



Report to the 83rd Legislative Assembly: Rulemaking Activity (January 2021 - December 2021)

February 1, 2022

[ORS 183.403](#) requires all state agencies to make a reporting of rulemaking actions that adopt, amend, or repeal rules. In addition, agencies are required to provide a statement of need and explanation for the use of temporary rulemaking. The following records of all rulemaking performed by OHCS are for the 2021 Calendar Year, and the appendix of this report details the need for each temporary rulemaking.

OHCS strives to selectively use temporary rulemaking. However, ongoing emergency response and need to quickly implement new and expanded programs led to continued use of the temporary rulemaking process in 2021. The appendix details the reasoning for each temporary rule.

January 1, 2021 – December 31, 2021

OHCS adopted, amended, or repealed/suspended a total of 56 rules.

- 0 rules adopted (25 temporary)
- 11 rules amended (20 temporary)
- 0 rules repealed (0 temporary suspended)

These rulemakings impacted 20 divisions and programs.

- Energy Assistance Stability Coronavirus Relief Funds
- Low Income Housing Tax Credit
- Wildfire Damage Housing Relief Program
- Oregon Energy Assistance Program
- Manufactured Dwelling Replacement Program
- Individual Development Accounts
- Low Income Home Energy Assistance Program
- Low-Income Household Water Assistance Program

Appendix

Appendix A – January 1, 2021 – December 31, 2021 Rulemaking Details



Oregon Housing and Community Services Department

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2021 through December 31, 2021

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	11
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	25
Amended	20
Suspended	0

OHCS 1-2021

Filed: 01/15/2021 2:49 PM

813-201-0003	Adopt
813-201-0007	Adopt
813-201-0012	Adopt
813-201-0015	Adopt
813-201-0022	Adopt
813-201-0032	Adopt
813-201-0042	Adopt
813-201-0052	Adopt
813-201-0062	Adopt
813-201-0072	Adopt
813-201-0082	Adopt
813-201-0092	Adopt

Statement of Need

The State of Oregon has received from the U.S. Treasury certain funds from the Coronavirus Relief Fund (the "CRF") created by Section 5001 of H.R. 748, the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") to be used for expenditures incurred due to the COVID-19 pandemic. As authorized by ORS 293.550, CRF funds were further allocated to OHCS to distribute among its designated subgrantees as Energy Assistance Stability Coronavirus Relief Funds ("EAS") funds to provide program delivery and direct bill payment assistance on behalf of COVID-19-impacted residential customers of electric and natural gas utilities. The State of Oregon has determined: (1) that the EAS funds are necessary expenditures to mitigate the economic and health risks caused by the COVID-19 pandemic; (2) that the expenditures were not accounted for in the state budget most recently approved as of March 27, 2020; and (3) that the expenditures were or will be incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. OHCS further determined it was necessary to adopt these rules to describe the method and process by which the EAS funds will be disbursed to designated subgrantees. The Federal funding has been extended to continue allocations for expenditures. With this extension, OHCS may continue to award EAS funds through June 30, 2021.

Justification

The State of Oregon, acting by and through its Department of Administrative Services and Emergency Board, allocated CRF funds to OHCS for use as EAS funds to meet the residential energy needs caused by the economic and health impacts resulting from the COVID-19 pandemic. These EAS funds are separate and distinct from any previously and separately allocated LIHEAP funds. Further, as the EAS funds are tied to the COVID-19 pandemic, there are unique features from LIHEAP in the EAS funds' administration and the disbursement that required separate and distinct rules. Without adopting these rules immediately, the EAS funds would be delayed in disbursement by several months, which would have devastating results on those Oregonians most in need. Immediate release of these EAS funds requires temporary, immediately-effective rules.

OHCS 2-2021 **Filed: 01/25/2021 1:52 PM**

813-090-0010 Amend

813-090-0015 Amend

Statement of Need

The addition of this scoring criteria allows OHCS to target federal development dollars, allocated through the Federal Low Income Housing Tax Credit (LIHTC) Program, to areas impacted by the 2020 Wildfires. Without the emergency rule change, scoring that prioritizes these areas would be delayed a year. The LIHTC program is the largest affordable housing development program in Oregon and the United States. LIHTC program application opening is scheduled to begin this month. Though this is an ongoing program, the rule changes need to be made on an emergency basis to meet the program funding schedule as provided to partners and awarded annually.

Justification

The 2021 Notice for Funding Availability (NOFA) applications are set to launch January 22nd, 2021. Ensuring that a Federally Declared Disaster Area scoring preference in these NOFA offerings is critical to addressing the emergent need of affordable housing in areas affected by the 2020 Wildfires.

OHCS 4-2021 **Filed: 03/25/2021 9:27 AM**

813-330-0010 Amend

813-330-0030 Amend

813-330-0040 Amend

813-330-0060 Amend

813-330-0070 Adopt

Statement of Need

Retroactively processing applications enables all applicants on or after September 5th to be included in the application process to apply to receive program funds after FEMA resources have been exhausted. These rules are needed to ensure that both homeowners and tenants receive available funds in the wake of the 2020 wildfire disasters. Previous temporary rules in place expired and in order continue to allocate program resources and funding, additional temporary rules must be in place.

