Division 135 — Civil Penalties, Appeals, and Collections

462-135-0000 – Purpose and Scope
(1) This division establishes civil penalty requirements, appeal-related cost procedures, and collection processes authorized under ORS Chapter 462.
~~(2) These rules apply to any person who violates ORS 462.020(1), engages in unauthorized wagering activity, or incurs appeal-related costs and debts under ORS 462.405.~~
(2) These rules apply to any person who:
(a) Violates ORS 462.020(1);
(b) Accepts or facilitates wagers on animal racing without authorization under ORS Chapter 462, as described in ORS 462.995(1)(b); or
(c) Is required to pay costs, or is awarded against for costs and attorney fees, under ORS 462.405(6) or (7), including recovery of those amounts under ORS 462.408.
(3) Civil penalties imposed under this division are in addition to any other remedy or sanction available under law.

462-135-0010 – Division Definitions
(1) "Commission" means the Oregon Racing Commission.
(2) "Person" includes any individual, partnership, corporation, or entity subject to ORS Chapter 462.
(3) "Violation" means any act or omission listed in ORS 462.995(1) or rules adopted by the Commission.
(4) "Unauthorized wagering activity" means accepting, facilitating, promoting, or conducting any **wager on animal racing, other than under a license or other authorization issued by the Commission under ORS Chapter 462**. ~~animal racing wager without authorization under ORS Chapter 462.~~
(5) "Costs of appeal" means Commission expenses and attorney fees described in ORS 462.405(6) and (7).

462-135-0020 – Civil Penalty Schedule (ORS 462.995)
(1) The Commission may impose a civil penalty of up to $25,000 for each violation of ORS 462.995(1).
(2) The Commission shall determine the amount of each civil penalty after considering the factors in OAR 462-135-0050.
~~(2) Penalties shall fall within the ranges below unless aggravating or mitigating circumstances justify deviation:~~
~~(a) Minor violations: $1,000–$5,000.~~
~~(b) Moderate violations: $5,001–$15,000.~~
~~(c) Major violations: $15,001–$25,000.~~
(3) Each day a violation continues may constitute a separate violation.

462-135-0030 – Procedures for Civil Penalties
(1) Civil penalties shall be imposed in accordance with ORS 183.745.
(2) Prior to imposing a civil penalty, the Commission shall issue written notice including:
(a) The alleged violation;
(b) The proposed penalty amount;

(c) The right to request a hearing;
(d) Applicable deadlines.
(3) If a hearing is requested, **a contested case will be conducted pursuant to the provisions of ORS Chapter 183 and the rules adopted thereto.** ~~the matter proceeds as a contested case under ORS Chapter 183.~~
(4) Following hearing or default, the Commission shall issue a final order with findings, conclusions, and penalty determination.

462-135-0040 – Remission or Reduction of Civil Penalties
(1) The Commission may remit or reduce penalties under ORS 462.995(4).
(2) A person seeking reduction or remission must submit a written request including:
(a) Explanation of circumstances;
(b) Supporting documentation;
(c) Corrective actions taken.
(3) The Commission may consider cooperation, corrective action, financial hardship, and voluntary self-reporting.

462-135-0050 – Factors for Determining Penalty Amount
In determining penalty amounts, the Commission shall consider**, at a minimum:**
(1) Past history of corrective efforts;
(2) Prior violations;
(3) Economic and financial conditions;
(4) The immediacy and extent of threat to the public good.
The Commission may also consider intent, scope, and cooperation.

462-135-0060 – Deposit of Civil Penalties
(1) All civil penalties collected under this division shall be deposited in the General Fund to the credit of the Oregon Racing Commission Account under ORS 462.260.

462-135-0070 – Assessment of Appeal-Related Costs
(1) The Commission may assess all costs and attorney fees incurred as a result of an appeal, up to $25,000, when any condition in ORS 462.405(6) or (7) occurs.
(2) The Commission may require payment of costs when:
(a) An adversely affected person withdraws an appeal on or after the 21st day before the scheduled hearing;
(b) The person fails, without good cause, to appear at the hearing;
(c) An administrative law judge determines the appeal lacked an objectively reasonable basis.
(3) The Commission shall notify the person in the notice of rights and final order when these provisions apply.

462-135-0080 – Collection of Appeal-Related Awards (ORS 462.408)
(1) If costs or attorney fees awarded under ORS 462.405 remain unpaid, the Commission may request the Attorney General to file an action in court to recover:
(a) Costs described in ORS 462.405(6), plus reasonable legal fees;
(b) Awards described in ORS 462.405(7), plus reasonable legal fees.
(2) This section applies to all final orders containing cost or fee awards.

462-135-0090 – Referral of Delinquent Debts for Collection (ORS 293.231)
(1) Accounts owed to the Commission, including civil penalties, costs, or attorney fees, become delinquent 90 days after the due date unless paid or under an approved payment arrangement.
(2) The Commission shall refer delinquent accounts for collection to:
(a) The Department of Revenue; or
(b) A private collection agency contracted by the state.
(3) Final amounts due may include:
(a) Collection fees;
(b) Accrued interest, up to the statutory maximum permitted by ORS 82.101;
(c) Any costs associated with lien filing.

462-135-0100 – Recording of Liens (ORS 205.125–205.126)
(1) The Commission may record unpaid penalties, costs, or debts with any county clerk in Oregon.
(2) Recorded debts become liens enforceable according to ORS 205.125 and ORS 205.126.

462-135-0110 – Severability
If any provision of this division is found invalid, the remaining provisions shall continue in effect.
