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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 213  
OREGON CRIMINAL JUSTICE COMMISSION

**FILED**  
05/31/2018 11:54 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Illegal Marijuana Market Enforcement Grant Program

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/23/2018 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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**NEED FOR THE RULE(S):**

2018 Oregon Laws Chapter 103 Section 13-17 requires the Criminal Justice Commission (the Commission) to administer the Illegal Marijuana Market Enforcement Grant Program. The Commission is also required by that same law to adopt rules to carry out the provisions of the law. These are those rules. These rules are retroactive to July 1, 2018, the effective date of the legislation requiring the Commission to administer the grant program.

The agency requests public comment on whether other options should be considered for achieve the rule's substantive goals while reducing the negative economic impact of the rule on business.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

SB 1544 (2018) is available on the legislature's website:

**FISCAL AND ECONOMIC IMPACT:**

2018 OL Ch. 103 § 13-17 requires the Commission to administer the Illegal Marijuana Market Enforcement Grant Program to units of local government to cover costs incurred in addressing and prosecuting unlawful marijuana cultivation or distribution operations. These rules do not impact other state agencies or the public. These rules do impact units of local government and the process by which the grant program will be administered.

The application of the rules by the Commission may affect which counties receive grants, and the amount of those grants. The extent of the fiscal impact on any given city or county is uncertain at this time, because it is unknown how many and which local governments may apply for the grants, and what programs they may propose. Generally speaking, local governments should have a positive fiscal impact from receiving grant funding. There may be some administrative costs for counties in completing grant applications as further discussed below.

**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 grant program was put in place by the legislature, and the dollars for the grant program appropriated by the legislature. Consequently, the proposed rules have a minimal anticipated fiscal impact on state agencies, local governments, businesses or the general public because they merely serve to implement a procedure to implement a legislatively mandated grant program. Additionally, there should be no cost to state agencies or the public to comply with these rules. Any fiscal impact to the Commission in administering the grant program is a result of the legislation rather than the rules. If local governments choose to apply for the grants, there may be some additional administrative costs involved in compiling and preparing the necessary documentation to apply for the grants. The extent of that impact is unknown at this time because it is unknown how much additional staff time local governments will choose to invest in preparing the grant applications and the rates at which the staff persons preparing the applications are paid, which may vary depending on the local government.

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:

None.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None.

c. Equipment, supplies, labor and increased administration required for compliance:

d. None.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules, because the rules will not substantively affect them. The rules implement a grant program providing funds only to local governments. Small businesses may not apply for or receive grants under the rules, nor are they subject to any requirements under the rules.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The rules implement requirements put in place by the legislature and do not affect small businesses. An advisory committee would not have been of substantive assistance. With regard to the legislative directive to the Commission to administer the grant program, the public had an opportunity to comment on the legislature's actions at a public hearing held on February 13, 2018.

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RULES PROPOSED:

213-080-0010, 213-080-0020, 213-080-0030, 213-080-0040, 213-080-0050, 213-080-0060, 213-080-0070, 213-080-0080

ADOPT: 213-080-0010

RULE SUMMARY: The new rule establishes the Illegal Marijuana Market Enforcement Grant Program after 2018 legislation.

CHANGES TO RULE:

213-080-0010

Authority and Application

(1) These rules are promulgated pursuant to Sections 13 to 17, Chapter 103, 2018 Oregon Laws. (Enrolled Senate Bill 1544)¶

(2) These rules apply beginning July 1, 2018.

Statutory/Other Authority: 2018 OL Ch.103 ¶13-17

Statutes/Other Implemented: 2018 OL Ch.103 ¶13-17

ADOPT: 213-080-0020

RULE SUMMARY: The new rule establishes the Illegal Marijuana Market Enforcement Grant Program after 2018 legislation.

CHANGES TO RULE:

213-080-0020

Purpose

The purpose of these rules is to administer the Illegal Marijuana Market Enforcement Grant Program established by Sections 13 to 17, Chapter 103, 2018 Oregon Laws.

