



#	Date	Source	Name	Comment
1.	9/19/2025	Letter	Stephanie Holmberg, Schwabe representing Outfront Media, LLC	See attached letter.
2.	9/19/2025	Letter	Dan Dhruva, OOAA President on behalf of Oregon Outdoor Advertising Association	See attached letter.
3.	9/19/2025	Letter	Aaron Noteboom, Noteboom Law LLC on behalf of Meadow Outdoor Advertising	See attached letter.



September 19, 2025

**Stephanie Holmberg**  
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**VIA EMAIL (JILL.M.HENDRICKSON@ODOT.OREGON.GOV)**  
**VIA FIRST CLASS MAIL**

Jill Hendrickson  
Oregon Department of Transportation  
Attn: Transportation Commission  
555 13th Street NE  
Salem, OR 97301

RE: ***Public Comment re Proposed Rulemaking re OAR Chapter 734***  
**Outfront Media, LLC**

Dear Transportation Commission:

Our office represents Outfront Media, LLC (“Outfront”). Please direct all communication regarding this matter to our attention.

On Outfront’s behalf, we submit these public comments in opposition to the Notice of Proposed Rulemaking on Oregon Administrative Rules (“OAR”) Chapter 734 filed by the Oregon Department of Transportation (“ODOT”) on August 26, 2025. The proposed rules, as written, both exceed the authority granted to ODOT by the Oregon Motorist Information Act (“OMIA”) (ORS 377.700–377.840) and threaten significant harm to businesses operating in Oregon, including Outfront. In addition, ODOT’s rulemaking is a blatant attempt to eschew the contested case process as it applies to two Outfront sign permits ODOT recently attempted to cancel, as further described herein. For the reasons described below, the Transportation Commission (the “Commission”) should decline to adopt the amendments as proposed.

**RELEVANT BACKGROUND AND CONTEXT:**

Outfront is an outdoor advertising company that, among other activities, owns and maintains billboard signs in Oregon. Sign permits, issued by ODOT, are incredibly important to Outfront’s business because they allow Outfront to actually install and maintain outdoor advertising signs. And in fact, sign permits provide a constitutionally-protected property interest for those businesses and individuals, like Outfront, who hold them.

As a preliminary matter, it is important for the Commission to understand the context in which ODOT is attempting to promulgate these new rule changes. Earlier this year, in January 2025, Outfront received notices from ODOT purporting to cancel Outfront’s permits for two of its outdoor advertising signs located in the Rose Quarter area. The notices cited deed restrictions pertaining to the real property parcels on which the signs are located—from 1966 and 1983—as the grounds for canceling Outfront’s permits. ODOT’s theory appeared to be that because the

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deed restrictions included covenants that expressly prohibited third-party advertising signs, Outfront's permit applications should never have been approved by ODOT and therefore, the permits were subject to cancellation.

Importantly, ODOT was the original grantor for both parcels, meaning that ODOT was aware of the deed restrictions since at least 1966 and 1983, respectively. Nevertheless, the signs at issue were permitted by ODOT through its usual process: one, in 1995, and the other, in 2015. ODOT renewed both permits on an annual basis until it sent the notices of cancellation in 2025.

In response to the notices of cancellation, Outfront requested a contested case hearing and began preparing in earnest. Outfront's position was—and continues to be—that now, in 2025, the deed restrictions on the underlying real property are unenforceable for a number of reasons, including by operation of law and because of ODOT's own actions, including but not limited to ODOT's waiver of its ability to rely on the deed restrictions. A consolidated contested case hearing had been scheduled for November 2025, and Outfront was preparing in earnest.

In June 2025, ODOT—for reasons that were unknown at the time—abruptly withdrew the notices of cancellation. At that time, Outfront questioned why ODOT withdrew the notices, and specifically asked ODOT's counsel whether the notices would be reinstated or whether ODOT would be attempting to cancel the permits at a later date. ODOT refused to provide a reason for the cancellation and did not share that it was considering rulemaking activity that would directly impact Outfront's permits.

#### ODOT'S IMPROPER CONDUCT:

On August 28, 2025, Outfront learned of the newly-proposed rules (or that any rulemaking activity had occurred) for the first time. ***It is clear this attempted rulemaking activity was designed to provide further grounds for ODOT to argue that it can properly cancel Outfront's existing sign permits for its signs in the Rose Quarter and an attempt to avoid a contested case process.***

#### SPECIFIC RESPONSE TO PROPOSED RULE CHANGES:

##### I. Process and Purpose

Under ORS 184.619, the Commission may only adopt rules “necessary and proper” to implement its legislation. The Commission cannot adopt rules that add substantive requirements, narrow statutory benefits, or conflict with the agency's statutory grant of authority, which in this case is the OMIA.

The Notice of Proposed Rulemaking at issue cites “[c]larification to process for application, review and decision; SB 417 digital OAS and ownership documentation” as the reasons for the rulemaking activity. But the statute as amended by SB 417 is clear on its face and does not require regulatory clarification. In fact, the changes in the proposed rules exceed both the subject

matter and the plain text of the amendments added by SB 417, and are wholly unnecessary to implement the legislative change.

As to clarification, the proposed rules go far beyond simple clarifications of existing processes and rules. The proposed rules create new requirements, expand agency discretion, and appear to transform conduct that was previously compliant into grounds for cancellation. Not only are these changes not simple clarifications, but they directly threaten permit owners' current activity.

## II. Cancellation under Proposed OAR 734-059-0060

In particular, the new permit cancellation rule would allow ODOT to cancel existing permits without compensating the permit owner or replacing the owner's interest in the permit with relocation credits. Not only is this an expansion of agency power not authorized by the legislature, it contradicts the reasons for cancellation already set forth by the OMIA.

The OMIA authorizes cancellation in specific circumstances. See ORS 377.713 (just compensation); ORS 377.725(5) (failure to timely renew); ORS 377.725(10) (improper access); ORS 377.725(11)(a)(A) (after notice and failure to cure, knowingly supplying materially false or misleading information in an application or renewal); ORS 377.725(11)(a)(B) (after notice and failure to cure violation of ORS 377.700–377.844); ORS 377.725(12) (failure to timely construct); ORS 377.763 (consolidation of smaller relocation credits); ORS 377.768 (in connection with sign relocation); and ORS 377.831 (in connection with digital permits).

The proposed rule adds the following reasons for cancellation:

(1)(a) “False, incomplete, or misleading” filings: allows cancellation for immaterial inaccuracies, omissions or good-faith errors unrelated to eligibility, even though ORS 377.725(11)(a)(A) requires knowledge of falsity for cancellation.

(1)(b) Private encumbrances: allows cancellation based on private deed, lease, or easement restrictions that may be unenforceable, disputed, waived, modified by agreement, cured, or are otherwise unrelated or irrelevant to the OMIA's purposes.

(1)(c) Subsequent legal changes: allows after-the-fact cancellation if a sign “is or has become prohibited by federal, state, or local law,” which would undermine the OMIA's nonconforming protections, vested-rights principles, due process, and just-compensation requirements.

(1)(d) Loss of site permission: allows cancellation when written site permission is absent, cancelled, revoked or withdrawn. But under the OMIA, loss of site authorization requires sign removal or relocation, not cancellation. Concerningly, the proposed rule lets ODOT cancel permits without compensation based on private disputes.

(1)(e) Indefinite reconsideration: allows cancellation because the application is “no longer accurate or complete” or “should not have been granted,” without time limits or

materiality requirements. This rule is so vague that it would allow ODOT to have almost unlimited discretion for permit cancellation without compensation.

(1)(f) Maintenance/abandonment: allows permit cancellation for “abandonment” or inadequate maintenance, even though the OMIA already provides for sign removal—but not permit cancellation—for abandonment and for failure to maintain signs in a neat, clean, attractive condition and good repair under ORS 377.720 and 377.773.

(1)(g) General noncompliance: allows cancellation for any alleged noncompliance with the OMIA or the rules by a “sign owner.” The OMIA limits cancellation to the applicant’s bad conduct as it is tied to a particular sign permit. The proposed rule would expand the risk of cancellation to any “sign owner” for any violation, without the existing statutory guardrails.

These reasons have no grounding in the OMIA, and at times even contradict it. Further, proposed OAR 734-059-0060(2) would allow ODOT to revoke or suspend a business license—which is required for owning and operating a sign—for any violation of the OMIA *or its implementing regulations*, regardless of how minor the violation is or whether it materially affects the purposes of the OMIA. Currently, the OMIA only allows revocation or suspension only if the applicant *knowingly* provides *materially* false or misleading information in the business license application *and* fails to correct it in a timely manner or generally violates the OMIA itself. The proposed rule is a significant expansion of authority, and with it comes significant business ramifications. Such an impact was not authorized by the legislature, and is well outside of ODOT’s rulemaking authority.

Due to the compressed timeline for the adoption of the proposed rules, we have not had a full and fair opportunity to review and analyze the text, supporting materials, and potential impacts on Outfront and the outdoor advertising industry as a whole. Accordingly, these comments are necessarily preliminary, and we reserve all rights to supplement, amend, or submit additional comments or recommended language after further review and consultation. All rights, remedies, and objections are expressly reserved, including as to procedural and substantive defects. Nothing in this letter, nor our participation in this rulemaking process, should be construed as an admission or acknowledgment that the existing or proposed rules (or any revisions) are valid, lawful, or constitutional.

#### CONCLUSION:

Although most of this public comment discusses the new cancellation rule described above, Outfront wants to be clear: ***Outfront objects to all of the proposed rules in their current form as unnecessary, and unauthorized by statute.*** Outfront is hopeful that it can continue to discuss the concerns outlined above, and any more that may arise, with ODOT before the time comes for the proposed rules to be formally adopted or rejected. However, Outfront is prepared to elaborate on

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its concerns, and any other concerns that may arise, during a public hearing if the issues with the proposed rules cannot be resolved.

