



Report to the 82nd Legislative Assembly: Rulemaking Activity (January 2022 - December 2022)

January 23, 2023

[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. OHCS strives to selectively use temporary rulemaking, and the appendix of this report details the need for each temporary rulemaking.

The following records of all rulemaking performed by OHCS are for the 2022 Calendar Year. A copy of this report shall be made available by Jaci Davis (Jaci.Davis@hcs.oregon.gov).

January 1, 2022 – December 31, 2022

OHCS adopted, amended, or repealed/suspended a total of 141 rules.

- 30 rules adopted (18 temporary)
- 71 rules amended (22 temporary)
- 0 rules repealed (0 temporary suspended)

These rulemakings impacted 18 divisions and programs.

- Housing Choice Landlord Guarantee Program
- Rent Guarantee Program
- Land Acquisition Program
- Individual Development Accounts
- Local Innovative Fast Track
- Publicly Supported Housing Preservation
- Oregon Affordable Housing Tax Credit Program
- Homeowner Assistance Program
- Market Cost Offset Fund
- Low-Income Housing Tax Credit Program
- Low-Income Weatherization Assistance Program
- Low-Income Home Energy Assistance Program
- COVID Energy Assistance Program
- Oregon Energy Assistance Program



2023 Rulemaking Activity Report

- Low-Income Household Water Assistance Program
- Manufactured Dwelling Replacement Program
- General Housing Account
- Homeownership Development Incubator Program

Appendix

Appendix A – January 1, 2022 – December 31, 2022 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, 2022 through December 31, 2022

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	30
Amended	71
Repealed	0

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

Adopted	18
Amended	22
Suspended	0

OHCS 2-2022 Filed: 02/11/2022 11:30 AM

813-090-0010 Amend

813-090-0015 Amend

Statement of Need

The rules need updates to the definitions so that they reflect the changes to the 4% LIHTC program and correctly reference the most current Qualified Allocation Plan.

Justification

Unanticipated challenges with the legal sufficiency review delayed the timeline on the approval and has pushed back our release of the first quarter release of the Notice of Funding Availability (NOFA) The temporary rules will allow us to maintain our timeline to release the NOFA by the end of February.

OHCS 3-2022 Filed: 02/18/2022 11:23 AM

813-205-0007 Amend

Statement of Need

USDOE has added additional flexibility to include HUD categorical eligibility to reduce the administrative burden in qualifying low-income households for weatherization and allow for more households to be served in a timely manner.

Justification

Temporary rule will allow for implementation quickly and will be made permanent during our annual state plan update later in the year. Failing to implement this change quickly will result in less households served and in some cases deny weatherization of underserved large multi-family projects that under current guidance would not be eligible to be served.

OHCS 4-2022 Filed: 02/24/2022 12:47 PM

813-200-0008 Amend

813-201-0100 Adopt

813-201-0105	Adopt
813-201-0108	Adopt
813-201-0110	Adopt
813-201-0120	Adopt
813-201-0130	Adopt
813-201-0140	Adopt
813-201-0150	Adopt
813-201-0160	Adopt
813-201-0170	Adopt
813-201-0180	Adopt
813-201-0190	Adopt
813-202-0007	Amend

Statement of Need

Oregon Legislature established a new funding stream alongside the Oregon Energy Assistance Program through HB 2739 (2021) to respond to households experiencing a loss of income due to COVID. Guidance for the disbursement of these funds varies in a number of ways from existing energy assistance programs, creating the need for specific rules. Additionally, because the operations manual for this program is the same as LIHEAP and OEAP, the manual rules needed to have the update.

Justification

Oregon Legislature established this program to become effective as soon as OHCS had an established means of funding allocation because of the continued need for responding to effects of COVID. As this program's guidelines vary from those program already established, new rules were required to express those differences. If OHCS were to use existing rules, OHCS would be out of compliance for this program's guidelines. Households between the 60% Area Median Income and 80% Area Median Income thresholds would be excluded from receiving this essential support. By enacting these temporary rules, the extended guidelines will be established to serve additional Oregonians who are most in need.

OHCS 6-2022 **Filed: 03/03/2022 9:17 AM**

813-205-0007	Amend
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Statement of Need

USDOE updates income guidelines annually requiring the income guidelines to be updated in the state plan.

