



2018

# **Annual Report on Administrative Rules**

Oregon Laws 2016, Chapter 44

---

February 1, 2018



# Table of Contents

---

Executive summary .....	iii
Report begins on .....	4
Appendix 1 - Oregon Laws 2016, Chapter 44 .....	9

## Introduction

Oregon Laws 2016, Chapter 44, requires state agencies to submit a report no later than February 1 of each year regarding all rules that the agency adopted, amended, repealed, or suspended during the preceding 12-month period. This is the Department of Revenue's second report, covering rulemaking activity during calendar year 2017.

## Rules adopted, amended, or repealed [ORS 183.335(2) and (3)]

The following table shows the number of rules adopted, amended, or repealed in accordance with Oregon Revised Statutes (ORS) 183.335(2) and (3):

<b>Adopted</b>	3
<b>Amended</b>	104
<b>Repealed</b>	43

Effective September 2016, the department renumbered its 981 administrative rules in order to meet the requirements of the Secretary of State Archives Division's new rules database. Throughout 2017, the department continued to migrate and consolidate all of its rules content to the Archives Division's system. Permanent notices were filed for these changes, but public comment was not required under ORS 183.335.

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

Number of rules: 19

### List of rules:

- 150-181-1010, *Statement of Purpose and Statutory Authority* (Amend)
- 150-181-1020, *Definitions* (Amend)
- 150-181-1030, *Subject Individual* (Suspend)
- 150-181-1040, *Criminal Records Check Process* (Suspend)
- 150-181-1050, *Preliminary Fitness Determination* (Suspend)
- 150-181-1060, *Hiring or Appointing on a Preliminary Basis* (Suspend)
- 150-181-1070, *Final Fitness Determination* (Suspend)
- 150-181-1080, *Crimes Relevant to a Fitness Determination* (Suspend)
- 150-181-1090, *Incomplete Fitness Determination* (Suspend)
- 150-181-1100, *Notice to Subject Individual of Fitness Determination* (Suspend)
- 150-181-1110, *Appealing a Fitness Determination* (Suspend)
- 150-181-1120, *Recordkeeping and Confidentiality* (Suspend)
- 150-181-1130, *Authorized Designees* (Amend)
- 150-181-1140, *Fees* (Amend)
- 150-316-0359, *Withholding: Annual Report by Employer* (Amend)
- 150-320-0400, *Retail Sales Price – Taxable Motor Vehicles* (Adopt)
- 150-320-0402, *Bicycle Excise Tax* (Adopt)

- 150-320-0410, *Vehicle Use Tax – Proof of Payment of Tax* (Adopt)
- 150-320-0420, *Resale Certificate – Documentation Required* (Adopt)

**Statement of need for each rule and all of the agency’s findings that a failure to act promptly would result in serious prejudice to the public interest or the interest of parties concerned:**

**OAR 150-181-1010 through 150-181-1140:**

The department receives federal tax information from the IRS for tax administration purposes. In order to continue receiving federal tax information, the department must meet a number of IRS requirements. The IRS recently added stricter background investigation minimum requirements. The department evaluated and updated its administrative rules pertaining to criminal records checks and fitness determinations for applicants, employees, volunteers, contractors, and vendors. The resulting rule changes were needed to conform the department’s rules to statewide rules and policies but also to meet the new federal requirements in order to ensure the state continues to receive, without interruption, the federal information it relies on to perform its tax administration duties. Rule changes included:

**150-181-1010, *Statement of Purpose and Statutory Authority* (Amend)**

This rule updates agency rules on criminal records checks and fitness determinations for employment with the Department of Revenue.

**150-181-1020, *Definitions* (Amend)**

This rule updates definitions for purposes of criminal records checks and fitness determinations for employment with the Department of Revenue.

**150-181-1030, *Subject Individual* (Suspend)**

This rule is no longer needed because “subject individual” is already defined in statute.

**150-181-1040, *Criminal Records Check Process* (Suspend)**

This rule is no longer needed because the criminal records check process is covered by OAR 125-007-0270.

**150-181-1050, *Preliminary Fitness Determination* (Suspend)**

This rule is no longer needed because preliminary fitness determinations are covered by OAR 125-007-0250.

**150-181-1060, *Hiring or Appointing on a Preliminary Basis* (Suspend)**

This rule is no longer needed because hiring or appointing on a preliminary basis, as these processes involve criminal records checks and fitness determinations, is covered by OAR 125-007-0250.