Justification

In the wake of Oregon's 2020 wildfire disasters, program rules need to be updated to ensure proper compliance with state statute and agency policy to ensure all eligible applicants receive assistance. Oregonians that are in need of immediate assistance require this temporary filing process to ensure that such assistance can be delivered to meet the

response to the crisis. Current rules would allow only Oregon homeowners and not tenants to receive funds if these rules are not immediately filed. Agency staff are working to implement permanent rules.

OHCS 5-2021 **Filed: 06/02/2021 2:02 PM**

813-202-0007 Amend

Statement of Need

The addendum added to the program manual allows for alternative procedures or activities specific for OEAP to accommodate continued social distancing and other social practices resulting from the Coronavirus safety regulations.

Justification

Traditional program administration may not be possible because of the required social distancing and other social practices that have resulted because of the Coronavirus safety regulations. Low-income Oregonians would suffer consequences without these services. Failure to immediately take action would result in a lack of services provided during times in which low-income Oregonians. By filing temporary rules, program implementation can be altered temporarily to mitigate barriers to service and continue to provide assistance to low-income Oregonians.

OHCS 6-2021 **Filed: 06/07/2021 4:19 PM**

813-066-0010 Amend

813-066-0020 Amend

813-066-0025 Amend

813-066-0030 Amend

Statement of Need

Requested legislative fixes under HB 3218 to allow funding to also be used for manufactured homeowners who will replace manufactured homes lost in natural disasters.

Justification

Over 1700 manufactured homes were lost in the September 2020 wildfires. By filing temporary rules (as amendments to the existing permanent rules) we will be able to make funding that is critical for the replacement of lost housing available to wildfire survivors as soon as possible. The legislation that allows for the amended use also has an emergency clause. Stakeholders provided input on the requested legislative fixes.

OHCS 8-2021 **Filed: 09/24/2021 9:55 AM**

813-300-0010 Amend

813-300-0060 Amend

813-300-0080 Amend

813-300-0120 Amend

813-300-0160 Amend

Statement of Need

In the 2021 Legislative Session, HB 5006 and HB 2433 adopted new investments and flexibilities around participation limits for the Individual Development Accounts. This rulemaking is a direct reflection of those Legislative changes.

Justification

If the agency failed to immediately implement these temporary rule amendments, OHCS would be out of compliance with new Legislative changes effective September 25, 2021. Eligible households participating in the IDA Program throughout the state would suffer, because they would be subject to the previous, lesser amount for participation limits. The agency was working diligently with IDA Program managers and stakeholders to prepare and plan for the statute change. If OHCS were to delay this change through a permanent filing, the agency would cause program implementation issues for the participants and providers through incorrect guidance. By filing temporary rules, OHCS will provide correct guidance for program participants and providers and ensure those populations eligible for the IDA Program benefit from the Legislative changes.

OHCS 9-2021 **Filed: 09/24/2021 11:48 AM**

813-200-0008 Amend

813-202-0007 Amend

Statement of Need

The manuals need to be effective as of October 1st, 2021 with the start of the new program year.

Justification

If manual changes do not take effect, OHCS will be out of compliance with the adopted income guidelines and payment matrices for the programs. The low-income households who may be eligible for the programs would have direct effect if the new guidelines were not adopted by the effective date of the new program. Those who may be qualified under those guidelines would could be ineligible under the currently-adopted guidelines. Failure to adopt these new guidelines by the effective date would result in more households ineligible for essential services.

OHCS 10-2021 **Filed: 09/30/2021 11:02 AM**

813-300-0010 Amend

813-300-0080 Amend

Statement of Need

Correcting new increased amount for 'Net Worth' and aggregate maximum amount of matching IDA funds in a 12 month period.

Justification

By filing temporary rules, OHCS will provide correct guidance for program participants and providers and ensure those populations eligible for the IDA Program benefit from the Legislative changes.

OHCS 14-2021 **Filed: 12/30/2021 9:01 AM**

813-203-0000 Adopt

813-203-0005 Adopt

813-203-0007 Adopt

813-203-0010 Adopt

813-203-0020 Adopt

813-203-0040 Adopt

813-203-0050 Adopt

813-203-0060	Adopt
813-203-0070	Adopt
813-203-0080	Adopt
813-203-0090	Adopt
813-203-0100	Adopt

Statement of Need

The federal law creating this program provided guidelines, while the rules flesh out specific implementation for Oregon.

Justification

This program provides emergency funding for low-income households to support their drinking water and sewage disposal services costs. Without immediate adoption of these rules, the public would face further delays in access to this funding, which would perpetuate their arrearages and emergency situations. By adopting these rules with a temporary filing, program sub-grantees can begin distributing this funding immediately to relieve the stress of high water burdens for low-income Oregon households.