

OREGON BULLETIN

Supplements the 2010 *Oregon Administrative Rules Compilation*

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KATE BROWN
Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

The Administrative Rules Unit, Archives Division, Secretary of State publishes the *Oregon Administrative Rules Compilation* and the on-line *Oregon Bulletin*. The *Oregon Administrative Rules Compilation* is an annual print publication containing the complete text of Oregon Administrative Rules (OARs) filed during the previous year through November 15, or the last workday before that if the 15th falls on a weekend or holiday. The *Oregon Bulletin* is a monthly on-line supplement that contains rule text amended after publication of the print *Compilation*, as well as proposed rulemaking and rulemaking hearing notices. The *Bulletin* also publishes certain non-OAR items such as Executive Orders of the Governor, Opinions of the Attorney General, and Department of Environmental Quality cleanup notices.

Background on Oregon Administrative Rules

ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (up to 180 days), using the procedures outlined in the *Oregon Attorney General’s Administrative Law Manual*. The Administrative Rules Unit assists agencies with the notification, filing and publication requirements of the administrative rulemaking process.

How to Cite

Every administrative rule uses the same numbering sequence of a three-digit chapter number followed by a three-digit division number and a four-digit rule number (000-000-0000). Example: Oregon Administrative Rules, chapter 166, division 500, rule 0020 (short form: OAR 166-500-0020).

Understanding an Administrative Rule’s “History”

State agencies operate in a dynamic environment of ever-changing laws, public concerns and legislative mandates which necessitate ongoing rulemaking. To track changes to individual rules and organize the rule filing forms for permanent retention, the Administrative Rules Unit has developed for each rule a “history” which is located at the end of the rule text. An administrative rule “history” outlines the statutory authority, statutes implemented and dates of each authorized modification to the rule text. Changes are listed in chronological order and identify in abbreviated form the agency, filing number, year, filing date and effective date. For example: “OSA 4-1993, f. & cert. ef. 11-10-93” documents a rule change made by the Oregon State Archives (OSA). The history notes this was the 4th filing from the Archives in 1993, it was filed on November 10, 1993 and the rule changes became effective on the same date. The most recent change to each rule is listed at the end of the “history.”

Locating the Most Recent Version of an Administrative Rule

The on-line *OAR Compilation* is updated on the first of each month to include all rule actions filed with the Administrative Rules Unit, Secretary of State’s office by the 15th of the previous month, or by the last workday before the 15th if that date falls on a weekend or holiday. The annual printed *OAR Compilation* contains the full text of all rules filed during the previous year through November 15, or the last workday before that if the 15th falls on a weekend or holiday. Subsequent changes to individual administrative rules are listed by rule number in the OAR Revision Cumulative Index which is published monthly in the on-line *Oregon Bulletin*. These listings include the effective date, the specific rulemaking action, and the

issue of the *Bulletin* that contains the full text of the amended rule. The *Bulletin* contains the full text of permanent and temporary rules filed for publication.

Locating Administrative Rules Unit Publications

The *Oregon Administrative Rules Compilation* and the *Oregon Bulletin* are available on-line through the Oregon State Archives web site at <<http://arcweb.sos.state.or.us>>. Printed volumes of the *Compilation* are deposited in Oregon’s Public Documents Depository Libraries listed in OAR 543-070-0000. Complete sets and individual volumes of the *Compilation* may be ordered by contacting: Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, OR 97310, (503) 373-0701, Julie.A.Yamaka@state.or.us

2009–2010 Oregon Bulletin Publication Schedule

The Administrative Rules Unit accepts proposed rulemaking notices and administrative rule filings Monday through Friday, 8:00 am to 5:00 pm, at the Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310. To expedite the rulemaking process agencies are encouraged file a Notice of Proposed Rulemaking Hearing specifying hearing date, time and location, and submit their filings early in the submission period to meet the following deadlines:

Submission Deadline — Publishing Date

December 15, 2009	January 1, 2010
January 15, 2010	February 1, 2010
February 12, 2010	March 1, 2010
March 15, 2010	April 1, 2010
April 15, 2010	May 1, 2010
May 14, 2010	June 1, 2010
June 15, 2010	July 1, 2010
July 15, 2010	August 1, 2010
August 13, 2010	September 1, 2010
September 15, 2010	October 1, 2010
October 15, 2010	November 1, 2010
November 15, 2010	December 1, 2010

Reminder for Agency Rules Coordinators

Each agency that engages in rulemaking must appoint a rules coordinator and file an “Appointment of Agency Rules Coordinator” form, ARC 910-2003, with the Administrative Rules Unit, Archives Division, Secretary of State. Agencies which delegate rulemaking authority to an officer or employee within the agency must also file a “Delegation of Rulemaking Authority” form, ARC 915-2005. It is the agency’s responsibility to monitor the rulemaking authority of selected employees and to keep the appropriate forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process. Forms are available from the Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, Oregon 97301, (503) 373-0701, or are downloadable at <<http://arcweb.sos.state.or.us/banners/rules.htm>>

Publication Authority

The *Oregon Bulletin* is published pursuant to ORS 183.360(3). Copies of the original Administrative Orders may be obtained from the Archives Division, 800 Summer Street, Salem, Oregon, 97310; (503) 373-0701. The Archives Division charges for such copies.

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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 10 - 02

AMENDING EXECUTIVE ORDER 07-23 ESTABLISHING SEARCH AND RESCUE POLICY COMMISSION

On November 29, 2007, I established the Search and Rescue Policy Commission through Executive Order 07-23, to continue the work of Oregon's Search and Rescue Task Force, which was previously established by Executive Order 07-01. The Commission was charged to meet and consider how the State can best ensure that Oregon's search and rescue system allows for and encourages effective and timely communication, coordination, and the pooling of all available and necessary resources.

To support and recognize the Commission's ongoing work, this Executive Order extends the existence of the Commission until January 1, 2012.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

Executive Order 07-23 is amended as follows:

1. The Search and Rescue Policy Commission ("Commission"), established by Executive Order 07-23, shall continue to meet and consider search and rescue issues that are state-wide in scope and make recommendations as to any changes to the laws, administrative rules and related policies of the State of Oregon that are necessary to ensure proper coordination and communications between federal, state and local authorities in search and rescue operations.
2. The Commission shall submit a report summarizing its findings and conclusions to the Governor annually, with the first report to be submitted on or before June 1, 2010
3. This Order expires on January 1, 2012.

Done at Salem, Oregon, this 1st day of February, 2010.

/s/ Theodore R. Kulongoski
Theodore R. Kulongoski
GOVERNOR

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

OTHER NOTICES

CHANCE TO COMMENT ON... PROPOSED NO FURTHER ACTION CITY OF PORTLAND BUREAU OF ENVIRONMENTAL SERVICES, WATER POLLUTION CONTROL LABORATORY (ECSI #2452)

COMMENTS DUE: April 1, 2010

PROJECT LOCATION: 6543 N. Burlington Avenue in Portland
PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on its proposal to issue a no further action (NFA) determination for the City of Portland Bureau of Environmental Services (BES) Water Pollution Control Laboratory (WPCL) site.

HIGHLIGHTS: The WPCL site property is located on the bank of the Willamette River at River Mile 6 within an area of the Willamette River designated by EPA as the Portland Harbor Superfund Study Area. The WPCL facility was constructed in 1997. The site also contains a stormwater quiescent pond associated with City of Portland Outfall (OF) #50.

The WPCL site was developed by 1905 as a flour mill. By 1911 a lumber mill and associated dock structure were constructed along the riverbank. The dock structure was removed by 1961 and by 1977 both buildings had been razed. Demolition debris, dredge material and ash residual from a wood burning electrical generator reportedly were used as fill, including along the river side edge of the site. Black sand fill comprised of spent sand blast grit, reportedly generated from the cleaning of petroleum storage tanks at an off-site location, was imported into the area. The City of Portland purchased the site in 1993. Site development, including bank restoration and construction of a storm water management system, has mitigated potential exposure pathways to the Willamette River via overland runoff or site-specific, point source stormwater discharges.

Two removal actions have been conducted at the site. In 1993 a release of oil containing polychlorinated biphenyls (PCBs) from an underground electrical line conduit occurred when it was penetrated during an environmental investigation. The conduit appeared related to power management at the former mill. A total of 350 lineal feet of conduit was removed along with 190 cubic yards of soil from two separate areas and disposed off-site in a permitted landfill. The second removal was conducted in 1994 to address imported black sand and other fill. Approximately 1,500 cubic yards of black sand and other fill were excavated and disposed off-site in a permitted landfill.

DEQ reviewed the existing environmental information for the site and concludes that the site currently does not present an unacceptable risk to human health or the environment, and that a NFA determination is warranted for the site.

HOW TO COMMENT: To access additional detail on the site, please view the DEQ Staff Report in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet at <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>. Enter 2452 in the "Site ID" box and click "Submit" at the bottom of the page. Next, click the link labeled 2452 in the Site ID/Info column. Next, click on the staff report under Site Documents. You can review the administrative record for the proposed no further action at DEQ's Northwest Region office located at 2020 SW 4th Avenue, Suite 400, Portland, Oregon. For an appointment to review the files call (503)229-6729; toll free at (800)452-4011; or TTY at (503)229-5471. Please send written comments to Mark Pugh, Project Manager, DEQ Northwest Region, 2020 S.W. Fourth Ave., Suite 400, Portland, Oregon, 97201 or via email at: pugh.mark@deq.state.or.us. DEQ must receive written comments by 5 p.m. on April 1, 2009.

DEQ will hold a public meeting to receive verbal comments if 10 or more persons, or a group with membership of 10 or more, requests such a meeting. Interest in holding a public meeting must be submitted in writing to DEQ. If a public meeting is held, a separate public notice announcing the date, time, and location of any public meeting would be published in this publication.

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language

accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach at (503) 229-5696 or toll free in Oregon at (800) 452-4011. People with hearing impairments may call DEQ's TTY number, (503) 229-5471.

THE NEXT STEP: DEQ will consider all public comments received by the deadline. In the absence of comments, DEQ will issue a No Further Action for the site.

REQUEST FOR COMMENTS PROPOSED SETTLEMENT REGARDING LAKEWOOD ESTATES GROUNDWATER CONTAMINATION AURORA, MARION COUNTY

COMMENTS DUE: March 30, 2010

LOCATION OF CONTAMINATION: The Lakewood Estates groundwater contamination passes beneath four contiguous properties in Aurora Oregon: Ballweber Industries, located at 19447 Grimm Rd. NE; Elixir Industries (Elixir), located at 19527 Grimm Rd. NE; two tax lots, identified as 4 1W 27A TL100 and 200; and Lakewood Estates, a housing development consisting of about 100 homes with separate physical addresses.

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing to enter into a settlement agreement with a potentially liable party, Elixir, for reimbursement of DEQ's investigation, wellhead treatment, and oversight costs associated with the Lakewood Estates groundwater contamination. Elixir does not concede that it contributed to the groundwater contamination. The settlement would be in the form of a consent judgment pursuant to ORS 465.325(4). The settlement would require the Elixir to pay DEQ \$500,000 to reimburse DEQ for DEQ's costs of investigating the contamination, installing the groundwater contamination treatment system on the Lakewood Estates community water supply well, and overseeing Elixir's investigation of and remedial measures concerning the groundwater contamination. In return, Elixir would receive a liability release from DEQ and a covenant not to sue from the State, as well as contribution protection from third party cleanup claims to the extent provided by ORS 465.325(6)(b) and Section 113(f)(2) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9613(f)(2). On March 1 through March 30, 2010, DEQ is accepting comments from the public on the proposed settlement.

HIGHLIGHTS: In 1989, chlorinated solvents were detected in the Lakewood Estates community water supply well. DEQ installed a water treatment system on the well in 1991 to ensure the residents had safe water to drink. Between the original treatment system installation and the subsequent several rounds of investigation of the groundwater contamination, DEQ spent over \$900,000. DEQ has identified Elixir, which is located immediately southeast of the Lakewood Estates property, as a potentially responsible party that is liable for the groundwater contamination, along with a nearby carpet cleaning business called Ballweber Industries. Concentrations of chlorinated solvents in the Lakewood Estates community water supply well have declined since 1989, and no additional cleanup actions are anticipated to be needed at this time except periodic sampling, and if necessary, operation of the existing water treatment system.

HOW TO COMMENT: The proposed settlement is available at DEQ's Western Region Office, at 165 E 7th, Suite 100, Eugene, Oregon 97401, or electronically by request to brown.geoff@deq.state.or.us. To review files at DEQ's office, please contact DEQ's file review coordinator at (541) 686-7819 to make an appointment. Written comments may be submitted to Geoff Brown, DEQ Cleanup Project Manager, by email at brown.geoff@deq.state.or.us; by mail at DEQ, 167 E 7th, Suite 100, Eugene, Oregon 97401; or by fax at 541-686-7551. Comments must be submitted in writing not later than March 30, 2010. Upon written request by 10 or more persons or by a group having 10 or more members submitted by March 30, 2010, DEQ will conduct a public meeting for the purpose of receiving verbal comments regarding the proposed settlement.

THE NEXT STEP: DEQ will review and consider all comments received during the comment period. If DEQ then determines to enter

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into the settlement, a consent judgment will be executed by the parties and filed with the Marion County Circuit Court. The court must approve the consent judgment for it to take effect.

OPPORTUNITY TO COMMENT PROPOSED CONDITIONAL NO FURTHER ACTION GENERAL FARM SERVICE STATION (FORMER) NYSSA, OREGON

COMMENT DUE: March 31, 2010

PROJECT LOCATION: 312 Main Street, Nyssa

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.315, the Oregon Department of Environmental Quality (DEQ) is proposing to issue a Conditional No Further Action (NFA) determination for former General Farm Service Station site located at 312 Main Street in Nyssa, Oregon. The site was an operating service station from at least 1949 until 1991.

The Voluntary Cleanup Program has reviewed site assessment and remedial activities performed at the site. The site is proposed for a risk-based closure and issuance of a Conditional No Further Action determination. All of the potential exposure concerns are addressed through elimination during development of the site-specific conceptual site model or through institutional controls in the form of an Easement and Equitable Servitude (E&ES). The institutional controls (deed restrictions) will be required for the site and the adjacent property located at 304 Main Street. The E&ES will include the following restrictions: no beneficial use of groundwater; no residential use; and the placement of a vapor barrier beneath any buildings constructed on the property. A Contaminate Media Management Plan will be provided to the city and the property owners within the impacted area.

Additional information concerning site-specific investigations and remedial actions is available in DEQ's Environmental Cleanup Site Information (ECSI) database located on the web at <http://www.deq.state.or.us/lq/ecsi/ecsi.htm> under Site ID 4555.

Site specific information is also available by contacting Katie Robertson, DEQ's project manager for this site. The Administrative File for this facility is located at DEQ's Pendleton office, and can be reviewed in person by contacting the project manager at the number below to arrange for an appointment.

HOW TO COMMENT: The public comment period will extend from March 1 to 31, 2010. Please address all comments and/or inquiries to project manager at the following address:

Katie Robertson
Department of Environmental Quality
700 SE Emigrant, Suite 330
Pendleton, OR 97801
(541) 278-4620
robertson.katie@deq.state.or.us

Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision regarding the "Conditional No Further Action" determination.

PUBLIC NOTICE PROPOSED REMEDIAL ACTION FOR FORMER NIGHT OWL TRUCK STOP & CAFE BURNS, OR

COMMENTS DUE: March 30, 2010

PROJECT LOCATION: 30850 Highway 20 East, Burns, Harney County

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to issue a Conditional No Further Action decision regarding cleanup activities at the above referenced site based upon an approval of work done to date, a conceptual site model (CSM), and a proposed risk-based closure.

HIGHLIGHTS: The former Night Owl Truck Stop & Cafe ceased operations as a retail service station and café in the mid-1990s. Gasoline and diesel contamination were discovered in November 2006 during a Phase II site assessment associated with a potential sale of the property. The facility's three underground storage tanks (USTs) were decommissioned by removal in June 2007. Site investigations were conducted to determine the full magnitude and extent of soil and groundwater contamination. The following contaminants remaining in soil and groundwater at the site have been shown to be present at concentrations exceeding their site-specific risk-based generic concentrations: total petroleum hydrocarbons as gasoline (TPH-Gx); total petroleum hydrocarbons as diesel (TPH-Dx); benzene; ethylbenzene; naphthalene; 1,2,4-trimethylbenzene (TMB) and 1,3,5-TMB for the Residential and Occupational Receptor Scenarios by the exposure pathways Vapor Intrusion Into Buildings, Leaching to Groundwater, and Ingestion & Inhalation from Tapwater.

DEQ developed a CSM and a risk-based assessment showing that, once appropriate deed restrictions are put in place, residual petroleum hydrocarbons will not pose an unacceptable risk to human health and the environment. The deed restrictions prohibit any residential use on the property, prohibit the use of groundwater extracted from the contaminated areas, and require that the site's existing domestic water well must be properly abandoned. The site is in an area which is not served by a municipal water system so neighboring properties depend upon safe groundwater.

Based upon DEQ's findings, there are no pathways by which ecological receptors may be exposed to site-related contaminants. Residual contaminants at the site do not currently produce odors or other nuisance conditions.

If implemented as proposed, this risk-based corrective action plan will achieve protective conditions at the site as defined in Oregon Administrative Rule (OAR) 340-122-0040.

COMMENT: All documents and reports pertaining to the recommendation of acceptance of the proposed remedial action may be reviewed by appointment, at DEQ's office in Bend, 475 NE Bellevue Drive, Suite 110, Bend, OR 97701. To schedule an appointment or make inquiries, contact the project manager, Joe Klemz at (541) 633-2015.

Written comments should be sent to the attention of Mr. Klemz at the address listed above and must be received by March 30, 2010. Questions or comments may also be directed to Mr. Klemz via email at klemz.joe@deq.state.or.us

NEXT STEP: DEQ will consider all comments received. A final decision concerning the proposed remedial actions will be made after consideration of public comments.

REQUEST FOR COMMENTS PROPOSED APPROVAL OF CLEANUP AT ROADWAY EXPRESS

COMMENTS DUE: April 2, 2010, 5 p.m.

PROJECT LOCATION: 6845 N. Cutter Circle, Portland, Oregon

PROPOSAL: The Department of Environmental Quality proposes to approve a cleanup of petroleum in the soil at the Roadway Express site. DEQ has determined that the site meets state requirements to protect human health and the environment and that no further action is needed at the site.

HIGHLIGHTS: The site is used as a warehouse and truck transportation facility. A release of petroleum hydrocarbons occurred to soil in the used oil storage area. Approximately 16 tons of petroleum contaminated soil was excavated and transported to a landfill for disposal. Soil samples collected to confirm that sufficient contamination was removed were non-detect for petroleum hydrocarbons.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Bend Office, 475 NE Bellevue Drive, Suite 110, Bend, Oregon 97701. To schedule an appointment to review the file or ask questions, please contact Marcy Kirk at 541-633-2009. To access site summary information and the staff report in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 3807 in the Site ID box and click "Submit" at the bottom of the

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page. Next, click the link labeled 3807 in the Site ID/Info column. Send written comments by 5 p.m., April 2, 2010 to Marcy Kirk, Project Manager at the above address or to kirk.marcy@deq.state.or.us

THE NEXT STEP: DEQ will consider all public comments received by the close of the comment period before making a final decision regarding the “No Further Action” determination.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us.

People with hearing impairments may call the Oregon Telecommunications Relay Service at 1-800-735-2900. Give the phone number (541-633-2009).

CHANCE TO COMMENT ON...

PROPOSED NO FURTHER ACTION DETERMINATION FOR OLD SHERWOOD CANNERY, 220 SE WILLAMETTE STREET, SHERWOOD, OREGON

COMMENTS DUE: March 31, 2010

PROJECT LOCATION: 220 SE Willamette Street, Sherwood, Oregon.

PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.230 and 465.320, and Oregon Administrative Rules, OAR 340-122-077, OAR 340-122-078 and OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on its proposal to approve a no further action determination (NFA) for the Old Sherwood Cannery site in Sherwood, Oregon. This site is listed in DEQ's Environmental Cleanup Site Information database as #4624.

HIGHLIGHTS: DEQ has reviewed reports that describe soil and groundwater investigations, underground storage tank (UST) decommissioning, soil removal and confirmation sampling completed at the 5.85-acre site. Several limited areas of contamination existed on the site — contaminated soils around the USTs, which were removed and remediated in 1997; polychlorinated biphenyl (PCB) contaminated soils from an area underneath the floor of a historic building (Building 3, since demolished); and contaminated sediments inside two historic concrete wastewater treatment units. In 1997 DEQ's UST Program issued a no further action for the UST cleanup.

The City of Sherwood directed removal of 201.28 tons of contaminated sediments from the remnant wastewater treatment system cells in 2007, which were disposed at the Hillsboro Landfill. Between April to June of 2009, the City of Sherwood had another 108.06 tons of PCB-contaminated soils removed from the identified area under the former Building 3 structure and transported to the Hillsboro Landfill.

DEQ evaluated the residual concentrations of contaminants from post-removal soils and groundwater data from a Site Investigation performed in the summer of 2006 and compared them to applicable risk-based concentrations for residential and commercial land use. DEQ also evaluated the data to determine if the detected releases posed a threat to a nearby City of Sherwood public water supply well (Well #3), located approximately 200 feet from the site.

Based on the work completed DEQ has concluded that there is no unacceptable risk to human health or the environment and is prepared to issue a NFA for the Old Sherwood Cannery Site.

HOW TO COMMENT: DEQ's project file information is available for public review (by appointment) at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To schedule a file review appointment, call: 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. Please send written comments and requests to Chuck Harman, Project Manager, at the address listed above or via email at harman.charles@deq.state.or.us by 5 p.m., March 31, 2010.

Summaries of site information can be found on the internet in DEQ's on-line Environmental Cleanup Site Information (ECSI) data-

base (<http://www.deq.state.or.us/wmc/ecsi/ecsiquery.htm>). The Old Sherwood Cannery Site is listed as ECSI # 4624.

Please notify DEQ of any special physical or other accommodations you may need due to a disability, language accommodations, or if you need copies of written materials in an alternative format (e.g. Braille, large print, etc). To make these arrangements, contact DEQ's Office of Communications and Outreach at 503-229-5317.

THE NEXT STEP: DEQ will consider all public comments received by the March 31, 2010 deadline and the Regional Cleanup Manager will make a final decision after consideration of these public comments.

CHANCE TO COMMENT ON...

PROPOSED NO FURTHER ACTION GATEWAY NEIGHBORHOOD PARK — ECSI #5137

COMMENTS DUE: March 31, 2010

PROJECT LOCATION: Gateway Neighborhood Park, 10506 NE Halsey Street, Portland, Oregon

Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on the proposed Remedial Action Plan (RAP) for the Gateway Neighborhood Park site.

SUMMARY: The site is approximately 2.05 acres and is vacant, with the exception of some concrete foundations and asphalt-paved parking areas. The foundations were part of a building that formerly housed a bowling alley and several other businesses, including a dry cleaning facility. The structure burned down in approximately 2001. Soils in the area of the former dry-cleaning operation have been determined to be contaminated with tetrachloroethene (PCE) and several common PCE degradation products (trichloroethene [TCE], cis/trans-1,2-dichloroethene [DCE], and vinyl chloride).

The RAP proposes to address soil contamination through the removal and disposal of soils. The proposed remedial action will result in conditions that are protective of human health under current and possible future conditions. The proposed remedial approach was selected based on a reasoned evaluation of remedial alternatives, as described in Analysis of Brownfields Cleanup Alternatives.

DEQ supports the proposed RAP as it will reduce contaminants at the site to below human health risk-based criteria.

HOW TO COMMENT: To access additional detail on the site, please view the DEQ Staff Report in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet at <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>. Enter 5137 in the “Site ID” box and click “Submit” at the bottom of the page. Next, click the link labeled 5137 in the Site ID/Info column. Next, click on the staff report under Site Documents. You can review the administrative record for the proposed no further action at DEQ's Northwest Region office located at 2020 SW 4th Avenue, Suite 400, Portland, Oregon. For an appointment to review the files call (503) 229-6729; toll free at (800) 452-4011; or TTY at (503) 229-5471. Please send written comments to Mike Greenburg, Project Manager, DEQ Northwest Region, 2020 S.W. Fourth Ave., Suite 400, Portland, Oregon, 97201 or via email at: pugh.mark@deq.state.or.us. DEQ must receive written comments by 5 p.m. on March 31, 2010.

DEQ will hold a public meeting to receive verbal comments if 10 or more persons, or a group with membership of 10 or more, requests such a meeting. Interest in holding a public meeting must be submitted in writing to DEQ. If a public meeting is held, a separate public notice announcing the date, time, and location of any public meeting would be published in this publication.

