</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes written authorization and reporting requirement for an agent of a city to take deer under this program on property that is not owned by the city.

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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on December 30, 2021, to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023

<b>Division/Rule Number</b>	635-010-0009
<b>Rule Name</b>	Document Pricing
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0009">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0009</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule continues to have its intended effect relating to fish and wildlife license document pricing.

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 continues to be necessary for proper operation of our licensing system and programs.

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

No impact

**Name:** Ken Loffink

**Date:** 12/5/2023



**RULES REVIEW INFORMATION**  
**ORS 183.405**  
**REVIEW YEAR: 2018«Review\_Year»**  
**OREGON DEPARTMENT OF FISH & WILDLIFE**  
**ORS 183.405**  
**Review Year: January 1, 2018, through December 31, 2018**  
**Submitted: January 2024**

**Review of New Rules**

Oregon Revised Statute 183.405 requires agencies to review new rules within five years of adoption. The requirement for review does not apply to:

- Rules in existence as of January 1, 2006, or for which notice of proposed rulemaking 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;
- Any rules adopting a federal law or rule by reference;
- Any rules adopted to implement legislatively approved fee changes; and
- Any rules adopted to correct errors or omissions.

**The agency must review the rule to determine the following:**

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?

*See Next Page for Reviews*

<b>Division/Rule Number</b>	635-010-0019
<b>Rule Name</b>	License and Tag Exchanges
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0019">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0019</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule has had its intended effect relating to process for license and tag exchanges.

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 process license and tag exchanges.

5. What impact does the rule have on small business? No impact

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-043-0140
<b>Rule Name</b>	Warm Springs Hunting Agreement
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0140">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0140</a>
<b>Date Adopted</b>	7/11/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

This rule incorporates by reference the Memorandum of Agreement between the Confederated Tribes of the Warm Springs Reservation and the State of Oregon regarding off-reservation hunting subject to the 1855 Treaty With the Tribes of Middle Oregon. Through this MOA, the parties agree on issues including the wildlife species covered, the geographic area covered, hunting regulations, enforcement, and dispute resolution. This rule and the referenced MOA have had the intended effect of codifying and communicating the agreement between the two parties. This rule has subsequently been renumbered as OAR 635-800-0700.

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 MOA between the parties is still in effect and needs to be codified in rule.

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

There are no record keeping or compliance requirements for small business. Small businesses that provide services to hunters or wildlife viewers could be impacted by this rule but it is unlikely these businesses experience any significant revenue loss.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-100-0137
<b>Rule Name</b>	Advisory Survival Guidelines for Marbled Murrelet
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-100-0137">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-100-0137</a>
<b>Date Adopted</b>	8/7/2018
<b>Staff Contact &amp; Program</b>	Threatened and Endangered Species Coordinator (Martin Nugent), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

635-100-0137 amended rules were adopted as mandatory in July 2021 when the species was reclassified from threatened to endangered. Survival guidelines were superseded in April 2023 on state lands upon approval of ten Endangered Species Management Plans for the Marbled Murrelet (635-100-0140).

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

Consultations occurred with state agencies to ensure management actions were consistent with survival guidelines and compliant with the Federal Endangered Species Act. ODFW's fiscal estimate of 'low' and 'very low' in the "Notice of Proposed Rulemaking to four state agencies was consistent.

3. Do subsequent changes in the law require a change in the rule? No

4. Does the rule continue to be necessary? No

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

The rule applies only to state lands. There is no direct impact to small businesses.

**Name:** Martin J. Nugent, Threatened, Endangered and Sensitive Species Coordinator, Wildlife Division

**Date:** 11/22/2023



<b>Division/Rule Number</b>	635-001-0150
<b>Rule Name</b>	Purpose
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-100-0150">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-100-0150</a>
<b>Date Adopted</b>	9/17/2018
<b>Staff Contact &amp; Program</b>	Ungulate Coordinator (Don Whitaker), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

House Bill 3158 (2017) required the Fish and Wildlife Commission to implement a program to encourage persons to report violations of the wildlife laws by offering preference points or cash rewards for information leading to citation or arrest for certain violations. This rule implements HB 3158.

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 continuation of this program is required by ORS 497.112.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-001-0155
<b>Rule Name</b>	Individual Participation
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0155">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0155</a>
<b>Date Adopted</b>	9/17/2018
<b>Staff Contact &amp; Program</b>	Ungulate Coordinator (Don Whitaker), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

House Bill 3158 (2017) required the Fish and Wildlife Commission to implement a program to encourage persons to report violations of the wildlife laws by offering preference points or cash rewards for information leading to citation or arrest for certain violations. This rule establishes what persons are eligible to receive preference points.