Sincerely,

SCHWABE, WILLIAMSON & WYATT, P.C.

A handwritten signature in blue ink that reads "Stephanie Holmberg". The signature is written in a cursive, flowing style.

Stephanie Holmberg

SHO:crad



September 19, 2025

CONFIDENTIALITYNOTATIONLIST

HANDLINGNOTATIONLIST

Jill Hendrickson  
555 13th Street NE  
Salem, OR 97301  
Jill.M.Hendrickson@odot.oregon.gov

RE: **Comment on Proposed Rulemaking re OAR Chapter 734 /  
Request for Public Rulemaking Hearing**  
Oregon Outdoor Advertising Association (OOAA)

Dear Ms. Hendrickson:

On behalf of the Oregon Outdoor Advertising Association (OOAA), I want to thank you and your colleagues for taking the time to meet with us on Tuesday to discuss initial industry reactions to ODOT's proposed rulemaking regarding OAR Chapter 734 (as filed in the Archives on August 26, 2025). We hope to continue this positive dialog.

As we shared at the meeting, the OOAA has several concerns about the proposed rules because, as written, they go far beyond providing clarification to existing rules and effectually attempt to implement changes that exceed ODOT's rulemaking authority. Moreover, the proposed rules threaten to cause significant harm to OOAA member businesses. We do not believe ODOT's intent is to act in a way that exceeds its authority or create a negative impact on Oregon businesses, and we hope ODOT and OOAA can work together to craft a mutually-agreeable version of the proposed rules that comply with existing law.

At the meeting, ODOT confirmed it is open to considering specific revisions. Enclosed please find a redlined version of the proposed rules that reflects the items that cause the most significant concern for OOAA members. While the OOAA has other, more minor suggested revisions, in the interest of time – given ODOT's refusal to extend the stated September 21, 2025 deadline for submitting public comment – the OOAA has focused on only those portions of the proposed rules that raise the biggest concern from a legal perspective and would cause the most significant impact to OOAA members and the industry as a whole.

After you have a chance to review and digest our proposed revisions, we would welcome the opportunity to meet again to discuss. With that said, and as I'm sure you can appreciate, to ensure its rights are properly protected, **the OOAA also formally requests a public rulemaking hearing for the proposed administrative rule changes to OAR Chapter 734<sup>1</sup>.**

Thank you for your attention to this matter. If you have questions or would like to discuss, please do not hesitate to contact me.

Sincerely,



Dan Dhruva  
OOAA President

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<sup>1</sup> The OOAA has 10 or more members.



OFFICE OF THE SECRETARY OF STATE  
TOBIAS READ  
SECRETARY OF STATE  
  
MICHAEL KAPLAN  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
STEPHANIE CLARK  
DIRECTOR  
  
800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

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

CHAPTER 734  
**DEPARTMENT OF TRANSPORTATION  
DELIVERY AND OPERATIONS DIVISION**

**FILED**

08/26/2025 8:17 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Clarification to process for application, review and decision; SB 417 digital OAS and ownership documentation.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/21/2025 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.*

CONTACT: Jill Hendrickson  
503-559-5295  
jill.m.hendrickson@odot.oregon.gov

555 13th Street NE  
Salem, OR 97301

Filed By:  
Winnie Dawn  
Rules Coordinator

**NEED FOR THE RULE(S)**

734-059-0015: Interpretations and definitions added to clarify the term "purchase site," to accommodate new rules and amendments made as part of this rulemaking and to add definitions for terms used but not defined in OAR 734, divisions 59 and 60.

734-59-0060 is proposed to set out the process and grounds for the department's proposed action on an existing license or permit consistent with the Oregon Administrative Procedures Act, ORS Chapter 183.

734-059-0220 is proposed to be amended for structural clarification, to reduce redundancy and to move application related information into a single application rule.

734-060-0000 is proposed to be amended to clarify the permit application process, to reflect current practices and to incorporate the changes made by SB 417. SB 417 adds specific language regarding acceptable lease documentation and removes the requirement for multiple permits to be surrendered when applying for digital sign permits – ODOT proposes these changes to accommodate SB 417 for all sign companies.

734-060-0002 is proposed to clarify and memorialize the department's review and approval process for a permit and construction requirements relating to the issuance of a permit. This rule also sets forth the process for review of a decision consistent with the APA, ORS Chapter 183.

734-060-0003 is proposed to make clear the requirements for obtaining a business license and the grounds for termination or suspension.

734-060-0007 is proposed to comply with SB 471 and to clarify the additional requirements for a digital OAS application.

All other changes are made to accommodate these changes and for structural clarity.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 417 Enrolled version -

<https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/SB417/Enrolled>

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#### STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The changes to Chapter 734 are structural and add clarity and will not in any way impact racial equity in Oregon.

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#### FISCAL AND ECONOMIC IMPACT:

There are no changes to fees or requirements that should have an economic impact.

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#### 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) There should not be any economic impact on state agencies, local governments or members of the public.

(2) There should not be any impact on Small Businesses except for small sign companies, who will need to review Rule changes.

(2)(a) The impact is to outdoor advertising sign related companies, who lease or operate permitted outdoor advertising signs. in Oregon. There are approximately 60 individual owners, or small businesses, (based on OAS small business licenses).

(2)(b) There should not be an impact to reporting, recordkeeping or administrative activities or costs to comply with the rule change.

(2)(c) No additional cost is anticipated related to the changes. Many of these changes memorialize the department's practice for acceptance, review and approval of permits that is already in place.

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

Fourteen groups representing small businesses were notified of the proposed amendments and invited to comment. No responses were received.

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

No, changes are to accommodate statutory changes in SB 417 and to add clarity.

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#### RULES PROPOSED:

734-059-0015, 734-059-0060, 734-059-0220, 734-060-0000, 734-060-0002, 734-060-0003, 734-060-0007, 734-065-0055

AMEND: 734-059-0015

**RULE SUMMARY:** Rule contains definitions and interpretations by the department to administer the statutory requirements in Oregon Revised Statute Chapter 377 for outdoor advertising signs visible to a state highway and any

portion of the NHS in Oregon.

#### CHANGES TO RULE:

734-059-0015

#### Definitions¶¶

#### & Interpretations

Definitions & interpretations under this rule are applicable to Oregon Administrative Rule Divisions 59, 60, 63, 65, 66 and 65Z.¶¶

(1) The terms "neat," "clean," "attractive," and "good repair" as used in ORS 377.710(17) and 377.720(7) are defined as follows:¶¶

(a) The terms "neat" and "attractive" mean without rotting or broken parts, having parts that are solid and sound, without chipping or peeling paint, paper, vinyl or plastic, without graffiti, and without faded, washed-out or illegible copy. The terms apply to all component parts of a sign.¶¶

(b) The term "clean" means free of dirt, unsoiled, without grime or soot. The term does not include a minor dust coating that is undetected from the main-traveled way of a state highway. The term applies to all component parts of a sign that are visible to the main-traveled way of a state highway.¶¶

(c) The term "good repair" means having sound and solid parts, without rotting or broken parts, firmly fixed in place so as to be able to withstand a wind pressure of 20 pounds per square foot of exposed surface. The term includes all component parts of a sign.¶¶

(2) In interpreting ORS 377.720(9) to be considered "used in transportation" the owner or operator must demonstrate the vehicle or trailer is regularly used in a manner consistent with its usual purpose. The Department may consider but is not limited to the following factors:¶¶

(a) Whether it is used only for storage;¶¶

(b) Whether it is incapable of being moved in its normal way, such as due to a flat tire or mechanical problems;¶¶

(c) Whether its movement would be illegal such as if its registration has expired;¶¶

(d) Whether its location is compatible with being regularly used in transportation;¶¶

(e) How frequently it is moved;¶¶

(f) How far it is moved;¶¶

(g) Whether any change in location appears to be a mere attempt to qualify a sign structure under the exemption.¶¶

(3) In interpreting ORS 377.773, "abandoned" means any sign that does not have a message on the display surface for a period of six months, a sign for which there is no display surface for a period of six months or a sign whose structure has been removed for a period of six months. For abandoned signs under ORS 377.773 the sign permit may be canceled at the end of the 6-month period.¶¶

(4) In interpreting ORS 377.700 to 377.844 and 377.992 the term "person" includes individuals, joint ventures, partnerships, corporations and associations or their officers, employees, agents, lessees, assignees, trustees or receivers.¶¶

(5) In interpreting ORS 377.700 to 377.844 and 377.992, the Outdoor Advertising Sign Permit owner is the owner of the sign authorized by the permit. An Outdoor Advertising Sign Permit Owner is a single person, or their authorized representative, who holds the right to authorize an activity associated with the permit including sign reconstruction, direct relocation, relocation credit request or the sale of a sign permit or relocation credit. A sign permit or relocation credit can only be owned by a single person or entity, and must be wholly owned by that single person or entity. A sign permit or relocation credit may not be divided among multiple parties by percentage ownership, nor may it be issued to multiple parties.¶¶

(6) For a sign to be considered at a place of business or activity open to the public, for the purposes of the outdoor advertising sign program, some portion of regularly used buildings, parking lot, or storage or processing area must be visible from the state highway, with signage placed on, or immediately adjacent to, those portions of the business or activity.¶¶

(7) In interpreting ORS 377.735(1)(b)(C) a residence means a dwelling, grounds and physical areas necessary or customarily incident to the dwelling and may include garages, barns, parking and garden areas, that are arranged to be used in immediate connection with the dwelling and its customary residential uses. Fields used for crops or grazing are not considered a part of the residence for the purposes of the sign program.¶¶