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach at (503) 229-5696 or toll free in Oregon at (800) 452-4011. People with hearing impairments may call DEQ's TTY number, (503) 229-5471.

THE NEXT STEP: DEQ will consider all public comments received by the deadline.

OTHER NOTICES

CHANCE TO COMMENT ON... PROPOSED NO FURTHER ACTION SOUTH WATERFRONT — BLOCK 46 (ECSI #4629)

COMMENTS DUE: March 31, 2010

PROJECT LOCATION: 3939 SW Bond Avenue, Portland, Oregon
PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on its proposal to issue a no further action (NFA) determination for the South Waterfront Block 46 (Block 46) site. The DEQ has reviewed site investigation and remediation activities performed by previous owners and the current developer Simpson Housing Limited Partnership (SHLP), and has determined that no further cleanup actions are necessary.

HIGHLIGHTS: The Block 46 site property is located at 3939 SW Bond Avenue in Portland, Oregon. The site consists of an extended city block bound to the north by SW Abernethy Street, to the south by SW Lowell Street, to the east by SW Bond Avenue and to the west by SW Moody. Sometime prior to 1942 a Southern Pacific Railroad spur was built across the site. The site was used as a construction storage and staging area for local contractors in the 1960's. In the 1970's and 1980's the site was used to store stockpiles of concrete and asphalt grindings from a commercial road construction company.

A risk-based evaluation consistent with DEQ guidance has been completed following the remedial actions. A small pocket of petroleum contamination above risk-based standards remains in-place along the northern border of the site beneath the vicinity of the parking entry ramp. This pocket has been shown to be limited in extent. The DEQ deems this pocket to present a de minimus potential health risk. All other areas of soil and groundwater have been demonstrated to be below risk-based values for human health exposure at the site. The proposed NFA is documented in the "File Memorandum" for the site dated February 9, 2010. DEQ will consider all public comments received by the close of the comment period before issuing the NFA determination.

HOW TO COMMENT: To access additional detail on the site, please view the DEQ Staff Report in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet at <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>. Enter 4629 in the "Site ID" box and click "Submit" at the bottom of the page. Next, click the link labeled 4629 in the Site ID/Info column. Next, click on the staff report under Site Documents. You can review the administrative record for the proposed no further action at DEQ's Northwest Region office located at 2020 SW 4th Avenue, Suite 400, Portland, Oregon. For an appointment to review the files call (503)229-6729; toll free at (800)452-4011; or TTY at (503)229-5471. Please send written comments to Mike Greenburg, Project Manager, DEQ Northwest Region, 2020 S.W. Fourth Ave., Suite 400, Portland, Oregon, 97201 or via email at: pugh.mark@deq.state.or.us. DEQ must receive written comments by 5 p.m. on March 31, 2010.

DEQ will hold a public meeting to receive verbal comments if 10 or more persons, or a group with membership of 10 or more, requests such a meeting. Interest in holding a public meeting must be submitted in writing to DEQ. If a public meeting is held, a separate public notice announcing the date, time, and location of any public meeting would be published in this publication.

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach at (503) 229-5696 or toll free in Oregon at (800) 452-4011. People with hearing impairments may call DEQ's TTY number, (503)229-5471.

THE NEXT STEP: DEQ will consider all public comments received by the deadline. In the absence of comments, DEQ will issue a No Further Action for the site.

REQUEST FOR COMMENTS PROPOSED COMPLETION OF CLEANUP ACTIONS AT FORMER KOPPERS WOOD-TREATING FACILITY

COMMENTS DUE: March 31, 2010

PROJECT LOCATION: 92326 Taylorville Road, Wauna, OR
PROPOSAL: The Department of Environmental Quality (DEQ) proposes to certify completion of final remedial actions for the Former Koppers Wood-Treating Facility located in Wauna, Oregon.

HIGHLIGHTS: A Remedial Investigation performed at the site identified soil, sediment and groundwater contamination associated with historical use of wood treating preservatives (e.g., creosote, pentachlorophenol, and metals). A 2004 interim source control measure prevents groundwater contamination from reaching the Columbia River by using a subsurface barrier wall and in situ groundwater treatment. Based on completion of Remedial Investigations, Risk Assessments, and a Feasibility Study, final remedial actions were conducted at the site in fall 2009 to address media with unacceptable risk, including: excavation and off-site disposal of surface soil, solidification of drainage ditch sediment, capping of soil and drainage ditch sediment, continued operation of the interim remedial measure to treat groundwater, and institutional controls. The DEQ proposes to issue a Certificate of Completion for these remedial actions.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Northwest Region office located at 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201; contact Dawn Weinberger at (503) 229-6729 for file review. To access site summary information and the draft Certificate of Completion in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 649 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 649 in the Site ID/Info column. The DEQ project manager is Tom Gainer, (503)229-5326. Written comments must be received at the DEQ NWR Region office by 4:30 PM on the due date in order to be considered in DEQ's decision.

THE NEXT STEP: DEQ will consider all public comments before making the final decision.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us.

People with hearing impairments may call DEQ's TTY number, 800-735-2900.

REQUEST FOR COMMENTS NO FURTHER ACTION RECOMMENDATION CHEVRON BULK TERMINAL 100-1874 COOS BAY, OREGON

COMMENTS DUE: March 30, 2010

LOCATION OF CONTAMINATION: The site is the portion of the Chevron Bulk Terminal 100-1874 west of highway 101. It is about 0.3 acres with a physical address of 2395 N Bayshore Drive.

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) requests public comment on its recommendation that no further action is required for investigation of contaminated soil and groundwater at the site.

HIGHLIGHTS: Historical releases of petroleum from above ground storage tanks contaminated soil and groundwater at the site, however current contaminant levels do not pose a risk to people or the environment. Therefore DEQ is recommending no further action for the site.

HOW TO COMMENT: The proposed determination is described in a staff report that is available at DEQ's Western Region Office, at 165 E 7th, Suite 100, Eugene, Oregon 97401, or electronically by request to brown.geoff@deq.state.or.us. To review files at DEQ's office, please contact DEQ's file review coordinator at (541) 686-7819 to make an appointment. Written comments may be submitted

OTHER NOTICES

to Geoff Brown, DEQ Cleanup Project Manager, by email at brown.geoff@deq.state.or.us ; by mail at DEQ, 167 E 7th, Suite 100, Eugene, Oregon 97401; or by fax at 541-686-7551. Comments must be submitted in writing not later than March 30, 2010. Upon written request by 10 or more persons or by a group having 10 or more members submitted by March 30, 2010, DEQ will conduct a public meeting for the purpose of receiving verbal comments regarding the proposed settlement.

THE NEXT STEP: DEQ Upon completion of the comment period, the comments will be addressed. Once the comments have been adequately addressed, the DEQ may approve, modify, or deny the no-further-action determination for assessment and/or cleanup of the site.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us

People with hearing impairments may call DEQ's TTY number, 541-687-5603.

REQUEST FOR COMMENTS NO FURTHER ACTION RECOMMENDATION TRUITT BROTHERS BASSETT ST FACILITY SALEM, MARION COUNTY

COMMENTS DUE: March 30, 2010

LOCATION OF CONTAMINATION: The site is the half of the Truitt Brothers Bassett Street facility south of vacated Bassett Street between Murlark Avenue and Patterson Avenue. The site address is 845 Bassett St NW in Salem.

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) requests public comment on its recommendation that no further action is required for investigation of contaminated soil and groundwater at the south half of the Truitt Brothers Bassett Street facility located in Salem.

HIGHLIGHTS: Historical releases of petroleum from underground storage tanks contaminated soil and groundwater at the site, however due to the small extent and nature of the contaminants, they pose no risk to site workers or neighbors. Therefore DEQ is recommending no further action for the site.

HOW TO COMMENT: The proposed determination is described in a staff report that is available at DEQ's Western Region Office, at 165 E 7th, Suite 100, Eugene, Oregon 97401, or electronically by request to brown.geoff@deq.state.or.us. To review files at DEQ's office, please contact DEQ's file review coordinator at (541) 686-7819 to make an appointment. Written comments may be submitted to Geoff Brown, DEQ Cleanup Project Manager, by email at brown.geoff@deq.state.or.us ; by mail at DEQ, 167 E 7th, Suite 100, Eugene, Oregon 97401; or by fax at 541-686-7551. Comments must be submitted in writing not later than March 30, 2010. Upon written request by 10 or more persons or by a group having 10 or more members submitted by March 30, 2010, DEQ will conduct a public meeting for the purpose of receiving verbal comments regarding the proposed settlement.

THE NEXT STEP: DEQ Upon completion of the comment period, the comments will be addressed. Once the comments have been adequately addressed, the DEQ may approve, modify, or deny the no-further-action determination for assessment and/or cleanup of the site.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us.

People with hearing impairments may call DEQ's TTY number, 541-687-5603.

PROPOSED APPROVAL OF REMEDIAL ACTIONS TAKEN AT FLORENCE LANDFILL LANE COUNTY, OREGON

COMMENTS DUE: March 31, 2010

PROJECT LOCATION: This 80-acre former municipal landfill site (closed in 1992) is in the southwest part of Section 22, Township 18 South, Range 12 West, approximately one mile northwest of the city center of Florence, Oregon. Lane County currently operates the site as a transfer facility and recycling center.

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to approve a series of measures undertaken by Lane County to remediate groundwater contamination originating from the landfill.

HIGHLIGHTS: Lane County recently completed a site investigation, and a human health and ecological screening and risk assessment undertaken in response to DEQ's solid waste permit requirements. Landfill-related chemicals, primarily non-hazardous chemicals such as manganese and nitrate, had previously been detected in groundwater monitoring wells around the landfill. The purpose of the investigations was to determine the extent of the landfill-related chemicals and whether those chemicals posed a risk to human health or the environment. The investigations found that preventive actions already taken, including capping, grading, stormwater management, and access control have been successful in mitigating the effects of the chemicals.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eugene Office at 165 E 7th Ave, Ste 100, Eugene, OR 97401. To schedule an appointment to review the file or to ask questions, please contact Bill Mason at (541) 687-7427. To access site summary information in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 4826 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 4826 in the Site ID/Info column. To be considered, written comments must be received by 5:00 PM on March 31, 2010 and sent to Bill Mason, Project Manager, via email at mason.bill@deq.state.or.us or by mail at the address listed above. Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive comments.

THE NEXT STEP: DEQ will consider all public comments received by the close of the comment period before making a final decision regarding the proposed approval of remedial actions at the former landfill. A public notice announcing the final decision will be issued in this publication.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us

PROPOSED NO FURTHER ACTION AT THE FORMER PARRETT MOUNTAIN DISPOSAL LAGOONS NORTH BEND, OREGON

COMMENTS DUE: March 31, 2010

PROJECT LOCATION: Tax Lots 101 and 102, Assessor's Map T3S R2W Section 23, Old Parrett Mountain Road near Newberg, Yamhill County, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to issue a "No Further Action" (NFA) determination based on results of site investigations and remedial activities performed at the former Parrett Mountain disposal lagoons. DEQ has determined that no further action is required because the site no longer poses a risk that exceeds the acceptable risk level defined in ORS 465.315. Because residual contamination remains at the site under a soil cap and under a deed restriction, the site will remain on the DEQ's Confirmed Release List and the Inventory of Hazardous Substance Sites.

OTHER NOTICES

HIGHLIGHTS: From the 1960s through 1975, John Dilworth (doing business as Bob's Sanitary Service and Southwest Septic Tank Service) operated the Parrett Mountain Septic Tank Sludge Lagoons on Tax Lot 101. Over the active life of the disposal site, it received septic tank contents and sewage sludge. DEQ files indicate that miscellaneous putrescible wastes and rubbish, oil and industrial wastes were also occasionally dumped at the site. A number of site investigations (primarily in the 1990s) measured the type and extent of chemicals present in the former lagoons, and concluded that the contamination was limited to the lagoon area. The current owner, Parrett Mountain Properties LLC (PMP), recently used additional testing to confirm this conclusion, consolidated and graded the waste in the lagoon area, then installed a geotextile layer edged with marking tape overlain by 12 to 18 inches of soil. The cap has been seeded with pasture grasses, and the cap area will remain undisturbed in accordance with a deed restriction and soil management plan lodged in County records. In the absence of unacceptable ongoing human health or environmental risks from residual contamination at the former Parrett Mountain disposal lagoons, DEQ recommends that no further action be required for investigation and cleanup of this site, provided the institutional and engineering controls are implemented as proposed in PMP's November 2009 Independent Cleanup Pathway report.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eugene Office at 165 E 7th Ave, Ste 100, Eugene, OR 97401. To schedule an appointment to review the file or to ask questions, please contact Bill Mason at (541) 687-7427. To access site summary information in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 309 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 309 in the Site ID/Info column. To be considered, written comments must be received by 5:00 PM on March 31, 2010 and sent to Bill Mason, Project Manager, via email at mason.bill@deq.state.or.us or by mail at the address listed above. Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive comments.

THE NEXT STEP: DEQ will consider all public comments received by the close of the comment period before making a final decision regarding the "No Further Action" determination. A public notice announcing the final decision will be issued in this publication.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us

REQUEST FOR PUBLIC COMMENT RECOMMENDATION FOR NO FURTHER ACTION ON JAMES A. REDDEN COURTHOUSE SITE, MEDFORD

COMMENTS DUE: March 31, 2010

PROJECT LOCATION: Redden Courthouse and surrounding property, 310 W 6th St., Medford

PROPOSAL: DEQ is recommending no further cleanup action at the Redden Courthouse Site. This notification is required by ORS 465.320.

HIGHLIGHTS: In 2001 there was a spill of approximately 75 gallons of hydraulic fluid from an elevator system. Contaminated soil was removed at that time and DEQ requested further investigation of site groundwater. A groundwater investigation began in 2003, and showed that no groundwater is contaminated above appropriate risk based concentrations.

HOW TO COMMENT: The project files may be reviewed by appointment at DEQ's Eugene office, 1102 Lincoln Street. Written comments must be received by March 31, 2010. Comments should be submitted to DEQ's Eugene office, located at 165 E Seventh St., Suite 100, Eugene, OR 97401 or by e-mail at sadofsky.seth@deq.state.or.us. Questions may also be directed to Seth Sadofsky at the Eugene address or by calling him at 1-800-844-8467 ext 7329. The TTY number for the hearing impaired is 541-687-5603. DEQ will consider all public comments before taking final actions on this matter.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

The following agencies provide Notice of Proposed Rulemaking to offer interested parties reasonable opportunity to submit data or views on proposed rulemaking activity. To expedite the rulemaking process, many agencies have set the time and place for a hearing in the notice. Copies of rulemaking materials may be obtained from the Rules Coordinator at the address and telephone number indicated.

Public comment may be submitted in writing directly to an agency or presented orally or in writing at the rulemaking hearing. Written comment must be submitted to an agency by 5:00 p.m. on the Last Day for Comment listed, unless a different time of day is specified. Written and oral comments may be submitted at the appropriate time during a rulemaking hearing as outlined in OAR 137-001-0030.

Agencies providing notice request public comment on whether other options should be considered for achieving a proposed administrative rule's substantive goals while reducing negative economic impact of the rule on business.

In Notices of Proposed Rulemaking where no hearing has been set, a hearing may be requested by 10 or more people or by an association with 10 or more members. Agencies must receive requests for a public rulemaking hearing in writing within 21 days following notice publication in the *Oregon Bulletin* or 28 days from the date notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received by an agency, notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

**Auxiliary aids for persons with disabilities are available upon advance request. Contact the agency Rules Coordinator listed in the notice information.*

Appraiser Certification and Licensure Board Chapter 161

Rule Caption: Repeal and amend rules regarding State Licensed Appraiser and 2010–2011 Edition of USPAP.

Date:	Time:	Location:
4-12-10	9 a.m.	3000 Market St. NE, Suite 541 Salem, OR

Hearing Officer: Craig Zell

Stat. Auth.: ORS 183.355, 674.305(7) & 674.310

Other Auth.: Title XI of the Federal Financial Reform, Recovery and Enforcement Act of 1989 (12 USC 3310 et seq.)

Stats. Implemented: ORS 674.310

Proposed Amendments: 161-002-0000, 161-010-0010, 161-010-0020, 161-010-0085, 161-015-0000, 161-015-0010, 161-015-0025, 161-015-0030, 161-020-0005, 161-020-0110, 161-020-0130, 161-020-0150, 161-025-0025, 161-025-0030, 161-025-0060, 161-030-0000, 161-050-0000, 161-050-0050

Proposed Repeals: 161-010-0055

Last Date for Comment: 4-12-10, Close of Hearing

Summary: Repeals Oregon Administrative Rule 161, division 10, rule 0055 regarding prerequisite experience and education requirements for state licensed appraiser. Amends Oregon Administrative Rule 161, division 02, rule regarding definitions, division 10, rule 0010 regarding appraisers in Oregon; division 10, rule 0020 regarding qualifying appraiser experience; division 10, rule 0085 regarding prerequisite experience and education for supervising appraiser endorsement; division 15, rule 0000 regarding application process; division 15, rule 0010 regarding form of application; division 15, rule 0025 regarding application from out-of-state credential holder; division 15, rule 0030 regarding submission of application; division 20, rule 0005 regarding scope of education; division 20, rule 0110 regarding qualifying education course content guidelines; division 20, rule 0130 regarding approval requirements for non pre-approved courses; division 20, rule 0150 regarding the requirements for education; division 25, rule 0025 regarding supervising appraisers; division 25, rule 0030 regarding appraiser assistants; division 25,

rule 0060 regarding appraisal standards and USPAP; division 30, rule 0000 regarding criminal background checks; division 50, rule 0000 regarding temporary registration of out-of-state appraisers; and division 50, rule 0050 regarding reciprocity.

Rules Coordinator: Karen Turnbow

Address: Appraiser Certification and Licensure Board, 3000 Market St. NE, Suite 541, Salem, OR 97301

Telephone: (503) 485-2555

Board of Architect Examiners Chapter 806

Rule Caption: Allows Electronic JE and Eliminates Oral Interview for Reciprocity Applicants.

Date:	Time:	Location:
4-6-10	9 a.m.	205 Liberty St. NE #A OBAA Conference Rm. Salem, OR 97301

Hearing Officer: Patrick Bickler

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.050, 671.060, 671.065, 671.080 & 671.085

Proposed Amendments: 806-010-0020, 806-010-0035, 806-010-0060

Last Date for Comment: 4-6-10, Close of Hearing

Summary: The purpose of this rule amendment is to eliminate the oral interview for reciprocity applicants and to allow the jurisprudence examination to be taken by electronic means. Also, makes some housekeeping and grammatical changes.

Rules Coordinator: Carol Moeller

Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301

Telephone: (503) 763-0662

Board of Chiropractic Examiners Chapter 811

Rule Caption: Repeals requirement for Deceased Chiropractor Clinic Name Change.

Date:	Time:	Location:
3-18-10	9:30 a.m.	Eugene Hilton 66 E. 6th Ave. Eugene, OR

Hearing Officer: Dave McTeague

Stat. Auth.: ORS 684 & 58

Stats. Implemented: ORS 58.37 & 684.155(1)(b)

Proposed Amendments: 811-010-0120

Last Date for Comment: 3-18-10, Close of Hearing

Summary: Repeals unnecessary requirement for Deceased Chiropractor Clinic Name Change.

Rules Coordinator: Donna Dougan

Address: 3218 Pringle Rd., SE, Suite 150, Salem OR 97302-6311

Telephone: (503) 373-1579

Board of Nursing Chapter 851

Rule Caption: Board members' compensation now authorized in administrative rules.

Date:	Time:	Location:
4-15-10	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Patricia Markesino, Board President

Stat. Auth.: ORS 678.150 & 292.495

Stats. Implemented: ORS 678.150

Proposed Adoptions: 851-010-0024

Last Date for Comment: 4-13-10, 5 p.m.

Summary: These rules cover the administrative details for the Oregon State Board of Nursing. The Board is authorized by ORS 678.150 to determine the powers, functions and duties of the Board

NOTICES OF PROPOSED RULEMAKING

members. The adoption of this particular administrative rule pertains to compensation for Board members.

Rules Coordinator: KC Cotton

Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

Rule Caption: Rules identify accreditation bodies for continuing education presented to meet CNS certification and renewal requirements.

Date:	Time:	Location:
4-15-10	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Patricia Markesino, Board President

Stat. Auth.: ORS 678.372

Stats. Implemented: ORS 678.372

Proposed Amendments: 851-054-0010, 851-054-0040, 851-054-0050, 851-054-0055

Last Date for Comment: 4-13-10, 5 p.m.

Summary: These rules cover Clinical Nurse Specialist. These rule amendments specify accreditation bodies for continuing education presented to meet certification and renewal requirements.

Rules Coordinator: KC Cotton

Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

Board of Pharmacy Chapter 855

Rule Caption: Amend rules for pharmacy interns and re-write rules for hospital pharmacies.

Date:	Time:	Location:
3-25-10	9:30 a.m.	800 NE Oregon St., Rm. 1B Portland, OR

Hearing Officer: Tony Burt

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Proposed Adoptions: 855-041-6050, 855-041-6100, 855-041-6150, 855-041-6200, 855-041-6220, 855-041-6240, 855-041-6250, 855-041-6260, 855-041-6270, 855-041-6300, 855-041-6305, 855-041-6310, 855-041-6400, 855-041-6410, 855-041-6420, 855-041-6500, 855-041-6510, 855-041-6520, 855-041-6530, 855-041-6540, 855-041-6550, 855-041-6560, 855-041-6570, 855-041-6600, 855-041-6610, 855-041-6620

Proposed Amendments: 855-019-0120, 855-019-0130, 855-019-0150, 855-031-0005, 855-031-0010, 855-031-0020, 855-031-0030, 855-031-0045, 855-031-0050, 855-031-0055

Proposed Repeals: 855-031-0015, 855-031-0033, 855-031-0040, 855-041-0120, 855-041-0125, 855-041-0130, 855-041-0132

Last Date for Comment: 3-25-10, 5 p.m.

Summary: The changes to rules for Interns brings the requirements for experimental education in line with current standards and practices for the Doctor of Pharmacy (Pharm. D.) programs. Schools and colleges of pharmacy now have a greater responsibility for managing the students' "intern hours" and the Board will not duplicate their record keeping. In order to monitor licensees more effectively, the Intern license will now be renewable every two years rather than a four year license. Changes to rules for out-of-state Pharmacists seeking Oregon licensure reflect changes to national standards.

The Hospital Pharmacy rules required updating to accommodate modern practices and new technologies, and to provide a structure for drug management and control in hospitals. This action repeals and totally replaces the existing hospital rules. See the Board's website for a complete summary of the new Division 41 hospital rules section by section.

Copies of the full text of proposed rules can be obtained from the Board's website, www.pharmacy.state.or.us, or by calling the Board office at (971) 671-0001.

Rules Coordinator: Karen MacLean

Address: Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232

Telephone: (971) 673-0001

Columbia River Gorge Commission Chapter 350

Rule Caption: Repeals unused and outdated rules.

