

## Fiscal Impact Statement for Rulemaking Advisory Committee

July 7, 2022

### Department of State Lands, Chapter 141, Division 088

### RULES GOVERNING THE ESTABLISHMENT OF RESTRICTIONS ON THE PUBLIC RECREATIONAL USE OF STATE-OWNED LAND

#### STATEMENT OF NEED AND FISCAL IMPACT

##### Need for Rule:

On May 9, 2022, the Department of State Lands Director enacted emergency restrictions of public use for a roughly 500-yard segment of the Columbia riverbank along the north side of Hayden Island that is only accessible by water or private uplands. The Department has received numerous reports from local law enforcement, emergency services, and the Portland Harbor Master of activities associated with unauthorized camps that are seriously impacting the safety and health of the riverbank and river, as well as the nearby community. Activities of concern include threats of violence, unauthorized and uncontrolled fires, multiple shopping carts, abandoned vehicles and numerous items of trash.

A temporary administrative order was filed with the Secretary of State's office on May 13, 2022. The restrictions are in effect until November 9, 2022.

Revisions to OAR 141-088 are needed to address illegal and nuisance activity on state-owned land. These activities include but are not limited to offensive littering and dumping; reckless burning and open fires; damage to riparian vegetation and wildlife habitat; interference with property; and damage to property.

##### Fiscal and Economic Impact:

The Department does not anticipate this rulemaking to pose significant fiscal and economic impact to public or private interests. The proposed rules seek to address illegal and nuisance activities on state-owned land. There are no developed or authorized uses at these locations. The proposed rule language takes into consideration and makes exceptions for "Government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, and Department authorized persons and adjacent landowners inspecting or maintaining property." The draft rule language is consistent with existing recreational restrictions in OAR 141-088, will protect state-owned lands from damage, and will assist in the posting of occupied encampments for removal. The permanent use restrictions are one element of a long-term solution for ensuring healthy, safe waterways.

##### Statement of 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, record-keeping 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 Department does not believe that the proposed changes to these rules, if adopted, will have any substantial economic impact on the public, or state or local government agencies. Possible economic impacts include, but are not limited to:

- (1) Increased transportation costs experienced by the public in having to travel to other public land

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if this restriction is imposed;

- (2) Increased costs to the Department for the manufacture and placement of signs, and the publication of public notices describing the restrictions on, or closure to, public recreational use;
- (3) Increased costs to state and local law enforcement, as any restriction or closure is another activity that state and local law enforcement must monitor. State and local law enforcement were informed of the restrictions and are in support of the proposed rule.

**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:*

Only small businesses that use state-owned land for recreational purposes may be impacted by any restrictions or closures imposed on recreational use— and only if such restrictions or a closure were imposed on a site, parcel, or area of state-owned land which a small business currently uses or may want to use in the future. It is not feasible to estimate the number of such small business, however, it is unlikely that there will be any significant cost for small businesses to comply with the proposed amendments to these rules.

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

The Department does not believe that the proposed changes to these rules, if adopted, will result in increased costs for reporting, recordkeeping, and other administrative activities conducted by small businesses.

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

The Department does not believe that the proposed changes to these rules, if adopted, will result in increased costs for equipment, supplies, labor, or administration.

**Describe how small businesses were involved in the development of these rule(s).**

At the time that the changes to these rules are made available to the public for review and comment, notice of their availability will be sent to persons on the Department's mailing list, many of whom are associated with or represent small businesses.

**Statement identifying how adoption of rule(s) will affect racial equity in this state:**

- *What are the racial equity impacts of this particular rule(s), policy, or decision, and who will benefit from or be burdened?*
- *Are there strategies to mitigate the unintended consequences?*