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 continuation of this program is required by ORS 497.112.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-001-0160
<b>Rule Name</b>	Preference Points Awarded
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0160">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0160</a>
<b>Date Adopted</b>	9/17/2018
<b>Staff Contact &amp; Program</b>	Ungulate Coordinator (Don Whitaker), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

House Bill 3158 (2017) required the Fish and Wildlife Commission to implement a program to encourage persons to report violations of the wildlife laws by offering preference points or cash rewards for information leading to citation or arrest for certain violations. This rule establishes the scaled approach to awarding preference points depending on the wildlife species involved in the violation.

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 continuation of this program is required by ORS 497.112.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-001-0165
<b>Rule Name</b>	Process for Awarding Preference Points
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0165">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-001-0165</a>
<b>Date Adopted</b>	9/17/2018
<b>Staff Contact &amp; Program</b>	Ungulate Coordinator (Don Whitaker), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

House Bill 3158 (2017) required the Fish and Wildlife Commission to implement a program to encourage persons to report violations of the wildlife laws by offering preference points or cash rewards for information leading to citation or arrest for certain violations. This rule establishes the process for awarding preference points including the roles of the department and Oregon State Police.

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 continuation of this program is required by ORS 497.112.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-010-0000
<b>Rule Name</b>	Purpose
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0000">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0000</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule establishes the purpose of our rules relating to licensing and continues to inform as intended.

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

Yes, the rule continues to be necessary to adequately process and operate the ODFW licensing program.

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

No impact

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-010-0008
<b>Rule Name</b>	Electronic Licensing System
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0008">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0008</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

As intended, the rule ensures that the agency and all licensing agents, utilize the electronic licensing system (ELS) to issue licensing documents, and the ELS system serves as the system of record for all licensing documents. In addition, the rule requires licensees to input accurate information into the licensing system to ensure that communication can be accurately and adequately disseminated to license holders from the department. The rule continues to be effective, as intended.

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 continues to be needed in order to adequately operate the agency's licensing system and meet program needs.

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

Businesses that serve as licensing agents are required to utilize the electronic licensing system to issue licenses. No specialized equipment or extra costs are associated, so impacts are minimal or positive.

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-006-0201
<b>Rule Name</b>	Required Records for Dungeness Crab Traceability
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-006-0201">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-006-0201</a>
<b>Date Adopted</b>	5/2/2018
<b>Staff Contact &amp; Program</b>	Manager (Justin Ainsworth), Fish Division Marine Resources Program

**Questions:**

1. Has the rule had its intended effect? Yes

The rule improved traceability of Dungeness crab throughout the supply chain, enabling faster and better management responses when elevated biotoxin levels are found in sampled crab. There have been several such events since adoption of this rule. Management response may include mandatory evisceration or recall, as required by the Oregon Department of Agriculture. Requiring records of which area crab were harvested from to follow the crab through the supply chain enables suppliers and retailers to treat product on hand appropriately, reduces the amount of crab affected, and helps agencies communicate with potentially affected businesses.

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

Conditions that led to the adoption of this rule have not changed and they are still necessary to protect the public from biotoxin exposure from commercially harvested Dungeness crab. Elevated levels of the biotoxin domoic acid have necessitated management action several times since adoption of the rule.

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

The rule increases recordkeeping and reporting requirements for licensed reporting wholesale fish dealers, and recordkeeping requirements for non-reporting wholesale fish dealers and retailers. We cannot estimate how many fish dealers and retailers meet the definition of a small business.

**Name:** Troy Buell

**Date:** 12/6/2023

<b>Division/Rule Number</b>	635-010-0012
<b>Rule Name</b>	Service Fees
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0012">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0012</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule has had its intended effect relating to shipping and handling fees.

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 will be necessary as long as ODFW continues to charge shipping and handling fees.

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

No impact.

**Name:** Ken Loffink

**Date:** 12/5/2023



<b>Division/Rule Number</b>	635-043-0290
<b>Rule Name</b>	Salvage of Deer
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0290">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0290</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes the requirements and options for salvage of deer carcasses and parts when a deer is taken by a city for deer population control.

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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on December 30, 2021, to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023

<b>Division/Rule Number</b>	635-010-0027
<b>Rule Name</b>	License Refunds
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0027">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0027</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule continues to be used for license refunds, as intended.

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 continues to be necessary for ODFW to continue to process refunds.