Date:	Time:	Location:
4-13-10	9 a.m.	Rock Creek Center 702 Rock Creek Dr. Stevenson, WA

Hearing Officer: Staff

Stat. Auth.: ORS 196.150

Other Auth.: RCW 43.97.015, 16 USC 544c(b)

Stats. Implemented: ORS 196.150, RCW 43.97.015, 16 USC 544c(b)

Proposed Repeals: 350-090-0010, 350-090-0020, 350-090-0030, 350-090-0040, 350-090-0050, 350-090-0060, 350-090-0070, 350-090-0080, 350-090-0090, 350-090-0100, 350-090-0110, 350-090-0120, 350-090-0130, 350-090-0140, 350-090-0150, 350-090-0160, 350-090-0170, 350-090-0180, 350-090-0190, 350-090-0200, 350-090-0210, 350-090-0220, 350-090-0230, 350-090-0240, 350-090-0250, 350-090-0260, 350-090-0270, 350-090-0280, 350-090-0290, 350-090-0300, 350-090-0310, 350-090-0320, 350-090-0330, 350-090-0340, 350-090-0350, 350-090-0360, 350-090-0370, 350-090-0380, 350-090-0390, 350-090-0400, 350-090-0410, 350-090-0420, 350-090-0430, 350-090-0440, 350-090-0450, 350-090-0460, 350-090-0470, 350-090-0480, 350-090-0490, 350-090-0500, 350-090-0510, 350-090-0520, 350-090-0530, 350-090-0540, 350-090-0550, 350-090-0560, 350-090-0570, 350-090-0580, 350-090-0590, 350-090-0600, 350-090-0610, 350-090-0620, 350-090-0630, 350-100-0010, 350-100-0020, 350-100-0030, 350-100-0040, 350-100-0050, 350-100-0060, 350-100-0070, 350-100-0080, 350-100-0090, 350-100-0100, 350-100-0110, 350-100-0120, 350-100-0130, 350-100-0140, 350-100-0150, 350-100-0160, 350-100-0170, 350-100-0180, 350-100-0190, 350-100-0200, 350-100-0210, 350-100-0220, 350-100-0230, 350-100-0240, 350-100-0250, 350-100-0260, 350-100-0270, 350-100-0280, 350-100-0290, 350-100-0300, 350-100-0310, 350-100-0320, 350-100-0330, 350-100-0340, 350-100-0350, 350-100-0360, 350-100-0370, 350-100-0380, 350-100-0390, 350-100-0400, 350-100-0410, 350-100-0420, 350-100-0430, 350-100-0440, 350-100-0450, 350-100-0460, 350-100-0470, 350-100-0480, 350-100-0490, 350-100-0500, 350-100-0510, 350-100-0520, 350-100-0530, 350-100-0540, 350-100-0550, 350-100-0560, 350-100-0570, 350-100-0580, 350-100-0590, 350-100-0600, 350-100-0610, 350-100-0620, 350-100-0630, 350-110-0030, 350-110-0040, 350-110-0050, 350-110-0060, 350-110-0070, 350-110-0080, 350-110-0090, 350-110-0100, 350-110-0110, 350-110-0120, 350-110-0130, 350-110-0140, 350-110-0150, 350-110-0160, 350-110-0170, 350-110-0180, 350-110-0190, 350-110-0200, 350-110-0210, 350-110-0220, 350-110-0230, 350-110-0240, 350-110-0250, 350-110-0260, 350-110-0270, 350-110-0280, 350-110-0290, 350-110-0300, 350-110-0310, 350-110-0320, 350-110-0330, 350-110-0340, 350-110-0350, 350-110-0360, 350-110-0370, 350-110-0380, 350-110-0390, 350-110-0400, 350-110-0410, 350-110-0420, 350-110-0430, 350-110-0440, 350-110-0450, 350-110-0460, 350-110-0470, 350-110-0480, 350-110-0490, 350-110-0500, 350-110-0510, 350-110-0520, 350-110-0530, 350-110-0540, 350-110-0550, 350-110-0560, 350-110-0570, 350-110-0580, 350-110-0590, 350-110-0600, 350-110-0610, 350-110-0620, 350-110-0630

Last Date for Comment: 4-9-10

Summary: The Commission is repealing 350-090, 350-100, and 350-110. The Commission used these rules in the mid-1990's to regulate land use development in Hood River, Clark, and Wasco

NOTICES OF PROPOSED RULEMAKING

counties. All three of these counties now administer their own land use ordinances, which replace the commission's administration of these rules. Rule 350-081-0012 authorizes the Commission to regulate land use development in these counties again if the counties repeal their Scenic Area land use ordinances.

Rules Coordinator: Nancy A. Andring

Address: Columbia River Gorge Commission, P.O. Box 730, White Salmon, WA 98672

Telephone: (509) 493-3323

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Department of Consumer and Business Services, Building Codes Division Chapter 918

Rule Caption: Adopts the 2010 Oregon Energy Efficiency Specialty Code.

Date:	Time:	Location:
3-16-10	9:30 a.m.	1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Shane Sumption

Stat. Auth.: ORS 183.335, 455.020, 455.030, 455.110, 455.505, 455.511, 455.525, & 455.610

Stats. Implemented: ORS 183.335, 455.020, 455.030, 455.110, 455.505, 455.511, 455.525, & 455.610

Proposed Adoptions: 918-460-0500, 918-460-0510

Proposed Amendments: 918-251-0090, 918-305-0030, 918-460-0000, 918-480-0010, 918-674-0033

Last Date for Comment: 3-19-10, 5 p.m.

Summary: The proposed rules implement Senate Bill 79 (2009) requiring the director of the Department of Consumer and Business Services to improve the energy efficiency of commercial structures. The proposed rules bring the code requirements up to date by adopting the 2009 edition of the International Energy Conservation Code (IECC) with Oregon specific amendments as the Oregon Energy Efficiency Specialty Code (OEESC). The rules also make various house-keeping changes necessary to adopt the OEESC as a stand alone code, adding new headings, and correcting references to Chapter 13 of the OSSC in favor of citing the OEESC.

Rules Coordinator: Shauna M. Parker

Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309

Telephone: (503) 373-7438

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Department of Consumer and Business Services, Director's Office Chapter 440

Rule Caption: Public Records Requests.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 192.410-192.505

Proposed Amendments: 440-005-0015, 440-005-0020, 440-005-0025, 440-005-0030

Last Date for Comment: 4-2-10, 5 p.m.

Summary: The goal of DCBS rules regarding public records requests is to ensure the public has the ability to inspect public records the agency maintains while protecting the integrity of the records. DCBS is amending these rules to reflect recent changes in the law. The proposed amendments to the rules address the following:

- How the public can make public records requests;
- How the department calculates fees and considers fee waivers; and
- How the public can find the current fee schedule and other information needed to make public records requests.

The department also is proposing to repeal public records provisions found in its various division rules, in order to avoid duplication with these agency-wide rules.

Text of the proposed rule as well as other rulemaking documents can be found at: <http://www.oregon.gov.DCBS/DIR/rules.shtml>

Address questions to Kristen I. Miller, Rules Coordinator, phone 503-974-7866; fax 503-378-6444; or e-mail kristen.i.miller@state.or.us

Rules Coordinator: Kristen Miller

Address: Department of Consumer and Business Services, Director's Office, 350 Winter St. NE, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7866

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Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Implementation of One Percent Health Insurance Premium Assessment.

Date:	Time:	Location:
3-18-10	9 a.m.	Labor & Industries Bldg., Conference Rm. F 350 Winter St. NE Salem, OR

Hearing Officer: Jeanette Holman

Stat. Auth.: ORS 731.244

Stats. Implemented: 2009 OL Ch. 867, Sec. 4-8 (Enrolled HB 2116)

Proposed Adoptions: 836-009-0020, 836-009-0025, 836-009-0030, 836-009-0035, 836-009-0040

Last Date for Comment: 3-24-10

Summary: This rulemaking permanently adopts temporary rules that expire on March 26, 2010 and makes some clarifications in response to questions raised as HB 2116 was implemented. House Bill 2116 was enacted by the legislative Assembly in June 2009 and took effect September 28, 2009. The bill establishes a one percent assessment on health insurers based on the gross amount of premiums earned by the insurer during each calendar quarter. The includes an option for the insurers to include the amount of the assessment in their premium rates. For existing approved rates, insurers were allowed to include an additional one percent beginning October 1, 2009, without submitting their premium rate to the Insurance Division for review and approval. If an insurer opted to include the additional one percent, the insurer was required to include a notice with a consumer billings explaining the increase.

These rules are necessary to fully implement the provisions of chapter 867, Oregon Laws, including clarification of certain terms and information about reporting requirements relating to the assessment and requirements for an insurers that chooses to add the one percent assessment to an existing approved rate.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301

Telephone: (503) 947-7272

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Rule Caption: Identification of forms approved by IIPRC that need not be separately reviewed in Oregon.

Date:	Time:	Location:
3-30-10	10 a.m.	Labor & Industries Bldg., 350 Winter St. NE Conference Rm. F Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244 & 2007 OL Ch. 544, Sec. 1 (HB 2224, 2007)

Stats. Implemented: 2007 OL Ch. 544, Sec. 1 (HB 2224, 2007)

Proposed Adoptions: 836-010-0012

Proposed Amendments: 836-010-0000, 836-010-0011

Last Date for Comment: 3-30-10

Summary: This rulemaking identifies those forms that have been approved by the Interstate Insurance Product Regulation Commission (IIPRC) that do not need to be separately reviewed prior to approval by Oregon. The director finds that for these forms, the

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approval process of the IIPRC provides Oregon policy holders substantially the same protection as, or better protections, than the approval process available under Oregon law.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301

Telephone: (503) 947-7272

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**Department of Consumer and Business Services,
Workers' Compensation Division
Chapter 436**

Rule Caption: Proposed changes to the rules for determining permanent disability of workers injured on the job.

Date:	Time:	Location:
3-22-10	2 p.m.	Labor & Industries Bldg. Rm. F (basement) 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656, 656.214, 656.268 & 656.726

Proposed Amendments: Rules in 436-035

Last Date for Comment: 3-26-10

Summary: NOTE: "Insurer" in this summary includes self-insured employers.

The agency proposes to amend OAR chapter 436, division 035, "Disability Rating Standards," to improve organization, clarity and consistency, and to eliminate redundancy. More specifically, these proposed rules:

- Describe procedures for redetermining the extent of permanent disability when newly accepted or omitted conditions have been added to the accepted conditions since the last arrangement of compensation.

- Explain that "giveaway weakness" caused by pain due to an accepted condition is an example of measurable impairment.

- Eliminate references to the *AMA Guides to the Evaluation of Permanent Impairment, 3rd Ed., Rev. 1990* and generally refer the reader to the administrative rules and Workers' Compensation Division Bulletin 239.

- Explain how to measure ranges of motion using a goniometer and inclinometer.

- Clarify requirements and limitations affecting apportionment and offset of permanent disability.

- Clarify procedures to follow when the worker fails to complete a residual functional capacity evaluation.

- Include chest among the parts of the body that may qualify for a chronic condition impairment value.

- Explain how to measure sensation in the extremities using the two-point discrimination method.

- Clarify that both sensation loss and hypersensitivity (in the same body part) must be rated.

- Clarify that loss of strength due to an injury in a single finger, thumb, or toe receives a value of zero, unless the strength loss is due to a compensable condition that is proximal to the digit.

- Provide that instability in the ankle or knee may be rated even if the ligament demonstrating the laxity has not been injured.

- Clarify when to rate a meniscectomy as a complete loss.

- Provide that if a worker cannot remain on his or her feet for more than two consecutive hours, the worker will receive the same impairment rating whether the cause is injury to the knee/leg or ankle/foot, and further provide that this rating is not reduced by degenerative joint disease, arthritis or chondromalacia, or precluded by dermatological or vascular impairment.

- Provide a standard for rating hemipelvectomy.
- Replace the flat 5% rating for abdominal wall injury with three classes of impairment.

- Clarify that each trigeminal nerve receives a value of 5% when there is a loss of motor function.

- Define social functioning and deterioration or decompensation in work or work-like settings for the purpose of rating disability due to mental illness.

- Clarify that an allergy is an immunologic state.

Address questions or written testimony to: Fred Bruyns, rules coordinator; phone 503-947-7717; fax 503-947-7514; e-mail fred.h.bruyns@state.or.us. Proposed rules are available on the Workers' Compensation Division's Web site: <http://wcd.oregon.gov/policy/rules/rules.html#proprules> or at no charge from WCD Publications, 503-947-7627.

Rules Coordinator: Fred Bruyns

Address: Department of Consumer and Business Services, Workers' Compensation Division, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7717

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**Department of Corrections
Chapter 291**

Rule Caption: Interstate Compact.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Proposed Adoptions: 291-180-0274

Last Date for Comment: 3-31-10

Summary: Adoption of this rule is necessary to establish an application fee for offenders seeking to transfer supervision to another state under the Interstate Compact for Adult Offender Supervision as required in Oregon Laws 2009, Ch. 742 (Senate Bill 74). The supervisory authority collects the fee and forwards it to the Governor's office for deposit in the Arrest and Return Account.

Rules Coordinator: Janet R. Worley

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

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Rule Caption: Health Services for Inmates in State Prisons.

Stat. Auth.: ORS 179-040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179-040, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-124-0016, 291-124-0017, 291-124-0090

Proposed Amendments: 291-124-0005, 291-124-0010, 291-124-0020, 291-124-0030, 291-124-0035, 291-124-0041, 291-124-0055, 291-124-0060, 291-124-0065, 291-124-0070, 291-124-0075, 291-124-0080, 291-124-0085

Proposed Repeals: 291-124-0015, 291-124-0025, 291-124-0095

Last Date for Comment: 4-29-10

Summary: Modification and adoption of these rules is necessary to update and clarify policies and procedures for the administration and delivery of healthcare services to inmates, that includes medical, dental, mental health and pharmacy services. These revisions are necessary to ensure rules align with current operations and organizational structure of the Department.

Rules Coordinator: Janet R. Worley

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

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**Department of Environmental Quality
Chapter 340**

Rule Caption: Update Air Quality Ambient benchmark Concentrations for Ethyl Benzene, Lead, Manganese and Mercury.

Date:	Time:	Location:
3-30-10	6-8 p.m.	Friendly House Community Ctr. 2617 NW Savier Portland, OR
3-31-10	6-8 p.m.	DEQ Conference Rm. 221 Stewart Ave. Medford, OR
4-1-10	6-8 p.m.	DEQ Conference Rm. 475 Bellevue Ave. Bend, OR

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Hearing Officer: Patrick Huback, John Becker, Bonnie Hough

Stat. Auth.: ORS 468A

Stats. Implemented:

Proposed Amendments: 340-246-0090

Last Date for Comment: 4-2-10, 5 p.m.

Summary: The Oregon Department of Environmental Quality is proposing to adopt a new air toxic ambient benchmark concentration for ethyl benzene and revise three current benchmarks for lead, manganese, and mercury. Air toxics are pollutants known or suspected to cause cancer or other serious health effects. Ambient benchmarks are concentrations of air toxics that serve as goals in the Oregon program. They are based on levels protective of human health considering sensitive populations, like the elderly and children. The Air Toxics Program requires a periodic review of ambient benchmark concentrations to keep abreast of new scientific understanding of chemical toxicity and exposure.

The Oregon Environmental Quality Commission adopted the original fifty-one benchmarks in 2006, which have been used to support scientifically sound evaluation and decision-making. Together with air measurements and emission estimates, these benchmarks allow DEQ to better understand air toxics problems throughout the state.

DEQ and its Air Toxics Science Advisory Committee evaluated new developments for four air toxics: lead, ethyl benzene, manganese and mercury. In 2008, the U.S. Environmental Protection Agency adopted a new lower federal National Ambient Air Quality Standard for lead. In addition, the California Environmental Protection Agency's Office of Environmental Health and Hazard Assessment concluded that ethyl benzene should be considered a cancer-causing agent, and that acceptable ambient thresholds for manganese and mercury exposure should be lowered, making them more protective of children's health. After consultation with the committee, DEQ concluded that the benchmark for lead should be aligned with the federal standard, a new benchmark should be added for ethyl benzene, and the current benchmark for manganese should be made protective. DEQ and the advisory committee agree that at this time there is no new scientific evidence sufficient to warrant lowering DEQ's current benchmark concentration for mercury, although the rule should clarify that this concentration applies only to elemental mercury.

Rules Coordinator: Maggie Vandehey

Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204

Telephone: (503) 229-6878

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Department of Fish and Wildlife Chapter 635

Rule Caption: Salmon Seasons for Commercial and Sport Fisheries in the Pacific Ocean.

Date:	Time:	Location:
4-23-10	8 a.m.	Roseburg City Council Chambers 900 SE Douglas Ave. Roseburg, OR 97470

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 506.036, 506.119, 506.129 & 506.750 et Seq.

Stats. Implemented: ORS 496.162, 506.036, 506.109, 506.129 & 506.750 et Seq.

Proposed Adoptions: Rules in 635-003, 635-013, 635-014

Proposed Amendments: Rules in 635-003, 635-013, 635-014

Proposed Repeals: Rules in 635-003, 635-013, 635-014

Last Date for Comment: 4-23-10

Summary: Amend rules relating to commercial and sport salmon fishing in the Pacific ocean. Housekeeping and technical correction to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303

Telephone: (503) 947-6033

Rule Caption: Amend rules related to the disposition of deer, elk and moose antlers that come into the Department's possession.

Date:	Time:	Location:
4-23-10	8 a.m.	900 SE Douglas Ave. Roseburg, OR 97470

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 183, 496.012 & 496.146

Stats. Implemented: ORS 183 & 496

Proposed Adoptions: 635-002-0014

Proposed Amendments: Rules in 635-002

Last Date for Comment: 4-23-10

Summary: The purpose of this proposed rule is to govern how deer, elk and moose antlers that come into the Department's possession are disposed of. These proposed rules allow ODFW to donate these antlers to nonprofit organization; the proposed rule also allows ODFW, through competitive bid process, to sell the antlers to fund wildlife management, education, conservation, or research activities.

Rules Coordinator: Therese Kucera

Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303

Telephone: (503) 947-6033

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Rule Caption: Adopt and Amend Rules Related to Wolves in captivity in Oregon.

Date:	Time:	Location:
4-23-10	8 a.m.	900 SE Douglas Ave. Roseburg, OR 97470

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 498.002 & 496.171-496.182

Stats. Implemented: ORS 496.002 & 496.171-496.182

Proposed Adoptions: Rules in 635-063

Proposed Amendments: Rules in 635-044

Last Date for Comment: 4-23-10

Summary: Adopt and amend rules to regulate the holding of wolves in captivity.

Rules Coordinator: Therese Kucera

Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303

Telephone: (503) 947-6033

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Department of Geology and Mineral Industries Chapter 632

Rule Caption: Implement portions of SB 190 (2009), clarify definitions, and housekeeping.

Date:	Time:	Location:
3-31-10	11 a.m.-2 p.m.	Public Service Bldg. 255 Capitol St. NE, Rm. 126 Salem, OR

Hearing Officer: Bob Houston

Stat. Auth.: ORS 516.090 & 522.305

Stats. Implemented: ORS 522 (as amended by 2009 OR Laws Ch. 794)

Proposed Amendments: 632-020-0005 – 632-020-0180

Last Date for Comment: 3-31-10, Close of Hearing

Summary: This is the first phase of a two-phase rulemaking. Changes proposed at this time are intended to address amendments to ORS Chapter 522 made by 1009 Oregon Laws Chapter 794 (SB 190) and to correct typographical and grammatical errors in existing rule text. The second phase of rulemaking, not proposed at this time, will improve the text of rules, develop administrative enforcement tools, and clarify and improve unit management tools.

Rules Coordinator: Gary W. Lynch

Address: 229 Broadalbin Street SW, Albany, OR 97321

Telephone: (541) 967-2053

NOTICES OF PROPOSED RULEMAKING

Department of Human Services, Administrative Services Division and Director's Office Chapter 407

Rule Caption: Abuse Checks for Department of Human Services Employees and Volunteers.

Date: 3-16-10 **Time:** 2-3 p.m. **Location:** Human Services Bldg., Rm. 137A
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.027 & 409.050

Stats. Implemented: ORS 409.025, 409.027 & 409.050

Proposed Adoptions: 407-007-0400, 407-007-0410, 407-007-0420, 407-007-0430, 407-007-0440, 407-007-0450, 407-007-0460

Proposed Repeals: 407-007-0400(T), 407-007-0410(T), 407-007-0420(T), 407-007-0430(T), 407-007-0440(T), 407-007-0450(T), 407-007-0460(T)

Last Date for Comment: 3-22-10, 5 p.m.

Summary: The Department of Human Services (Department) is implementing ORS 409.027 for employees and volunteers. Adoption of these proposed rules replaces temporary rules, effective 10/1/2009. The Department shall conduct an abuse check on subject individuals who are offered employment or volunteer placement with the Department. If the individual has potentially disqualifying abuse (a finding in an abuse investigation of founded or substantiated, with the subject individual having been determined responsible for the abuse), the Department shall conduct a weighing test to determine fitness for the position being sought. Subject individuals denied employment have contested case hearing rights. Subject individuals currently employed or in volunteer placement, or those offered employment or placement, are required to notify the Department's Office of Human Resources within five calendar days of being notified of being an alleged perpetrator, reported perpetrator, or accused person in an abuse investigation. The Department shall apply relevant program administrative due process policies if the subject individual is identified as responsible in a founded or substantiated abuse investigation. The Department may remove a volunteer or employee from placement during or following an abuse investigation. The Department may investigate during or following an abuse investigation to determine whether to take any action, up to and including dismissal.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>.

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

Address: 500 Summer St. NE, E-03, Salem, OR 97301

Telephone: (503) 947-5250

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**Department of Human Services,
Children, Adults and Families Division:
Child Welfare Programs
Chapter 413**

Rule Caption: Changing OARs affecting Child Welfare Program.

Date: 3-24-10 **Time:** 8:30 a.m. **Location:** 500 Summer St. NE, Rm. 254
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 418.785 & 419B.005-419B.050

Proposed Amendments: 410-015-0415, 413-015-0420

Last Date for Comment: 3-26-10

Summary: OAR 413-015-0415 which was amended by temporary rule on January 1, 2010 and concerns the activities the Department conducts during a Child Protective Services (CPS) assessment is being amended in response to recent statutory changes to restate that when a person conducting a CPS assessment of a child under ORS 419B.020 observes the child has suffered a suspicious physical injury

and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse that person must take the specified actions to photograph the injuries and refer the child to a medical assessment.

OAR 413-015-0420 which was amended by temporary rule on February 12, 2010 and concerns the actions the Department takes when making an initial contact in response to suspected child abuse or neglect is being amended in response to a recent federal court opinion to remove language allowing a Child Protective Services (CPS) worker to make an exception to the requirement to notify parents of the intent to interview a child when the notification might compromise a criminal investigation.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

Written comments may be submitted until March 26, 2010 at 5 p.m. Written comments may be submitted via e-mail to Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Children, Adults, and Families Division, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

Address: Department of Human Services, Children, Adults and Families Division: Child Welfare Programs, 500 Summer St. NE, E-48, Salem, OR 97301-1066

Telephone: (503) 945-6067

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**Department of Human Services,
Division of Medical Assistance Programs
Chapter 410**

Rule Caption: Extend alternate payment methodology for delivery procedures to rural health clinics to ensure access to obstetric care in areas of special or unmet medical need.

Date: 3-16-10 **Time:** 9:30 a.m. **Location:** HSB Bldg., Rm. 137B
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050 & 414.065

Other Auth.: 42 USC 1369a(bb), Title 42 Public Health of the Code of Federal Regulations

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-147-0365

Last Date for Comment: 3-18-10

Summary: The Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) Services program administrative rules govern DMAP payment for services to certain clients. DMAP needs to amend this rule ensure access to OB care, including delivery services, in frontier and remote rural areas for Medicaid clients in unmet medical and special needs geographic areas; and consistency with an Oregon State Plan Amendment.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

Telephone: (503) 945-6927

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Rule Caption: FCHP Non-contracted Hospital reimbursement rate methodology change (correction to previous filing DMAP 35-2009).

Stat. Auth.: ORS 409.050, 409.010, 409.110 & 414.065

Stats. Implemented: ORS 414.743

Proposed Amendments: 410-120-1295

Last Date for Comment: 3-19-10

Summary: The General Rules Program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services provided to clients. Having temporarily amended 410-120-1295 effective October 1, 2009, DMAP will permanently amend this

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rule to reference the reimbursement methodology changes indicated in HB 3259 (2009 Legislative session), effective for services rendered on or after October 1, 2009. DMAP failed to update the effective date inside the rule text to match the intended effective date of October 1, 2009. Therefore, DMAP filed the temporary rule revision retroactive to October 1, 2009 and is not making the revision permanent.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301
Telephone: (503) 945-6927

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Identify records retention requirements for private safety agencies employing public safety professionals.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Proposed Adoptions: 259-001-0017

Last Date for Comment: 3-22-10, Close of Business

Summary: Requires private safety agencies who employ public safety personnel subject to DPSST certification to retain records that are subject to review and inspection by DPSST in a manner consistent with the records retention requirements for the public safety agencies within DPSST jurisdiction.

Rules Coordinator: Marilyn Lorange

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2427

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Rule Caption: Include statutorily required training on medical health database with required Basic Police training at DPSST.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.641

Proposed Amendments: 259-008-0025

Last Date for Comment: 3-22-10, Close of Business

Summary: Adds to current rule the statutory requirement to include training on appropriate use of the medical health database maintained by the Department of State Police within the LEDS system, as enacted by the 2009 Legislative Assembly.

Rules Coordinator: Marilyn Lorange

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2427

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Rule Caption: To help ensure that public safety professionals receive required training within mandated time frames.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.644, 181.652, 181.653 & 181.665

Proposed Amendments: 259-008-0040

Last Date for Comment: 3-22-10, Close of Business

Summary: Provides that limited reassignment out of certifiable position, followed by return to certifiable position while continuing employment with same employer, does not re-start the time period within which the public safety professional must become certified.

Rules Coordinator: Marilyn Lorange

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2427

.....
Rule Caption: Housekeeping change to rules outlining procedures for determining sheriff eligibility.