Statutory/Other Authority: 2018 OL Ch.103 ¶13-17

Statutes/Other Implemented: 2018 OL Ch.103 ¶13-17

ADOPT: 213-080-0030

RULE SUMMARY: The new rule establishes definitions in the Illegal Marijuana Market Enforcement Grant Program after 2018 legislation.

CHANGES TO RULE:

213-080-0030

Definitions

As used in OAR 213-000-0010 to 213-080-0080, unless the context requires otherwise:¶

(1) "Applicant" means one or more units of local government that submits an application to the Commission for a grant under the Illegal Marijuana Market Enforcement Grant Program.¶

(2) "Business day" means 8:00 a.m. to 5:00 p.m., Pacific Time, Monday through Friday, excluding State of Oregon holidays.¶

(3) "Commission" means the Oregon Criminal Justice Commission.¶

(4) "Large-scale" means illegal marijuana cultivation or distribution operations that involve multiple persons, large quantities of illegal marijuana, quantities of illegal marijuana of significant monetary value, operations that take place over large geographic areas, or any combination of those circumstances.¶

(5) "Rural area" means a geographic area that is located at least 25 miles from any city with a population of 30,000 or more, or a county with a population of less than two hundred thousand people, according to the most recent population statistics of the United States bureau of the census.

Statutory/Other Authority: 2018 OL Ch.103 ¶13-17

Statutes/Other Implemented: 2018 OL Ch.103 ¶13-17

ADOPT: 213-080-0040

RULE SUMMARY: The new rule establishes the application process for the Illegal Marijuana Market Enforcement Grant Program after 2018 legislation.

CHANGES TO RULE:

213-080-0040

Grant Applications

(1) The grant application cycle is determined by the Commission and identified in the Illegal Marijuana Market Enforcement Grant Program solicitation. ¶

(2) One or more units of local government may submit applications in response to the solicitation for the Illegal Marijuana Market Enforcement Grant Program individually or jointly. ¶

(3) An Applicant may use up to 10 percent of the funds payable under the Illegal Marijuana Market Enforcement Grant Program for grant-related administrative costs, including activities such as purchasing, budgeting, payroll, accounting, staff services, and other costs as deemed appropriate by the Commission. Administrative costs may also include funds to pay for grant-related data collection activities. ¶

(4) The Commission may communicate directly, or through its program staff, with an Applicant to clarify the intent of its application or to recommend modifications in furtherance of the purposes of the Illegal Marijuana Market Enforcement Grant Program. ¶

(5) The Commission may, in its sole discretion, waive solicitation requirements or cancel any solicitation in whole or in part if it deems such action to be in the best interests of the Illegal Marijuana Market Enforcement Grant Program. ¶

(6) If unallocated funds remain at the conclusion of the grant acceptance period, the Commission shall distribute all remaining funds in the manner provided in OAR 213-080-0070.

Statutory/Other Authority: 2018 OL Ch.103 ¶13-17

Statutes/Other Implemented: 2018 OL Ch.103 ¶13-17

ADOPT: 213-080-0050

RULE SUMMARY: The new rule establishes the application review criteria for the Illegal Marijuana Market Enforcement Grant Program after 2018 legislation.

CHANGES TO RULE:

213-080-0050

Grant Application Review Criteria

The Commission shall review and evaluate each grant application based on the following criteria:

- (1) The grant application must demonstrate how grant funds are spent on costs incurred by local law enforcement agencies and district attorneys in addressing and prosecuting unlawful marijuana cultivation or distribution operations.
- (2) In awarding grants, the Commission will prioritize grant applications that demonstrate how financial assistance and support to local law enforcement agencies and district attorneys will address any or all of the following:
  - (a) Rural areas of this state;
  - (b) Large-scale unlawful marijuana cultivation or distribution operations;
  - (c) Organized crime involved in unlawful marijuana cultivation or distribution operations; and
  - (d) Operations that divert marijuana outside of this state.
- (3) In reviewing grant applications that meet sections (1) and (2) of this rule, the Commission may give preference to applications that demonstrate that an Applicant will:
  - (a) Participate in training opportunities that assist the Applicant in addressing and prosecuting unlawful marijuana cultivation or distribution operations;
  - (b) Address cases that require complex financial forensic accounting;
  - (c) Track and report on outcomes as described by the Commission in the solicitation;
  - (d) Collaborate with other local governments and agencies to achieve multi-jurisdictional outcomes consistent with the criteria described in OAR 213-080-0050; and
- (4) Other criteria that the Commission chooses to include in the solicitation.