Justification

Temporary rule will allow for implementation quickly and will be made permanent during our annual state plan update later in the year. Failing to implement this change quickly will result in less households served and in some cases deny weatherization of underserved single-family and large multi-family projects that under current guidance would not be eligible to be served.

OHCS 9-2022 **Filed: 03/31/2022 7:26 AM**

813-203-0007	Amend
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Statement of Need

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

This amendment will adopt the newest version of the program operations manual that includes updates and clarifications for this implementation.

Justification

These manual updates are imperative to accurate and equitable program implementation. Without these changes adopted now, low-income Oregonians applying for the program would suffer. These updates provide clarifications for program implementation that are essential to qualifying households for water/sewer assistance. By implementing these updates now, the sub-grantees can effectively and accurately implement the program consistently throughout the state.

OHCS 12-2022 **Filed: 05/24/2022 12:18 PM**

813-005-0008 Amend

Statement of Need

To implement market driven programs that are designed to respond to the current unprecedented construction cost increases due to market and financial shifts impacting rental housing development; the prior rules were insufficient to cover such efforts.

Justification

This programmatic intervention is timely for development and construction; it must be implemented now and before the timing that a permanent rule making process would allow; we have vetted these changes with our advisory body the Oregon Housing Stability Council.

OHCS 13-2022 **Filed: 06/07/2022 3:03 PM**

813-066-0010 Amend

813-066-0020 Amend

Statement of Need

HB 2896 (2019) charged OHCS, with the advice of the Manufactured Housing Advisory Council (MHAC), with creating and running as a pilot, the Manufactured Dwelling Replacement (MHR) Program is a forgivable loan program intended to provide loans to individuals of low and moderate incomes (under 100% area median income) to buy, and set up on a site, manufactured dwellings that replace older and less energy efficient manufactured dwellings and provide grants to decommission and dispose of older, damaged, and hazardous manufactured dwellings. Program loans are intended primarily to be used in conjunction with other financing sources such as loans and grants. The Manufactured Dwelling Replacement Program, as it was intended to be implemented by HB 2896 (2021), is vastly underutilized under current rules due to incompatibility with economic inflation.

Justification

The MHR program is intended to provide an affordable, energy efficient, housing resource for vulnerable, low and moderate income individuals. OHCS has funding available and ready to disburse to eligible applicants while Oregon is experiencing a housing crisis yet the program is underutilized due to rules' incompatibility with economic inflation. These rules will repair the incompatibility and make the available funds immediately accessible to the individuals most in need of safe, affordable, and sustainable housing.

OHCS 14-2022 **Filed: 06/09/2022 4:14 PM**

813-055-0010 Amend

813-055-0020	Amend
813-055-0040	Amend
813-055-0050	Amend
813-055-0075	Amend

Statement of Need

OHCS' understanding of capacity building needs and potential applications has deepened since OAR 813-055-0020 was last updated. The proposed revision will allow for future capacity building offerings to support Tribal housing entities and bring GHAP-funded capacity building support into better alignment with OHCS' Statewide Housing Plan.

Justification

A temporary request for rules change has been requested to ensure that 2022 GHAP Capacity Building offerings can be made available to entities beyond the current eligibility list- subject to the limitations of any specific solicitation or distribution.

OHCS 15-2022	Filed: 06/29/2022 8:53 AM
813-205-0005	Amend
813-205-0007	Amend
813-205-0040	Amend

Statement of Need

In Oregon's 2021 legislative session HB 3141 was passed which will increase funding for for the ECHO program beginning in July of 2022 by no less than 60% annually. Current changes afforded in the new statute that impact the public purpose charges mandate a new directive that will be focused on Part (C). For purposes of this paragraph and as further determined by the Housing and Community Services Department, purposes related to new low-income weatherization includes providing funding for participants in programs by low-income weatherization service providers to change energy sources from bulk fuels to electricity service.

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB3141>

Justification

Temporary rule will allow for immediate implementation of the state's annual state plan and will be made permanent with our rule filing in mid August. Temporary rules were also required to allow for extra time necessary to appropriately solicit and obtain participation of equitable representation on our Rules Advisory Committee feeding into this rule change. Failing to implement this change quickly will result in less households served and in some cases deny weatherization of underserved single-family and large multi-family projects that under current guidance would not be eligible to be served. Additionally, those households utilizing inefficient or potentially toxic heating sources may not receive the benefit of new energy-efficient systems, which could result in their decreased health and increased expenses to fuel. Temporary filing will put these new rules in place effective immediately, has enabled full participation of all affected community representatives, and will become permanent later in August.