Stat. Auth.: ORS 206.015

Stats. Implemented: ORS 206.015

Proposed Amendments: 259-008-0075

Last Date for Comment: 3-22-10, Close of Business

Summary: Removes inconsistent references to "primary" elections, for consistency with statutory requirement for sheriffs eligibility evaluation to occur as provided prior to any sheriffs election.

Rules Coordinator: Marilyn Lorange

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2427

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Rule Caption: Update Oregon fire certification standards consistent with updates to NFPA standards.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Proposed Amendments: 259-009-0005, 259-009-0062

Last Date for Comment: 3-22-10, Close of Business

Summary: Includes definitions for fire apparatus and driver to reflect changes as outlined in NFPA standards, and to adopt 2009 NFPA 1002 Fire Apparatus Driver/Operator standard.

Rules Coordinator: Marilyn Lorange

Address: 4190 Aumsville Hwy, SE, Salem, OR 97317

Telephone: (503) 378-2427

.....
Mortuary and Cemetery Board
Chapter 830

Rule Caption: Implements legislation creating "death care consultant" license, defines term/scope, establishes licensing requirements, fees.

Date:

3-25-10

Time:

9 a.m.

Location:

800 NE Oregon St., Suite 445
Portland, OR 97232

Hearing Officer: Michelle Gaines

Stat. Auth.: ORS 692.025, 692.143, 692.320, 692.160 & 692.170

Stats. Implemented: ORS 692.025, 692.143, 692.320, 692.160 & 692.170

Proposed Adoptions: Rules in 830-060, 830-060-0010, 830-060-0020

Proposed Amendments: 830-011-0000, 830-011-0050, 830-020-0000, 830-020-0020, 830-020-0040, 830-030-0090, 830-040-0000, 830-040-0050

Last Date for Comment: 3-25-10, 4 p.m.

Summary: The proposed rules reflect statutory changes in ORS 692 which established licensure requirements for death care consultants. Proposed rules define the scope of practice and terminology; adopts rules and amends existing rules to include death care consultant license where appropriate.

Rules Coordinator: Michelle Gaines

Address: Mortuary and Cemetery Board, 800 NE Oregon St., Suite 430, Portland, OR 97232

Telephone: (971) 673-1502

.....
Oregon Business Development Department
Chapter 123

Rule Caption: These rules cover the Brownfields redevelopment Loan Fund and have been revised for clarity.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.0185 & 285A.188

Proposed Adoptions: 123-135-0065

Proposed Amendments: 123-135-0000, 123-135-0010, 123-135-0020, 123-135-0030, 123-135-0040, 123-135-0050, 123-135-0080, 123-135-0087, 123-135-0090, 123-135-0100, 123-135-0110

Proposed Repeals: 123-135-0060, 123-135-0070

Last Date for Comment: 3-22-10

Summary: These rules are being revised due to changes brought by the 2009 Legislative session and reflect the department name change. In addition these rules have been revised for clarity.

Rules Coordinator: Mindee Sublette

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: These rules cover the Oregon Coalition Brownfield Clean-up Fund and have been revised for clarity.

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 285A.075, 285A.190 & 285A.192
Stats. Implemented: ORS 285A.190
Proposed Amendments: 123-140-0010, 123-140-0020, 123-140-0030, 123-140-0050
Last Date for Comment: 3-22-10
Summary: These rules are being revised due to changes brought by the 2009 Legislative session and reflect the department name change. In addition these rules have been revised for clarity.
Rules Coordinator: Mindee Sublette
Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301
Telephone: (503) 986-0036

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Oregon Department of Aviation
Chapter 738

Rule Caption: Leases of State-owned airports, including lease valuation and lease application.
Stat. Auth.: ORS 835.035, 835.040 & 835.112
Stats. Implemented: ORS 835.035, 835.040, 835.112 & 836.055
Proposed Amendments: 738-010-0025, 738-010-0035, 738-015-0005
Last Date for Comment: 3-22-10
Summary: These rules describe the types of rates, charges and fees the Department may charge a user (lessee) of State-owned airports, how the Department determines the lease value, and the leasing application process. The Department depends on lease revenues to fund its operations. Proposed amendments describe current methodology used to determine lease value, authorize a user (lessee) to enter into a payment-in-kind agreement to satisfy partial or complete lease payment, allow the Department flexibility needed to address appraised property value, and streamline the leasing application process. The amendments are needed on a permanent basis to update the rules to align with current business practices.
The proposed amendments are substantively the same as temporary rules filed and effective January 7, 2010.
Rules Coordinator: Cindy M. Pease
Address: Oregon Department of Aviation, 3040 25th St. SE, Salem, OR 97302-1125
Telephone: (503) 378-4881

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Oregon Liquor Control Commission
Chapter 845

Rule Caption: Amendments allowing alcohol suppliers to provide lists to customers of all retailers carrying their products.
Date: 3-25-10 **Time:** 10 a.m. **Location:** 9079 SE McLoughlin Blvd. Portland, OR 97222
Hearing Officer: Jennifer Huntsman
Stat. Auth.: ORS 471, 471.030 & 471.730(1) & (5)
Stats. Implemented: ORS 471.398(4) & 471.730(7)
Proposed Amendments: 845-013-0040
Last Date for Comment: 4-8-10
Summary: This rule describes the types of advertising that manufacturers or wholesalers are allowed to provide to retailers under the limited exceptions in the financial assistance statutes. The current rule states that such advertising must mention "no specific retailer." Wineries, breweries, and other suppliers of wine and malt beverages would like to be able to make available to their customers a listing of the retailers who carry their products. If such a listing were allowed, a consumer who is looking for a retail store where they can purchase a specific Oregon winery's product, for example, would then be able to get that information directly from the winery. While primarily applicable to off-premises retailers, there may be some application to on-premises retailers, including for distilled spirit suppliers. Staff proposes amending this rule to allow manufacturers or wholesalers to furnish lists of all the retailers who carry their products either on the supplier's website or on lists available at the supplier's discrimination, and may include only the names and

addresses of the retailers. No prices or other information that could steer customers to a particular retailer would be allowed. Staff believed that any benefit to a particular retailer under this proposal would be nominal and thus be consistent with the exceptions allowed by statute for items and services of nominal value.
Rules Coordinator: Jennifer Huntsman
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222
Telephone: (503) 872-5004

.....
Oregon Medical Board
Chapter 847

Rule Caption: Define approved school of medicine and add re-entry plan language.
Stat. Auth.: ORS 677.175 & 677.265
Stats. Implemented: ORS 677.010, 677.175 & 677.265
Proposed Amendments: 847-020-0100, 847-020-0130, 847-020-0150, 847-020-0160, 847-020-0183
Last Date for Comment: 3-28-10
Summary: The proposed rule amendments add the definition of "approved school of medicine" from ORS 677.010 and add graduates of international medical schools on the list of medical schools recognized by the Medical Board of California as eligible for Oregon licensure. Proposed rule amendments update the term "foreign" to "international" when used to modify "medical graduate," "medical school" or "school of medicine." Proposed rule change also adds language on re-entry plans for applicants who have been out-of-practice for more than 24 consecutive months to clarify existing Board practices.
Rules Coordinator: Malar Ratnathicam
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2713

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Rule Caption: Update "foreign" to "international" for medical schools or graduates.
Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Proposed Amendments: 847-023-0010, 847-023-0015
Last Date for Comment: 3-28-10
Summary: The proposed rule amendments update the term "foreign" to "international" when used to modify "medical graduate," "medical school" or "school of medicine."
Rules Coordinator: Malar Ratnathicam
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2713

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Rule Caption: Allow volunteer and rotating practice assignments by physician assistants.
Stat. Auth.: ORS 677.265 & 677.545
Stats. Implemented: ORS 677.265, 677.510 & 677.515
Proposed Adoptions: 847-050-0046
Last Date for Comment: 3-28-10
Summary: The proposed rule allows physician assistants who are no longer actively practicing to practice temporary, volunteer assignments or to practice on a rotating basis in Oregon.
Rules Coordinator: Malar Ratnathicam
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2713

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Oregon Patient Safety Commission
Chapter 325

Rule Caption: Establishes the Oregon Patient Safety Reporting Program for outpatient renal dialysis facilities.

NOTICES OF PROPOSED RULEMAKING

Date: 3-30-10 **Time:** 2:30 p.m. **Location:** Rm. 1C, 800 NE Oregon St. Portland, OR

Hearing Officer: Shannon O’Fallon
Stat. Auth.: ORS 442.820
Other Auth.: ORS 182.456–182.472
Stats. Implemented: ORS 442.819–442.851 (particularly ORS 442.837(2)(e))
Proposed Adoptions: 325-030-0001 – 325-030-0060
Last Date for Comment: 3-30-10, Close of Hearing
Summary: These rules establish the Oregon Patient Safety Reporting Program for all outpatient renal dialysis facilities as defined in ORS 442.015. The reporting program will help reduce the risk of adverse events and encourage a culture of safety. These rules also establish a fee structure for outpatient renal dialysis facilities to partially fund the work of the Patient Safety Commission.
Rules Coordinator: Jim Dameron
Address: 1020 SW Taylor Street, Suite 700, Portland, Oregon 97205
Telephone: (503) 224-9226

Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Clarifies definition of “effective date of withdrawal.”

Date: 4-27-10 **Time:** 2 p.m. **Location:** PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238
Proposed Amendments: 459-005-0001
Last Date for Comment: 4-29-10
Summary: Align “effective date of withdrawal” definition with current administrative practice.

Copies of proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

Rule Caption: Address employer remittance of employee contributions under Chapter 238A.

Date: 4-27-10 **Time:** 2 p.m. **Location:** PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238A.335
Proposed Amendments: 459-009-0200
Last Date for Comment: 4-29-10
Summary: Amend rule to address employer remittance of employee contributions under Chapter 238A. Rule may also be amended to reference the reporting and remittance rules in division 70.

Copies of proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

Rule Caption: Clarifies distribution of member’s account money if member dies before retiring without a designated beneficiary.

Date: 4-27-10 **Time:** 2 p.m. **Location:** PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650 & 238.390
Stats. Implemented: ORS 238.390
Proposed Amendments: 459-014-0100
Last Date for Comment: 4-29-10
Summary: Clarifies distribution of member’s account money if member dies before retiring without a designated beneficiary.

Copies of proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

Rule Caption: Clarifies disability definitions, eligibility for disability retirement, and selection of benefit options.

Date: 4-27-10 **Time:** 2 p.m. **Location:** PERS Brdrm. 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650 & 238.095
Stats. Implemented: ORS 238.320–238.345 & 238.435(5)
Proposed Amendments: 459-015-0001, 459-015-0005, 459-015-0055
Last Date for Comment: 4-29-10
Summary: Amend rules to clarify disability definitions, eligibility for disability retirement, and selection of benefit option.

Copies of proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

Oregon State Lottery
Chapter 177

Rule Caption: Repeals rule regarding performance bond requirement no longer required by statute.

Date: 3-15-10 **Time:** 2:30–3 p.m. **Location:** Oregon Lottery 500 Airport Rd. SE Salem, OR

Hearing Officer: Larry Trott
Stat. Auth.: ORS 461
Other Auth.: OR Constitution, Art. XV § 4(4)
Stats. Implemented: ORS 461.400, 461.430 & 461.440
Proposed Repeals: 177-036-0200
Last Date for Comment: 3-15-10, 3 p.m.
Summary: The Oregon Lottery has initiated permanent rulemaking to repeal OAR 177-036-0200, which requires that only a performance bond can be posted as security for performance of a Lottery contract. This will permit the Lottery to allow other performance security to be posted as authorized by ORS 461.430, such as cash or irrevocable letters of credit.
Rules Coordinator: Mark W. Hohlt

NOTICES OF PROPOSED RULEMAKING

Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301

Telephone: (503) 540-1417

Rule Caption: Authorizes new game for the Oregon Lottery®, Mega Millions®.

Date:	Time:	Location:
3-15-10	2–2:30 p.m.	Oregon Lottery 500 Airport Rd. SE Salem, OR

Hearing Officer: Larry Trott

Stat. Auth.: ORS 190 & 461

Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.2320, 461.240, 461.250 & 461.260

Proposed Adoptions: 177-098-0000, 177-098-0010, 177-098-0020, 177-098-0030, 177-098-0040, 177-098-0050, 177-098-0060, 177-098-0070, 177-098-0080, 177-098-0090, 177-098-0100, 177-098-0110

Proposed Amendments: 177-010-0003, 177-046-0110, 177-070-0005

Last Date for Comment: 3-15-10, 2:30 p.m.

Summary: The Oregon State Lottery has initiated permanent rule-making to adopt the above referenced administrative rules and amend three rules. The proposed rules authorize a new game for the Oregon Lottery®, Mega Millions®, and provide the rules for how it is played.

Rules Coordinator: Mark W. Hohlt

Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301

Telephone: (503) 540-1417

Oregon University System Chapter 580

Rule Caption: To amend OAR 580-040-0040 and supersede all prior permanent and temporary fee book rules.

Date:	Time:	Location:
5-11-10	1:30–2:30 p.m.	Rm. B214, Kerr Admin. Bldg. Oregon State University Corvallis, OR
5-13-10	10–11 a.m.	Rm. B214, Kerr Admin. Bldg. Oregon State University Corvallis, OR

Hearing Officer: Shonna Sedgwick Butler

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 580-040-0040

Last Date for Comment: 5-14-10, 5 p.m.

Summary: To establish Tuition and Fees for the 2010–11 Academic Year, including Room and Board rates; upon Board approval, June 2010. Supersedes all previous permanent and temporary fee book rules.

Rules Coordinator: Shonna Sedgwick Butler

Address: P. O. Box 488, Corvallis, OR 97339-0488

Telephone: (541) 737-2922

Oregon University System, Eastern Oregon University Chapter 579

Rule Caption: Amend permit parking rule to include process for lost or stolen parking permits.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 579-020-0006

Last Date for Comment: 3-24-10

Summary: Amend fees charged to students for special uses of facilities, services or supplies at Eastern Oregon University.

Rules Coordinator: Lara Moore

Address: Oregon University System, Eastern Oregon University, One University Blvd., La Grande, OR 97850

Telephone: (541) 962-3368

Oregon University System, University of Oregon Chapter 571

Rule Caption: Amend special fees, fines, penalties, and service charges — specifically for Family Housing Rental Rates.

Date:	Time:	Location:
4-6-10	4 p.m.	University of Oregon Erb Memorial Union, Rogue Rm. Eugene, OR

Hearing Officer: Deb Donning

Stat. Auth.: ORS 351.070 & 352

Stats. Implemented: ORS 351.070

Proposed Amendments: 571-060-0005

Last Date for Comment: 4-7-10, 12 p.m.

Summary: Increase in family housing rental rates to cover projected operating costs for 2010–2011.

Rules Coordinator: Deb Donning

Address: Oregon University System, University of Oregon, 1226 University of Oregon, Eugene, OR 97403

Telephone: (541) 346-3082

Parks and Recreation Department Chapter 736

Rule Caption: Rules governing Cultural, Historic, Natural and Wildlife Resources are being amended to restrict hunting in La Pine State Park and allow continued hunting practices at Cottonwood Canyon State Park.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.11, 498.002 & 498.006

Proposed Amendments: 736-010-0055

Last Date for Comment: 3-31-10

Summary: The General Park Area Rules are being amended to allow continued hunting on the OPRD-acquired property known as Cottonwood Canyon State Park, in accordance with past practice allowed by previous owner until such time as the Cottonwood Canyon State Park Master Plan can be developed and adopted. The General Park Area Rules are also being amended for La Pine State Park to restrict hunting within the park boundary to be in accordance with adjoining land owners.

Rules Coordinator: Vanessa DeMoe

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301

Telephone: (503) 986-0719

Public Utility Commission Chapter 860

Rule Caption: In the Matter of Revisions to the Administrative Rules regarding Practice and Procedure.

Date:	Time:	Location:
4-6-10	9:30 a.m.	Public Utility Commission 550 Capitol St. NE Main Hearing Rm. 1st Flr. Salem, OR 97301

Hearing Officer: Michael Grant, Shani Pines

Stat. Auth.: ORS 183, 756.040 & 756.060

Stats. Implemented: ORS 183.462, 192.420–192.505; 192.610 et seq., 756.040, 756.055, 756.060, 756.500–756.575; 757.072 & 757.205

Proposed Adoptions: 860-001-0000 – 860-001-1000

Proposed Amendments: 860-011-0000 – 860-011-11-0035, 860-011-0080 – 860-011-0110, 860-012-0001 – 860-012-0190, 860-013-0005 – 860-013-0071, 860-014-0005 – 860-014-0095

Proposed Repeals: 860-013-0075 to 860-022-0019

Last Date for Comment: 4-20-10, Close of Business

NOTICES OF PROPOSED RULEMAKING

Summary: The proposed rule changes repeal the current practice and procedure rules that are currently spread throughout 4 divisions of rules, and consolidate them into one division. The proposed rule changes improve the organization and clarity of the procedural rules, include rules for rulemaking and declaratory ruling proceedings, and update and clarify other procedural provisions.

The Commission encourages participants to file written comments as early as practicable in the proceeding so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 535 on comments and file them by e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us and also send a signed paper copy to the Filing Center at PO Box 2148, Salem, Oregon 97308-2418. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=15437>

Participants wishing to monitor the hearing by telephone (listen only) must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business April 2, 2010, to request a dial-in number. To present oral comment at the hearing, participants must attend in person.

Rules Coordinator: Diane Davis
Address: Public Utility Commission, PO Box 2148, Salem, OR 97308
Telephone: (503) 378-4372

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**Secretary of State,
Corporation Division
Chapter 160**

Rule Caption: UCC Statutory Lien and EFS Filing Fees.
Stat. Auth.: ORS 80.106, 80.115, 87.246(3), 87.767, 177.130 & 192.440
Stats. Implemented: ORS 80.115, 87.246, 87.767, 177.130 & 192.440

Proposed Amendments: 160-050-0140, 160-050-0215
Proposed Repeals: 160-050-0140(T), 160-050-0215(T)

Last Date for Comment: 3-21-10
Summary: This rule amends the Uniform Commercial Code statutory lien and EFS filing fees from \$10 to \$15 in order for the UCC program to become self-supporting.

Rules Coordinator: Karen Hutchinson
Address: Secretary of State, Corporation Division, 255 Capitol St. NE, Suite 151, Salem, OR 97310
Telephone: (503) 986-2364

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**Veterinary Medical Examining Board
Chapter 875**

Rule Caption: Allows certified veterinary technician students to work in veterinary practices.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.045 & 686.065
Proposed Amendments: 875-010-0045
Last Date for Comment: 4-5-10

Summary: Allows students of Board-approved veterinary technology programs to work in veterinary practices under supervision of a veterinarian or Certified veterinary Technician.

Rules Coordinator: Lori Makinen
Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0224

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Rule Caption: Updates pain management minimum standards and clarifies examination requirements.
Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.040 & 686.370
Proposed Amendments: 875-015-0030

Last Date for Comment: 4-5-10
Summary: Adds requirements for patient pain management in conformance with industry practices and minimum standards of care. Clarifies existing rule for required yearly patient examination, and adds rule for examination and consent for euthanasia.

Rules Coordinator: Lori Makinen
Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0224

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Rule Caption: Repeals waiver of VTNE for certain applicants for a veterinary technician license.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.350 & 686.370
Proposed Repeals: 875-030-0010
Last Date for Comment: 4-5-10

Summary: Eliminates option of veterinary technician licensure for applicants who have not passed the Veterinary Technician National Exam.

Rules Coordinator: Lori Makinen
Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0224

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**Water Resources Department
Chapter 690**

Rule Caption: Update and streamlining of the following coastal basin programs: Rogue, Umpqua, South Coast, north Coast and Mid-Coast.

Date:	Time:	Location:
3-31-10	10-11 a.m.	Joesphine Co. Courthouse 500 NE 6th St., Rm. 157 Grants Pass, OR
3-31-10	2:30-3:30 p.m.	Douglas Co. Courthouse 1036 SE Douglas St., Rm. 216 Roseburg, OR
4-1-10	2:30-3:30 p.m.	Coos Bay - North Bend Water Bd. 2305 Ocean Blvd. Coos Bay, OR
4-7-10	11 a.m.-12 p.m.	Tillamook Main Branch Library 1716 3rd St. Tillamook, OR
4-7-10	2:30-3:30 p.m.	N. Lincoln Co. Hist. Museum 4907 SW Hwy. 101 Lincoln City, OR

Hearing Officer: John Roberts, Jeanne LeJeune
Stat. Auth.: ORS 536.025, 536.300 & 536.340

Stats. Implemented:
Proposed Amendments: 690-501-0005, 690-501-0010, 690-501-0020, 690-501-0030, 690-501-0040, 690-515-0000, 690-515-0010, 690-515-0020, 690-515-0030, 690-515-0040, 690-515-0050, 690-515-0060, 690-516-0005, 690-516-0010, 690-516-0020, 690-516-0030, 690-516-0040, 690-517-0000, 690-517-0010, 690-517-0020, 690-517-0030, 690-517-0040, 690-518-0010, 690-518-0020, 690-518-0030, 690-518-0040, 690-518-0050, 690-518-0060

Last Date for Comment: 4-15-10, 5 p.m.

Summary: The Oregon Water Resources Commission develops, adopts and periodically modifies programs for the state's major administrative basins as part of its statutory responsibility to progressively formulate an integrated, coordinated program for the use and control of the water resources of the state (ORS 536.300). Basin programs are administrative rules which establish water management policies and objectives and which govern new appropriations of the surface and groundwater within each of the respective basins. There is a need to update and streamline the basin program rules to reflect changes in statute and other related administrative rules. The Department is proposing changes to the basin programs for the Rogue, Umpqua, South Coast, Mid-Coast and North Coast, which together comprise the coastal basin programs for the state, as the initial and

NOTICES OF PROPOSED RULEMAKING

progressive updating and streamlining of all the basin programs of the state. Rule provisions common to the five coastal basin programs that are the subject of the proposed rules include: classifications, minimum perennial streamflows, storage, out-of-basin appropriations, and water quality.

Rules Coordinator: Ruben Ochoa

Address: Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301

Telephone: (503) 986-0874

ADMINISTRATIVE RULES

Appraiser Certification and Licensure Board Chapter 161

Rule Caption: Temporary rule removing references to applications and requirements for State Licensed Appraiser.

Adm. Order No.: ACLB 1-2010(Temp)

Filed with Sec. of State: 1-29-2010

Certified to be Effective: 2-1-10 thru 7-27-10

Notice Publication Date:

Rules Amended: 161-010-0010, 161-010-0020, 161-010-0085, 161-015-0000, 161-015-0010, 161-015-0025, 161-015-0030, 161-020-0005, 161-020-0110, 161-020-0130, 161-020-0150, 161-025-0025, 161-025-0030, 161-030-0000, 161-050-0000, 161-050-0050

Rules Suspended: 161-010-0055

Subject: Repeals Oregon Administrative Rule 161, division 10, rule 0055 regarding prerequisite experience and education requirements for state licensed appraiser. Amends Oregon Administrative Rule 161, division 10, rule 0010 regarding appraisers in Oregon; division 10, rule 0020 regarding qualifying appraiser experience; division 10, rule 0085 regarding prerequisite experience and education for supervising appraiser endorsement; division 15, rule 0000 regarding application process; division 15, rule 0010 regarding form of application; division 15, rule 0025 regarding application form out-of-state credential holder; division 15, rule 30 regarding submission of application; division 20, rule 0005 regarding scope of education; division 20, rule 0110 regarding qualifying education course content guidelines; division 20, rule 0130 regarding approval requirements for non pre-approved courses; division 20, rule 0150 regarding time requirements for education; division 25, rule 0025 regarding supervising appraisers; division 25, rule 0030 regarding appraiser assistants; division 30, rule 0000 regarding criminal background checks; division 50, rule 0000 regarding temporary registration of out-of-state appraisers; and division 50, rule 0050 regarding reciprocity.

Rules Coordinator: Karen Turnbow — (503) 485-2555

161-010-0010

Appraisers in Oregon and Renewal Procedures

(1) There are three categories of appraisers in Oregon; state licensed appraiser, state certified residential appraiser, and state certified general appraiser.

(2) Unlicensed/Uncertified individuals may assist in the preparation of an appraisal, but are not allowed to sign the appraisal report.

(3) Appraisers in Oregon must demonstrate competency by meeting prerequisite and continuing education, testing, and experience requirements established by the Board.

(4) All licenses and certificates are subject to renewal every two years on or before the last day of the license or certificate holder's birth month.

(5) Each license or certificate may be renewed upon receipt of the renewal fee specified in OAR 161-003-0020, a complete renewal application that includes a current, recognizable, passport style color photograph of the applicant, evidence of the completion of continuing education requirements as provided in OAR 161-020-0150, and the fee. The completed application, fee, and evidence of continuing education requirements must be received in the Board office on or before the expiration date of the license to be considered timely. If the expiration date falls on a weekend or legal holiday, the renewal application must be received no later than 5:00 p.m. on the next business day following the date of expiration.