**150-181-1070, *Final Fitness Determination* (Suspend)**

This rule is no longer needed because final fitness determinations are covered by OAR 125-007-0260.

**150-181-1080, *Crimes Relevant to a Fitness Determination (Suspend)***

This rule is no longer needed because this information is covered by OAR 125-007-0270.

**150-181-1090, *Incomplete Fitness Determination (Suspend)***

This rule is no longer needed because incomplete fitness determinations are covered by OAR 125-007-0260.

**150-181-1100, *Notice to Subject Individual of Fitness Determination (Suspend)***

This rule is no longer needed because notices relating to subject individuals' fitness determinations are covered by OAR 125-007-0260.

**150-181-1110, *Appealing a Fitness Determination (Suspend)***

This rule is no longer needed because fitness determination appeals are covered by OAR 125-007-0300.

**150-181-1120, *Recordkeeping and Confidentiality (Suspend)***

This rule is no longer needed because recordkeeping and confidentiality relating to the criminal records check process are covered by OAR 125-007-0310.

**150-181-1130, *Authorized Designees (Amend)***

This rule clarifies when a person may be an authorized designee for purposes of criminal records checks and fitness determinations for employment with the Department of Revenue.

**150-181-1140, *Fees (Amend)***

This rule addresses when a person may be required to pay fees for criminal records checks and fitness determinations. The change to the rule addresses areas to be covered by department policy pursuant to OAR 125-007-0330.

**Other temporary rules:**

**150-316-0359, *Withholding: Annual Report by Employer (Amend)***

This rule specifies criteria for filing annual payroll reconciliation forms and requires electronic filing of W-2 and 1099 forms (reporting wages paid to employees and periodic payments). The temporary amendment establishes a hardship exemption for businesses that cannot file those forms electronically and allows those employers to submit forms in an alternative format. Currently there is no exception to the requirement to file all W-2 and 1099 forms electronically, and penalties are imposed. The temporary rule amendment is effective January 1, 2018 and is applicable to the January 31, 2018 filing deadline.

**150-320-0400, *Retail Sales Price – Taxable Motor Vehicles (Adopt)***

This rule provides guidance to purchasers and sellers for correctly calculating “retail sales price” of taxable motor vehicles under ORS 320.400 as it relates to the vehicle privilege tax under ORS 320.405 and the vehicle use tax under ORS 320.410, which took effect January 1, 2018.

**150-320-0402, *Bicycle Excise Tax (Adopt)***

This rule provides clarity to bicycle retailers and consumers regarding bicycles subject to the bicycle excise tax under ORS 320.415, which took effect January 1, 2018.

**150-320-0410, *Vehicle Use Tax – Proof of Payment of Tax (Adopt)***

This rule provides guidance for taxpayers to request and obtain documentation needed so that Oregon Driver and Motor Vehicle Services Division will title and register taxable motor vehicles purchased from out-of-state dealers under ORS 320.410, which took effect January 1, 2018.

**150-320-0420, *Resale Certificate – Documentation Required (Adopt)***

This rule provides guidance for purchasers and sellers of taxable vehicles regarding information that must be included in resale certificates provided under ORS 320.425(3), which took effect January 1, 2018.

**For each rule, an explanation of why proceeding under ORS 183.335(5) was the most appropriate method for adopting, amending, or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335(2) and (3):**

**OAR 150-181-0010 through 150-181-1140:**

Oregon receives federal tax information from the IRS for tax administration purposes. In order to continue receiving federal tax information, Oregon must meet a number of IRS requirements. The IRS recently added stricter federal background investigation minimum requirements. The department evaluated and updated its administrative rules pertaining to criminal records checks and fitness determinations for applicants, employees, volunteers, contractors, and vendors. The resulting rule changes were needed to conform the department's rules to statewide rules and policies and to meet the new federal requirements. Proceeding with these changes under ORS 183.335(5) ensured that the department met federal requirements and could continue to receive, without interruption, the federal tax information it needs to perform its tax administration duties for the state of Oregon. The 14 rules pertaining to criminal records background checks and fitness determinations were subsequently replaced with permanent rules adopted in accordance with ORS 183.335(2) and (3), effective January 1, 2018.