(8) In interpreting ORS 377.710(30): a sign that is a "wall sign" (also termed a wallscape) means a sign where the message or content of the display is attached, affixed or otherwise applied to the exterior wall of an existing building. In the case where a wall sign must be removed to cure a violation of the OMIA, or where the wall sign is being removed to request a relocation credit, the physical exterior building wall is not considered a component' of the sign, or a part of the sign structure.¶¶

(9) In interpreting ORS 377.710(34), under sign structure, a wall sign's "display surface" if the sign structure is being used as a permitted outdoor advertising sign, all sign faces must be outdoor advertising signs. A sign

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(9) structure may only be used entirely as an outdoor advertising sign, or entirely as other than an outdoor advertising sign.¶

(a) The sign structure' of a wall sign does not include the exterior wall of the building. The sign structure' for a wall sign placed on an exterior building wall includes all parts of the message being displayed, as well as any apparatus used to affix or adhere the message to the exterior wall, and any lighting or illumination used in conjunction with the sign.¶

(b) The sign structure' of a roof-top or roof-mounted sign, includes all parts of the message being displayed, as well as any structure attached to the roof for the purpose of supporting and/or illuminating the sign, but does not include the roof of the building.¶

(10) In interpreting ORS 377.710(20) a non-conforming sign must stay substantially the same as it was on the date it became a legally located non-conforming sign, unless it can be legally reconstructed; and, thereby, be made conforming. To remain substantially the same, the sign may not have any changes to the sign face area, height, length or the structural materials used. All structural material replacements must be like kind replacements (e.g. wood structural members must be replaced with wood; steel structural materials must be replaced with steel, etc.)¶

(11) In interpreting ORS 377.710(17) "maintain" includes the reasonable repair and maintenance necessary to keep the sign structure in a state of good repair, including the replacement in kind of materials in the sign structure.¶

(a) Where the replacement of materials is involved, such replacement may not exceed 50% of the structural materials in the sign within any 24 month period. Structural materials mean all those materials incorporated into the sign as load-bearing parts, including vertical supports, horizontal stringers, braces, bracing wires, brackets, and catwalks.¶

(b) Structural materials do not include the sign face, any skirt, or electrical service, except where such items have been incorporated into the sign as load-bearing parts.¶

(12) In interpreting ORS 377.710(23) "reconstruct" includes, but is not limited to, a modification of the structure, or the type of structure, to add additional sign faces, to increase or decrease the size of the sign face(s), to increase or decrease the sign's height above grade or ground level (HAGL), to add, remove or otherwise reconfigure lighting to a non-illuminated sign, or to convert a wood sign structure to a metal structure, or wood elements to steel, or other metal, elements.¶

(13) "Outdoor Advertising Control System" (OACS) is the electronic database and web interface used by the Outdoor Advertising Sign Program to maintain records for the Outdoor Advertising Sign Program. The OACS allows permit holders to access their permit information, submit applications and action requests, and to make online payments.¶

(14) "Action Request" as used in the OACS is a request relating to permits or relocation credits, which does not automatically require Departmental approval. Action Requests include banking a relocation credit, transferring a sign permit or relocation credit from one owner to another, requesting a replacement permit plate, or aggregating relocation credits, as allowed in statute. After receipt, the Department will confirm that the request is valid, meets the applicable legal requirements and that the requester has paid any associated fees.¶

(15) For purposes of determining the spacing between signs in ORS 377.750, the Department shall measure the distances along each highway to which a sign is visible. When a permitted sign is visible to more than one highway, the spacing requirement is applied for all signs on the same side of each highway.¶

(16) For purposes of ORS 377.767, a "Highway Beautification Purchase Site" or "Purchase Site), is a location designated by the" refers to an OAS and OAS site that the department purchased pursuant to Federal Highway Beautification Act of 1965 and subsequent Federal Legislation. An OAS may not be erected or maintained on a purchase site. A list of purchase sites identified by ODOT highway number, side of highway, and milepoint, where a legally permitted outdoor advertising sign was previously located; and where the sign permit and the property owner's right to use the location to post an o may be requested from the Department. A purchase site does not include a site on which an OAS owner was compensated for a total loss to the OAS due to a highway project under ORS 377.713.¶

(17) Scenic Area has the meaning given in ORS 377.505(2). Except for existing Outdoor aAdvertising sSign was purchased' under the Federal Highway Beautification Act of 1965 and subsequent Federal Legislation and the Oregon Motorist Information Act of 1971. Sign and site owners, who participated were paid just compensation for the permanent removals new OASs are prohibited in any area designated by final order as a Scenic Area.

Except for existing Outdoor Advertising Signs, OASs may not be erected, maintained or relocated to a Scenic Area. A list of those sign and a prohibition from locating any future outdoor advertising signs within 500 feet of either side of the purchase site. Property ownhways and milepoints that are designated Scenic Areas in Oregon is available upon request.¶

(18) National Highway System or NHS refers to the purchase sites federal-aid highway system designated binding agreements with the State of Oregon that acty the Federal Highway Administration as part of the NHS under 23 CFR 470.¶

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(19) "OAS" as deused restrictions again Oregon Administ the erection of any outdoor advertising signs for that ~~own~~erative Rules Divisions 59 through 67, is an acronym for outdoor advertising sign'.¶  
(20) OMIA as used Oregon Administrative Rules Divisions 59 through 67, is and any successor owner of the property. A list of purchase sites may be requested from the Department.¶  
(17) Scenic Area has the meaning given in ORS 377.505(2). Outdoor Advertising Signs are prohibited in ~~cr~~ononym for Oregon Motorist Information Act as defined in Oregon Revised Statute Chapter 377.¶  
(21) "Department" refers to the Oregon Department of Transportation.¶  
(22) "Director" refers to the Director of the Oregon Department of Transportation.¶  
(23) "Sign" means the sign structure, the display surfaces of the sign, anyd area designated by final order as a Scenic Area. ~~O~~ll other component parts of the sign.¶  
(24) "Digital Billboard" or "Digital OAS" means an outdoor Aadvertising Ssigns may not be erected, maintained or relocated to a Scenic Area. A list of those highways and milepoi that displays a static message and changes messages by any electronic process or remote control, provided that the change from one message to another message is no more frequents that are designated Scenic Areas in Oregon is available upon requestn once every eight seconds and the actual change process is accomplished in two seconds or less.  
Statutory/Other Authority: ORS 184.619, 377.715  
Statutes/Other Implemented: ORS 377.505, 377.5710, 377.7105, 377.720, 377.750, 377.76725, 377.735, 377.767, 377.773

ADOPT: 734-059-0060

RULE SUMMARY: Rule sets forth the grounds and process for the department's cancellation of a permit and the cancellation, revocation, suspension or expiration of a business license.

CHANGES TO RULE:

734-059-0060

~~Cancellation of an Outdoor Advertising Permit~~: Cancellation, Revocation, Suspension or Expiration of Business License

- (1) ~~The department may cancel a permit if it determines or discovers at any time, by any means, that:~~
- (a) ~~The permittee, business licensee, sign owner or property owner has provided false, incomplete or misleading information on an application or any other document required to obtain and maintain a license or permit.~~
- (b) ~~The property where the OAS is located is restricted or encumbered by a deed restriction, lease, easement, or other property restriction such that placement and operation of the OAS is limited or prohibited.~~
- (c) ~~The permitted sign is or has become prohibited by federal, state or local law.~~
- (d) ~~The OAS owner does not have written permission from the property owner to operate on the location site, or that permission has been cancelled, revoked or withdrawn.~~
- (e) ~~The application including all the supporting documentation is no longer accurate or complete or the Department discovers that the application should not have been granted when the permit was issued.~~
- (f) ~~The sign is no longer maintained adequately or is abandoned.~~
- (g) ~~The sign owner has not complied with any requirement of the OMIA or OAR Chapter 734, divisions 59, 60 or 65.~~

(2)(1) The department Director may revoke or suspend a business license pursuant to OAR 734-060-0003.

(3)(2) When the department Director proposes to cancel a permit or license it will issue to the permittee or licensee a Notice of Violation & Order of Removal, along with a revocation or suspension of business license as applicable.

(4)(3) Upon receipt of notice of violation to cancel or suspend, a person may request a contested case hearing which shall be held pursuant to ORS 183, et. seq. and the Attorney General's Model Rules for contested case hearings as adopted by the department pursuant to OAR 731-001-0005.

(a) The request must be in writing and timely submitted to the department within 30 days after service of the notice. Service occurs 30 days after the notice is mailed. A request submitted by mail is timely if it is postmarked by the 30th day after service. A written answer is required and must specify any information required in the notice. If a timely request is received, the matter will be referred to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(b) If a timely request for a hearing is not received, the contested case notice will become a final order denying the requested waiver pursuant to OAR 137-003-0672.

(c) In a case where a hearing is requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure.

(5)(4) Upon a final order cancelling a permit, the OAS owner is not entitled to a relocation credit or relocation benefits.

(6)(5) Business license renewal and renewal fee must be made prior to June 30th of each year. If the business license is not renewed by June 30th, the business license is expired and the former licensee may not conduct any activities that require a business license until a new business license is granted by ODOT.

Statutory/Other Authority: ORS 183, 377.715, 377.725

Statutes/Other Implemented: ORS 183, 377.725, 377.730, 377.775

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AMEND: 734-059-0220

RULE SUMMARY: Rule describes procedure for requesting to, and aggregating, permits and/or relocation credits of less than 249 square feet. Includes minor updates to increase clarity of rule language and readability.

CHANGES TO RULE:

734-059-0220

Aggregation of Small Relocation Credits

~~An outdoor advertising sign relocation credit may only be issued to one person' as defined in OAR 734-059-0015(4). The Department will deny any requests to issue a relocation credit to more than one person, or to aggregate credits that belong to more than one person.~~

(1) Upon request from the sign permit owner, or their authorized representative, the Department shall issue a relocation credit for the total square footage of the single, largest sign face of one side of an outdoor advertising sign.