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

No impact

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-010-0162
<b>Rule Name</b>	Agent Eligibility; Application Requirements
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0162">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0162</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule has had its intended effect for regulating agent eligibility and processing agent applications.

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 continues to be necessary for regulating and processing agents.

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

Many of our licensing agents are small businesses. However, the impacts on small businesses serving as our agents is low or positive.

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-010-0180
<b>Rule Name</b>	Agent Operational Requirements
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0180">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0180</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule provides requirements for licensing agents as intended.

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 provide requirements for agents.

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

Some licensing agents are small businesses. However, impacts to those businesses are minimal or positive.

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-010-0200
<b>Rule Name</b>	Tribal I.D. in Lieu of Licenses
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0200">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0200</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule continues to have its intended effect to allow tribal ID cards in lieu of fishing licenses for Columbia River Treaty Tribe members.

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 continues to be necessary to allow for tribal IDs to be used in lieu of a fishing license for Columbia River Treaty Tribe members.

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

No impact

**Name:** Ken Loffink

**Date:** 12/5/2023

<b>Division/Rule Number</b>	635-043-0150
<b>Rule Name</b>	Burns Paiute Ceremonial Harvest Permits
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0150">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0150</a>
<b>Date Adopted</b>	12/13/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

This rule authorizes the department to allow the Burns Paiute Tribe, a federally recognized tribe of Northern Paiute Indians in Harney County, to annually take a limited number of game animals for ceremonial and cultural purposes. Pursuant to this rule, the department annually issues a limited number of permits to the Burns Paiute Tribe allowing the take of deer, elk, and pronghorn antelope.

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 continues to be necessary so the department may issue permits allowing the Burns Paiute Tribe to harvest game animals for ceremonial and cultural purposes.

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

There are no record keeping or compliance requirements for small business. Small businesses that provide services to hunters or wildlife viewers could be impacted by this rule but it is unlikely these businesses experience any significant revenue loss.

**Name:** Brian Wolfer

**Date:** 12/28/2023

<b>Division/Rule Number</b>	635-043-0250
<b>Rule Name</b>	Purpose of the Urban Deer Population Control Pilot Program
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0250">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0250</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes the purpose of that program and associated 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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on 12/30/2021 to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023

<b>Division/Rule Number</b>	635-043-0260
<b>Rule Name</b>	Permit to Control Urban Deer Application Requirements
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0260">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0260</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes the actions a city must take prior to petitioning the Department of Fish and Wildlife for kill permits under this program.

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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on December 30, 2021, to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023



<b>Division/Rule Number</b>	635-043-0270
<b>Rule Name</b>	Department and City Responsibilities
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0270">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0270</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes the responsibilities of the Department of Fish and Wildlife and the city when a city requests a kill permit to conduct urban deer population control.

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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on December 30, 2021, to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023

<b>Division/Rule Number</b>	635-043-0280
<b>Rule Name</b>	Agent Authorization to Take Deer on Other than City Owned Property
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0280">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-043-0280</a>
<b>Date Adopted</b>	12/28/2018
<b>Staff Contact &amp; Program</b>	Deputy Administrator (Brian Wolfer), Wildlife Division

**Questions:**

1. Has the rule had its intended effect? Yes

Senate Bill 373 (2017) required the Fish and Wildlife Commission to develop and adopt by rule a pilot program for urban deer population control. This rule establishes written authorization and reporting requirement for an agent of a city to take deer under this program on property that is not owned by the city.

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? Yes

Senate Bill 761 (2021) required that the pilot program be expanded to include elk. This rule was amended on December 30, 2021, to include elk.

4. Does the rule continue to be necessary? Yes

The continuation of this program is required by law until the provisions of SB 373 (2017) and SB 761 (2021) are repealed on January 1, 2029.

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

This rule has no impact on small businesses.

**Name:** Brian Wolfer

**Date:** 12/27/2023

<b>Division/Rule Number</b>	635-010-0009
<b>Rule Name</b>	Document Pricing
<b>Link to Rule</b>	<a href="https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0009">https://secure.sos.state.or.us/oard/view.action?ruleNumber=635-010-0009</a>
<b>Date Adopted</b>	10/18/2018
<b>Staff Contact &amp; Program</b>	Administrator (Ken Loffink), Administrative Services Division

**Questions:**

1. Has the rule had its intended effect? Yes

The rule continues to have its intended effect relating to fish and wildlife license document pricing.

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 continues to be necessary for proper operation of our licensing system and programs.