(6) Renewal applications received after the expiration date and within one (1) year of the date of expiration shall be assessed a late fee in addition to the renewal fee. It is unlawful for any appraiser to engage in, carry on, advertise or purport to engage in or carry on real estate appraisal activity within this state after a license or certificate has expired and prior to properly renewing the expired license or certificate.

(7) If an appraiser fails to renew their license or certificate within one year from the date of expiration, the status of the license or certificate becomes terminated and they must reapply pursuant to OAR 161-010-0020 through 161-010-0055.

(8) Licensees on active duty with the United States Armed Forces at the time of renewal may, upon written request to the Board, be provided a military deferral allowing for their otherwise complete application, includ-

ing fee and evidence of continuing education, to be considered timely if received by the Board within 180 days of release from active duty.

(9) Each licensee shall notify the Administrator within thirty (30) days of any disciplinary action imposed in any other state in which the person holds a license or certificate.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. & cert. ef. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-010-0020

Qualifying Appraiser Experience for Certification

(1) Areas of acceptable appraisal experience, as described in OAR 161-010-0025, may include but are not limited to the following:

(a) Fee Appraisal prepared by a state licensed or certified appraiser in conformance with USPAP;

(b) Staff Appraisal prepared in conformance with USPAP;

(c) Review Appraisal prepared in conformance with USPAP;

(d) Real Property Appraisal Consulting prepared in conformance with USPAP;

(e) Highest and Best Use Analysis prepared in conformance with USPAP;

(f) Assistance in preparation of appraisals as a registered appraiser assistant performing tasks as provided in OAR 161-025-0030.

(2) All experience must have been obtained after January 30, 1989.

(3) Experience being claimed as set forth in paragraphs (1)(c), (d) and (e) above, individually or combined, may not exceed more than 25 percent of the total required experience hours.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. & cert. ef. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-010-0055

Prerequisite Experience and Education Requirements for State Licensed Appraisers

As a prerequisite to taking the examination for licensure as a State Licensed Appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has:

(1) At least 2,000 cumulative hours of acceptable appraisal experience. Cumulative hours must be acquired over at least twelve (12) months.

(2) Successfully completed not less than 150 classroom hours of acceptable appraisal courses as set forth in OAR 161-020-0110(2)(b). Included within these requirements, each applicant shall have successfully completed the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within four (4) years preceding the date of application and have successfully passed an examination thereon.

(3) Effective January 1, 2010 the Board will no longer accept new applications for State Licensed Appraiser. Therefore, the education and experience requirements for State Licensed Appraiser will be moot.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 5-1991(Temp), f. & cert. ef. 11-18-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0050 & 161-010-0060; ACLB 1-1998, f. & cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; Suspended by ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-010-0085

Pre-Requisite Experience and Education for Supervising Appraiser

Any licensee wishing to supervise a new appraiser assistant, must first apply for and receive a Supervising Appraiser Endorsement. In order to receive a Supervising Appraiser Endorsement, the applicant must:

(1) Be certified for a minimum of 24 months, be in good standing, and not be otherwise prohibited from supervising appraiser assistants. Effective January 1, 2010, State Licensed Appraisers may not supervise registered appraiser assistants and, therefore, are not eligible for a supervising appraiser endorsement.

(2) Attend a Board approved Supervising Appraiser/Appraiser Assistant Training Course and successfully pass the final exam prior to making application. A prior Supervising Appraiser/Appraiser Assistant

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Training Course and exam completed for purposes of registering as an appraiser assistant will not count towards obtaining a Supervising Appraiser Endorsement.

(3) Submit a completed Supervising Appraiser Endorsement application that includes the following:

(a) Non-refundable application fee as described on the application form; and

(b) Supervising Appraiser/Appraiser Assistant Training Course completion certificate.

(4) Upon application approval, the Board will issue the applicant a Supervising Appraiser Endorsement that authorizes the applicant to act as a Supervising Appraiser pursuant to OAR 161-025-0025. The endorsement is valid from the date of issuance.

(5) A Supervising Appraiser Endorsement may be suspended or revoked if the Board determines that the applicant has failed to directly supervise an Appraiser Assistant as required by OAR 161-025-0025.

(6) The Board may also conduct assessments of appraisal work product after the Supervising Appraiser Endorsement is issued.

(7) Any applicant may submit a written request to withdraw their application at any time prior to an official action being taken by the Board.

Stat. Auth.: OAR 183.355(1)(a), 674.305(7) & 674.310(2)

Stats. Implemented: ORS 674.305(7) & 674.310(2)

Hist.: ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08; ACLB 2-2008(Temp), f. & cert. ef. 8-6-08 thru 2-1-09; ACLB 1-2009, f. 1-28-09, cert. ef. 1-30-09; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-015-0000

Application Process

Any person desiring to take an appraiser examination, must submit a completed pre-printed application evidencing completion of the required qualifying education and experience.

(1) Applicants must list qualifying education courses by date, course provider, and classroom hours.

(2) Applicants must submit documentation of course completion in the form of official transcripts, signed letters, or signed certificates of completion. Course outlines or other items may be requested to verify the prerequisite education.

(3) Applicants must submit a pre-printed experience log which detail hours of appraisal experience claimed for credit. Such hours must meet the requirements of OAR 161-010-0035, or 161-010-0045, as applicable.

(4) The applicant may be required to submit an affidavit from an employer to verify experience claimed.

(5) The applicant may also be required to submit some or all written reports or file memoranda claimed on the experience log.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 3-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 1-2009, f. 1-28-09, cert. ef. 1-30-09; ACLB 1-2009(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-015-0010

Form of Application

All appraiser and appraiser assistant applications must be submitted as prescribed in OAR 161-010-0080 or 161-015-0000.

(1) Where space does not permit an applicant to present her or his complete record of experience or education on the application forms, the applicant may duplicate the forms or attach appropriate addendum. All questions must be answered. All forms must be signed and dated.

(2) An application shall be accompanied by a current, recognizable passport style photograph of the applicant.

(3) Withholding information, misrepresentation, or submission of untrue or false statements as part of the application are deemed to demonstrate untrustworthiness and are cause for a civil penalty under ORS 674.850 and either denial of an application or subsequent disciplinary action.

(4) The application must include the applicant's Social Security number for identification purposes as authorized by ORS 25.785 and will remain on file with the Board. Failure to provide a Social Security Number is grounds to deny an application.

(5) An application and the application fee shall be valid for six (6) months from receipt by the Board. After six (6) months, the applicant must submit a new application with the appropriate fee.

(6) An applicant for certificate shall have 6 months from the date of written notification of application approval to successfully pass the examination or the application shall be denied.

[ED NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 2-2000, f. & cert. ef. 10-23-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2009, f. 1-28-09, cert. ef. 1-30-09; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-015-0025

Application from Out-of-State Credential Holder

(1) The Board may recognize and accept the education and experience of applicants who hold an active certificate obtained from another state. The out-of-state certificate must be active and the applicant must be in good standing in all states in which they are certified.

(2) All applicants shall be subject to a criminal background check.

(3) The application must be submitted on a form prescribed by the Board.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-015-0030

Submission of License or Certificate Application

(1) Each application must be accompanied by a non-refundable application fee.

(2) An application that is not properly completed, does not contain all the required information, or is not accompanied by the required fee will be deferred. An application will also be considered incomplete if the check for payment of the required fees is dishonored;

(3) The application will be reviewed to determine whether the applicant has sufficient education and experience and is otherwise qualified to sit for the examination;

(4) An applicant who is not a resident of the State of Oregon must submit with the application, an irrevocable consent to service form appointing the Administrator of the Board as agent for service of process as provided in these rules, if, in an action against the applicant in a court of this state arising out of the applicant's activities as a licensed or certified appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(5) An applicant must be a citizen of the United States or have the legal authority to work in the United States.

(6) An applicant who is actively certified in another state(s) must have successfully passed an AQB approved examination subsequent to January 1, 2008 or they will be required to take and pass the examination. The examination must be at a level consistent with the appraiser category applied for in the State of Oregon. The examination results must be sent directly from an AQB approved examination provider to the Board office.

(7) Applicants for certification must have a license history submitted directly to the Board office from each state in which he or she has ever been licensed or certified, or the Board may obtain a National Registry Appraiser License History report. Applicants must be in good standing in all states in which they are certified or the application will be denied.

(8) Upon application approval, if applicable, the applicant is notified that they are approved to sit for the examination. Upon successful completion of the examination, the Board will notify the appraiser and within one year of the notification, the applicant must submit the ACLB Certificate Request form with the appropriate certification and national registry fees, requesting that their certificate be issued. The Administrator issues the certificate to the applicant. The appraiser's name is submitted to the FFIEC Appraisal Subcommittee for inclusion on the Federal Registry.

(9) Upon issuance of a certificate, consistent with the scope of practice as provided in OAR 161-025-0000 and 161-025-0005, the appraiser is authorized to conduct real estate appraisal activity between the date of the issuance of the certificate, and the expiration date of the certificate, unless sooner revoked or suspended. No more than one certificate shall be issued and outstanding to, or in favor of, any appraiser at one time.

(10) An applicant may submit a written request to withdraw their application at any time prior to an official action being taken by the board. An official action may include, but is not limited to, a notice of proposed denial of application.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 2-1999, f. & cert. ef. 4-20-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07,

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cert. ef. 1-1-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-020-0005

Scope

This division outlines the requirements for qualifying education for state certified residential and state certified general appraisers; continuing education for state licensed, state certified residential and state certified general appraisers; and the education course and course provider requirements. Course providers that have obtained approval of their course(s) under the Appraisal Qualifications Board of the Appraisal Foundation (AQB) Course Approval Program may be recognized by the Administrator as having satisfied the requirements of this rule. The Administrator retains the right to review, modify, or reject a course which has received AQB approval.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674.310

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-020-0000; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-020-0110

Qualifying Education Course Content Guidelines

(1) General Guidelines:

(a) The course must be a real estate appraisal course that involves a minimum of fifteen classroom hours of instruction (including examination time) on acceptable topics;

(b) The course must generally be broad in scope and must cover various principles, concepts, standards, practices and/or methods that are applicable generally to the performance of a wide range of appraisal assignments that will commonly be encountered by licensed or certified appraisers. The course must be intended to provide the student with a broad-based foundation of knowledge and skills in real estate appraising;

(c) Coverage in a course of additional specific topics not listed as typical specific topics under the categories of acceptable courses will not exclude that course from consideration provided that:

(A) The principal focus of the course is not on such additional topics;

(B) The additional topics covered are appropriate (consistent with course learning objectives); and

(C) The course contains not less than fifteen classroom hours of instruction on acceptable topics. However, the course must still be consistent with the parameters described in these rules.

(d) The section titled "Unacceptable Courses" in these rules describes specifically the categories of courses that are not acceptable as qualifying education under these rules;

(e) Courses will be evaluated based on their content without regard to the course title;

(f) The following factors shall be used to convert university, college, junior college and community college course credits into classroom hours:

(A) One (1) semester credit equals fifteen (15) classroom hours

(B) One (1) quarter credit equals ten (10) classroom hours.

(2) Qualifying Education Requirements for Certification:

(a) Only courses approved by the Administrator will be credited toward the education requirements. Approved courses have been assigned to curricula as follows:

(A) Basic Appraisal Principles;

(B) Basic Appraisal Procedures;

(C) Residential Market Analysis and Highest and Best Use;

(D) Residential Appraiser Site Valuation and Cost Approach;

(E) Residential Sales Comparison and Income Approaches;

(F) Residential Report Writing and Case Studies;

(G) Statistics, Modeling and Finance;

(H) Advanced Residential Applications and Case Studies;

(I) General Appraiser Market Analysis and Highest and Best Use;

(J) General Appraiser Sales Comparison Approach;

(K) General Appraiser Site Valuation and Cost Approach;

(L) General Appraiser Income Approach;

(M) General Appraiser Report Writing and Case Studies;

(N) The Appraisal Foundation's National USPAP Course or its equivalent;

(O) Elective courses.

(b) For state certified residential appraisers, courses in the following categories and credit hours must be completed with the successful passage of an examination, as specified in these rules:

(A) Course(s) on Basic Appraisal Principles (30 hours in not less than 15 hour increments);

(B) Course(s) on Basic Appraisal Procedures (30 hours in not less than 15 hour increments);

(C) Course(s) on Residential Market Analysis and Highest and Best Use (15 hours);

(D) Course(s) on Residential Appraiser Site Valuation and Cost Approach (15 hours);

(E) Course(s) on Residential Sales Comparison and Income Approaches (30 hours in no less than 15 hour increments);

(F) Course(s) on Residential Report Writing and Case Studies (15 hours);

(G) Course(s) on Statistics, Modeling and Finance (15 hours);

(H) Course(s) on Advanced Residential Applications and Case Studies (15 hours);

(I) Electives (20 hours);

(J) The Appraisal Foundation's National USPAP Course or its equivalent (15 hours).

(c) For state certified general appraisers, courses in the following categories and credit hours must be completed with the successful passage of an examination, as specified in these rules:

(A) Course(s) on Basic Appraisal Principles (30 hours in not less than 15 hour increments);

(B) Course(s) on Basic Appraisal Procedures (30 hours in not less than 15 hour increments);

(C) Course(s) on General Appraiser Market Analysis and Highest and Best Use (30 hours in not less than 15 hour increments);

(D) Course(s) on Statistics, Modeling and Finance (15 hours);

(E) Course(s) on General Appraiser Sales Comparison Approach (30 hours in not less than 15 hour increments);

(F) Course(s) on General Appraiser Site Valuation and Cost Approach (30 hours in not less than 15 hour increments);

(G) Course(s) on General Appraiser Income Approach (60 hours in not less than 15 hour increments);

(H) Course(s) on General Appraiser Report Writing and Case Studies (30 hours in not less than 15 hour increments);

(I) Electives (30 hours in not less than 15 hour increments);

(J) The Appraisal Foundation's National USPAP Course or its equivalent (15 hours).

(3) Acceptable Courses. Listed below are the categories of courses that are acceptable under these rules:

(a) Courses on Basic Appraisal Principles (30 hours). A course(s) in this category must be broad in scope and focus on basic real estate appraisal concepts, principles, and methods that are applicable generally to the appraisal of most types of real estate. Basic Appraisal Principles courses would substantially include the following specific topics:

(A) Real Property Concepts and Characteristics:

(i) Basic Real Property Concepts;

(ii) Real Property Characteristics;

(iii) Description.

(B) Legal Consideration:

(i) Forms of Ownership;

(ii) Public and Private Controls;

(iii) Real Estate Contracts;

(iv) Leases.

(C) Influences on Real Estate Values:

(i) Governmental;

(ii) Economic;

(iii) Social;

(iv) Environmental, Geographic and Physical.

(D) Types of Value:

(i) Market Value;

(ii) Other Value Types.

(E) Economic Principles:

(i) Classical Economic Principles;

(ii) Application and Illustrations of the Economic Principles.

(F) Overview of Real Estate Markets and Analysis:

(i) Market Fundamentals, Characteristics, and Definitions;

(ii) Supply Side Analysis;

(iii) Demand Analysis;

(iv) Use of Market Analysis;

(G) Ethics and How They Apply in Appraisal Theory and Practice

(b) Courses on Basic Appraisal Procedures (30 hours). A course(s) in this category must be broad in scope and focus on basic real estate appraisal procedures that are applicable generally to the appraisal of most types of real estate. Basic Appraisal Procedures courses would substantially include the following specific topics:

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- (A) Overview of Approaches to Value;
- (B) Valuation Procedures:
 - (i) Defining the Problem;
 - (ii) Collecting and Selecting Data;
 - (iii) Analyzing;
 - (iv) Reconciling and Final Value Opinion;
 - (v) Communicating the Appraisal.
- (C) Property Description:
 - (i) Geographic Characteristics of the Land/Site;
 - (ii) Geologic Characteristics of the Land/Site;
 - (iii) Location and Neighborhood Characteristics;
 - (iv) Land/Site Considerations for Highest and Best Use;
 - (v) Improvements — Architectural Styles and Types of Construction.
- (D) Residential Applications.
- (c) Courses on Residential Market Analysis and Highest and Best Use (15 hours) that would substantially include the following specific topics:
 - (A) Residential Markets and Analysis:
 - (i) Market Fundamentals, Characteristics and Definitions;
 - (ii) Supply Side Analysis;
 - (iii) Demand Analysis;
 - (iv) Use of Market Analysis.
 - (B) Highest and Best Use:
 - (i) Test Constraints;
 - (ii) Application of Highest and Best Use;
 - (iii) Special Considerations;
 - (iv) Market Analysis;
 - (v) Case Studies.
 - (d) Courses on Residential Appraiser Site Valuation and Cost Approach (15 hours) that would substantially include the following specific topics:
 - (A) Site Valuation:
 - (i) Methods;
 - (ii) Case Studies.
 - (B) Cost Approach:
 - (i) Concepts and Definitions;
 - (ii) Replacement/Reproduction Cost New;
 - (iii) Accrued Depreciation;
 - (iv) Methods of Estimating Accrued Depreciation;
 - (v) Case Studies.
 - (e) Courses on Residential Sales Comparison and Income Approaches (30 hours) that would substantially include the following specific topics:
 - (A) Valuation Principles & Procedures — Sales Comparison Approach;
 - (B) Valuation Principles & Procedures — Income Approach;
 - (C) Finance and Cash Equivalency;
 - (D) Financial Calculator Introduction;
 - (E) Identification, Derivation and Measurement of Adjustments;
 - (F) Gross Rent Multipliers;
 - (G) Partial Interests;
 - (H) Reconciliation;
 - (I) Case Studies and Applications.
 - (f) Courses on Residential Report Writing and Case Studies (15 hours) that would substantially include the following specific topics:
 - (A) Writing and Reasoning Skills;
 - (B) Common Writing Problems;
 - (C) Form Reports;
 - (D) Report Options and USPAP Compliance;
 - (E) Case Studies.
 - (g) Courses on Statistics, Modeling and Finance (15 hours) that would include the following specific topics:
 - (A) Statistics;
 - (B) Valuation Models (AVM's and Mass Appraisal);
 - (C) Real Estate Finance.
 - (h) Courses on Advanced Residential Applications and Case Studies (15 hours) that would substantially include the following specific topics:
 - (A) Complex Property, Ownership and Market Conditions;
 - (B) Deriving and Supporting Adjustments;
 - (C) Residential Market Analysis;
 - (D) Advanced Case Studies.
 - (i) Courses on General Appraiser Market Analysis and Highest and Best Use (30 hours) that would substantially include the following specific topics:
 - (A) Real Estate Markets and Analysis:
 - (i) Market Fundamentals, Characteristics and Definitions;
 - (ii) Supply Side Analysis;
 - (iii) Demand Analysis;
 - (iv) Use of Market Analysis.
 - (B) Highest and Best Use
 - (i) Test Constraints;
 - (ii) Application of Highest and Best Use;
 - (iii) Special Considerations;
 - (iv) Market Analysis;
 - (v) Case Studies.
 - (j) Courses on General Appraiser Sales Comparison Approach (30 hours) that would substantially include the following specific topics:
 - (A) Value Principles;
 - (B) Procedures;
 - (C) Identification and Measurement of Adjustments;
 - (D) Reconciliation;
 - (E) Case Studies.
 - (k) Courses on General Appraiser Site Valuation and Cost Approach (30 hours) that would substantially include the following specific topics:
 - (A) Site Valuation:
 - (i) Methods;
 - (ii) Case Studies.
 - (B) Cost Approach:
 - (i) Concepts and Definitions;
 - (ii) Replacement/Reproduction Cost New;
 - (iii) Accrued Depreciation;
 - (iv) Methods of Estimating Accrued Depreciation;
 - (v) Case Studies.
 - (l) Courses on General Appraiser Income Approach (60 hours) that would substantially include the following specific topics:
 - (A) Overview;
 - (B) Compound Interest;
 - (C) Lease Analysis;
 - (D) Income Analysis;
 - (E) Vacancy and Collection Loss;
 - (F) Estimating Operating Expenses and Reserves;
 - (G) Reconstructed Income and Expense Statement;
 - (H) Stabilized Net Operating Income Estimate;
 - (I) Direct Capitalization;
 - (J) Discounted Cash Flow;
 - (K) Yield Capitalization;
 - (L) Partial Interests;
 - (M) Case Studies.
 - (m) Courses on General Appraiser Report Writing and Case Studies (30 hours) that would substantially include the following specific topics:
 - (A) Writing and Reasoning Skills;
 - (B) Common Writing Problems;
 - (C) Report Options and USPAP Compliance;
 - (D) Case Studies.
 - (n) Courses eligible for approval as elective courses for Qualifying Education. These courses are considered more appropriate for Continuing Education than for Qualifying Education under these rules, but can qualify as elective if they are at least 15 hours in duration and an exam is required. Courses must focus primarily on advanced concepts/methods, a specialized aspect of real estate appraising, or appraising one specific type of property. Examples of course topics may include, but are not limited to the following:
 - (A) Real Estate Investment Analysis;
 - (B) Feasibility Analysis;
 - (C) Condemnation Appraising/Right of Way Appraising;
 - (D) Review Appraising;
 - (E) Mass Appraisal;
 - (F) Subdivision Analysis;
 - (G) Litigation/Testifying as Expert Witness;
 - (H) Appraising Condominiums;
 - (I) Appraising Manufactured Housing;
 - (J) Appraising Multi-Family Housing;
 - (K) Appraising Office Buildings;
 - (L) Appraising Farms;
 - (M) Appraising Land;
 - (N) Appraising Machinery and Equipment.
 - (o) Courses on the Uniform Standards of Professional Appraisal Practice (USPAP):
 - (A) The Appraisal Foundation's National USPAP Course or its equivalent are the only acceptable courses for this category.
 - (4) Courses not eligible for approval as Qualifying Education. These types of courses are considered more appropriate for Continuing Education

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than for Qualifying Education under these rules. Courses which focus all or a vast majority of their instruction on only one comparatively narrow aspect of real estate appraising and which examine that one aspect in depth. These types of courses focus on the following topics:

- (a) Estimating Building Costs;
- (b) Estimating Accrued Depreciation;
- (c) Cash Equivalency;
- (d) Ellwood Mortgage-Equity Analysis;
- (e) Use of Financial Calculators in Appraising;
- (f) Valuation of Partial Interests.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ALCB 2-1994(Temp), f. & cert. ef. 5-2-94; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-020-0130

Approval Requirements for Non Pre-Approved Courses for Qualifying and Continuing Education

(1) The following courses are subject to the review and approval of the Administrator or designee and may be acceptable for approval as Qualifying Education and Continuing Education:

(a) Course work approved by the AQB which also meets the requirements of these rules;

(b) Courses approved for credit hours at a community college, college or university in the State of Oregon shall be approved by the Board if said courses are substantially the same as required in the rules and procedures. The applicant for certification shall submit documentation to show equivalency, i.e. course description, outlines, etc., to the satisfaction of the Board.

(2) Courses from providers located outside the State of Oregon may be acceptable as Qualifying Education and Continuing Education:

(a) If the course has been pre-approved by the licensure/certification board of that state and the procedures of that state board for approving Qualifying Education are equivalent to those of the State of Oregon;

(b) If the rules and procedures of the state of origin are not equivalent to those of the State of Oregon, the applicant may still submit the course for approval by the Administrator by submitting documentation to show equivalencies with OAR 161-020-0045, i.e. course description, outlines, etc.;

(c) If the state where the course was taken allows Qualifying Education courses to have a duration of less than 15 hours, as required in Oregon, but at least 30 hours with an examination, then the Administrator shall determine whether or not the course content is acceptable, is substantially the same as approval for new courses, and will be reviewed on a case by case basis for as long as such need exists. The burden of proof remains with the applicant to demonstrate the equivalency of the course work.

(3) For courses taken prior to the adoption of this program, the criteria for approval shall be based upon the requirements set forth in OAR 161-020-0045, i.e. course descriptions, outlines, etc.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674.310

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-020-0150

Time Requirements for Qualifying Education and Continuing Education

(1) Qualifying Education:

(a) If approved by the Administrator as meeting the requirements of these rules, audio educational offerings taken prior to July 1, 1990, shall be acceptable to meet the Qualifying Education requirements for certification;

(b) There is no time limit regarding when qualifying education credit must be obtained, with the following exceptions:

(A) For applicants applying for certification, the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, must be obtained within four (4) years preceding the date of application; and

(B) For applicants applying to be a registered appraiser assistant, the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, must be obtained within two (2) years preceding the date of application. All other qualifying education for applicants applying to be a registered appraiser assistant must be obtained within five (5) years preceding the date of application, with the exception of licensed or certified appraisers registering as an appraiser assistant to upgrade their license.