(2)(1) As provided in ORS 377.763 the owner of relocation credits may apply to combine (aggregate) them into a single credit of a size equal to the aggregated total size of the relocation credits being combined. This rule establishes the criteria for aggregation, the procedure to request aggregation, and the procedure the Department will follow to process those requests.

(3)(2) To qualify for aggregation:

(a) Each relocation credit must be recognized as valid under ORS 377.766. This includes verification by the Department that the sign and structure were removed.

(b) Each relocation credit must be 249 square feet in size or less.

(c) If the Department is aware of any dispute about the ownership or right to utilize the credit it may not be aggregated until the issue has been resolved.

(4)(3) Application for Aggregation of Relocation Credits

(a) To aggregate relocation credits, the owner of a relocation credits must submit a written request to the Department of Transportation Outdoor Advertising Sign office ~~Program~~; or an Action Request through the Outdoor Advertising Control System (OACS). The written request must be dated and must bear the original signature of the owner or owner's authorized representative. The OACS Action Request must be submitted through the OACS Relocation Credits module, by the owner, or their authorized representative.

(b) The request must include the relocation credit numbers sought to be aggregated, and the area (described in square feet) the owner calculates for the anticipated single credit.

(5)(4) Department Processing of Action Requests for Aggregation of Relocation Credits:

(a) The Department will determine whether each relocation credit qualifies for aggregation. If any do not, the Department will advise owner and attempt to reach agreement on the qualification under law. If an agreement is not reached the Department will reject the request to aggregate.

(b) If each relocation credit qualifies for aggregation, the Department will determine whether the area of the anticipated credit calculated by the owner is the same as the area calculated by the Department, and whether it is within the statutory maximum for size. If the anticipated sizes are not the same, or if the projected size exceeds the statutory maximum, the Department will advise applicant and attempt to reach agreement on the correct size under the law. If an agreement is not reached the Department will reject the request to aggregate.

(c) If each relocation credit qualifies for aggregation and no issue exists as to the size of the anticipated credit, the Department will notify the owner in writing of the cancellation of the smaller credits and the creation of the single larger credit.

(5) Once a relocation credit is surrendered or retired for purposes of aggregating credits and an aggregation credit has been issued, all rights and privileges that may have attached to the surrendered or retired relocation credit are permanently terminated.

Statutory/Other Authority: ORS 184.619, 377.763~~15~~, 377.759, ~~377.9925~~

Statutes/Other Implemented: ORS 377.759, 377.763

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AMEND: 734-060-0000

RULE SUMMARY: This is the procedure for submitting the permit application process for an outdoor advertising sign.

CHANGES TO RULE:

734-060-0000

Outdoor Advertising Sign Application Process

An outdoor advertising sign permit may only be issued to one person' as defined in OAR 734-059-0015(4). The Department will deny any permit application that specifies more than a single person as the sign permit owner.

(1) Application forms. An application for a sign permit under the Oregon Motorist Information Act (OMIA) is made by completing and submitting the appropriate form, attaching to the form all documents necessary to show the application meets the requirements of the law, and submitting the correct fee to (1) A person may apply for an outdoor advertising sign permit pursuant to the OMIA by submitting a true, accurate and complete application in accordance with the Outdoor Advertising Sign Program of the Oregon Department of Transportation. Application forms are available from the Outdoor Advertising Sign Program. There are a number of different Outdoor Advertising Sign application forms: se rules. An OAS permit shall only be issued to a single person.

(2) The Department may deny a permit application if the applicant does not use the correct form. These include:

(a) "Outdoor Advertising Sign Permit Application" issues the following permits:

(a) OAS permit for a new permits, and relocation or reconstruction, of outdoor advertising signs permit to relocate or a permit to reconstruct an OAS that preexisted the law change on May 30, 2007;

(b) "NHS Outdoor Advertising Sign Static Permit Application" for areas added to the National Highway System (NHS) after May 30, 2007;

(c) "Outdoor Advertising Sign Digital Sign Permit Application" for digital permits newly issued under ORS 377.710, or relocation and reconstruction of such permitted signs;

(d) "NHS Digital Sign Permit Application" for signs in areas added to the NHS after May 30, 2007; and;

(e) Application for AS permit for areas added to the NHS after May 30, 2007.

(c) Transit Bench or Shelter Sign "OAS permit for signs on transit benches and shelters.

(23) Copies of sign laws. The Department will make available copies of all state sign statutes, administrative rules, federal statutes, federal regulations by completing and submitting the appropriate form. Separate applications; and federal-state agreements in effect. The Department may charge for the copies required for a static OAS permit, a digital OAS permit, at the rate established by law for public records requests, and may require prepayment. The Department may also provide these documents by e-mail, web site, or in other forms for the convenience of the public and the Department.

(3) Summary of regulations. To assist potential permit applicants and the general public, transit bench or shelter permit. Application forms and instruction for the correct form are available at <https://www.oregon.gov/ODOT/ROW/Pages/Outdoor-Advertising-Sign.aspx>. The Department will make available a summary of sign permit regulations. The summary does not bind the Department to the items listed or waive its right and duty to enforce all requirements under the law may return, without processing, any permit application if the applicant does not use the correct form.

(4) Contents of standard applications for Outdoor Advertising Sign Permits. To be An applicant must complete the each application must include the following:

(a) Application form Part 1: Applicant Information, Sign Specifications. Information must be complete and accurate and include the name of the applicant and sign builder, by providing all information and documentation requested in the appropriate application in addition to the following:

(a) Applicant Information; name and contact information of the applicant and sign builder. Only applications with a single applicant will be accepted.

(b) Location of proposed outdoor advertising sign site; purpose of the application, -description, township/range/section/tax lot, highway route number or name and side of highway where the sign will be located, how site is marked, name and address of property owner, a detailed drawing, or rendering, showing the dimensions and orientation of the proposed outdoor advertising sign on the site, including accurate measurement of the distance between the leading edge of the sign (closest to the right of way of the state highway) and the property line of the private property where the proposed outdoor advertising sign is being located, and the checkbox checked indicating why the sign will be an "outdoor advertising sign." The location boxes should be completed to the best of applicant's ability to enable the Department to find the site.

(bc) Application form Part 2: Certification of Local Jurisdiction. After completing Part 1, applicant must submit the complete application to the local jurisdiction for zoning and local compliance information. The local official must complete Part 2 and, if relevant, applicant must provide a certification completed by a local official that the applicant's proposal for an outdoor advertising sign complies with local zoning and ordinances. Applicant must



provide a complete and accurate application, including supporting documentation to the local official for its review and certification. Local official may be required to attach a letter of explanation of local code compliance. The local official must sign and date Part 2.¶

(c) Application form Part 3.¶

(d) Certification of Applicant. The application form must be signed and dated by the applicant, certifying that to the applicant's knowledge and belief,¶

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(A) The information provided by in the application is accurate and has not been changed after the local government certifies complete.¶

(B) The sign is not prohibited or restricted by any local, state or federal law, or any contract, agreement, deed, easement, lease or license restriction (see section (b) above). If the applicant is a corporation, or other business entity, the individual signing must have authority to sign for the permit owner.¶

(d) Fee. The fee is based on square footage as described in OAR 734-059-0100. To be complete, if there are restrictions on the sign, the application must be for a sign that does not violate the restrictions;¶

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(C) That physical access to the sign does not require use of the right of way of a state highway; and,¶

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(D) The size and location of the sign is as described in the application and has not been changed after the local government certification.¶

(e) An application must be submitted with the correct application fee. The Sign Program An application submitted without the correct fee is incomplete and may be returned to the applicant. The fee is based on square footage as described in OAR 734-059-0100. The department does not accept cash. All checks must be made out to Oregon Department of Transportation. E-check payments are accepted for electronically submitted applications, Action Requests, and sign permit or Business License renewals through the OACS system. E-check payment requires payment to be made at the time the renewal/application is submitted by the applicant.¶

(ef) Written proof of landowner consent. All applications must include written proof that the landowner consents to have applicant maintain the proposed sign. The document must be signed by the landowner, or their authorized agent, and the application filed during the base term of the agreement, or during a renewal term that is automatic or at applicant's election. If during a renewal period applicant must certify that the renewal was exercised and continues in effect. Examples of acceptable documents are the land lease, land lease plus applicant's certification as described above, land lease plus owner's written confirmation that an extension is being exercised, or a current memo signed and dated by land owner stating that applicant has permission to maintain the sign at the specified location. Payment information need not be included unless it is the evidence that compensation is exchanged making it an outdoor advertising sign.¶

(f) Business License. The applicant and the sign builder must have a current outdoor advertising sign business license as required under ORS 377.730. It is the responsibility of the Business License holder who erects or maintains an outdoor advertising sign to ensure that the outdoor advertising sign, visible to a state highway, is in compliance with the OMIA. Compliance includes ensuring signs have an active state sign permit prior to placing or maintaining any message on the sign, and ensuring that the sign stays in compliance during the time that the licensee operates or maintains the sign. Violations may result in suspension or revoke Landowner consent may be shown by providing a: (a) any lease, easement or other document, which evidences consent and is signed by the current landowner or their authorized agent; or (b) by any lease, easement or other document, which evidences consent and is signed by any prior landowner or their authorized agent, if the lease, easement or other document is binding. Lease or easement signed by the current property owner, or a prior landowner if the document conveying the lease or easement, including a memorandum of lease, expressly states that it is binding on successors or assigns.¶

(5) Additional contents required for certain permit applications. In addition to the information required for a standard application of, the licensee's business license as allowed under ORS 377.730, applicant must provide the following:¶

(ga) Relocation permit application. For a relocation application to relocate an outdoor advertising sign, if the zoning was first commercial or industrial after 1/1/1973, or if the local jurisdiction cannot determine the date, the applicant must submit a sketch or other document showing the site is within 750 feet of a commercial or industrial area to comply with ORS 377.767(3).¶

