

**Oregon Department of Agriculture Annual Report to Legislative Assembly
Regarding Administrative Rulemaking Activity for the Period January 1, 2019
through December 31, 2019.**

Summary

House Bill 4106 requires all agencies to report annually to the Legislature on rulemaking activities, including temporary or emergency rules. This report details the Oregon Department of Agriculture's (ODA) rulemaking activity for the 2019 year. During that period, ODA adopted 15, amended 47 and repealed 6 rules. Additionally, ODA adopted 9, amended 19, and suspended 1 temporary or emergency rules.

Rules adopted, amended or repealed [ORS 183.335 (2) and (3)]

Adopted	15
Amended	47
Repealed	6

Temporary rules adopted, amended or suspended [ORS 183.335 (5)]

Adopted	9
Amended	19
Repealed	1

List of rules:

1. 603-025-0421; 603-025-0422 Adopted
 - a. Dungeness Crab
 - b. Biotoxin management zone: Cape Blanco to California border; Crab harvested outside Oregon in an area that would be a biotoxin management zone if in Oregon.
 - c. Need statement: The rule is necessary to protect the health and safety of the public. Tests performed at the time this rule was filed indicated the potential for domoic acid in the viscera. Domoic acid can cause amnesic shellfish poisoning which is characterized by gastrointestinal symptoms, and in severe cases, neurological symptoms, memory loss, respiratory difficulty, and coma. The rule limits the fishing and crabbing unless the crab is properly processed; preventing potential public injury.
 - d. Justification: Emergency rulemaking was the proper process for this rule because time was of the essence; requiring the department to act immediately. Rulemaking under ORS 183.335 (2) and (3) takes time that we did not have because of the threat to public health.
 - e. Dates: Adopted 1/24/19

2. 603-025-0421; 603-025-0421 (T); Suspend
 - a. Dungeness Crab
 - b. Biotoxin management zone: Blanco to California border
 - c. Need statement: The rule is necessary to protect the health and safety of the public. Tests performed at the time this rule was filed indicated the potential for domoic acid in the viscera. Domoic acid can cause amnesic shellfish poisoning which is characterized by gastrointestinal symptoms, and in severe cases, neurological symptoms, memory loss, respiratory difficulty, and coma. The rule limits the fishing and crabbing unless the crab is properly processed; preventing potential public injury.
 - d. Justification: Emergency rulemaking was the proper process for this rule because time was of the essence; requiring the department to act immediately. Rulemaking under ORS 183.335 (2) and (3) takes time that we did not have because of the threat to public health.
 - e. Dates: Suspend 1/31/2019

3. 603-025-0423; Adopt
 - a. Dungeness Crab
 - b. Biotoxin Management zone: Bandon to California border
 - c. Need statement: The rule is necessary to protect the health and safety of the public. Tests performed at the time this rule was filed indicated the potential for domoic acid in the viscera. Domoic acid can cause amnesic shellfish poisoning which is characterized by gastrointestinal symptoms, and in severe cases, neurological symptoms, memory loss, respiratory difficulty, and coma. The rule limits the fishing and crabbing unless the crab is properly processed; preventing potential public injury.
 - d. Justification: Emergency rulemaking was the proper process for this rule because time was of the essence; requiring the department to act immediately. Rulemaking under ORS 183.335 (2) and (3) takes time that we did not have because of the threat to public health.
 - e. Dates: Adopt 2/14/2019

4. 603-048-0010, 603-048-0500, 603-048-0600, 603-048-0630, 603-048-1000, 603-048-2300, 603-048-2305, 603-048-2310, 603-04802315, 603-048-2320, 603-048-2330, 603-048-2340, 603-048-2350, 603-048-2380, 603-048-2440, 603-048-2450, 603-048-2480, 603-048-2500; Amended
 - a. Hemp
 - b. Temporary rules for hemp testing
 - c. Need Statement: Under state law, ORS 571.330, industrial hemp intended for human consumption and hemp items must be tested in the same manner that marijuana is required to be tested under OHA's rules. OHA recently adopted new testing rules which necessitated these temporary rules while the permanent rulemaking was in progress to avoid confusion in the industry.

- d. Justification: ODA testing rules for Hemp needed to be consistent with OHA's rules. Proceeding under ORS 183.335 (5) was the most appropriate method for adopting the rules to ensure that testing rules were consistent throughout the state to avoid confusion. Permanent rulemaking was in progress while the temporary rule was in effect.
 - e. Dates: Amended 3/1/2019
5. 603-025-0423, 603-025-0423 (T)
- a. Dungeness Crab
 - b. Biotxin management zone: Bandon to California border
 - c. Need statement: The rule is necessary to protect the health and safety of the public. Tests performed at the time this rule was filed indicated the potential for domoic acid in the viscera. Domoic acid can cause amnesic shellfish poisoning which is characterized by gastrointestinal symptoms, and in severe cases, neurological symptoms, memory loss, respiratory difficulty, and coma. The rule limits the fishing and crabbing unless the crab is properly processed; preventing potential public injury.
 - d. Justification: Emergency rulemaking was the proper process for this rule because time was of the essence; requiring the department to act immediately. Rulemaking under ORS 183.335 (2) and (3) takes time that we did not have because of the threat to public health.
 - e. Dates: Adopt 3/28/2019
6. 603-025-0423, 603-025-0423 (T), Adopt
- a. Dungeness Crab
 - b. Prohibits sale of Dungeness crab caught in specific areas unless crab is processed. Biotxin management zone: Bandon to California Border.
 - c. Need statement: The rule is necessary to protect the health and safety of the public. Tests performed at the time this rule was filed indicated the potential for domoic acid in the viscera. Domoic acid can cause amnesic shellfish poisoning which is characterized by gastrointestinal symptoms, and in severe cases, neurological symptoms, memory loss, respiratory difficulty, and coma. The rule limits the fishing and crabbing unless the crab is properly processed; preventing potential public injury.
 - d. Justification: Emergency rulemaking was the proper process for this rule because time was of the essence; requiring the department to act immediately. Rulemaking under ORS 183.335 (2) and (3) takes time that we did not have because of the threat to public health.
 - e. unprocessed crab could become ill with amnesic shellfish poisoning.
 - f. Dates: Adopted 5/10/2019
7. 603-025-0423, Adopt
- a. Dungeness Crab
 - b. Biotxin Management Zone: Cape Blanco to California Border