Statutory/Other Authority: 2018 OL Ch.103 §13-17

Statutes/Other Implemented: 2018 OL Ch.103 §13-17

ADOPT: 213-080-0060

RULE SUMMARY: The new rule establishes the application processing for the Illegal Marijuana Market Enforcement Grant Program after 2018 legislation.

CHANGES TO RULE:

213-080-0060

Grant Application Processing and Awards

(1) Commission staff shall evaluate each application based on the criteria provided in OAR 213-080-0050, and the solicitation (if any), and will make recommendations to the Commission.¶

(2) The Commission shall review each grant application and the recommendations of Commission staff, and provide final approval in whole or in part. The Commission may reject portions of the application that fail to meet the criteria set forth in OAR 213-080-0050.¶

(3) The Commission shall notify Applicants of the decision of the Commission within 60 business days from the expiration of the grant application deadline. If there are extenuating circumstances, the Commission may, in its sole discretion, extend the deadline for award notification. The Commission shall prepare a grant award agreement for each grant awarded, which will set forth the terms, conditions, and requirements of the grant. The Commission may issue a provisional award with continued funding contingent upon improved performance and progress towards the criteria set forth in OAR 213-080-0050.¶

(4) The Commission may amend or adjust a grant awarded under this rule to address new circumstances, funding opportunities, or other developments in the implementation of a grant. After the grant is awarded the Commission may amend the amount originally awarded.

Statutory/Other Authority: 2018 OL Ch.103 ¶13-17

Statutes/Other Implemented: 2018 OL Ch.103 ¶13-17

ADOPT: 213-080-0070

RULE SUMMARY: The new rule establishes a supplemental grant period for unallocated funds in the Illegal Marijuana Market Enforcement Grant Program after 2018 legislation.

CHANGES TO RULE:

213-080-0070

Supplemental Grant Period

RULE TEXT:

(1) If unallocated funds remain at the conclusion of the grant acceptance period or become available during the biennium, the Commission may use unallocated funds to supplement and expand the scope of one or more grants that were awarded, without the need for further grant solicitation, but using the criteria provided in OAR 213-080-0050.

(2) If unallocated funds remain at the conclusion of the grant acceptance period or become available during the biennium, the Commission may use unallocated funds to issue a supplemental competitive grant application solicitation, and allow for the submission of new applications, using the criteria and process provided in OAR 213-080-0040 through 213-080-0070.

Statutory/Other Authority: 2018 OL Ch.103 §13-17

Statutes/Other Implemented: 2018 OL Ch.103 §13-17

ADOPT: 213-080-0080

RULE SUMMARY: The new rule establishes the evaluation of effectiveness for the Illegal Marijuana Market Enforcement Grant Program after 2018 legislation.

CHANGES TO RULE:

213-080-0080

Evaluating Efficacy: Report to the Legislature

(1) Local law enforcement programs and services that are funded by the grant will be evaluated by the Commission based on the effectiveness of the programs and services at curtailing the unlawful marijuana market in Oregon. ¶

(2) Not later than January 1, 2020, and not later than January 1 each year thereafter, the Commission will submit a report on the status and effectiveness of the Illegal Marijuana Market Enforcement Grant Program to the interim committees of the Legislative Assembly related to the judiciary.

Statutory/Other Authority: 2018 OL Ch.103 ¶13-17

Statutes/Other Implemented: 2018 OL Ch.103 ¶13-17