

January 10, 2020

TO: Legislative Assembly
 FROM: Oregon Business Development Department (Business Oregon)- OAR CHAPTER 123
 SUBJ: HB 4106 (2016) Report on Rulemaking 2019

In 2019 Business Oregon processed 11 permanent rulemaking actions that adopted and amended a total of 55 rules. Table 1 below gives additional detail on what was accomplished in those rulemaking efforts.

Business Oregon also processed 2 temporary rulemakings that amended 6 rules. Table 2 below gives the details on what was accomplished and the reasoning behind proceeding with the temporary rule process in those cases.

Table 1: Permanent rules adopted, amended or repealed in 2019

Description of Rulemaking	Action taken	Rule numbers
<p>123-092 (Oregon Royalty Fund)- This new division of rules provides for procedures, standards and criteria for the making of loans from the Small Business Expansion Loan Fund also known as the Oregon Royalty Fund.</p> <p>Filed: 1/07/19 Effective: 1/07/19</p>	Adopted (8)	123-092-0010, 123-092-0020, 123-092-0030, 123-092,0040, 123-092-0050, 123-092-0060, 123-092-0080, 123-092-0090
<p>123-450- (Oregon Arts Commission- Grants)- This rule is amended to included language regarding organizations types granted a waiver.</p> <p>Filed: 2/4/19 Effective: 2/4/19</p>	Amend (1)	123-450-0010
<p>123-024- (Distressed Areas)- These rules are amended to removed unnecessary definitions and update language to the methodology for determining Distressed Areas.</p> <p>Filed: 4/17/18 Effective: 4/17/18</p>	Amend (2)	123-024-0011, 123-024-0031
<p>123-200 (COBID- Determination of Management Control)- This rule is being amended so that it is not in direct conflict with 49 CFR 26.71(h). These changes will allow COBID to consider licensing as a factor, but would not limit the applicant, should he or she meet all other requirements of management and control as outlined by both federal and state rules.</p> <p>Filed: 6/5/19 Effective: 6/5/19</p>	Amend (1) and Make Permanent Temp Rule filed in January 2019.	123-200-1240

Description of Rulemaking	Action taken	Rule numbers
<p>123-043 (Water/Wastewater Financing Program)- These rules are amended to remove unnecessary definitions. Terms were also added for consistency. Language to make the program more accessible to communities, including those projects needed to stay in compliance with regulatory requirements and project associated with community health, drinking water supply, or water quality urgency. Added prioritization criteria for use when funds are limited. Other housekeeping changes have been made for consistency. Language related to contracting has been removed.</p> <p>Filed: 9/4/19 Effective: 9/4/19</p>	Amend (1)	123-043-0010, 123-043-0015, 123-043-0035, 123-043-0041, 123-043-0055, 123-043-0065, 123-043-0075, 123-043-0085, 123-043-0095, 123-043-0105, 123-043-0115
<p>123-051- (Oregon Seismic Rehabilitation Grants Program)- These rules are amended to remove buildings located in the tsunami inundation zone in the 100 year flood zone as ineligible activities as well as removed the 30 day notification of receipt of applications.</p> <p>Filed: 9/4/19 Effective: 9/4/19</p>	Amend (3)	123-051-0700, 123-051-0750, 123-051-0800
<p>123-092- (Oregon Royalty Fund)- Rules are amended to expand the definition of Business Development Project and to include Oregon Growth Businesses in the Eligibility rule. Other amendments provide clearer language regarding funding and compliance with all laws and regulations. Adoption of one rule to explain loan agreement/contract that the department may enter into with a borrower from the fund.</p> <p>Filed: 9/4/19 Effective: 9/4/19</p>	Amend (5) Adopt (1)	123-092-0020, 123-092-0030, 123-092-0040, 123-092-0060, 123-092-0090 123-092-0070
<p>123-011 (Economic Development Revenue Bonds)- In response to the increased amount of bond issues, the department is amending this rule to address a multitude of issues. This rule replaces department discretion in offering alternative bond closing fee arrangements with a fixed fee schedule, so there is a greater transparency to users of the bond program regarding fees. In addition, this rule is amended to require applicants to agree in writing upfront to pay all required fees and to stay current with fees due the department's bond counsel. The</p>	Amend (1)	123-011-0045

Description of Rulemaking	Action taken	Rule numbers
<p>rules clarify the refundability of fees and the applications of fees to the bond closing fee.</p> <p>Filed: 10/4/19 Effective: 10/4/19</p>		
<p>123-006- (Contracting Procedures of the Business Development Dept)- Rules were amended to better clarify the term "limited amounts" and to add three additional types of goods or services to the Sole Source by Procurement rule.</p> <p>Filed: 10/4/19 Effective: 10/4/19</p>	Amend (2)	123-006-0035, 123-006-0045
<p>123-089- (Oregon Innovation Fund)- These rules have been amended to better clarify the funds objective and how the fund will be used to support Oregon InC's four main industry focus areas. In addition, the five year reporting requirement has been removed.</p> <p>Two new rules were adopted. One to describe the Audit Committee established the Oregon Innovation Council, to provide oversight of projects or signature research centers that receive funding over \$150,000. The other new rule describes the four programs, signature research centers, and other activities that are funded by the Oregon Innovation Fund.</p> <p>Filed: 11/12/19 Effective: 11/12/19</p>	<p>Amend (6)</p> <p>Adopt (2)</p> <p>and make Permanent Temp rules filed in May 2019</p>	<p>123-089-0010, 123-089-0020, 123-089-0030, 123-089-0040, 123-089-0050, 123-089-0060,</p> <p>123-089-0070, 123-089-0080</p>
<p>123-088- (University Innovation Research Fund)- This is a new division of rules. This fund was established in the 2019 Legislature through HB 2377. The purpose of this division is to document the process and criteria by which this fund will be used to support innovation and commercialization of technology that has a direct or potential connection to economic development from Oregon's public universities and Oregon Health & Science University.</p> <p>Filed: 11/12/19 Effective: 11/12/19</p>	Adopt (6)	123-088-0010, 123-088-0020, 123-088-0030, 123-088-0040, 123-088-0050, 123-088-0060

Table 2: Temporary Rule Amendments in 2019

Filed	1/07/19 – 07/05/19
Description	This temporary rule relates to the Determination of Management Control for COBID.
Action taken	Amend one rule.
Rule number	AMEND- 123-200-1240
Need Statement	This rule amendment is needed so that we can bring 123-200-1240 in compliance with 49 CFR 26.71(h).
Explanation	123-200-1240 as it is currently written is in direct conflict with 49 CFR 26.71(h). Although both rules indicate that an applicant hold any necessary professional licensing, the federal rules are clear to state that "... you must not deny certification solely on the ground that the person lacks the license or credential." The state rules are more specific and state that the applicant "... must possess the required license or credential." Through discussions with DOJ, it was recently determined that the state rule, as it currently stands, would not be defensible should an applicant choose to appeal our decision. The proposed changes would allow for us to consider licensing as a factor, but would not limit the applicant should he or she meet all other requirements of management and control as outlined by both federal and state rules.

Filed	05/22/19 – 11/15/19
Description	These rules relate to the Oregon Innovation Fund
Action taken	Amend five rules.
Rule number	AMEND- 123-089-0010, 123-089-0030, 123-089-0040, 123-089-0050, 123-089-0060
Need Statement	These rules are required to comply with statute ORS 284.720.
Explanation	Currently, these rules only describe one grant program. It is necessary to file a temporary rule to implement other grant programs the fund offers. These temporary rules will be filed followed by Notice of Proposed Rulemaking.