(hb) Pre-existing sign permit applications pursuant to ORS 377.712(1). For outdoor advertising signs that existed legally prior to May 30, 2007, the following additional items are required for a pre-existing sign permit application:¶

(A) Complete the "Supplement for Pre-existing Sign Permit" portion of the application. The supplement must be signed before a notary public;¶

(B) Submit documents demonstrating each of your claims, such as a lease showing the sign was posted for compensation; and¶

(C) Pursuant to ORS 377.712(1), include documentation demonstrating how applicant was ignorant of the permit requirement for outdoor advertising signs as of May 30, 2007.¶

(ic) A pre-existing sign permit application pursuant to ORS 377.712(2), including NHS Limited Permit applications in OAR 734-060-0120, for outdoor advertising signs that existed legally prior to October 1, 2012, must include

the following additional items to be complete applications: ¶

(A) A complete "Supplement for Pre-existing Sign Permit" portion of the application, signed before a notary public;

and¶

(B) Documentation demonstrating each of the claims selected on the supplement (i.e. as. For example, if selecting "posting for compensation," applicant should provide a copy of a signed, executed and current lease agreement, showing the sign was posted for compensation; when posted for compensation is selected).¶

(5d) ~~DA~~ digital ~~B~~ billboard applications must also include the following information:¶

(aA) When being reconstructed or relocated for the first time as a digital billboard the applicant must provide ~~t~~ The eligible permit(s) or relocation credit(s) being retired pursuant 377.700 to 377.844 and OAR 734-060-0007.¶

(b) Whether the proposed sign is a "Poster," "Bulletin," or other sign as described in OAR 734-060-0007(2).¶

(cB) Emergency malfunction contact information including name, phone number along with proposed response procedure to possible malfunction.¶

(dC) Whether or not a renewable energy resource is available and being utilized. If none, then the applicant must complete the affidavit attesting that no renewable resource is available.¶

(6) Transit Bench or Shelter Application. A transit shelter or bench application must provide documentation demonstrating that the site is at an official bus or transit stop on a city or urban transit system route and complies with local ordinances.¶

(7) Complete Applications.¶

(a) The Outdoor Advertising Sign Program's mailing address is: Oregon Department of Transportation, Right of Way Section - Sign Program, 4040 Fairview Industrial Drive SE, MS #2, Salem OR 97302. The Sign Program receives hand deliveries at 4040 Fairview Industrial Drive SE, Salem Oregon. The Sign Program receives facsimiles at 503-986-3625. The Sign Program receives electronic mail at OutdoorAdvertising@odot.state.or.us.¶

(b) If applicant makes any changes to the department will only process applications that are complete. An application is complete when the OAS program receives the signed hardcopy application form after it has been received by the Department, applicant shall initial the change(s) on the paper application and re-sign the application. If the application was submitted through the OACS system, applicant shall submit changes and electronically sign using its log, or the electronic application through OACS, including all necessary information, and password for the OACS system. Signature¶ required attachments for any changes shall be by an authorized representative documents necessary for issuance of the permit holder. The Department will not accept any changes to an application made verbally; all changes must be in writing or through OACS, and the correct application fee.¶

(cA) The Department will record the date for each application document received. Application materials received by mail will be treated as received at the time a representative of the sign program physically receives the program's mail for that day for the purpose of assigning a priority date to the application if it is deemed complete. Applications materials received in person, by fax, or by electronic transmission will be treated as be submitted by mail, personal delivery or by submission through OACS. An application is deemed received when a representative of the sign program physically receives those materials on the date the department receives it if the application is submitted by mail or personal delivery. Applications or Action Request materials received through OACS will be treated as received when the permit holder or their authorized representative selects the "Submit" button in the OACS. Payment for the application or Action Request is required before OACS will allow the application to be submitted. ¶

(db) The Department will only process applications that are complete. A review all application is complete when the Outdoor Advertising Sign program receives the signed hardcopy application form, or the electronic application through OACS, including all necessary information, all required attachments or documents necessary for issuance of a permit, and the correct application fee.¶

(A) Within 15 calendar days of receiving an application the Department rrectly submitted along with the correct fee to determine whether the application is complete and will notify the applicant in writing whether the application is incomplete or if additional information is needed. If the Department determines the application is complete, the notice will state the application's priority among all pending, complete applications. If the Department will be denying the application, a Notice of Denial will be issued rather than a notice that the application is complete. ¶

(B) If the Department determines any information provided is incorrect or indepartment will assign a priority date to the application and will give notice to the applicant of the date and the application's priority among all pending, complete, the application will be deemed incomplete. Ts.¶

(c) If the Department may rescind a notice of completeness and priority date if it later determines that any information provided by applicant is either incomplete or incorrect.¶

(e) If an application is incomplete, and is not being initially denied is inaccurate or incomplete, within 15 calendar days of receiving the application, the Department will return a copy of the first page of the application with written instructions on what is needed to complete or correct the application. The applicant must confirm any subsequent changes, by initialing changes on hardcopy applications, or by editing the electronic application in the OACS system, if application is submitted through OACS. If the changes are substantive, the applicant must obtain

a new certification from the local jurisdiction. The Department will retain the application in an incomplete status for 60 days. If the application is still incomplete after 60 days, it will be deemed withdrawn by the applicant. Hardcopy applications will be marked "Withdrawn" and may be retained by the Department. Applications submitted through OACS that remain incomplete after 60 days will be moved to a "Withdrawn" status and archived within that system.

(A) If an application form is complete but the application is considered

(A) If an application form is incomplete due to insufficient supporting documents or failure to submit the correct fee, the Department may will return a copy of any relevant the incomplete portion of the application with written instructions on how to complete it; or the Department may hold the application and notify the applicant in writing of what is needed to make it complete and the date that the information must be received by to prevent the application from being withdrawn under the law in accordance with these rules.

(B) Within 15 days of receiving the corrected form or additional materials, the Department will provide the applicant written notification whether the application is complete and, if complete, the priority among all pending, complete applications.

(C) If the applicant makes any change to the application after it is deemed complete, the Department will change the priority date to the date of that change.

(D) If the Department has held an incomplete application for 60 days from the date of initial receipt, the application is The department will retain the application in an incomplete status for 60 days. If the application is still incomplete after 60 days, it will be deemed withdrawn by the applicant. The Department will return a copy of the first page of the application and may refund any eligible deposited fee. The Department will retain the original application as a record.

(8d) Processing of complete permit For resubmitted application.

(a) The Department will approve or deny a permit application within 60 days of the complete application's priority date as determined under section (7)(d) or (e) of this rule if the application clearly does not conflict with another complete application.

(b) An application for a permit that conflicts with the location of an expired or canceled permit will not be processed until the time for any hearing or appeal on the latter permit has passed, unless the permit is being canceled as a condition for issuance of the new permit.

(c) When a complete application might conflict with another complete application due to spacing or any other reason, the application with the earliest priority date and 's direction or initiated by the applicant.

(A) Applicant must identify any changes made by initialing the change(s) on the paper application and re-sign the application. Signatures for any changes shall be by an authorized representative of the permit holder. The Department will not accept any changes to an application made verbally; all changes must be in writing or through OACS.

(B) Applicant must provide an updated certification by a local official if the applicant added information to the application or made substantive changes. Subject to all other requirements of the OMA changes.

(C) Upon receipt of the revised application, the Department will issue the permit to the earlier applicant.

(d) If multiple complete applications have the same priority date and time, and are determined by review the application to determine whether the application is complete and accurate. If the Department to compete for the same spot, the Department shall notify determines the applicants of the circumstances within seven days of the application is complete and the fee is paid, the Department's determination. If an affected applicant requests a contested case hearing, will assign a new priority date based on the matter will be determined by a single contested case hearing under Oregon's Administrative Procedures Act the application is complete.

(e) The Department shall refer the matter to the Office of Administrative Hearings within seven days of an applicant's written hearing request.

(e) If the Department does not approve or deny a permit application within the time allowed under section (8)(a) of this rule, such actions do not require the Department to issue a permit or require any remedy except as provided otherwise in law may rescind a notice of completeness and priority date if it later determines that the applicant or its representative provided incomplete or inaccurate information.

(9.7) Field checks; applicant requirements and Department method.

(a) When the Department determines an application is complete, the Department will perform a field check to determine the milepoint and all other information necessary to process the application.

