

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
 A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Fish and Wildlife (ODFW) 635
 Agency and Division Administrative Rules Chapter Number

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 Rules Coordinator Address Telephone

RULE CAPTION

Amend Rules Related to Access and Habitat Board and Grants.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

December 10, 2009 1:00PM 3406 Cherry Ave. Salem, OR 97303 Oregon Fish and Wildlife Commission
 Hearing Date Time Location Hearings Officer

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Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

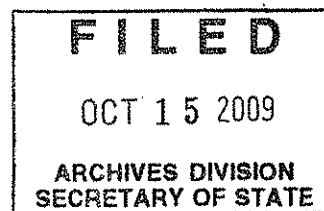
ADOPT:

AMEND: OAR 635 Division 090

REPEAL:

RENUMBER:

AMEND & RENUMBER:



Stat. Auth. : ORS 496.012, 496.138, 496.146, 496.232, 496.242, HB 2218 (Chapter 291, (2009 Laws), and HB 3089(Chapter 778 (2009 Laws))

Other Auth.: ORS 496.012, 496.138, 496.146, 496.232, 496.242, HB 2218 (Chapter 291, (2009 Laws) , and HB 3089(Chapter 778 (2009 Laws))

Stats. Implemented: ORS

RULE SUMMARY

These rule amendments implement HB 2218 (Chapter 291, 2009 Laws) and HB 3089 (Chapter 778 (2009 Laws), enacted by the 2009 Legislative Assembly.

Amend rules related to the minimum number of landowner representative applicants for the Access and Habitat Board, and rules authorizing the department to grant moneys available for the Access and Habitat Program to promote access to public and private lands through the acquisition of easements.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

December 10, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Michelle Tate
 Signature

Michelle Tate
 Printed name

10/15/09
 Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Fish and Wildlife (ODFW)

635

Agency and Division

Administrative Rules Chapter Number

Amend Rules Related to Access and Habitat Board and Grants.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of Amendment of OAR
Chapter 635, Division 090 Rules
Relating to Access and Habitat Board

) Statutory Authority,
) Statutes Implemented,
) Statement of Need,
) Principal Documents Relied Upon,
) Statement of Fiscal Impact

Statutory Authority: ORS 496.012, 496.138, 496.146, 496.232, 496.242, HB 2218 (Chapter 291, (2009 Laws), and HB 3089(Chapter 778 (2009 Laws))

Other Authority:

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.232, 496.242, HB 2218 (Chapter 291, (2009 Laws), and HB 3089(Chapter 778 (2009 Laws))

Need for the Rule(s):

These rules implement HB 2218 (Chapter 291, 2009 Laws) and HB 3089 (Chapter 778(2009 Laws), enacted by the 2009 Legislative Assembly. The current rule requires the State Director of Fish and Wildlife to select the private landowner representative(s) from a list of at least 15 applicants submitted by the State Forester and Director of Agriculture. Despite their best efforts, the State Forester and Director of Agriculture have had difficulties in recruiting 15 applicants for the private landowner positions. Representatives of the landowner community requested that the department make changes in the number of required applicants for the private landowner representatives; these rule amendments will reduce the number to five applicants. These rule amendments also authorize expenditure of funds from Access and Habitat Program (A&H Program) on projects that promote access to public and private lands through acquisition of easements as directed by the 2009 Legislative Assembly.

Documents Relied Upon, and where they are available:

Fiscal and Economic Impact: see attached

Statement of Cost of Compliance: see attached

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

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

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

How were small businesses involved in the development of this rule? N/A

Administrative Rule Advisory Committee consulted?: No

If not, why?: These rules were developed from the direction of the 2009 Legislative assembly.


Signature

Michelle Tate
Printed name

10/15/09
Date

Fiscal and Economic Impact Statement for the December 11, 2009 Hearing on Access and Habitat Rule Changes

Fiscal and economic impact: Rule changes are being proposed to change the requirements for nominating landowner representatives for the Access and Habitat Board. Current rules require a minimum of 15 applicants to fill a representative vacancy, and the proposed rules will reduce the applicant pool to a minimum of 5 applicants. Rule changes are also being proposed to allow the granting of Access and Habitat funds for acquisition of easements as a means of providing hunter access to public and private lands. The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agencies that might be affected by adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW). The changes for applicant requirements for the Access and Habitat Board will have no fiscal impact on ODFW. The Access and Habitat program funds may go to purchase easements under House Bill 3089, so these rule changes are intended to be consistent with legislative direction.

Initial costs for setting up a typical easement are as follows:

Department of Justice staff time to draft the easement: 5 to 10 hours at \$150 per hour: \$750 to \$1,500

Title Report: \$450

County Recording Fee: \$100

Real Estate Personal Services time and Travel: \$500 to \$1,000

Road Survey: \$800 to \$1,400

3 Hours of NRS 2 time to meet with landowners and coordinate on the terms of public access agreed upon in the easement, 1.6% of a month or \$86.

Total Administrative Costs for 1 easement: \$2,686 to \$4,536

These administrative costs are in addition to the cost of the easement that will be negotiated between the landowner and ODFW. The fiscal impact is expected to be minimal as plans are not underway to purchase multiple easements. The number purchased in a biennium could vary, and the size of the expenditure for the easement and administrative costs will depend on the circumstances and opportunities around access to be acquired through an easement.

B. No units of local government are expected to be affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the adoption of these rules.

C. The public will not be affected by the adoption of these rules.

The rules are believed to be fully compatible with legislative direction on the goals of wildlife management in Oregon.

We do not believe that a less intrusive or less costly alternative adaptation to only small business is consistent with the purpose of the rule.