(2) Continuing Education:

(a) Continuing education hours shall be reported as part of the renewal application process. Reporting shall be on a form prescribed by the Board which includes the name of the educational provider, course subject matter, location, number of hours, course name, date of course and appraiser's name. The appraiser shall also submit a copy of the certificate of completion, URCEC form or grade report issued by the course provider;

(b) "Carry over" of hours from past to future years will not be allowed;

(c) The same or like course can not be repeated for use as continuing education within a two year period, with the exception of USPAP;

(d) Extension of time to satisfy continuing education hour requirements will not be permitted;

(e) USPAP:

(A) The Appraisal Foundation's National USPAP Update Course, or its equivalent, is required for renewal of all licensed and certified appraisers every two year license cycle.

(B) Registered Appraiser Assistants must successfully complete the Appraisal Foundation's National USPAP Update Course, or its equivalent, at a minimum of every two years.

(f) Fourteen hours of classroom instruction for each year preceding the license or certification renewal is required. Continuing education hours may be obtained any time during the term. Credit towards the classroom hour requirements shall be granted only where the length of the educational offering is at least two hours.

(g) Appraisers may receive up to eight (8) hours of continuing education credit for course instruction of a Board approved course per two year license cycle. However, the appraiser cannot receive credit for course instruction of the same course in consecutive license cycles.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2009, f. 1-28-09, cert. ef. 1-30-09; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-025-0025

Supervising Appraiser (SA)

(1) Only qualified State Certified Residential Appraisers and State Certified General Appraisers may supervise Registered Appraiser Assistants.

(2) The supervising appraiser must directly supervise the registered appraiser assistant in each assignment to ensure that the results of each assignment comply with USPAP and all applicable appraisal laws and rules. To do so, the supervising appraiser must:

(a) ensure that the appraiser assistant gains sufficient knowledge, skills and abilities that will enable them to do all of the following:

(A) Define the appraisal problem.

(i) identify and locate the real estate;

(ii) identify the property rights to be valued;

(iii) identify the use of the appraisal

(iv) define value(s) to be estimated;

(v) establish date(s) of value estimate(s);

(vi) identify and describe the scope of the appraisal; and

(vii) identify and describe limiting conditions or limitations.

(B) Conduct preliminary analysis, select and collect applicable data.

(i) identify general data (regional, city and neighborhood) – social, economic, governmental and environmental factors;

(ii) identify specific data (subject and comparables) – site and improvement, cost and depreciation, income/expense and capitalization rate, history of ownership and use of property; and

(iii) identify competitive supply and demand (the subject market) – inventory of competitive properties, sales and listings, vacancies and offerings, absorption rates, demand studies.

(C) Conduct an analysis of the subject property which includes:

(i) Site/improvements;

(ii) Size;

(iii) Costs;

(iv) Elements of comparison; and

(v) Units of comparison.

(D) Conduct highest and best use analysis (specified in terms of use, time and market participants).

(i) Land as if vacant and available; and

(ii) Property as improved (existing or proposed).

(E) Estimate land value, including on-site improvements.

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(F) Estimate value of the property using each of the three approaches to value – cost, sales comparison and income capitalization.

(G) Reconcile each value indication and reconcile the final value estimate.

(H) Report estimate(s) of value(s) as defined.

(b) Review each appraisal report the appraiser assistant prepares to ensure accuracy and reliability;

(c) Ensure that the appraisal report includes proper disclosure regarding the inspection of the subject and the comparable sales as required by OAR 161-025-0060(3).

(d) Make a clear and prominent disclosure of real estate appraisal assistance in each appraisal report by identifying each individual category of experience that the appraiser assistant provided as outlined in OAR 161-025-0025(2)(a)(A through H); and

(e) Accept responsibility for the appraisal report by signing and certifying that the report has been prepared in compliance with USPAP.

(f) Ensure that the appraiser assistant will be granted experience credit by doing the following:

(A) Verifying that the appraiser assistant is currently registered with the Board. Experience gained prior to registration or after a registration has lapsed will not be credited toward the experience hours required to become certified.

(B) Verifying that all appraisal experience is properly documented on the Appraiser Assistant Experience Log on an ongoing basis by ensuring that the Appraiser Assistant:

(i) Make entries when each assignment is completed to ensure that the log is complete and accurate.

(ii) Maintain a separate experience log for each supervising appraiser.

(C) Reviewing documentation on a monthly basis - reviewing the log, approve or disapprove log entries and edit as required, sign the log, have the appraiser assistant sign the log, and have the appraiser assistant maintain the ongoing log for any future application.

(D) Allowing the appraiser assistant to obtain copies of any appraisal reports on which they provided assistance.

(3) Any licensee who has been disciplined by the Board for violation(s) of ORS Chapter 674 and/or OAR Chapter 161 pursuant to a final order of the Board issued after June 1, 2004, may not supervise appraiser assistants as provided by the following presumptive guidelines unless substantial and compelling reasons exist to depart from these guidelines as determined by the Administrator or the Board:

(a) First Board Action: No restriction unless the first board action results in suspension or revocation or the final order in the action otherwise restricts the licensee's eligibility to act as a supervising appraiser.

(b) Second Board Action: Restricted from acting as a supervising appraiser for 24 months immediately following the date of the final order except as otherwise provided in the order.

(c) Third Board Action or any Board action resulting in suspension or revocation: Permanently restricted from acting as a supervising appraiser immediately following the date of the final order except as otherwise provided in the order.

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674

Hist.: ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-025-0030

Appraiser Assistant

The appraiser assistant must register with the Board in order to receive experience credit towards obtaining a real estate appraiser certificate.

(1) An appraiser assistant must work under the direct supervision of an Oregon licensee.

(2) The appraiser assistant, before performing an assignment for a supervising appraiser, must have the knowledge and experience to complete the assignment competently.

(3) All appraisal work completed by an appraiser assistant shall be prepared in compliance with USPAP and these administrative rules.

(4) An appraiser assistant may assist in the preparation of any and all components of the appraisal.

(5) An appraiser assistant must not sign, co-sign or issue an appraisal report.

(6) Any appraiser assistant who has provided professional assistance to a supervising appraiser who is signing and issuing the appraisal report must be identified in the report and the extent of the assistance provided must be disclosed in the report as described in OAR 161-025-0025(2)(d).

(7) When inspecting a property, the appraiser assistant must not misrepresent their status and at all times clearly identify themselves as a registered appraiser assistant.

(8) The scope of practice for the appraiser assistant is the appraisal of those properties which the supervising appraiser is permitted to appraise.

(9) An appraiser assistant will only be granted experience credit if they have demonstrated that they have provided substantial professional real estate appraisal assistance in all categories of experience as outlined in OAR 161-025-0025(2)(a)(A through H).

(10) The appraiser assistant is entitled to obtain copies of any appraisal reports on which they provided professional real estate appraisal assistance.

(11) The appraiser assistant may have more than one supervising appraiser, each of whom must sign the Appraiser Assistant Registration Application. If the appraiser assistant subsequently adds or changes a supervising appraiser, the appraiser assistant must submit a Change or Add Supervising Appraiser form, signed by the new supervising appraiser(s) along with a copy of the Supervising Appraiser's Endorsement. Any experience gained with a new supervising appraiser prior to confirmation from the Board that the registration has been amended to include the new supervising appraiser(s) will not count as experience credit towards obtaining a real estate appraiser license or certificate.

(12) Appraiser Assistance Logs must be prepared and maintained as described in OAR 161-025-0025(2)(f)(B) and (C). Separate appraisal logs must be maintained for each supervising appraiser.

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-030-0000

Criminal Background

(1) The Board may require fingerprints for the purpose of conducting a state or nationwide criminal records check.

(2) The Administrator, with the written consent of the person about whom information is being requested, may request the Department of State Police to furnish to the Administrator, information that the Department of State Police may have in its possession from its central bureau of criminal identification, including, but not limited to, manual or computerized information concerning any applicant or person regulated under ORS Chapter 674 and these rules. The Administrator may also request the Department of State Police to conduct nationwide criminal checks, including fingerprint identification, through the Federal Bureau of Investigation, of any applicant or person regulated under ORS Chapter 674 and Board Administrative Rules.

(3) Any applicant for a certificate, or registration under ORS Chapter 674 or any applicant for renewal of a license, certificate, or registration under ORS Chapter 674, shall be deemed, upon signing such application, to have given the written consent necessary for the Administrator to make inquiries described in this section.

(4) The information received by the Administrator, pursuant to this section, shall be disseminated only by Court Order and shall be exempt from disclosure to the public to the extent permitted by Oregon law.

(5) The applicant for a license, certificate, or registration or renewal of a license, certificate, or registration will be charged a fee for the criminal background check as set forth in OAR 161-003-0020.

Stat. Auth.: ORS 674.170, 674.305(8) & 674.310
Stats. Implemented: ORS 674

Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-050-0000

Temporary Non-Resident Registration of Out-of-State Appraisers

(1) The Board will recognize temporarily the certificate of an appraiser issued by another state if:

- The appraiser is a non-resident of Oregon;
- The appraiser's business is of a temporary nature; and
- The appraiser registers with the Board.

(2) Any out-of-state appraiser desiring to conduct real estate appraisal activity within the State of Oregon, must submit an application for temporary registration on a form prescribed by the Board. The application must include:

- The required registration fee, and

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(b) An irrevocable consent to service form appointing the Board Administrator as agent for service of process as provided in these rules, if, in an action against the applicant in a court of this state arising out of the applicant's activities as a certified appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(3) The applicant must also request a license history from the applicant's resident state indicating applicant is currently in good standing. This verification must be submitted directly to the Board office by the applicant's resident state licensing authority. Alternatively, the Board may obtain a National Registry Appraiser License History Report.

(4) The non-resident registration is only valid for a single appraisal assignment within the state.

(5) A single appraisal assignment may include one or more properties under one contract for a single client.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 3-1993(Temp), f. & cert. ef. 4-28-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

161-050-0050

Reciprocity

(1) The Administrator of the Board shall enter into reciprocal agreements with other states in accordance with the following procedures:

(a) The Administrator shall determine that the standards, qualifications and examinations for the certifying of real estate appraisers in the other states are substantially similar to those in Oregon;

(b) The Administrator shall obtain the approval of the Board before entering into the agreement.

(2) Reciprocal agreements shall provide that the two states may issue certificates without examination, to certificate holders of the other state, upon payment of a mutually agreed upon fee, proof of current certificate and a certified letter of good standing from the other state.

(3) A reciprocal licensee shall comply with all statutes and rules governing licensed and certified appraisers in Oregon. Each reciprocal licensee shall immediately notify the Administrator of any disciplinary action taken in any other state in which the person holds a license/certificate.

(4) The Administrator may terminate a reciprocal agreement, with approval of the Board, if the Administrator finds that the other state:

(a) Is not assisting the Administrator in enforcement activity for the protection of Oregon consumers;

(b) Fails or refuses on two or more occasions to assist the Administrator in enforcement activity for the protection of Oregon consumers;

(c) Is not maintaining and enforcing standards, qualifications, and examinations substantially similar to those of this state.

(5) Upon termination of a reciprocal agreement with another state, the Administrator may deny the issuance of a reciprocal certificate, or revoke a current reciprocal license or certificate from that state. Applicants, license and certificate holders from that state must then apply for a certificate in the same manner as other Oregon applicants.

(6) Reciprocal certificates are issued at the same level of certification as in the applicant's state.

(7) For purposes of this rule, "substantially similar" means that the other state's minimum standards qualifications for appraisal experience and education, and examinations meet the standards established by the Board as set forth in OAR 161, Division 10.

(8) Applications for reciprocal certification shall be processed in accordance with the written reciprocal agreement between the Board and the applicant's resident state.

Stat. Auth.: ORS 183.341, 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 3-1994, f. & cert. ef. 5-2-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10

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Board of Nursing Chapter 851

Rule Caption: Board members' compensation now authorized in administrative rules.

Adm. Order No.: BN 1-2010(Temp)

Filed with Sec. of State: 1-21-2010

Certified to be Effective: 1-21-10 thru 6-18-10

Notice Publication Date:

Rules Adopted: 851-010-0024

Subject: These rules cover the administrative details for the Oregon State Board of Nursing. The Board is authorized by ORS 678.150 to determine the powers, functions and duties of the Board members. The adoption of this particular administrative rule pertains to compensation for Board members.

Rules Coordinator: KC Cotton—(971) 673-0638

851-010-0024

Board Member Compensation

(1) A Board member shall receive up to \$150 for each day or portion thereof during which the member is actually engaged in the performance of official duties.

(2) Performance of official duties is defined as:

(a) Scheduled meetings:

(A) Board meetings, including special Board meetings via conference call,

(B) Board committee meetings.

(b) Appointments with Board staff for Board business,

(c) Legislative testimony,

(d) Conferences and activities that the Board has pre-approved or requested that the member attend as its representative, OR

(e) Additions to this list may be made by the board on a case-by-case basis.

Stat. Auth.: ORS 678.150, 292.495

Stats. Implemented: ORS 678.150

Hist.: BN 1-2010(Temp), f. & cert. ef. 1-21-10 thru 6-18-10

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Board of Pharmacy Chapter 855

Rule Caption: Provide regulatory framework to permit prescribing and dispensing of drugs for Expedited Partner Therapy (EPT).

Adm. Order No.: BP 1-2010

Filed with Sec. of State: 2-8-2010

Certified to be Effective: 2-8-10

Notice Publication Date: 1-1-2010

Rules Adopted: 855-041-4000, 855-041-4005, 855-043-0003

Rules Amended: 855-043-0110, 855-043-0130, 855-043-0210, 855-043-0300, 855-043-0310

Rules Ren. & Amend: 855-043-0001 to 855-043-0005, 855-043-0120 to 855-043-0002

Subject: These amendments and new rules will permit pharmacists, nurse practitioners, Clinical Nurse Specialists and other practitioners regulated by rules in Division 41 and 43 to prescribe and dispense, within their scope of practice, specified drugs for an unnamed patient when the prescription is identified as "for EPT Therapy." The rules provide a labeling protocol when the patient's name is unknown. There are also minor rule amendments in Division 43 to incorporate changes necessitated by recent legislation.

Rules Coordinator: Karen MacLean—(971) 673-0001

855-041-4000

Purpose

(1) There is substantial evidence that rates of re-infection with certain sexually transmitted diseases can be reduced by treating all sexual partners for the disease, even when the treating clinician has not examined those partners. This practice is known as Expedited Partner Therapy.

(2) Because of the important public health implications, the 2009 Oregon Legislature passed HB 3022 authorizing this practice. This law permits health professional regulatory boards to adopt rules permitting practitioners to practice Expedited Partner Therapy.

(3) The law specifies that a prescription issued in the practice of Expedited Partner Therapy is valid, even if the name of the patient the prescription is intended for is not on the prescription.

Stat. Auth.: ORS 689.205

Stats. Implemented: 2009 OL Ch 522

Hist.: BP 1-2010, f. & cert. ef. 2-8-10

855-041-4005

Procedures

(1) Expedited Partner Therapy (EPT) means the practice of prescribing or dispensing an antibiotic drug for the treatment of a sexually trans-

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mitted disease to the partner of a patient without first examining that partner.

(2) Notwithstanding any other rules in this division that mandate requirements for a valid prescription and for labeling, when a prescription is marked EPT or a similar notation by the prescribing practitioner, this rule shall govern.

(3) An EPT prescription may only be dispensed for a drug that has been determined by the Department of Human Services (DHS) to be appropriately used for EPT.

Prescription

(4) An EPT treatment protocol must conform to the following:

(a) It must include a prescription for each named or unnamed partner of the patient;

(b) It must contain a hand written or electronic signature of the prescribing practitioner;

(c) The practitioner must identify the prescription in the following manner:

(A) Write “for EPT,” or a similar notation, on the face of the prescription;

(B) For a verbal order, the practitioner must identify the prescription as an “EPT Prescription,” or similar identification;

(C) The practitioner must identify the prescription for each partner either by including the name of the patient, such as “John Doe – Partner 1” or by labeling the prescription as “EPT Partner”

(d) An EPT Prescription expires 30 days after the date written;

(e) An EPT Prescription may not be refilled;

(f) If any component of the prescription is missing, the pharmacist must contact the prescriber or the prescriber’s agent and must record the additional information on the prescription.

(5) A patient may give the prescription to each unnamed partner for that person to fill at a pharmacy of their choice; or the patient may give all prescriptions to one pharmacy and then give the dispensed drugs to each unnamed partner.

Labeling

(6) The pharmacist must label the drug for the named patient in accordance with normal procedures as specified in the other rules of this division, however when either the patient or partner is unnamed, the pharmacy may create a unique identifier and use that instead of a name for both labeling and record keeping purposes.

(7) The pharmacist must assign a separate and unique identifier to each prescription and clearly identify this number on each corresponding prescription label.

Counseling

(8) The pharmacist is not required to obtain an EPT patient’s or partner’s name, address, or demographics; however, the pharmacist must:

(a) Provide counseling in the form of written patient information to accompany each prescription for each partner and ask the patient about any known allergies or other drugs being taken by each partner. The pharmacist should advise the patient to encourage each partner to call the pharmacist before taking the drug if they have experienced any adverse effect from a drug in the past or if they are taking other drugs;

(b) Document counseling.

Records

(9) All documentation required by this rule must be attached to the prescription and must be referenced to each partner’s prescription. Such documentation must be retained in accordance with the other rules in this division and must be made available to the Board upon request.

Stat. Auth.: ORS 689.205
Stats. Implemented: 2009 OL Ch 522
Hist.: BP 1-2010, f. & cert. ef. 2-8-10

855-043-0002

Definitions

In this division of rules:

(1) “Administer” means the direct application of a drug or device whether by injection, inhalation, ingestion, or any other means, to the body of a patient by:

- (a) A practitioner or the practitioner’s authorized agent; or
- (b) The patient at the direction of the practitioner.

(2) “Dispense” or “Dispensing” means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

(3) “Formulary” means a list of drugs or a list of disease states or health conditions, or preventative measures such as immunization or birth

control approved by the Board or by the Department of Human Services (DHS).

(4) “Health Officer” means a physician licensed by the Oregon Medical Board or the Oregon Board of Naturopathic Medicine and employed by or under contract with a county or district health department or DHS.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: PB 2-1992, f. & cert. ef. 3-26-92; PB 4-1992, f. & cert. ef. 8-25-92; Renumbered from 855-043-0120 by BP 1-2010, f. & cert. ef. 2-8-10

855-043-0003

Expedited Partner Therapy

(1) Expedited Partner Therapy (EPT) means the practice of prescribing or dispensing an antibiotic drug for the treatment of a sexually transmitted disease to the partner of a patient without first examining that partner.

(2) An EPT prescription may only be dispensed for a drug and a disease that has been determined by DHS to be appropriately addressed by EPT.

Stat. Auth.: ORS 689.205
Stats. Implemented: 2009 OL Ch 522
Hist.: BP 1-2010, f. & cert. ef. 2-8-10

855-043-0005

Practitioner Labeling

All drugs dispensed by a practitioner must be labeled with the following information:

(1) Name, address and telephone number of the practitioner;

(2) Date;

(3) Name of the patient or the owner of the animal for which the drug is dispensed. If the prescription is for an animal, the species of the animal for which the drug is dispensed;

(4) Name of drug, strength, the quantity dispensed. When a generic name is used, the label must also contain the name of the manufacturer or distributor;

(5) Direction for use;

(6) Required precautionary information regarding controlled substances;

(7) Such other cautionary information as required for patient safety; and

(8) An expiration date after which the patient should not use the drug or medicine. The expiration date on a drugs dispensed must be the same as that on the original container unless, in the practitioner’s professional judgment, a shorter expiration date is warranted. A drug must not be dispensed after the expiration date of the drug.

(9) Notwithstanding the labeling requirements in this rule, when a drug is dispensed in the practice of an Expedited Partner Therapy treatment protocol, the name of the patient or the patient’s partner may be omitted from the label.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155, ORS 689.505 & 2009 OL Ch 522
Hist.: PB 4-1992, f. & cert. ef. 8-25-92; Renumbered from 855-043-0001 by BP 1-2010, f. & cert. ef. 2-8-10

855-043-0110

Purpose and Scope

(1) A Registered Nurse who is licensed with the Oregon State Board of Nursing, and who is an employee of a local health department established under the authority of a county or district board of health may dispense a drug or device to a client of the health department for purposes of caries prevention, birth control, or prevention or treatment of a communicable disease.

(2) Such dispensing shall be pursuant to the order of a person authorized to prescribe a drug or device, and shall be subject to rules jointly adopted by the Board and DHS.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: PB 2-1992, f. & cert. ef. 3-26-92; BP 1-2010, f. & cert. ef. 2-8-10

855-043-0130

Drug Delivery and Control

(1) The health officer is responsible for the establishment of policies and procedures that include:

(a) Procedures for drug dispensing, storage, security, and accountability;

(b) Maintenance of all drug records required by federal and state law;

(c) Procedures for procurement of drugs.

(2) Dispensing:

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(a) A drug may only be dispensed by a practitioner who has been given dispensing privileges by their licensing board or by a Registered Nurse;

(b) A drug must be dispensed in a container complying with the federal Poison Prevention Packaging Act unless the patient requests a non-complying container;

(c) A Registered Nurses may only dispense a drug listed in, or for a condition listed in, the formulary;

(d) Each drug that is dispensed must be labeled with the following information:

(A) Name of patient;

(B) Name of prescriber;

(C) Name, address, and phone number of the clinic;

(D) Date of dispensing;

(E) Name and strength of the drug. If the drug does not have a brand name, then the generic name of the drug and the drug manufacturer must be stated;

(F) Directions for use;

(G) Initials of the person dispensing;

(H) Cautionary statements, if any, as required by law;

(I) Manufacturer's expiration date, or an earlier date if preferable, after which the patient should not use the drug.

(e) A drug information fact sheet must accompany each drug dispensed from a county health clinic.

(3) Repackaged Drugs. A drug repackaged for dispensing must be in a container meeting USP standards and labeled to identify at a minimum:

(a) Brand name, or generic name and manufacturer;

(b) Strength;

(c) Lot number;

(d) Manufacturer's expiration date or an earlier date if preferable. An internal control number which references manufacturer and lot number may be used.

(4) Drug Security, Storage, and Disposal:

(a) In the absence of a dispensing practitioner or a Registered Nurse, drugs must be kept in a locked drug cabinet or drug room which is sufficiently secure to deny access to unauthorized persons. Only dispensing practitioners and Registered Nurses may have a key to the drug cabinet or drug room. In their absence, the drug cabinet or drug room must remain locked.

(b) All drugs must be stored in areas which will assure proper sanitation, temperature, light, ventilation and moisture control as recommended by the manufacturer.

(c) Drugs which are outdated, damaged, deteriorated, misbranded, or adulterated must be quarantined and physically separated from other drugs until they are destroyed or returned to their supplier.

(5) Drug Records;

(a) A dispensing record must be maintained separately from the patient chart and kept for a minimum of three years. The record must show, at a minimum, the following:

(A) Name of patient;

(B) Brand name of drug, or generic name and name of manufacturer or distributor;

(C) Date;

(D) Initials of person dispensing the prescription.

(b) All records of receipt and disposal of drugs must be kept for a minimum of three years;

(c) All records required by these rules or by federal and state law must be readily retrievable and available for inspection by the Board.

(6) Notwithstanding any other requirements in this rule, when a drug is dispensed in the practice of an Expedited Partner Therapy treatment protocol, the name of the patient may be omitted from the label, the patient's name may be omitted from the records and a drug may be dispensed to the patient to be given to the patient's partner even if the partner has not been examined by a licensed health care provider acting within their scope of practice.