(b) The applicant must place a marking at the site to show the proposed location for the sign permit which corresponds to a detailed drawing, or rendering, showing the dimensions and orientation of the sign on the site. The drawing or rendering must include an accurate measurement of the distance between the leading edge of the sign and the property line adjacent to the right of way of the state highway, showing that all portions of the sign structure will be completely contained within the private property of the leaseholder and outside of the right of way of the state highway. The applicant may use a stake, ribbon, paint, or any method or material that will allow

the Department to easily locate the site and attribute it to the applicant. If the marked site is other than that represented to the local authority in obtaining its signature on the application form, or is other than where the applicant actually builds the sign, the Department may consider that a violation of ORS 377.725(10).¶

(c) If the Department cannot locate the site it will notify the applicant pursuant to (5)(e) above that the application is incomplete due to incorrect information and may request reasonable action by the applicant to identify the site.¶

(d) The Department will conduct a field check by traveling to the proposed site and calculating the milepoint to the one-hundredth of a mile or, when necessary, to the one-thousandth of a mile. The Department may also determine the engineering station and latitude/longitude or other GPS location information. The Department may also make any other determination regarding the site that is relevant to the application, such as proximity to the right of way and to a commercial or industrial area. Once a field check has been conducted the application fee is non-refundable.¶

(e) The Department may use intersections, highway structures, or other highway feature and its corresponding milepoint or engineering station, to measure and calculate the milepoint of the proposed site. Milepost markers are for the convenience of motorists and are not precise indications of the milepoint, therefore the Department will not use milepost markers for these calculations without other indication of accuracy.¶

~~(10) Denied Permit Applications. If the Department denies an application, it will consider that site as conflicting with other applications:¶~~

~~(a) Until the time to request a hearing elapses without a hearing request from the applicant; or¶~~

~~(b) If a hearing is requested, until the time to request an appeal on the final order has elapsed or until the final appellate court enters a judgment on the matter, whichever is later.¶~~

~~(c) The Department will keep the original application and any accompanying documents and return a copy after an application is denied.¶~~

~~(11) Issued Permits.¶~~

~~(a) The permit will specify the 180th day by which the sign must be constructed.¶~~

~~(b) Within 190 days of permit issuance, the permittee must notify the Department in writing if the action described in the permit has been completed, and include at least one photograph demonstrating that completion. For a reconstruction permit or a relocation permit based on a relocation credit, the notice must state that the new sign has been constructed. For a direct relocation the notice must state that the new sign has been constructed and the former sign on which the permit was based has been removed. If the Department has not received the notification within 180 days the Department will alert the permittee about the upcoming 190-day deadline. If the permittee fails to submit the written notice and photograph within the time allowed, the Department will cancel the permit to relocate or reconstruct, and the permit will revert to its prior status. No fees will be refunded.¶~~

~~(c) "Constructed" means that the structure and all sign faces are permanently in place and the permit plate is attached. "Removed" means the taking down, removing, or eliminating all sign structure elements that are visible from the state right of way.¶~~

~~(12) Sign Removal Notification A written relocation credit request and the accompanying relocation credit banking fee must be provided to the Department by the permit holder within 60 days of the removal of any permitted sign for that sign to be eligible to receive a relocation credit.¶~~

~~(13) Notification of Ownership Change It is the responsibility of a Business Licensee and a Permit Owner to notify the Department of ownership changes, in writing, within 60 days if a sign permit or relocation credit has been transferred to a new owner or licensee. Failure to provide written notification and required transfer fees within 60 days may be considered a violation under ORS 377.725(2) and may result in the suspension of associated Business License(s). The Department will not use milepost markers for these calculations without other indication of accuracy.~~

Statutory/Other Authority: ORS 184.619, 377.715, 377.725

Statutes/Other Implemented: ORS 377.710, 377.712, 377.715, 377.725

ADOPT: 734-060-0002

RULE SUMMARY: This rule describes how information from a sign permit application is reviewed and the decision process for completed applications, as well as the construction or reconstruction requirements of the sign where a permit is issued.

CHANGES TO RULE:

#### 734-060-0002

##### Review and Decision on Completed Application: Construction or Reconstruction of OAS

(1) Upon the department's determination that an application is complete and a field check is made, the department will review the application and either grant or deny a permit within 60 days of the complete application's priority date as determined under this rule.¶

(2) The department may grant a permit if it determines that applicant is qualified to receive a permit based on the criteria set forth in the OMIA and OAR chapter 734, Divisions 59, 60 and 65.¶

(3) The department may deny an application for a permit if it fails to meet any of the requirements of an application set forth in ORS 377.700 through 377.844 and OAR chapter 734, Divisions 59, 60 and 65.¶

(4) The department may not approve any application for a permit in a Scenic Area or to relocate or build a new sign on any Scenic Byway.¶

(5) If the department proposes to deny an application, the applicant is entitled to a contested case hearing on a denial pursuant to ORS Chapter 183.¶

(a) If the department denies an application, it will consider that proposed site for the permit as conflicting with other applications until the time for hearing has elapsed or, if a hearing is requested, until a final order issued and the time to request an appeal has elapsed or until the final appellate court enters a judgment on the matter, whichever is later.¶

(b) The department will keep the original application and any accompanying documents and return a copy after an application is denied.¶

##### (6) Competing Applications.¶

(a) When a complete application might conflict with another complete application due to spacing or any other reason, the application with the earliest priority date and time takes precedence over later applications. Subject to all other requirements of the OMIA and these rules, the department will issue the permit to the earlier applicant.¶

(b) If multiple complete applications have the same priority date and time and are determined by the department to compete for the same spot, the department shall use the earliest date of the local jurisdictional approval to determine which application to approve.¶

(c) A completed application for a permit that conflicts with the location of an expired or canceled permit, where the formerly permitted OAS still stands, will not be processed until the time for any hearing or appeal on the former permit has passed.¶

##### (7) Construction of sign after permit is issued.¶

(a) For purposes of this subsection:¶

(A) "Constructed" means that the structure and all sign faces are in place and the permit plate is attached.¶

(B) "Removed" means the taking down, removing, or eliminating of all sign structure elements that are visible from the state right of way.¶

(b) A permittee must construct the sign by the 180th day after the department issues a permit. The department will provide notice to the permittee of the date by which the sign must be constructed.¶

(c) Within 190 days of permit issuance, the permittee must notify the department in writing if the action described in the permit has been completed, and include at least one photograph demonstrating that the sign is completely erected and the permit plate is attached.¶

(A) For a reconstruction permit or a relocation permit based on a relocation credit, the notice must state that the new sign has been constructed.¶

(B) For a direct relocation the notice must state that the new sign has been constructed and the former sign on which the permit was based has been removed, demonstrated by images showing the sign has been removed.¶

(C) If the department has not received the notice required in this rule within 180 days from the date the permit is issued, department will notify the permittee about the upcoming 190-day deadline. If the permittee fails to submit the written notice and photograph within the time allowed, the department will cancel the permit to relocate or reconstruct, and the permit will revert to its prior status. No fees will be refunded.¶

(d) If the OAS is not fully constructed within the 180-day deadline, the applicant must reapply for a permit to complete the construction or remove any portion of the sign that is already constructed at the applicant's cost. If the applicant does not reapply or remove the portion of the OAS within 30 days, the department will issue a Notice of Violation.¶

(8) Relocation credit.¶

(a) An application for a relocation credit and the accompanying relocation credit banking fee must be provided to the department by the permit holder within 60 days of the removal of any permitted OAS for that OAS to be eligible to receive a relocation credit.¶

(b) Upon receipt of a timely complete application for a relocation credit and the credit banking fee, the department shall issue a relocation credit for the total square footage of the single, largest sign face of one side of a permitted outdoor advertising sign. A relocation credit will be issued only to the person who is the owner of holds the original sign permit at the time of the application.¶

(c) The original permit shall be cancelled in accordance with ORS 377.768 when the relocation credit is issued. Once the original permit is cancelled, all rights and privileges that may have attached to that permit are permanently terminated.¶

(9) Notification of Ownership Change. It is the responsibility of a business licensee and a permit owner to notify the department of ownership changes, in writing, within 60 days if a sign permit or relocation credit has been transferred to a new owner or licensee or when there is any change in mailing address in regard to a permit or relocation credit. Failure to provide written notification and required transfer fees within 60 days may be considered a violation under ORS 377.725(2) and may result in the nonrenewal of the permit(s) and also in the suspension of associated business license(s).

Statutory/Other Authority: ORS 184.619, 377.715, 377.725

Statutes/Other Implemented: ORS 377.712, 377.715, 377.723, 377.725, 377.767, 377.768, 377.775, SB 417 (2025)

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ADOPT: 734-060-0003

RULE SUMMARY: Rules regarding OAS program Business Licenses when required for erecting and maintaining outdoor advertising signs; expiration, suspension and revocation.

CHANGES TO RULE:

734-060-0003

Business License

(1) A person is required to obtain a business license from the department to erect or maintain an OAS for compensation for another person in accordance with ORS 377.730.¶

(2) For any OAS that a business licensee maintains or erects, the licensee is responsible for:¶

(a) Ensuring that the OAS is in compliance with the OMIA during the time the licensee operates or maintains an OAS; and¶

(b) Ensuring that the OAS has an active OAS permit prior to erecting or maintaining the OAS, and¶

(3) An application may be made for a business license by completing and submitting the form provided by the department.¶

(4) A business licensee must renew a license by June 30th of each year by submitting a complete application on the form provided by the department and submitting the annual fee. The department shall not renew a business license unless the licensee submits a complete renewal application and the required fee. Any business license that is not renewed by June 30th is expired. ¶

(5) If the Director determines that that an applicant has knowingly provided materially false or misleading information in the application or that a licensee has violated any of the provisions of ORS 377.700 to 377.844, the director may revoke, suspend for a period of up to one year or refuse to renew the license unless a corrected application is filed or the violation ceases, within 30 days after written notice to do so is mailed to the applicant or licensee. During the suspension of a license, the licensee may continue in business, but shall not erect or reconstruct any sign requiring a permit under ORS 377.700 to 377.844. [1971 c.770 §22; 1973 c.790 §5; 1993 c.741 §57; 2001 c.750 §3a] a business licensee has violated any provision of the OMIA and Divisions 59, 60 and 65 the department may revoke, suspend or refuse to renew the business license. ¶

(6) No person may erect, reconstruct or maintain an OAS under a revoked or expired business license.

Statutory/Other Authority: ORS 184.619, 377.715, 377.725

Statutes/Other Implemented: ORS 377.729, 377.730

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AMEND: 734-060-0007

RULE SUMMARY: Rule changes to digital OAS procedure to accommodate changes made by SB 417 (2025).

CHANGES TO RULE:

734-060-0007

Digital Billboard OAS Procedures-

(1) This rule describes the process for applying for a, constructing and maintaining an OAS permit for a digital billboard.

(2) Definitions for the purposes of this rule:

(a) "Sign" means the sign structure, the display surfaces of the sign, and all other component parts of the sign.

(b) "Retire" means to use a relocation credit such that it no longer exists OAS in addition to the requirements set forth in OAR 734-060-0000.

(2) An owner may obtain an OAS permit for a digital OAS by retiring an OAS permit for a standing OAS or to by remove an existing sign to become a retiring an OAS relocation permit or credit for use.