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

No impact

**Name:** Ken Loffink

**Date:** 12/5/2023



Agency Rule Review Report  
Under ORS 183.405

<b>Rule Number</b>	123-017
<b>Rule Title</b>	Oregon Business Development Fund
<b>Date Adopted</b>	1/18/2018
<b>Date of Review</b>	1/29/2024
<b>Rule Reviewed By</b>	John Saris
<b>Action</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No Change

**Was an Administrative Rule Advisory Committee used for prior rulemaking?**

Yes

No

If yes, identify members: n/a

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect? Revisions to definitions to be more understandable to the public.

b. How did the rule succeed or fail in achieving this effect? Added transparency to program definitions and program eligibility.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

*These rule amendments do not impose a fiscal impact.*

b. What was the actual fiscal impact?

c. Was the fiscal impact statement:

Underestimated

Overestimated

Correct

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

4. Is the rule still needed?

Yes

No

Explain: Revised definitions simplify the understanding of the program for the general public.

5. What impact does the rule have on small businesses? Better understanding of the definitions and program eligibility.

<b>Rule Number</b>	123-022
<b>Rule Title</b>	Small Business Development Centers
<b>Date Adopted</b>	1/18/2018
<b>Date of Review</b>	1/25/2024
<b>Rule Reviewed By</b>	Jeff Stell, Small Business Officer
<b>Action</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No Change

**Was an Administrative Rule Advisory Committee used for prior rulemaking?**

Yes

No

If yes, identify members:

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect? To improve services to small businesses throughout the state, assisting them with knowledge of business best practices, growth strategies, and other items necessary to business survival and growth.

b. How did the rule succeed or fail in achieving this effect? The Oregon SBDC Network is successfully providing business education services through 20 Centers, along with several statewide services (such as the Capital Access Team and the Global Trade Center).

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

*There is no fiscal impact as a result of these rules.*

b. What was the actual fiscal impact? n/a

c. Was the fiscal impact statement: n/a

Underestimated

Overestimated

Correct

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain: At some future point, it might be useful to amend OAR 122-022-0070 (1) to the organizations listed in OAR 123-022-0080. However, it is in no way critical at this point. No other amendments or repeals needed at this time.

4. Is the rule still needed?

Yes

No

Explain:

5. What impact does the rule have on small businesses? The 123-022 chapter of OARs is very beneficial to small businesses throughout the state. The funding that Business Oregon receives from the Legislature goes directly to assisting small Oregon businesses through the Small Business Development Centers with a full range of strategic learning opportunities. These learning opportunities encompass topics ranging from writing business plans and using office technology to accessing business finance options and developing sales outside of the United States. Failure to fund and support the Oregon SBDC Network would have an extremely negative impact on small businesses throughout Oregon.

<b>Rule Number</b>	123-089
<b>Rule Title</b>	Oregon Innovation Fund
<b>Date Adopted</b>	2/12/2018
<b>Date of Review</b>	1/25/2024
<b>Rule Reviewed By</b>	Mark Brady, Innovation & Entrepreneurship Manager
<b>Action</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No Change

**Was an Administrative Rule Advisory Committee used for prior rulemaking?**

Yes

No

If yes, identify members: n/a

1. Has the rule achieved its intended effect?

Yes

No

a. What was the intended effect? Structure to allow deploying Oregon Innovation Council (Oregon InC) funding.

b. How did the rule succeed or fail in achieving this effect? Rule gave the agency the ability and structure to implement various Oregon Innovation Council programs and deploy funding to organizations and businesses support innovation in the state.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact?

*There is no fiscal impact for these rules.*

b. What was the actual fiscal impact? n/a

c. Was the fiscal impact statement:

Underestimated

Overestimated

Correct

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

4. Is the rule still needed?

Yes

No

Explain: Agency is still implementing Oregon InC programs and deploying these funds so the rules are still required.

5. What impact does the rule have on small businesses? Rule allows for programs and funding to support innovation in the state.

<b>Rule Number</b>	123-097
<b>Rule Title</b>	Industrial Site Readiness Program
<b>Date Adopted</b>	04/17/2018
<b>Date of Review</b>	1/29/2024
<b>Rule Reviewed By</b>	Jason Harris, Industrial Lands Specialist
<b>Action</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No Change

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No

If yes, identify members:

1. Has the rule achieved its intended effect?

Yes

No

- a. What was the intended effect? Assist public entities prepare industrial lands for traded sector business investments and generate family wage jobs.
- b. How did the rule succeed or fail in achieving this effect? Limited impact to date as no capitalization of the program was committed.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

- a. What was the estimated fiscal impact? Up to \$10 million in state income tax revenue could be produced annually with an equal amount being disbursed from the general fund to support site readiness investments.
- b. What was the actual fiscal impact? \$4.5 million in state income tax revenue generated in 2021 and \$4 million in 2022 and an equal amount disbursed to site sponsors for site readiness expenses.
- c. Was the fiscal impact statement:

Underestimated

Overestimated

Correct

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain: n/a

4. Is the rule still needed?

Yes

No

Explain: The state has entered into agreements with a number of public entities to support industrial land investment.