- c. Need statement: The rule is necessary to protect the health and safety of the public. Tests performed at the time this rule was filed indicated the potential for domoic acid in the viscera. Domoic acid can cause amnesic shellfish poisoning which is characterized by gastrointestinal symptoms, and in severe cases, neurological symptoms, memory loss, respiratory difficulty, and coma. The rule limits the fishing and crabbing unless the crab is properly processed; preventing potential public injury.
 - d. Justification: Emergency rulemaking was the proper process for this rule because time was of the essence; requiring the department to act immediately. Rulemaking under ORS 183.335 (2) and (3) takes time that we did not have because of the threat to public health.
 - e. Dates: Adopted 5/24/2019
8. 603-052-0131, Adopt
- a. Japanese Beetle Quarantine
 - b. Establishing a quarantine in Washington County mitigation measures for Japanese Beetle infestation
 - c. Need Statement: Oregon Department of Agriculture (ODA) detected an incipient population of the Japanese beetle in the Cedar Mill and Bethany neighborhoods of Washington County, Oregon. In order to prevent the spread, establish control, and to accomplish the eradication of Japanese beetle in Washington County; application of Acelepryn® is necessary during April through June of 2019.
 - d. Justification: Due to the agricultural emergency, postponement of the effective date of the quarantine would result in serious prejudice to the public health, safety or welfare, or to the health, safety or welfare of the affected parties. This would seriously endanger the agricultural and horticultural interests of this state and result in serious prejudice to public welfare. Proceeding with rulemaking under ORS 183.335 (2) or (3) was not viable due to the timing of the application of Acelepryn®.
 - e. Dates: Adopted 5/29/2019
9. 603-042-0065, Adopt
- a. HB 3401 abolishes the Oregon Orchardgrass Seed Producers Commission
 - b. Types and subtypes of commodities formerly assessed by the Oregon Orchard Grass Seed Producers Commission to be assessed by Oregon Tall Fescue Commission
 - c. Need Statement: HB 3401 decommissioned the Oregon Orchardgrass Seed Producers Commission and assigned the assessment of those commodities to the Tall Fescue Commission requiring the Oregon Department of Agriculture to identify the types and subtypes of commodities included.
 - d. Justification: HB 3401 was signed by the Governor on June 7, 2019, and section 5 took effect immediately. There is not enough time between June 7, 2019, and July 1, 2019, to allow adoption of a permanent rule identifying the types and subtypes of commodities formerly assessed by the Oregon Orchardgrass Seed Producers Commission. A temporary rule is necessary in order to allow the Tall Fescue Commission to begin assessments on time.

e. Dates: Adopted 6/18/2019

10. 603-054-0084, Adopt

- a. Pre-notification requirements for Imported Christmas Trees
- b. Pre-notification requirements of shipments of imported Christmas trees and cut evergreen branches into Oregon.
- c. Need Statement: The Department needs this rule in order to prevent two plant insect pests, elongate hemlock scale (*Florinia externa*) and Cryptomeria scale (*Aspidiotus cryptomeria*), from becoming established in Oregon. This rule is designed to reduce the threat of establishment of these two insect pests and other invasive plant pests by allowing Oregon Department of Agriculture inspectors the opportunity to inspect shipments of high-risk Christmas trees and cut evergreen branches shortly after they arrive.
- d. Justification: Temporary rules will give the department the necessary authority to inspect and quarantine cut evergreen branches and Christmas trees as necessary and make increase the likelihood of catching an invasive species before it is released into the state. Permanent rulemaking under ORS 183.335 (2) and (3) would not be completed in time to allow for inspection and quarantine authority.
- e. Dates: Adopted 9/27/2019

11. 603-025-0410, amended

- a. Dungeness Crab
- b. Requirements for Dungeness Crab
- c. Need statement: The rule is necessary to protect the health and safety of the public. Tests performed at the time this rule was filed indicated the potential for domoic acid in the viscera. Domoic acid can cause amnesic shellfish poisoning which is characterized by gastrointestinal symptoms, and in severe cases, neurological symptoms, memory loss, respiratory difficulty, and coma. The rule limits the fishing and crabbing unless the crab is properly processed; preventing potential public injury.
- d. Justification: Emergency rulemaking was the proper process for this rule because time was of the essence; requiring the department to act immediately. Rulemaking under ORS 183.335 (2) and (3) takes time that we did not have because of the threat to public health.
- e. Dates: Amended 12/18/2019