

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Revenue, Property Tax Division

150

Agency and Division

Administrative Rules Chapter Number

In the Matter of: **The adoption of a temporary rule regarding central assessment of property used to provide data transmission services.**

Rule Caption: **Definition of “Data transmission services”**

Statutory Authority: **ORS 308.655**

Other Authority: **ORS 305.100**

Stats. Implemented: **ORS 308.505(3)**

Need for the Temporary Rule: **The rule is needed to state the department’s interpretation of the term “data transmission services.” The Department of Revenue has determined that failure to adopt this temporary rule at this time will result in serious prejudice to the public interest and the interests of the parties concerned.**

Documents relied upon, and where they are available:

The Department principally relied on a Department of Justice letter of advice dated December 23, 2011, as the basis for the language in the rule. This document is available from the Department of Revenue upon request.

Justification of Temporary Rule(s):

Companies doing business in Oregon or contemplating an investment in Oregon have expressed frustration with uncertainty as to the Department’s definition of “communication” and in particular the meaning of “data transmission services by whatever means provided.” Both the companies involved and the counties and state attempting to attract investment need to understand the application of central versus local assessment to these businesses and the potential taxation implications. Uncertainty in this area is having an impact on economic development prospects.

Legislative concepts have been filed for the 2012 legislature by two companies who are currently centrally assessed. They seek to be removed from central assessment. If these concepts are passed as written they would apply retroactively to property tax years beginning on or after July 1, 2009. Retroactive application would create administrative challenges for both the Department and affected counties, and create possible hardship for local county jurisdictions required to make refunds to formerly centrally assessed businesses.

Failure of the Department to act promptly by adopting this temporary rule will interfere with companies’ impending decisions to locate business operations in Oregon. This temporary rule will also provide clear direction to Department personnel, communication companies, affected counties and districts as to whether companies’ property is centrally assessable because the companies provide data transmission services for the 2012-13 tax year.

	Ken Ross	1/31/2012
Authorized Signer	Printed name	Date