(c) "Bulletin" means an outdoor advertising sign with a display surface that is 14 feet by 48 feet.

(d) "Poster" means an outdoor advertising sign with a display surface that is 12 feet by 25 feet.

(e) "Digital Billboard" means an outdoor advertising sign that is static and changes messages by any electronic process or remote control, each digital OAS face. Retiring a permit or relocation credit permanently cancels the retired permit or credit and terminates all rights and provided that the change from one message to another message is no more frequent than once every eight seconds and the actual change process is accomplished in two seconds or less.

(3) Qualifications for receiving a sign attached to that permit or credit.

(3) The proposed site where the digital billboard state sign permit:

(a) The proposed site and digital billboard OAS will be located and the digital OAS must meet all requirements of the OMIA including, but not limited to, the following:

(Aa) The digital billboard OAS is not illuminated by a flashing or varying intensity light.

(Bb) The display surface of the digital billboard OAS does not create the appearance of movement.

(Cc) The digital billboard OAS must operate at an intensity level of not more than 0.3 foot-candles over ambient light as measured by the distance to the sign depending upon its size.

(Dd) The distance measurement for ambient light is: 150 feet if the display surface of the sign is 12 feet by 25 feet, 200 feet if the display surface is 10.5 by 36 feet, and 250 feet if the display surface is 14 by 48 feet.

(bd) Applicant must submit a completed application for a digital billboard state sign permit using the approved form that may be obtained by one of the following methods:

(A) Requesting from Sign Program Staff by phone at 503-986-3650;

(B) Email: OutdoorAdvertising@odot.state.or.us;

(C) Website: <http://www.oregon.gov/ODOT/HWY/SIGNPROGRAM/pages/index.aspx>;

(c) The Department shall confirm that The digital OAS must have the capacity to either freeze in a static position or display a black screen in the event of any existing permitted Outdoor Advertising Sign or relocation credit being retired for the purpose of receiving a new digital billboard state sign permit has been removed within the 180 days allowed to construct the new permitted sign. The Department will not charge a Banking Permit Fee for the cancellation of state sign permit emergency or malfunction.

(4) An application for a digital OAS must include the following in addition to any application requirements in OAR 734-060-0000.

(a) A permit or relocation credits retired for the purpose of receiving a new digital billboard permit.

(4) This section sets forth the criteria for determining the digital OAS permit must have at least 250 square feet of sign face are required relocation credits or existing permitted signs that an applicant shall retire to receive one new digital billboard state sign permit:

(a) Applicants who own 10% or less of all active relocation credits at the time the application is submitted shall either remove one existing state permitted outdoor advertising sign with a display area of at least 250 square feet or provide one active relocation credit of at least 250 square feet and retire that permit. Applicants meeting these criteria are not limited to either "Bulletin" or "Poster" billboards.

(b) Applicants who own more than 10% of all active relocations credits shall apply for a new digital billboard state sign permit as follows:

(A) For a digital billboard that is intended to be a bulletin, the applicant has three options:

(i) Remove two existing bulletins, retire the permits for those signs, and retire three relocation credits; or

(ii) Remove one existing bulletin and two existing posters, retire those permits and retire three active relocation credits; or

(iii) Remove four existing posters, a

(b) Emergency malfunction contact information including name and phone number, along with a proposed response procedure to a malfunction of the digital OAS. The contact person must have the authority to make modifications to the display and lighting levels.¶

(c) Whether or not a renewable energy resource is available and being utilized. If none, then the applicant must complete the affidavit attesting that no renewable resource is available.¶

(5) The following applies to the construction of a digital sign in addition to the requirements set for those signs, and retire three relocation credits.¶

(B) For a digital billboard that is intended to be a poster, the applicant has two options:¶

(i) Remove two existing posters, retire the permits for those signs, and retire in OAR 734-060-0002. ¶

(a) Within 190 days of the date the department issues the digital OAS permit, the permittee must notify three relocation credits.¶

(iii) Remove one existing bulletin, retire the permit for that sign, and retire three relocation credits.¶

(c) For an active relocation credit to be eligible it must be at least 250 square feet. All permits and relocation credits submitted under these procedures will be permanently cancelled and are not eligible for renewal required in the permit, including at least one photograph demonstrating that the new digital OAS is completely erected and the permit plate is attached.¶

(dA) Any state sign permits submitted for retirement must include the written statement notifying the Department For a digital OAS permit based on a relocation credit, the notice must state that the "lease new sign has been lost or cancelled."¶

(5B) The Department will determine the percentage of relocation credits owned by an applicant by dividing the total number of unused relocation credits by the total number of unused relocation credits owned by the applicant on the day the application is received.¶

(6) Two digital billboard state sign permits are required for any back to back or V-type digital sign. A separate application is required for each digital sign face.¶

(7) The first time a digital billboard is permitted it is not subject to the 100-mile rule in ORS 377.767(4). The site of the newly permitted billboard will become the established location for future reference permit was based has been removed, demonstrated by images showing the sign has been removed.¶

(8) If a sign is being relocated or reconstructed as a digital sign at the location of an existing static OAS or if a static sign is being relocated or reconstructed at the location of an existing digital OAS the existing sign structure may remain in place if the application for the relocation or reconstruction of the new sign includes a) an application to reconstruct the existing OAS as a single face facing the opposite direction as the new OAS or b) an application to bank the existing OAS permit. A digital permit may be relocated or reconstructed subject to the requirements of ORS 377.767. A digital relocation credit created as set forth in ORS 377.831(9) may be relocated or reconstructed subject to the requirements of ORS 377.767

(7)(9)

(8C) Relocation of permitted digital billboards. If the Department will issue one digital relocation credit for each permitted digital sign has not received notice required in that is removed. The digital relocation credit issued will be for the same square footage as the permitted digital sign that was removed. A digital relocation credit can only be used to relocate a digital billboard. A permitted digital sign can only be reconstructed as a digital billboard.¶

(9) Use of renewable energy resource. The applicant must provide a statement with the application that clarifies what, if any, renewable energy resources are available at the site and are being utilized. If none, then within 180 days from the date the permit is issued, the department will notify the permittee about the upcoming 190-day deadline. If the permittee fails to submit the written a notarized statement to that effect must be included and photograph within the application.¶

(10) All permitted digital billboards must have the capacity to either freeze in a static position or display a black screen in the event of a malfunction.¶

(a) The applicant must provide emergency contact information that has the ability and authority to make modifications to the display and lighting levels in the event of emergencies or a malfunction time allowed, the department will cancel the permit to relocate or reconstruct, and the permit will revert to its prior status. No fees will be refunded.¶

(b) The Department will notify the sign owner of a malfunction that has been confirmed by ODOT in the following instances:¶

(A) The light impairs the vision of a driver of any motor vehicle; or¶

(B) The message is in violation of ORS 377.710(6) or 377.720(3)(d).¶

(11) All digital billboard signs must comply with the light intensity and sensor requirements of ORS 377.720(3)(d) shall confirm that any existing permitted digital OAS, which is being removed, is removed within the 180-days allowed to construct the new permitted digital OAS.¶

(ac) The Department will take light measurements of the permitted digital billboard OAS when notified that

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the sign has been constructed and the permit plate has been installed.¶

(b) The Department will use an approved luminance meter designed for use in measuring the amount of light emitted from digital billboards OAS using the industry standard for size and distance as follows:¶

(A) 150 feet for 12'x 25'.¶

(B) 200 feet for 10.5'x 36'.¶

(C) 250 feet for 14'x 48'.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 377.7105, 377.7295, 377.753831  
Statutes/Other Implemented: ORS 377.7120, 377.7205, 377.750, 377.767, SB 417 (2025)

ADOPT: 734-065-0055

RULE SUMMARY: Adding Transit Application information removed from OAR 734-060-0000 to remaining Transit permit application information in this rule.

CHANGES TO RULE:

734-065-0055

Transit Applications

Transit Bench or Shelter Application. A transit shelter or bench application must provide documentation demonstrating that the site is at an official bus or transit stop on a city or urban transit system route and complies with local ordinances.

Statutory/Other Authority: ORS 184.619, 377.753

Statutes/Other Implemented: ORS 377.729, 377.725

September 19, 2025

*Via Email (jill.m.hendrickson@odot.oregon.gov) and Regular Mail*

Oregon Dept. of Transportation  
ATTN: Transportation Commission  
555 13<sup>th</sup> Street NE  
Salem, OR 97301

**Re: Objection to Proposed Rule Changes under the Oregon Motorist Information Act |  
Oregon Administrative Rules ("OAR") Chapter 734 filed by the Oregon Department  
of Transportation ("ODOT") on August 26, 2025**

To the Oregon Transportation Commission:

I submit these comments on behalf of Meadow Outdoor Advertising opposing ODOT's proposed rule changes under the Oregon Motorist Information Act ("OMIA"), ORS 377.700–377.840. Meadow only recently became aware of the proposed changes when notified by ODOT on August 28, 2025 and, at ODOT's request, is submitting these comments by the published deadline of Sunday, September 21, 2025 in order to preserve all rights and objections. Meadow has met with ODOT staff to discuss the concerns outlined below and remains hopeful the parties can reach a constructive resolution without the need for contested proceedings.

Because the OMIA regulates protected speech, any rules must be content neutral, constitute reasonable time, place, and manner restrictions, and be narrowly tailored to significant interests—public safety and highway aesthetics. *See* ORS 377.705. And because sign permits are constitutionally protected property interests, any changes (including those around permit cancellation) must comply with state and federal due process and just-compensation requirements.

The impetus for the currently proposed rule changes was the adoption of SB 417. Those amendments, however, are clear on their face and no regulatory clarification is needed. ODOT has not identified a concrete problem that current OMIA provisions fail to address. The proposed amendments go well beyond implementing SB 417, are not narrowly tailored, lack a demonstrated need, and would expand ODOT's authority, restrict sign owner rights, and impose burdens without clear statutory or constitutional basis. The Commission should therefore decline to adopt the amendments as proposed.