Stat. Auth.: ORS 689.205 & 689.605

Stats. Implemented: ORS 689.155 & 2009 OL Ch 522

Hist.: PB 2-1992, f. & cert. ef. 3-26-92; PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1994, f. & cert. ef. 2-2-94; BP 1-2010, f. & cert. ef. 2-8-10

855-043-0210

Purpose and Scope

The Oregon State Board of Nursing may grant to a certified nurse practitioner or Clinical Nurse Specialist the privilege of writing prescriptions described in the formulary under ORS 678.385. A certified nurse practitioner or Clinical Nurse Specialist may submit an application to the

Oregon State Board of Nursing to dispense prescription drugs. An application for the authority to dispense prescription drugs as authorized by ORS 678.385 shall include evidence of completion of a prescription drug dispensing training program jointly developed and adopted by rule by the Oregon State Board of Nursing (851-050-0162) and the State Board of Pharmacy. The training program shall be as follows:

(1) Documented review of content regarding safe dispensing listed below:

(a) Board of Nursing handbook "Prescriptive Authority in Oregon for Nurse Practitioners and Clinical Nurse Specialists";

(b) The Drug Enforcement Administration Pharmacist's Manual (2004);

(c) OAR 851, division 56;

(d) ORS Chapter 689 and OAR chapter 855;

(e) US Consumer Product Safety Commission publication "Poison Prevention Packaging: A Text for Pharmacist's and Physicians;"

(f) The Institute for Safe Medication Practices (ISMP) "List of Error-Prone Abbreviations, Symbols, and Dose Designations" (Nov. 2006); and

(g) Information on available electronic or hard copy prescription drug references which provide information to professionals authorized to dispense prescription medications

(2) Successful self examination as provided by the Board of Nursing on these materials.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 678.390 & 689.205

Stats. Implemented: ORS 689.205

Hist.: BP 3-2003(Temp), f. 12-29-03, cert. ef. 12-31-03 thru 6-28-04; BP 4-2004, f. 5-21-04 cert. ef. 6-1-04; BP 1-2010, f. & cert. ef. 2-8-10

855-043-0300

Purpose and Scope

(1) A practitioner who has been given dispensing privileges by their licensing board, or a Registered Nurse, who is an employee of a clinic that is registered with the Board and is supported by DHS for purposes of providing public health family planning services, may dispense drugs or devices to clients for the purpose of birth control, the treatment of amenorrhea, hormone deficiencies, urinary tract infections or sexually transmitted diseases.

(2) Such dispensing must be pursuant to the prescription of a person authorized to prescribe a drug or device, and is subject to rules jointly adopted by the Board and DHS.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.305

Hist.: BP 4-2002, f. 6-27-02, cert. ef. 7-1-02; BP 1-2010, f. & cert. ef. 2-8-10

855-043-0310

Drug Delivery and Control

(1) Policies and Procedures. The licensed facility is responsible for the following:

(a) Maintaining written policies and procedures for drug dispensing, storage, security, and accountability;

(b) Maintenance of all drug records required by federal and state law; and

(c) Establishing procedures for procurement of drugs.

(2) Dispensing:

(a) Nonjudgmental dispensing functions may be delegated to staff assistants when the accuracy and completeness of the prescription is verified by a practitioner who has been given dispensing privileges by their licensing board, or by a Registered Nurse, prior to being delivered or transferred to the patient.

(b) A drug must be dispensed in a containers complying with the federal Poison Prevention Packaging Act unless the patient requests a non-complying container.

(c) A prescription must be labeled with the following information:

(A) Name of patient;

(B) Name of prescriber;

(C) Name, address, and phone number of the clinic;

(D) Date of dispensing;

(E) Name and strength of the drug. If the drug does not have a brand name, then the generic name of the drug and the drug manufacturer must be stated;

(F) Directions for use;

(G) Initials of the person dispensing;

(H) Cautionary statements, if any, as required by law; and

(I) Manufacturer's expiration date, or an earlier date if preferable, after which the patient should not use the drug.

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(d) The prescriber must verbally counsel the patient concerning all new medications and a drug information fact sheet must accompany all drugs dispensed from a family planning clinic.

(3) Repackaged drugs. Drugs repackaged for dispensing must be in a container meeting USP standards and labeled to identify at a minimum:

- (a) Brand name, or generic name and manufacturer;
- (b) Strength;
- (c) Lot number; and

(d) Manufacturer's expiration date, or an earlier date if preferable. An internal control number which references manufacturer and lot number may be utilized.

(4) Drug security, storage, and disposal:

(a) In the absence of a physician, pharmacist, Registered Nurse, Clinical Nurse Specialist, or nurse practitioner, all drugs must be kept in a locked drug cabinet or drug room that is sufficiently secure to deny access to unauthorized persons. Only physicians, pharmacists, Registered Nurses, Clinical Nurse Specialists or nurse practitioners shall have a key to the drug cabinet or drug room. In their absence, the drug cabinet or drug room must remain locked.

(b) All drugs must be stored in areas which will assure proper sanitation, temperature, light, ventilation, and moisture control as recommended by the manufacturer.

(c) Drugs which are outdated, damaged, deteriorated, misbranded, or adulterated must be quarantined and physically separated from other drugs until they are destroyed or returned to their supplier.

(5) Drug records:

(a) A dispensing record must be maintained separately from the patient chart and kept for a minimum of three years. The record must show, at a minimum, the following:

- (A) Name of patient;
- (B) Brand name of drug, or generic name and name of manufacturer or distributor;
- (C) Date of dispensing; and
- (D) Initials of person dispensing the prescription;

(b) All records of receipt and disposal of drugs must be kept for a minimum of three years.

(c) All records required by these rules or by federal and state law must be readily retrievable and available for inspection by the Board.

(6) A consultant pharmacist must conduct and document an annual inspection of the clinic in accordance with the directions of the Board. The completed report form must be filed in the clinic, and be available to the Board for inspection for three years.

(7) Notwithstanding any other requirements in this rule, when a drug is dispensed in the practice of an Expedited Partner Therapy treatment protocol, the name of the patient may be omitted from the label, the patient's name may be omitted from the records and a drug may be dispensed to the patient to be given to the patient's partner even if the partner has not been examined by a licensed health care provider acting within their scope of practice.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.305, 2009 OL Ch 522
Hist.: BP 4-2002, f. 6-27-02, cert. ef. 7-1-02; BP 1-2010, f. & cert. ef. 2-8-10

Rule Caption: Amend administrative fee schedule.

Adm. Order No.: BP 2-2010

Filed with Sec. of State: 2-12-2010

Certified to be Effective: 3-1-10

Notice Publication Date: 11-1-2009

Rules Amended: 855-110-0015

Subject: This amendment revises and updates certain fees and establishes conditions for waiver of fees. It also establishes criteria and charges for special inspections of drug outlets and establishes a fee schedule for administrative fees which the Board approved. The current fee schedule can be found on the Board's website at: <http://www.pharmacy.state.or.us>.

Rules Coordinator: Karen MacLean—(971) 673-0001

855-110-0015

Administrative Fees

(1) The Board of Pharmacy may charge a fee reasonably calculated to reimburse the agency for costs of providing and conveying copies of public records, and other administrative services.

(2) All fees and charges must be paid before public records will be available for inspection or copies provided.

(3) Costs include but are not limited to:

- (a) The services and supplies used in making the records available;
- (b) The time spent locating the requested records, reviewing the records, and redacting or separating material exempt from disclosure;
- (c) Supervising a person's inspection of original documents;
- (d) Copying records;
- (e) Certified copies of records and licenses;
- (f) Summarizing, compiling or organizing the public records to meet the person's request;
- (g) Searching for and reviewing records even if the records subsequently are determined to be exempt from disclosure;
- (h) Postal and freight charges for shipping the copies of the public records sent first class or bulk rate based on weight;
- (i) Indirect costs or third party charges associated with copying and preparing the public records;
- (j) Costs associated with electronic retrieval of records;
- (k) Actual costs charged by the Attorney General's office for attorney's time spent in reviewing and redacting material from the records, and in separating material into exempt and nonexempt records. A fee may not be charged for the cost of time spent by an attorney in determining the application of the provisions of ORS 192.410 to 192.505;

(L) Staff time for performing the work;

(m) The cost of publications will be based on the actual costs of development, printing and distribution as determined by the Board;

(4) The Board shall establish and publish a list of fees used to charge requestors for the costs of preparing and making available the following and shall review the schedule at least once a biennium and any time an increase is proposed, to assure that the fees reflect current Board costs:

- (a) Photocopies;
- (b) Facsimile copies. The Board may limit the transmission to twenty pages;

(c) Electronic copies, CDs, DVDs, and other electronically generated materials including lists electronically mailed from the Board database. The Board shall determine what electronic media for reproduction of computer records may be used and whether the electronic media is to be provided by the Board or the requestor;

- (d) Manual license verification;
- (e) Publications including but not limited to:
 - (A) Copies of Laws and Rules;
 - (B) The newsletter.
- (f) Licensee duplicate wall certificates;
- (g) Duplicate renewal forms;

(h) Re-mailing of returned mail when a licensee or registrant has failed to notify the Board of a change of address.

(5) No additional fee may be charged for providing records or documents in an alternative format when required by the Americans with Disabilities Act.

(6) The Board shall notify requestors of the estimated fees for making the public records available for inspection or for providing copies to the requestor. If the estimated fees exceed \$25, the Board shall provide written notice and may not act further to respond to the request until the requestor notifies the Board, in writing, to proceed with making the records available.

(7) The Board or its designee may reduce or waive any of the above administrative fees when a determination is made that the waiver or reduction of fees is in the public interest. Factors that may be taken into account in making such a determination include, but are not limited to:

- (a) The overall costs incurred by the Board are negligible; or
- (b) Providing the requested records or documents is within the normal scope of the Board's activity; or
- (c) Requiring payment would cause extreme or undue financial hardship upon the requestor; or
- (d) The request is a discovery request made as part of pending administrative, judicial or arbitration proceedings.

(8) If the Board denies an application for waiver or reduction of fees, the requestor may petition the Attorney General under the provisions of ORS 192.440(5) and 192.450.

(9) The Board establishes the following fees for inspection of out-of-state registrants. When an applicant for registration or renewal of registration requests an inspection, the Board shall execute an agreement with the applicant that must specify that the applicant shall pay:

- (a) The travel expenses of each Board staff person (inspector) by coach-class commercial air or by rental car;
- (b) The hotel costs of the inspector, subject to the applicant arranging accommodation in a hotel that is, whenever possible, on the federal per-diem list;

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- (c) Rental car costs for the inspector unless the applicant provides adequate ground transportation;
- (d) The per-diem expenses of the inspector;
- (e) A fee for the Board's time and expenses calculated as:
 - (A) The daily compensation of the inspector, plus the costs of any fringe benefits charged to the Board, multiplied by: one plus the number of days or partial days the inspector is away from their normal workplace; plus
 - (B) An administrative fee of \$750.
- (10) In addition to the reinspection fee specified in OAR 855-110-0007, the Board establishes the following administrative fees for a reinspection of any Oregon drug outlet that is necessary to verify corrections of violations found on an initial inspection:

- (a) The travel, hotel and per-diem costs for the inspector; and
- (b) The hourly compensation of the inspector plus the cost of any fringe benefits charged to the Board multiplied by the number of hours necessary for the reinspection.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 192.430 & 192.440
Hist.: PB 10-1990, f. & cert. ef. 12-5-90; PB 1-1996, f. & cert. ef. 4-5-96; BP 2-2010, f. 2-12-10, cert. ef. 3-1-10

Board of Tax Practitioners
Chapter 800

Rule Caption: 2009 Overhaul of OAR's based on recommendations made by the Rules Advisory Committee and voted on by the Board.

Adm. Order No.: BTP 1-2010

Filed with Sec. of State: 1-19-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 12-1-2009

Rules Amended: 800-001-0020, 800-010-0015, 800-010-0017, 800-010-0025, 800-010-0030, 800-010-0040, 800-010-0041, 800-010-0050, 800-015-0005, 800-015-0010, 800-015-0020, 800-020-0015, 800-020-0025, 800-020-0065, 800-025-0020, 800-025-0023, 800-025-0025, 800-025-0027, 800-025-0029, 800-025-0030, 800-025-0040, 800-025-0050, 800-030-0035, 800-030-0050

Subject: The amendments to the OAR's result from the Board's Rules Advisory Committee, Assistant Attorney General and Board staff recommendations and are for general "housekeeping" and "maintenance" as well as to change language to better reflect the "norm" in industry standards and the practices of other state agencies. In addition, the proposed amendments will provide better clarification to constituents as well as continue to conform to the current standards the Board is operating under.

Other than "housekeeping" language changes and/or additions more substantial changes include:

1. Amendment to OAR 800-010-0025 requires a licensee must be current on their personal income tax return filings and/or payment plans before a license can be issued or renewed.

2. Amendment to OAR 800-010-0050 specifies mandatory forms and schedules to be included on the basic fee schedule that is posted in the place of business and made available to the general public.

3. Amendment to 800-015-0020 is to clarify 1 hour CE programs are the equivalent to a 50 minute education hour.

4. Change to 800-025-0050 requires that licensed tax preparers who have not had at least 1 year tax preparation experience during the previous 3 years (previously the rule specified 5 years) must be under the immediate, onsite supervision of more experienced personnel when preparing, advising, or assisting in the preparation of tax returns.

Rules Coordinator: Jane Billings—(503) 373-1691

800-001-0020

Hearing Request and Answers: Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Board by a party or his/her attorney and an answer shall include the following:

- (a) An admission or denial of each factual matter alleged in the notice;
- (b) A short and plain statement of each relevant affirmative defense the party may have.

(2) Except for good cause:

(a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;

(b) Failure to raise a particular defense in the answer will be considered a waiver of such defense;

(c) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the board; and

(d) Evidence shall not be taken on any issue not raised in the notice and answer.

Stat. Auth.: ORS 673.705 - 673.990 & SB279

Stats. Implemented:

Hist.: BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-010-0015

Definitions

As used in these rules, unless the context requires otherwise:

(1) "Board" means the State Board of Tax Practitioners.

(2) "Branch Office" means an office or other place of business where clients would normally or usually contact a licensee.

(3) "Client" means a person for whom a licensee performs or agrees to perform professional services for a fee and the services are related directly or indirectly to the client's personal income taxes.

(4) "Confidential Information" means information furnished to a licensee for, or in connection with, the preparation of a client's income tax return.

(5) "Designated Consultant" means a Licensed Tax Consultant who is the responsible individual for the preparation of all personal income tax returns prepared for the public for each registered tax business.

(6) "Licensee" means a Licensed Tax Consultant, Licensed Tax Preparer, or any person, corporation, firm or partnership falling within the purview of ORS 673.605 to 673.735.

(7) "Resident Consultant" means the Licensed Tax Consultant who is physically present to conduct and carryout his/her duties in the principal or branch office.

(8) "Tax Consultant or Tax Preparer Practice" and a licensee's "professional practice" means any service performed or supervised by the licensee for a client, including any advice or recommendation made by the licensee to the client, when it is related directly or indirectly to the client's personal income tax return, if the licensee also prepares the client's personal income tax returns.

(9) "Tax Preparation Business" means a sole proprietorship, partnership, corporation or other entity that offers personal income tax preparation services to the public, for a fee, whether operated under an individual's own name or under an assumed business or corporate name, and including tax preparation businesses operated on a full- or part-time basis.

(10) "Valuable Consideration", as used in ORS 673.615 and OAR Chapter 800, means a benefit that accrues to a person as a result of preparing, advising or assisting in the preparation of personal tax returns for others, or offering to perform such services. Valuable consideration need not be translatable into dollars and cents.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 6-1986, f. & ef. 12-31-86; TSE 3-1987, f. & ef. 10-2-87; TSE 1-1990, f. & cert. ef. 1-25-90; TSE 4-1991, f. & cert. ef. 10-28-91; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-010-0017

Incompetence and Negligence

Under ORS 673.700(3):

(1) A licensee is incompetent when he/she has engaged in conduct which evidenced a lack of ability or fitness to perform his or her professional functions.

(2) A licensee is negligent when he/she has engaged in detrimental conduct to the client.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 8-1990, f. & cert. ef. 9-4-90; TSE 9-1990(Temp), f. & cert. ef. 10-30-90; TSE 1-1991, f. & cert. ef. 1-3-91; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-010-0025

Integrity and Objectivity

(1) A licensee shall not knowingly misrepresent facts while preparing, assisting or advising in the preparation of income tax returns. A licensee may resolve doubt in favor of a client if there is reasonable support for the position.

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(2) A licensee who finds that a client has made an error or omitted information or related material required on an income tax return shall promptly advise the client of such error or omission.

(3) A licensee shall not arrange for or permit a client's individual income tax refund check to be mailed or made payable to the licensee at any time, for any purpose.

(4) Commissions earned for the personal services of the licensee, such as real estate, insurance, investment and securities sales, may be earned if the licensee also holds any license, permit or registration required by law to perform the services. A licensee shall disclose in writing that he/she will be compensated for any personal services. The client will acknowledge receipt of the disclosure in writing.

(5) Fees in connection with preparation of tax returns must be stated separately from, and in addition to, any other professional services provided.

(6) A licensee shall, upon written request by a client, make available or return within a reasonable time to the client, personal papers or source material in the manner furnished to the licensee by the client;

(a) A licensee who has provided a tax return to a client shall, upon written request by the client, make available within a reasonable time to the client, copies of depreciation schedules that support the return;

(b) A licensee is not required to furnish records to a client more than once under this subsection.

(7) A licensee shall not engage in fraudulent, deceptive or dishonest conduct relating to the licensee's professional practice.

(8) A licensee shall not violate any position of trust, including positions of trust outside the licensee's professional practice.

(9) A licensee must be current on all tax return filings and all tax payment plans pertaining to the licensee and/or licensee's business before a license can be issued or renewed.

Stat. Auth.: ORS 673.730(6)

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 3-1980, f. & ef. 8-22-80; TSE 1-1985, f. & ef. 1-15-85; TSE 4-1986, f. & ef. 8-15-86; TSE 3-1989, f. & cert. ef. 12-20-89; TSE 1-1992, f. 3-24-92, cert. ef. 6-1-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-010-0030 Accountability

(1) A Licensed Tax Consultant or registered tax business shall only allow persons to practice in the consultant's or tax business' name who are licensed as tax consultants, tax preparers, or as described in ORS 673.610.

(2) A Licensed Tax Consultant shall not permit the use of the consultant's license to enable others to establish and carry on a business for the preparation of personal income tax returns wherein the consultant's only interest is the receipt of a fee for use of the consultant's license and the Licensed Tax Consultant does not provide supervision of the tax preparation activities as defined in OAR 800-025-0050.

(3) A Licensed Tax Consultant or a Licensed Tax Preparer shall not state or imply that a Licensed Tax Preparer preparing tax returns to which the consultant's license number or tax business information is affixed is not:

(a) Fully subject to the supervision of the Licensed Tax Consultant or registered tax business; as defined in OAR 800-025-0050; or

(b) Acting as agent of the Licensed Tax Consultant or registered tax business.

(4) A Licensed Tax Preparer shall not engage in the preparation of tax returns, assist in such preparation, gather tax information, or provide tax advice unless the Licensed Tax Preparer is under the supervision of a Licensed Tax Consultant as defined in OAR 800-025-0050.

(5) A licensee shall not maintain a financial interest in or hold an employment position with any business entity that offers personal income tax preparation services, if any other person maintains a financial interest in the entity, or holds a management position involving authority over the business operations of the entity, and:

(a) That person's tax consultants or tax preparers license has been permanently revoked; or

(b) The Board has refused to issue or renew a license to that person; or

(c) Another state regulatory agency or the Internal Revenue Service has revoked or refused to issue or renew an occupational license, registration or permit held or requested by that person, for conduct involving tax preparation or dishonesty.

(6) If required to do so under section (5) of this rule, a licensee shall be allowed a reasonable time, not to exceed 180 calendar days, to sever an existing relationship with a person whose license is revoked or refused.

(7) Section (5) of this rule does not apply to a licensee or a person described in subsections (5)(a) through (c) of this rule, whose only financial interest in a tax preparation business is the ownership of ten percent or less of the stock in a publicly-held corporation.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 1-1985, f. & ef. 1-15-85; TSE 8-1987, f. & ef. 12-21-87; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-010-0040 Identification

(1) A licensee shall include the name of the tax business, permanent address, and signature on the original and all copies of federal and state personal income tax returns or electronic filing documents prepared by the licensee, together with all other data required by the Internal Revenue Service, Department of Revenue, and State Board of Tax Practitioners. Office copies are exempt from this requirement.

(2) Where the licensee's signature appears on the state personal income tax return, there shall be included the State license number of the licensee preparing the return.

(3) In addition to the original copies of returns provided to or filed on behalf of a client, at least one (1) duplicate copy of the complete set of the returns, including all accompanying forms and schedules, shall be supplied to the client. A licensee is not required to provide duplicate records to a client more than once. However, in the case of a joint return, each spouse is entitled, upon request, to a copy of the return.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 12, f. & ef. 9-20-77; TSE 1-1978, f. & ef. 2-3-78; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1995, f. & cert. ef. 5-5-95; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-010-0041 Address and Telephone

Licensees shall file with the Board their current mailing address, residence address, e-mail address and telephone number(s). Licensees shall also file with the Board their current tax business address, telephone number and a year-round address and telephone number where clients and the Board may contact the licensee. Whenever any of the information required in this section changes, the licensee shall notify the Board within 15 business days.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 1-1985, f. & ef. 1-15-85; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-010-0050 Advertising and Solicitation

(1) As used in this rule, "advertise" and "advertising" means any form of printed, broadcast or electronic material that makes known professional tax services. This includes, but is not limited to, business cards and business stationery of an individual or tax business.

(2) No licensee or tax preparation business shall advertise or solicit clients in a false, fraudulent, deceptive or misleading manner.

(3) All advertising must include the name of a firm that has complied with ORS 673.643 or state the name of the firms Designated Licensed Tax Consultant.

(a) Only a person holding a valid Tax Consultant's License may use the designation "L.T.C.", "LTC" or the titles "Licensed Tax Consultant" or "Tax Consultant."

(b) Only a person holding a valid Tax Preparer's License may use the designation "L.T.P.", "LTP" or the title "Licensed Tax Preparer".

(4) All advertising must be reviewed and approved in advance by the designated Licensed Tax Consultant. The designated Licensed Tax Consultant and the designating tax business shall each be responsible for the business's compliance with the provisions of this rule.

(5) No licensee shall advertise to give a discount unless:

(a) The discount is based upon a basic fee schedule posted in public view in the licensee's place of business; and

(b) The fees on the posted basic fee schedule are the usual and customary charges of the tax business; and

(c) The basic fee schedule must include the minimum fees charged for at least the following forms and schedules: 1040, 1040A, 1040EZ, Sch. A, Sch. B, Sch. EIC, Form 2441, Form 8812, Oregon 40 & 40S.

Stat. Auth.: ORS 673.663

Stats. Implemented:

ADMINISTRATIVE RULES

Hist.: TSE 6, f. & ef. 1-5-76; TSE 2-1981(Temp), f. 2-18-81, ef. 2-19-81; TSE 3-1981, f. 7-22-81, ef. 7-23-81; TSE 4-1981, f. & ef. 8-13-81; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1986, f. & ef. 7-14-86; TSE 2-1990, f. & cert. ef. 1-25-90; TSE 2-1992, f. & cert. ef. 5-15-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-015-0005

Basic Education

(1) An accredited college/university, educational service district (ESD), or a private firm that has met or is exempt from the registration requirements of the Oregon Department of Education or a private firm offering classes only to its own employees and is exempt from the Oregon Department of Education requirements may act as a sponsor for the basic income tax course.

(2) Sponsors shall apply for course certification on a form provided by the Board.

(3) A basic course shall include:

(a) At least 80 classroom hours of basic tax preparation instruction. If the course is offered through correspondence or online, it must be the equivalent of 80 classroom hours of instruction;

(b) Instruction in each of the subject areas specified in the Preparer Examination Index maintained by the Board;

(c) Sufficient working problems to instruct in the use of appropriate forms and schedules; and

(d) A midterm and final examination.

(4) The Board may require a sponsor applicant to submit evidence that course materials and lesson plans comply with section (3) of this rule.

(5) Basic course sponsors shall employ only instructors to teach basic courses who are actively licensed or who fall within the exemptions of ORS 673.610(2)(4) and who prepared taxes for at least two (2) tax seasons immediately prior to teaching the course.

(a) The Board may grant a specific waiver to instructor qualifications when unusual or extenuating circumstances exist.

(b) Sponsors shall submit to the Board the names and qualifications of instructors teaching each basic course.

(c) Repeated low passage rates of an instructor's students on the tax preparers' examination could be evidence that the instructor may not be qualified to teach a basic tax preparation course.

(d) The instructor's approval to teach Basic Tax Preparation courses may be revoked by the Board.

(6) Evidence of successful course completion shall be furnished to students by course instructors on a Board-approved session attendance certification form. Forms may be reproduced by course sponsors. If a student misses a portion of the class sessions, the instructor may provide makeup work.

(7) Applications for course certification shall be submitted annually at least 60 calendar days prior to the course starting. Certification shall be for the subsequent 12 months.

(8) The Board may refuse to issue or withdraw a course certification for failure to meet any of the course or instructor requirements contained in this rule.