- 150-181-1010, *Statement of Purpose and Statutory Authority* (Amend)
- 150-181-1020, *Definitions* (Amend)
- 150-181-1030, *Subject Individual* (Suspend)
- 150-181-1040, *Criminal Records Check Process* (Suspend)
- 150-181-1050, *Preliminary Fitness Determination* (Suspend)
- 150-181-1060, *Hiring or Appointing on a Preliminary Basis* (Suspend)
- 150-181-1070, *Final Fitness Determination* (Suspend)
- 150-181-1080, *Crimes Relevant to a Fitness Determination* (Suspend)
- 150-181-1090, *Incomplete Fitness Determination* (Suspend)
- 150-181-1100, *Notice to Subject Individual of Fitness Determination* (Suspend)
- 150-181-1110, *Appealing a Fitness Determination* (Suspend)
- 150-181-1120, *Recordkeeping and Confidentiality* (Suspend)
- 150-181-1130, *Authorized Designees* (Amend)
- 150-181-1140, *Fees* (Amend)

## **Other temporary rules:**

### **150-316-0359, *Withholding: Annual Report by Employer (Amend)***

This temporary change provides a hardship exception to the electronic filing requirement for businesses that would otherwise be at risk of incurring severe penalties for failing to file W-2 and 1099 forms electronically. Without a temporary rule change, employers and the department would not have a hardship exception in place in time for the 2018 filing deadline (January 31, 2018). The department plans to evaluate the effect of the hardship exception on operations throughout the next six months and will consider permanent rulemaking activity as needed.

### **150-320-0400, *Retail Sales Price – Taxable Motor Vehicles (Adopt)***

The vehicle privilege and vehicle use taxes became effective on January 1, 2018; therefore, this rule was necessary to provide guidance for purchasers and sellers to help ensure immediate and efficient collection of taxes. Failure to provide immediate guidance regarding the definition of the “retail sales price” of taxable vehicles may have led to retailers or sellers failing to collect taxes or collecting the wrong amount.

### **150-320-0402, *Bicycle Excise Tax (Adopt)***

The bicycle excise tax became effective on January 1, 2018; therefore, this rule was necessary to provide guidance for purchasers and sellers to help ensure immediate and efficient collection of taxes. Failure to provide immediate guidance regarding the definition of “taxable bicycles” may have led to retailers or sellers failing to collect taxes or collecting the wrong amount.

### **150-320-0410, *Vehicle Use Tax – Proof of Payment of Tax (Adopt)***

The vehicle privilege and vehicle use taxes became effective on January 1, 2018; therefore, this rule was necessary to provide guidance for purchasers and sellers to help ensure immediate and efficient collection of taxes. Failure to provide guidance on what constitutes “proof of use tax paid” may have led to failures or delays in titling and registration of vehicles for which use tax was properly paid.

### **150-320-0420, *Resale Certificate – Documentation Required (Adopt)***

The vehicle privilege and vehicle use taxes became effective on January 1, 2018; therefore, this rule was necessary to provide guidance for purchasers and sellers to help ensure immediate and efficient collection of taxes. Failure to provide guidance on the information required on resale certificates may have led to sellers or retailers improperly collecting taxes on non-taxable items.



# Appendix 1

## Oregon Laws 2016, Chapter 44

---

### CHAPTER 44

AN ACT

HB 4106

Relating to state agency adoption of temporary rules.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** (1) As used in this section:

(a) "Agency" has the meaning given that term in ORS 183.310.

(b) "Rule" has the meaning given that term in ORS 183.310.

(c) "Statement of need" means the statement described in ORS 183.335 (5)(c).

(2) No later than February 1 of each year, an agency that is subject to ORS 183.335 shall provide a report to the Legislative Assembly, in the manner provided in ORS 192.245, regarding all rules that the agency adopted, amended, repealed or suspended during the preceding 12-month period. The report must include:

(a) The number of rules adopted, amended or repealed in accordance with ORS 183.335 (2) and (3); and

(b) With respect to rules adopted, amended or suspended using the procedure described in ORS 183.335 (5):

(A) The number of rules;

(B) A list of the rules;

(C) A statement of need for each rule and all of the agency's findings that a failure to act promptly would result in serious prejudice to the public interest or the interest of parties concerned; and

(D) For each rule, an explanation of why proceeding under ORS 183.335 (5) was the most appropriate method for adopting, amending or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335 (2) and (3).

Approved by the Governor March 14, 2016

Filed in the office of Secretary of State March 14, 2016

Effective date January 1, 2017