OHCS 16-2022	Filed: 07/13/2022 4:05 PM
813-203-0007	Amend

Statement of Need

The rule, which adopts the program operations manual, is amending the process of application for the LIHWA Program, allowing for eligible households to authorize application via phone.

Justification

Currently, the program operations manual requires subgrantee agencies to mail out application signature pages to clients who authorize their application via phone. Phone intakes allow for households unable to travel to the local offices to apply for assistance. However, this current process places a high burden on the agencies because of the very limited success rates of returned signature pages. By allowing for verbal authorization, households and agencies alike will experienced less burden in applications and incur less costs. The temporary rules will make this change effective immediately and allow for subgrantee agencies to proceed with more phone intakes, allowing more households to apply who cannot travel to the office or return the signature page.

OHCS 18-2022**Filed: 08/09/2022 1:36 PM**

813-203-0007

Amend

Statement of Need

The rule, which adopts the program operations manual, is amending the ceiling for crisis payments, which will alleviate the administrative burden, allow for higher household payments, and clarify previous processes.

Justification

Currently, the program operations manual allows for subgrantees to internally create LIHWA payments for up to \$2,000. Because there was no statewide water burden data prior to this program, OHCS had limited data from which to analyze in creating the payment floor and ceiling. As of lately, this ceiling has become increasingly short as the larger, more water burdened counties are making their program live to eligible households. By increasing the ceiling to \$6,000, it provides the subgrantees the autonomy to create payments for households with very high arrearages. For arrearages higher than this, OHCS will still require subgrantees to request override approval. Without allowing this rule change to occur immediately, the administrative burden for subgrantees as well as OHCS would increase multiple times over. This would deallocate time and funding available to serve eligible households. This will also enable OHCS to obtain a better idea of the populations with the greatest arrearages so that we can better address their specific needs.

OHCS 25-2022**Filed: 09/30/2022 10:54 AM**

813-203-0007

Amend

Statement of Need

This rule change amends the income guidelines, which were miscalculated slightly.

Justification

If these income guidelines are not made effective immediately, there may be households that are caught in range that is considered ineligible based on LIHWA but eligible for the SMI guidelines announced through LIHEAP. The programs are with the same income guidelines. This correction will make the implementation of the program easier for the Community Action Agencies and avoid making households who are actually eligible, ineligible.

OHCS 26-2022**Filed: 10/17/2022 5:37 PM**

813-055-0001

Amend

Statement of Need

The amendment is to incorporate by reference an updated General Housing Account Program (GHAP) Manual. The updated manual adjusts GHAP loan criteria.

Justification

This temporary rule filing to amend the rule is to incorporate an updated GHAP manual by reference. It is primarily to update loan criteria. A temporary filing is necessary to meet the needs of affordable housing that must pass construction closing prior to when a permanent filing could take place. Affordable housing projects could otherwise be delayed which would add risk to those projects affected and additional costs incurred to the project and by extension the public if the temporary filing not be made.

OHCS 31-2022	Filed: 12/05/2022 1:01 PM
813-052-0000	Adopt
813-052-0005	Adopt
813-052-0010	Adopt
813-052-0020	Adopt
813-052-0030	Adopt
813-052-0040	Adopt

Statement of Need

OHCS is in the process of adopting new Administrative Rules to clarify the process and framework for the Homeownership Development Incubator Program (HDIP).

Justification

Oregon severely lacks supply of homes for purchase, especially those available to low- and moderate-income homebuyers. Recent rises in rents, housing costs, and interest rates have made homeownership further out of reach for households with limited wealth, particularly for Black, Indigenous, and people of color (BIPOC) households that have been historically excluded from homeownership and asset-building opportunities. Through the Homeownership Development Incubator Program, OHCS aims to create new affordable homeownership opportunities for households with low to moderate incomes across the state.

A temporary filing will allow us to move forward with getting this funding out the door. Failure to adopt temporary rules to establish the parameters for HDIP, If we delay, we will be in danger of losing would result in lost funding which would result in 250+substantially less affordable homes built over the next two years. By establishing parameters for the HDIP in administrative rule, OHCS would be able to provide grants and low-interest loans to create new homeownership opportunities for Oregonians.