5. What impact does the rule have on small businesses? None

<b>Rule Number</b>	123-011
<b>Rule Title</b>	Economic Development Rev Bond
<b>Date Adopted</b>	04/17/2018
<b>Date of Review</b>	01/29/2024
<b>Rule Reviewed By</b>	John Saris
<b>Action</b>	<input checked="" type="checkbox"/> Amend <input type="checkbox"/> Repeal <input type="checkbox"/> No Change

Was an Administrative Rule Advisory Committee used for prior rulemaking?

Yes

No



If yes, identify members:

1. Has the rule achieved its intended effect?

Yes

No

- a. What was the intended effect? Clarified fee structure for exempt facility bonds and for the selection of bond counsel when the applicant requests an alternative counsel.
- b. How did the rule succeed or fail in achieving this effect? Program fee structures have been followed and the Department has elected to both use alternative counsel and use the preferred counsel for projects as permitted by rule.

2. Use the fiscal impact statement information shown in the original adoption of the rule.

a. What was the estimated fiscal impact? No fiscal impact.

b. What was the actual fiscal impact? No fiscal impact.

c. Was the fiscal impact statement:

Underestimated

Overestimated

Correct

Unknown. If you check this, briefly explain why it is unknown:

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

Yes

No

If 'yes' please explain:

4. Is the rule still needed?

Yes

No

Explain: The fee structure for exempt facility bonds is still applicable today as is the process for selecting bond counsel.

5. What impact does the rule have on small businesses? Clarity in fees charged based on the type of the bond issued.



Oregon Parks and Recreation Department

# 2023 Annual Legislative Rulemaking Report

([ORS 183.403](#); [ORS 183.405](#); [ORS 192.245](#))

Contact: Katie Gauthier, Agency Rules Coordinator  
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## 1) Introduction

This report satisfies the requirements of ORS 183.403 and ORS 192.245 that require administrative agencies to annually submit a report to the legislature describing their rulemaking activities. This report also satisfies ORS 183.405 requiring agencies to review newly adopted rules no later than five years after adoption.

## 2) Permanent Rules

The Oregon Parks and Recreation Department adopted, amended, or repealed 6 rules during 2023.

## 3) Temporary Rules

The Oregon Parks and Recreation Department adopted or amended 0 temporary rules during 2022.

## 4) Five-year review of Rules

In 2018, OPRD processed 1 permanent rulemaking action that adopted 8 new administrative rules.

In reviewing new rules, the agency considers the following questions:

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 businesses?

Rules Subject to the Review:

## **Title- Permits to Restore, Maintain and Preserve Abandoned Cemeteries**

Effective date: 4/20/2018

Rule numbers: 736-054-0100, 736-054-0105, 736-054-0110, 736-054-0120, 736-054-0130, 736-054-0140, 736-054-0150

Reviewers: Katie Gauthier and Kuri Gill

### **Summary**

This rulemaking established requirements for a permit program created in legislation to restore, maintain, and preserve abandoned cemeteries.

The adopted rules established program requirements including:

- Detailing applicant eligibility requirements
- Outlining the permit application process
- Specifying permit requirements and process for issuance and withdrawal

### **Did the rule have its intended effect?**

Yes, the rules intended to create an opportunity for individuals to apply for permits to restore, maintain, or preserve abandoned cemeteries. The permits are available on our agency website and agency staff provide technical assistance.

To date permits have been issued to four cemeteries and two have been reissued.

### **Did the agency overestimate or underestimate the rule's fiscal impact?**

The agency did not anticipate additional fiscal impact for implementation of this rule. The agency has absorbed staffing for this permit program into the workload of existing staff with no additional cost to the agency.

### **Do subsequent changes in the law require a change in the rule?**

We are not aware of subsequent changes in law regarding cemeteries that necessitate a change in this rule.

### **Does the rule continue to be necessary?**

Yes, this rule is effective in implementing this permit program required by statute.

### **What impact does the rule have on small businesses?**

No, this permit program does not require small businesses to undertake any specific actions unless they choose to apply for a permit to restore or maintain an abandoned cemetery.