**I. The Proposed Rules Exceed OMIA's Purposes**

- OMIA's Purpose and Scope: OMIA (ORS 377.705, 377.720, 377.745, 377.750, 377.767, 377.770) regulates the time, place, and manner of speech (i.e. billboards) to promote safety and scenic values while accommodating lawful advertising. The proposed rules act to narrow lawful sign categories and add compliance hurdles unrelated to those objectives.

- Narrow Tailoring and Speech Risk: Rules that do not advance core OMIA objectives—safety and aesthetics—are unnecessary, not narrowly tailored, and risk unconstitutional overbreadth that chills lawful speech and investment.
- Example—Unrelated Burden: Requiring landowner-consent documents to “expressly state” they bind successors and assigns (proposed OAR 734-060-0000(4)) adds a condition not required by statute (see ORS 377.725(2)(a)&(b)); many easements and leases already run with the land and bind successors, as a matter of law, regardless of whether their written terms “expressly” purport to do so.

## **II. The Proposed Rules Exceed the Transportation Commission’s Authority**

- Limits on Rulemaking: ORS 184.619 permits only rules “necessary and proper” to implement statute. The Commission cannot adopt rules that add substantive requirements, narrow statutory benefits, or conflict with OMIA; rules that exceed or contradict statute are invalid under ORS 183.400(4)(b).
- Statutory Tethering Required: Implementing rules must track statutory text. ODOT should withdraw or narrow any provision that adds extra-statutory restrictions, timelines, evidentiary burdens, conditions, or discretion; limits existing rights or remedies; expands grounds for permit or business license cancellation; enforces private deed covenants; or substantively changes the meaning or effect of statutory terms or provisions.
- Demonstrate Need; Narrow Means: Before proceeding, ODOT should provide a section-by-section justification tied to specific statutes; identify the empirical problem addressed; explain why current law is inadequate; and show how each proposal is narrowly tailored to OMIA’s purposes.

## **III. The Proposed Rules Conflict with OMIA and Curtail Statutory Rights**

- Preserve Statutory Rights: Several amendments appear inconsistent with protections for existing lawful signs, including vested rights and nonconforming use protections and maintenance rights. For example, subsequent changes in law would allow for permit cancellation and sign removal. See OAR 734-060-0060(1)(c). Similarly, the proposed rule changes make the addition, removal or reconfiguration of lighting subject to obtaining a “reconstruction” permit, where the current OMIA’s definition of “reconstruction” specifically exempts “maintenance work” which is defined to include replacement of lights. See ORS 377.710(17) & (23). This new rule change imposes additional time and cost requirements on sign owners without any demonstrated need and contrary to the existing OMIA provisions. Rules may not override statutory entitlements or create new denial bases not authorized by OMIA.
- No Expansion of Discretion Without Statute: Shifting from objective criteria to discretionary determinations unlawfully expands ODOT’s authority and risk challenges based on prior restraints. For example, signs not “adequately” maintained are subject to permit cancellation and removal. See proposed OAR 734-059-0060(1)(f). Any added discretion affecting permits, relocations, or maintenance requires clear statutory authorization and objective guardrails.

- Risk of Invalidity: Rules that narrow lawful sign categories, impose after-the-fact requirements, expand grounds for business license or permit cancellation or sign removal, or condition permit issuance/renewals on criteria not found in statute risk invalidation under ORS 183.400(4)(b). Conflicting provisions should be revised to align with OMIA's text, legislative intent, state and federal constitutional requirements including due process and speech protections and appeal pathways.

#### **IV. OAR 734-059-0060 (Permit "Cancellation") Unlawfully Expands ODOT's Powers, Conflicts with OMIA, and Heightens Litigation Risk**

The proposed newly created OAR 734-059-0060 would significantly expand ODOT's ability to cancel vested permits and require sign removal beyond the OMIA's limited grounds and warrants careful scrutiny. The changes are unrelated to public safety or aesthetics, threaten lawful speech and speakers, expose ODOT to potential liability and are vulnerable under ORS 183.400(4)(b).

OMIA authorizes cancellation only in limited circumstances, including: upon payment of just compensation (ORS 377.713); failure to timely renew (ORS 377.725(5)); improper access (ORS 377.725(10)); knowingly supplying materially false or misleading information in an application or renewal and failing to timely cure after notice (ORS 377.725(11)(a)(A)); violation of ORS 377.700–377.844 and failing to timely cure after notice (ORS 377.725(11)(a)(B)); failure to timely construct (ORS 377.725(12)); consolidation of smaller relocation credits (ORS 377.763); and as provided in connection with sign relocation (ORS 377.768) and digital permits (ORS 377.831).

By contrast, the proposed rule adds the following non-statutory cancellation triggers and defective procedures:

- (1) Improper Delegation. Assigns cancellation authority to the "Department of Transportation," although ORS 377.725 vests that authority in the "Director" only.
- (1)(a) Unlawful Expansion of Culpable Parties. Expands cancellation grounds to acts by the business licensee, sign owner, and property owner, while ORS 377.725 limits cancellation for specified acts by the applicant.
- (1)(a) "False, incomplete, or misleading" filings. Authorizes cancellation for immaterial inaccuracies, omissions or good-faith errors unrelated to eligibility, contrary to ORS 377.725(11)(a)(A), which requires knowingly supplied and materially false or misleading information in the application for permit or renewal. Remedies should be limited to material misrepresentations tied to permit issuance, with clear intent and materiality thresholds under ORS 377.725.
- (1)(b) Private encumbrances. Improperly bases cancellation on private deed, lease, or easement restrictions that may be disputed, waived, modified by agreement, cured, or are otherwise unrelated or irrelevant to OMIA's time, place, and manner criteria. ODOT lacks authority to adjudicate or enforce private covenants—those disputes belong in court—and substantive property rights cannot be decided through the OMIA's administrative or contested case process. See *Spellman v. Ohio Dept. of Transportation*, 86 NE3rd 883 (2017)(holding that Ohio Dept. of Transportation lacked authority to enforce private covenants through



administrative permit process and power to decide substantive real property rights belonged to courts).

- (1)(c) Subsequent legal changes. Authorizes after-the-fact cancellation if a sign “is or has become prohibited by federal, state, or local law,” circumventing OMIA’s nonconforming protections, vested-rights principles, due process, and just-compensation requirements—and incentivizing local jurisdictions to amend laws to force uncompensated takedowns.
- (1)(d) Loss of site permission. Allows cancellation when written site permission is absent, canceled, revoked or withdrawn. Under OMIA, loss of site authorization requires sign removal or relocation, not permit cancellation—the owner retains the permit. The proposal lets ODOT cancel permits based on private disputes, which ODOT lacks authority to adjudicate.
- (1)(e) Indefinite reconsideration. Allows ODOT to cancel a permit because the application is “no longer accurate or complete” or “should not have been granted,” without time limits or materiality—a reopening of settled permits.
- (1)(f) Maintenance/abandonment. Authorizes permit cancellation for “abandonment” or inadequate maintenance. OMIA provides for sign removal—not permit cancellation—for abandonment and for failure to maintain signs in a neat, clean, attractive condition and good repair. See ORS 377.720, 377.773. The proposal lacks definitions, objective criteria, and cure periods, risking *de facto* takings and conflicting with OMIA’s abandonment, maintenance and repair framework.
- (1)(g) Catch-all noncompliance. Authorizes cancellation for any alleged noncompliance by a “sign owner” with OMIA or its rules. OMIA limits cancellation to specified “applicant” bad conduct tied to permit issuance/renewal or uncorrected noncompliance by a particular “sign.” This would convert any “sign owner” violation into permit cancellation and sign removal without statutory authority, proportionality, cure periods, or graduated enforcement.
- (2) Removal of Business License. Permits revocation or suspension of a business license—which is required for owning and operating a sign, and thus for exercising free speech—for any violation of the OMIA or *any* of its implementing regulations, regardless of how minor the violation or whether it materially affects public safety or threatens the aesthetics along Oregon’s highways (the justification for ODOT’s regulation of speech). The proposed revocation rules do not include notice or an opportunity to correct. Currently, the OMIA allows revocation or suspension only if the applicant knowingly provides materially false or misleading information in the business license application or violates the OMIA (not including implementing regulations) and fails to correct it in a timely manner following notice.

### **Requested Process and Engagement**

Before further rulemaking is pursued, ODOT should convene a joint task force with balanced representation from ODOT and the industry to define problems, review data, and develop narrowly tailored, consensus-based revisions. Meaningful engagement should occur before drafting to avoid unintended consequences.


## Conclusion

For these reasons, we respectfully request that the Commission: 1) Withdraw the proposed rules or in the alternative, substantially narrow the proposed rules to align with OMIA's purposes and limits; 2) Provide a detailed statutory crosswalk and problem statement for any provisions not withdrawn; and 3) Convene an ODOT-industry task force to develop targeted, data-driven, and legally compliant amendments, if any are necessary.

Due to the compressed timeline for the adoption of the proposed rules, we have not had a full and fair opportunity to review and analyze the text, supporting materials, and potential impacts on the sign industry. Accordingly, these comments are necessarily preliminary, and we reserve all rights to supplement, amend, or submit additional comments or recommended language after further review and consultation. All rights, remedies, and objections are expressly reserved, including as to procedural and substantive defects. Nothing in this letter, nor our participation in this rulemaking process, should be construed as an admission or acknowledgment that the existing or proposed rules (or any revisions) are valid, lawful, or constitutional.

We appreciate your consideration and are ready to participate in a constructive, collaborative process.

**NOTEBOOM LAW LLC**



Aaron J. Noteboom