

## STATEMENT OF NEED AND FISCAL IMPACT.

### Need for Rule(s):

Amendment of Division 125 rules is necessary as communication site facilities authorizations managed by the Department were previously administered by the Division 125 rules. With the adoption of the Division 126 rules the Division 125 rules specific to communication site facilities are no longer necessary.

Adoption of Division 126 rules is necessary to establish and streamline administrative procedures for authorizing communication site facilities on state-owned land. Accommodate industry standards, best practices, and facilitate adaptive management within a specific industry that generally is very fluid. Adoption of rules will allow the Department to be more efficient in its management of communication site facilities. Rules will update compensation rates and fees and allow for changes in market value ensuring the fiduciary responsibilities of the Department are being met.

### Fiscal and Economic Impact:

#### OAR 141-125 and OAR 141-126

The Department does not anticipate any additional administrative costs to the state with the adoption and changes to these rules. This includes administering the application process, working with the applicant and affected stakeholders through issues, drafting all required authorizations, compliance monitoring, legal defense of agency decisions, and State Land Board review and approval as needed.

### Statement of 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, record-keeping 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. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

##### OAR 141-125 and OAR 141-126:

It is anticipated that these rules will have minimal fiscal impact on state agencies, units of local government and members of the public with an interest in the authorizing of communication site facilities on state-owned land. We do not expect the revision of these rules to require any other governmental agencies to engage in rulemaking or to adopt subsequent code or ordinance.

#### **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:*

##### OAR 141-125:

It is anticipated that amendment to these rules will not have any fiscal impacts on small businesses.

##### OAR 141-126:

It is anticipated that adoption of these rules will not have any significant fiscal impacts on small businesses, however, compensation could increase or decrease in some cases. There may also be some indirect costs to small businesses that utilize the services of larger companies that would be authorized to use state-owned lands for communication facilities under these rules. These costs could increase given that there may be increases to large companies holding the authorizations, as well as in some cases companies may pay less under these rules than they did under previous rules.

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

##### OAR 141-125 and OAR 141-126:

There is no expected increase in reporting, recordkeeping, and other administrative activities, including professional services for small business.

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

##### OAR 141-125 and OAR 141-126:

There will be no additional costs of compliance resulting from equipment, supplies, labor, and administration.

## Describe how small businesses were involved in the development of these rule(s)?

### OAR 141-125 and OAR 141-126:

The Rulemaking Advisory Committee (RAC) included representatives from businesses and groups most likely to be impacted by these rule changes. Some of the affected stakeholders included, but are not limited to: wireless telecommunications representatives, current leaseholders, non-profit entities, state agencies, public utilities, Common School Fund beneficiaries, and federally recognized Tribes in Oregon.

Multiple small business representatives were invited to participate on the RAC but did not respond to the invite.

### **Documents Relied Upon, and where they are available:**

Oregon Revised Statutes, available online at [www.oregonlegislature.gov](http://www.oregonlegislature.gov) or from the agency; and Oregon Administrative Rules, available online at [sos.oregon.gov/archives/Pages/Oregon\\_administrative\\_rules.aspx](http://sos.oregon.gov/archives/Pages/Oregon_administrative_rules.aspx) or from the agency.

### **Was an Administrative Rule Advisory Committee consulted? Yes or No? YES**

If not, why not?

Yes. Three Rules Advisory Committee (RAC) meetings were held on August 24<sup>th</sup>, September 14<sup>th</sup>, and October 27<sup>th</sup>, 2021. The RAC included 8 members representing communications industry professionals, current lease holders, non-profit entities, state agencies, public utilities, Common School Fund beneficiaries, and federally recognized Tribes in Oregon.

### **Statement identifying how adoption of rule(s) will affect racial equality in this state:**

A commitment to equity acknowledges that not all people, or all communities, are starting from the same place due to historic and current systems of oppression. Equity is the effort to provide different levels of support based on an individual's or group's needs in order to achieve fairness in outcomes. Equity actionably empowers communities most impacted by systemic oppression and requires the redistribution of resources, power, and opportunity to those communities.

While drafting the administrative rules for communication site facilities authorizations, the department looked at the racial equity impact on these administrative rules and answered the questions below.

*What are the racial equity impacts of this particular rule(s), policy, or decision, and who will benefit from or be burdened?*

The proposed amendment to the Division 125 rules and the adoption of Division 126 rules establishes rules for the administration and authorizing of communication site facilities leases on state-owned lands. The proposed rules do not represent a substantive change in policy and will functionally have no impact on employees, employers, or anyone else doing business with the department. Thus, it is highly unlikely that the rule change will impact racial equality in the state.

*Are there strategies to mitigate the unintended consequences?*

The department will be closely monitoring implementation of the amended Division 125 rules and the proposed Division 126 rules to look for potential unintended consequences though, as noted above, the overall general impact of the rule change will be negligible.