Stat. Auth.: ORS 673.625(1)

Stats. Implemented:

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; Renumbered from OAR 800-020-0040 by TSE 2-1980, f. & ef. 5-30-80; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1990, f. & cert. ef. 1-25-90; TSE 7-1992, f. & cert. ef. 12-22-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-015-0010

Continuing Education

(1) Except for renewal of an initial license, a Licensed Tax Consultant or Licensed Tax Preparer renewing a license shall submit evidence of attending or by self-attestation on the renewal must complete at least 30 hours of acceptable continuing education since the last renewal date.

(2) If by self-attestation, each licensee shall report compliance with the continuing education requirements on the license renewal document. Licensees shall be subject to the provisions of OAR 800-015-0015 pertaining to the periodic audit of continuing education.

(3) If by self-attestation, proof of participation in required continuing education is the responsibility of the licensee. To ensure that proof of attainment of required continuing education is available for audit or investigation by the Board, licensees shall maintain a record of attendance for at least two (2) years following each continuing education cycle and renewal of the tax practitioner license.

(4) Continuing education credit will be accepted only for courses and seminars that comply with all Board rules regarding continuing education.

(5) The Board may verify continuing education information submitted by licensees.

(6) Education hours earned in excess of 30 hours annually cannot be carried over from one renewal period to the next, except extra hours earned during the month of renewal not claimed on that renewal may be submitted with the following year's renewal.

(7) Continuing education credit shall be granted only once during a license year for attendance at or instruction of duplicate seminars offered by the same sponsor or instructor.

(8) Continuing education credit for courses at accredited universities and colleges will be 15 hours for each semester hour credit and ten (10) hours for each quarter hour credit. For all other courses and seminars, one (1) hour of continuing education credit will be allowed for each hour of classroom attendance.

(9) Continuing education credit may be accepted for instructors of basic or advanced courses or seminars. The credit allowed will be two (2) hours for each hour of teaching, which includes preparation time. No more than ½ of total required continuing education credit can be in teaching.

(10) Correspondence and online study courses may be accepted if the program and sponsor comply with all Board rules regarding continuing education and:

(a) The sponsor requires evidence of satisfactory completion of workbooks or examinations before certificates are issued.

(b) The hours credited do not exceed the credit that would be allowed in a resident course covering the same material; and

(c) A course outline with accompanying workbooks or exams is submitted to the Board, prior to offering the material, for approval of course content and hours of credit claimed.

(11) "In-Company" instruction may be accepted if the course or seminar is presented to ten (10) or more people and all other requirements for continuing education sponsors are met. Portions of such educational sessions devoted to administrative and firm matters shall not be accepted.

(12) If a licensee claims credit for a course or seminar in the reasonable belief the instruction qualifies as acceptable continuing education, but the Board finds all or part of the hours claimed to be unacceptable, the licensee may be granted an additional period of time, not to exceed 60 calendar days, to make up the rejected hours.

(13) Licensed Tax Consultants and Licensed Tax Preparers who have extenuating circumstances and are unable to obtain all their continuing education by their license due dates may make application, by completing a form prescribed by the Board, for a waiver of continuing education hours.

Stat. Auth.: ORS 673.645 - 673.667

Stats. Implemented: ORS 673.645 - 673.667

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 9-1987, f. & ef. 12-21-87; TSE 1-1997, f. & cert. ef. 7-2-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-015-0020

Continuing Education Program Requirements

(1) Acceptable continuing education is that which contributes directly to the expertise of the individual in the preparation of income tax returns, and is presented by a sponsor who meets the requirements of all Rules. It is the obligation of each licensee to select a course of study which will contribute to his or her competence in the preparation of income tax returns.

(2) The following general subject matters are acceptable to the extent they contribute directly to the expertise of income tax preparation:

(a) Taxation.

(b) Practitioner Ethics.

(c) Accounting and payroll theory.

(d) Estate, tax or investment planning.

(e) Computer technology.

(f) Other, if the licensee can demonstrate a direct relationship to the preparation of a client's income tax returns.

(3) Programs primarily directed towards the licensee's personal benefit, rather than that of his or her clients, and programs relating primarily to general business management, are unacceptable. Some examples of unacceptable subjects are:

(a) Memory improvement.

(b) Buying or selling a tax practice.

(c) Setting fee schedules.

(d) Character development.

(e) Behavior modification.

(f) Business management

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- (g) Labor law.
- (h) Economic forecasts.
- (i) Learning to operate office equipment.
- (4) Programs must be at least one (1) 50-minute education hour with credit given in whole hours only.
- (5) Programs must be conducted by a qualified instructor whose background, training, education or experience make it appropriate for the person to lead a discussion on the subject matter of the particular program.
- (6) Licensees may not receive credit for repeat of courses taken within the same continuing education reporting period.

Stat. Auth.: ORS 673.645 - 673.667

Stats. Implemented: ORS 673.645 - 673.667

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 2-1989, f. & cert. ef. 10-27-89; TSE 8-1992, f. & cert. ef. 12-22-92; TSE 2-1997, f. & cert. ef. 7-2-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-020-0015

Application for Examination

(1) Application to take the examination for a tax preparer or tax consultant must be filed with the Board on forms prescribed and furnished by the Board, together with the examination fee and proctor site fee, if applicable. The application must be signed.

(2) The application and examination fee shall be filed with the Board no later than one (1) month prior to the examination date, except when the Board sets tighter deadlines due to extenuating circumstances.

(3) Completed basic course certification forms as required under OAR 800-015-0005(6) shall be submitted to the Board by the student with the initial application for a Tax Preparer License. The preparer applicant may file an application to take the examination before completing the basic tax course. Applicants shall furnish the Board a brief outline of courses completed, together with a transcript from the educational institution if the course(s) they completed has/have not received prior approval from the Board. If the Board determines the course(s) completed is/are comparable to those described in OAR 800-015-0005, the applicant shall be eligible to take the examination.

(4) A tax consultant applicant who is a Licensed Tax Preparer shall submit verification by the applicant's employer or employers, on forms prescribed and furnished by the Board, that the applicant has worked in the capacity as a Licensed Tax Preparer for not less than a cumulative total of 780 hours during at least two (2) of the last five (5) years.

(5) A tax consultant applicant who is claiming equivalent tax preparer experience shall submit on forms prescribed and furnished by the Board:

(a) Verification by the applicant's employer or employers that the applicant has worked in the capacity as a Licensed Tax Preparer for not less than a cumulative total of 780 hours during at least two (2) of the last five (5) years.

(i) The Board will accept employment as an income tax auditor or taxpayer service representative with the Internal Revenue Service or State Department of Revenue as being equivalent experience.

(ii) For the purpose of meeting the work experience requirement for tax consultants, one hour of experience gained through volunteer tax preparation programs such as VITA and AARP-TCE will be accepted for each five hours spent preparing, advising or assisting in the preparation of tax returns through the volunteer program, up to a maximum of 150 hours credited. To qualify for the one (1) to five (5) hour experience credit, total hours worked in the volunteer program must be verified in writing by a supervisor.

(b) To claim experience under this section, the applicant must submit a petition signed under penalty of perjury that the work experience claimed is true, correct and complete.

(6) Applicants for the tax consultant examination must have completed, within a year prior to submitting application, a minimum of 15 hours of acceptable continuing education in personal income taxation to meet the requirements of OAR 800-015-0010 to 800-015-0030. This requirement is in addition to the required 780 hours of work experience earned during at least two (2) of the last five (5) years.

(7) A tax practitioner applicant claiming tax consulting experience in another state shall:

(a) Submit, on a form prescribed and furnished by the Board, a petition signed under penalty of perjury, claiming self-employment as a tax practitioner for no less than two (2) of the last five (5) years; and

(b) Furnish documented proof of self-employment as a tax practitioner.

(8) A tax preparer or tax consultant applicant who has worked in the capacity as a tax practitioner in another state or in an exempt status may request Board approval to substitute work experience for up to two-thirds of the classroom hours of basic income tax education otherwise required to qualify as a tax preparer or tax consultant. Approval may be granted to substitute experience for education only if:

(a) The applicant was actively engaged in a tax preparation business within two (2) years prior to the date of application;

(b) The applicant has at least three (3) years experience in a tax preparation business;

(c) The applicant has gained a competency level through work experience that is equal to those applicants who have successfully completed the basic income tax course; and

(d) The applicant submits verification by the applicant's employer(s) or evidence of self-employment regarding the work experience.

(9) The Board may accept education credit for courses completed by a tax consultant applicant to substitute for up to 260 hours of work experience at the rate of one (1) classroom hour of education for five (5) hours of experience if:

(a) The subject matter of the course was related to taxation;

(b) The applicant completed the course within one (1) year of applying to become a Licensed Tax Consultant; and

(c) Credit for the course is not claimed to fulfill continuing education requirements.

(10) Information required of the applicant and on the application forms shall be completed before an applicant may be admitted to an examination.

Stat. Auth.: ORS 673.625

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 2-1980, f. & ef. 5-30-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1988, f. & cert. ef. 11-2-88; TSE 5-1990, f. & cert. ef. 5-3-90; TSE 9-1992, f. & cert. ef. 12-22-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2005, f. & cert. ef. 1-5-05; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-020-0025

Fees

The fees for licenses and registrations issued, renewed, reactivated or otherwise, shall be prescribed by the State Board of Tax Practitioners by rule but shall not exceed the following:

(1) The fee for application for examination for a tax preparer's license is \$50.

(2) The fee for application for examination for a tax consultant's license is \$85.

(3) The fee for issuance or renewal of a tax preparer's active license is \$80.

(4) The fee for issuance or renewal of a tax consultant's active license is \$95.

(5) The fee for an initial consultant license, if an applicant holds an active preparer's license is \$65.

(6) The fee for an initial combination consultant license/ tax preparation business registration, if an applicant holds an active preparer's license is \$125.

(7) The fee to place a tax preparer's license in inactive status is \$35.

(8) The fee to place a tax consultant's license in inactive status is \$50.

(9) The fee for reactivation of a tax preparer license in inactive status is \$80.

(10) The fee for reactivation of a tax consultant license in inactive status is \$95.

(11) The fee to reactivate a tax preparer or tax consultant license in lapsed status is \$35, plus payment of all unpaid renewal fees.

(12) The fee for a duplicate license is \$10.

(13) The fee for a replacement tax consultant's certificate is \$15.

(14) The fee for issuance or renewal of a tax preparation business registration is \$110.

(15) As provided by subsection (a) and (b) of this section, the fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$155:

(a) For Consultants — If postmarked on or before June 15th.

(b) For Preparers — If postmarked on or before October 15th.

(16) The fee for issuance or renewal of a branch office registration is \$20.

(17) Dishonored Check or Electronic Payment. Pursuant to ORS 30.701, whenever a bank check, credit or debit transaction in payment of an obligation due for fees, penalties, copies of records or materials, or other

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services to the agency, is dishonored by the bank upon which the check is drawn, the applicant or authorization holder will be assessed and must pay an administrative processing fee in the amount of \$25. The Board may take any other disciplinary action against an authorization holder or payer and may seek other legal remedies in pursuing to effect collection of the returned items. If a check is returned for Non-Sufficient Fund (NSF) or uncollected funds the Board will attempt to collect payment by other means.

Stat. Auth.: ORS 673.730
Stats. Implemented: ORS 673.685
Hist.: TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87; TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 3-2007, f. 7-30-07, cert. ef. 8-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-020-0065

Displaying of Licenses

Licensed Tax Consultants and Licensed Tax Preparers shall display their licenses in public view in their place of business..

Stat. Auth.: ORS 673
Stats. Implemented:
Hist.: TSE 8, f. & ef. 5-19-76; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-025-0020

Tax Preparation Business Registration

(1) A tax preparation business shall not offer services to the public until the business has:

(a) Complied with applicable laws and rules of the Oregon Corporation Division;

(b) Registered with the Board, on a Board-approved application form, the tax preparation business name, address, telephone number, and e-mail address; the name(s) of the owner(s) of the business; and the name of the individual(s) responsible under OAR 800-025-0040 for the tax activities of the business; and

(c) Paid the tax business registration fee required under OAR 800-025-0025.

(2) Within 15 business days of a change of name or ownership, a tax preparation business must file a new business registration with the Board and pay a new business registration fee.

(3) A person who offers tax preparation services under more than one tax business name must register each such name as a separate business.

Stat. Auth.: ORS 673.730(5)
Stats. Implemented:
Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 13-1991(Temp), f. & cert. ef. 11-25-91; TSE 14-1991, f. 11-25-91, cert. ef. 1-1-92; TSE 4-1992, f. & cert. ef. 5-15-92; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-025-0023

Reporting Closing of Business; Address and Phone Changes

A tax preparation business shall notify the Board within 15 business days of:

(1) Termination of the tax preparation business;

(2) A change in the mailing address, physical address, e-mail address or telephone number(s) of the tax business.

Stat. Auth.: ORS 673.730(5)
Stats. Implemented:
Hist.: TSE 7-1991, f. & cert. ef. 10-28-91; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-025-0025

Renewal of Tax Preparation Business Registration

(1) Tax preparation business registrations shall expire annually on June 15, except that combination tax business registration/tax preparer licenses shall expire annually on October 15.

(2) At least 30 calendar days prior to the registration expiration date each year, the Board shall attempt to notify each tax business, using the contact information they provided to the Board, that their tax preparation business registration is up for renewal.

(3) Renewal registrations shall be issued to qualifying tax businesses upon receipt of a completed registration renewal application and the fee for registering a tax preparation business specified in OAR 800-020-0025(14)

or the fee for a combined tax consultants or tax preparers license and tax business registration specified in OAR 800-020-0025(15).

(4) A tax business whose registration has expired shall not perform tax preparation services for the public, for a fee, or offer such services until the tax business submits a new tax business registration application and the application process has been completed.

Stat. Auth.:
Stats. Implemented:
Hist.: TSE 8-1991, f. & cert. ef. 10-28-91; BTP 1-2004, f. 1-28-04, cert. ef. 2-1-04; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-025-0027

Eligibility for Combined Business Registration and Tax Consultant/Preparer License

(1) A tax preparation business is not eligible for a combined license and registration under OAR 800-020-0025(15) unless at least one (1) of the owners of the tax business is a Licensed Tax Consultant or Licensed Tax Preparer. As used in this section, "owner" means an individual who owns at least ten (10) percent of the tax business.

(2) A tax preparation business, including a tax business that must file a new registration due to a change of name or ownership, is not eligible for a combined license and registration under OAR 800-020-0025(15) unless the registration submitted is:

(a) A new registration, at the time of application for the owner's tax consultant's or tax preparer's license;

(b) A renewal registration, before the expiration date of the current registration.

(3) A licensee who owns more than one (1) tax preparation business is eligible for a combined license and business registration under OAR 800-020-0025(15) for only one (1) of the tax businesses and must pay the business registration fee specified in OAR 800-020-0025(14) for the second and additional tax businesses.

Stat. Auth.:
Stats. Implemented:
Hist.: TSE 9-1991, f. & cert. ef. 10-28-91; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-025-0029

Displaying Business Registration

Tax preparation businesses shall post their current registration in public view in their place of business.

Stat. Auth.: ORS 673.643 & 673.730(5)
Stats. Implemented:
Hist.: TSE 4-1992, f. & cert. ef. 5-15-92; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-025-0030

Branch Offices

(1) A tax preparation business shall not operate any branch office until:

(a) The tax business has complied with all laws and rules of the Board concerning tax business registration;

(b) The mailing address, physical address e-mail and phone number(s) of the branch office and the name and license number of the resident consultant for the branch office have been submitted to the Board; and

(c) The tax business has paid an annual fee for the branch office registration for that location as required under OAR 800-020-0025(16).

(2) Branch office registrations shall expire annually on the expiration date of the associated tax business registration.

(3) At least 30 calendar days before the expiration of a branch office registration, the Board shall attempt to notify each tax preparation business, using the contact information they provided to the Board, that their tax preparation branch office registration is up for renewal.

(4) Renewal branch office registrations shall be issued to qualifying tax preparation businesses upon receipt of the required annual registration fee.

(5) A tax preparation business operating branch offices shall notify the Board within 15 business days of:

(a) Change of mailing address, physical address, e-mail address or phone number(s) of the branch office.

(b) Change in Resident Consultant and/or Designated Consultant of the branch office.

(c) Closing the branch office.

(6) Branch offices must be conducted under the same name as the principal office. This name shall be posted in public view in each branch office.

(7) The name of the Designated Consultant and the name of the Resident Consultant must be posted in public view in each branch office.

ADMINISTRATIVE RULES

(8) The current registration issued by the Board for a branch office must be posted in public view in the branch office.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: ORS 673.730(5)

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 10-1991, f. & cert. ef. 10-28-91; TSE 5-1992, f. 5-15-92, cert. ef. 7-1-92; TSE 2-1996, f. & cert. ef. 12-30-96; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-025-0040

Designated Consultants

(1) A tax preparation business shall not engage in the preparation of personal income tax returns for the public, or offer such services, until the business has designated a Licensed Tax Consultant or other authorized person ("Designated Consultant") as the responsible individual. A form prescribed by the Board shall be signed by the Designated Consultant and signed by the owner or authorized representative of the tax preparation business.

(2) The Designated Consultant shall be responsible for all tax preparation activities of the business. The Designated Consultant and the designating business shall each be responsible for the business compliance with laws and rules of the Board.

(3) A Designated Consultant will cease to be responsible for a business's tax preparation services upon receipt by the Board of written notice from the consultant or business.

(4) A Licensed Tax Consultant may act as the Designated Consultant for only one tax preparation business, except by written application for waiver.

(5) An application for waiver to serve as a Designated Consultant for more than one (1) tax preparation business shall set forth the following:

(a) The name and address of the tax preparation business for which the Licensed Tax Consultant is presently serving as the Designated Consultant;

(b) The name and address of the additional tax preparation business for which the Licensed Tax Consultant is requesting approval to serve as the Designated Consultant;

(c) A detailed plan how each tax preparation business will be supervised in carrying out the duties as a Designated Consultant;

(d) The financial relationship of the proposed Designated Consultant and the tax preparation businesses; and

(e) Unusual or extenuating circumstances why approval should be granted.

(6) In determining whether a Licensed Tax Consultant will be approved to act as a Designated Consultant for more than one (1) tax preparation business, the Board:

(a) May approve an application for waiver only wherein the Licensed Tax Consultant has an ownership interest in the tax preparation businesses, or unusual or extenuating circumstances exist, such as the death of a Designated Consultant, resulting in undue hardship. The Board may limit the Licensed Tax Consultant designation period; and

(b) Shall consider the Licensed Tax Consultant's past record of compliance with ORS 673.605 to 673.735, rules of the Board, statutes of the State of Oregon together with information set forth in the application for waiver, particularly the feasibility of the plan in supervising the corporation, firm or partnership.

(7) A tax preparation business shall notify the Board within 15 business days of any change in status of its Designated Consultant.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0050; TSE 4-1989, f. & cert. ef. 12-20-89; TSE 11-1991, f. & cert. ef. 10-28-91; TSE 10-1992, f. & cert. ef. 12-22-92; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2006, f. & cert. ef. 9-5-06; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-025-0050

Management and Supervision of Tax Preparation Business

(1) Each principal and branch office must be under the management and supervision of a Licensed Tax Consultant. Supervision means:

(a) The direct and immediate control of the Licensed Tax Preparer by the Licensed Tax Consultant in such manner that the Licensed Tax Consultant is aware of the line of questioning and the reasoning applied by the Licensed Tax Preparer in the preparation of each return, and that the Licensed Tax Consultant has adequate opportunity to correct or add to the reasoning applied by the Licensed Tax Preparer; and

(b) A system of selecting, training and controlling the Licensed Tax Preparer, including having a set of procedures by which the Licensed Tax Consultant is assured that the Licensed Tax Preparer is providing compe-

tent workmanship and abiding by the statutes and Board rules. Such procedures shall include:

(A) An examination and review of all personal income tax returns for errors under the direct supervision of the Licensed Tax Consultant or a Licensed Tax Preparer chosen based on experience and reviewing ability; and

(B) Giving notice to the Licensed Tax Preparer of any adjustments after examination and review; and

(C) Maintaining in principal and branch offices current federal and state personal income tax reference material; and

(D) Providing access to the Licensed Tax Consultant (including telephone or electronic media access from branch offices) so that the Licensed Tax Preparer is encouraged to seek tax law consultation and advice; and

(E) Exercising control by the Licensed Tax Consultant over the tax preparation practices and all other matters governed by the statutes and Board rules in each principal and branch office.

(2) Licensed Tax Preparers who have not had at least one (1) year's tax return preparation experience during the previous three (3) year period must be under the immediate, onsite supervision of more experienced personnel when preparing, advising, or assisting in the preparation of tax returns.

(3) Licensed Tax Consultants who employ any person described in subsection (4) of ORS 673.610 to act in the capacity of Licensed Tax Preparer or Licensed Tax Consultant under their supervision shall report to the Board the names of these persons and the basis for their exemption.

(4) If a Licensed Tax Preparer is found by the Board to be in violation of the statutes or Board rules, the Licensed Tax Consultant responsible for supervision of that Licensed Tax Preparer shall be deemed to be in violation in the same manner and to the same extent, and may be disciplined by the Board regardless of any discipline imposed on the Licensed Tax Preparer, unless the Licensed Tax Consultant demonstrates to the satisfaction of the Board that the circumstances that led to the violation occurred without the permission or knowledge of the Licensed Tax Consultant and that the violation occurred regardless of an adequate system of supervision that would generally prevent such violation. In the case of a corporation, firm, or partnership, both the Designated Consultant and the corporation, firm, or partnership may be disciplined.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: ORS 673.615(2)

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 2-1996, f. & cert. ef. 12-30-96; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-030-0035

Board Meeting — Rules of Procedure

(1) Board procedure shall be governed by Sturgis Standard Code of Parliamentary Procedure and rules adopted by the Board.

(2) There shall be an annual election of Chair and Vice-chair.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0085; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

800-030-0050

Obtaining Information and Purchasing Board-Provided Materials and Services

Materials and services available to the public and licensees through the Tax Board may be obtained or purchased as follows:

(1) In response to telephone requests, the board office may provide the tax practitioner name, license number, whether the license is active or expired, tax business location, business telephone number and whether a discipline record exists.

(2) A copy of the Oregon Revised Statutes Chapter 673 and Oregon Administrative Rules Chapter 800 may be provided upon request at no charge for the first request. A charge will be assessed for additional/multiple copies.

(3) All requests for any information other than that listed in subsection (1) and (2) of this rule must be submitted in writing to the board office.

(4) The Board may charge for copies of its records. The types of records that the Board can charge for copies includes, but is not limited to, such material as copies of certificate(s), license(s), registration(s), board meeting materials that are available to the public, general information, duplicating requests requiring multiple records search or the compiling and creation of official documents.

(5) Fees shall not exceed the Board's actual costs for copying the record(s) requested including, but not limited to, the Board's cost for locating, compiling, making available for inspection, obtaining legal or other

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professional advice related to the request, reviewing the records in order to delete exempt material, supervising a person's inspection of original records, preparing the copy in paper, audio, or electronic format, certifying documents as true copies, and delivery of such record(s).

(6) All fees assessed must be paid before public records are made available. Estimates/fees for processing requests for public records may be given when requested. Person(s) making the public records request is responsible for the actual costs regardless of the estimate.

(7) Persons who want to obtain copies of the following records may learn the charge for them by contacting the board office:

(a) A list of name's, addresses and places of tax business for all licensed tax practitioners currently on file with the Agency;

(b) A list of records, regardless of whether status is active, inactive, expired or archived;

(c) One (1) or more photocopies of any Board document or portion thereof;

(d) Copies of board meeting minutes or committee meeting minutes/reports.

(8) Advertising services provided by the Board for a fee which can be obtained by contacting the board office:

(a) Advertising for help-wanted, sale of tax business and tax related services or products in the Board newsletter;

(b) Advertising of Tax Consultant or Tax Business on the Board Web site. Licensees and tax businesses must be in good standing with the Board to obtain and maintain this service.

(c) All advertising is subject to the review and approval of the Board.

(9) Charges for records may be waived or substantially reduced if the request is in the public's interest, pursuant to ORS 192.440(4)&(5).

(10) The following fees apply to requests for the following types of public records, information, and services provided by the Board:

(a) Fee for a list of current licensees, which includes; license number, name, mailing address is \$25.

(b) Fee for a monthly subscription to a list of current licensees is \$120 per year. Lists provided between the 1st – 10th of each month.

(c) Fee for duplicates of tape recordings of board meetings, disciplinary hearings, etc. that are available to the public are \$5 each, plus labor at an hourly rate of \$25, mailing costs and any Department of Justice costs that may need to be incurred.

(d) Fee for board/committee meeting materials, available to the public, is:

(A) \$10 per board/committee meetings' minutes.

(B) \$5 per board/committee notice and agendas.

(e) Fees for advertising for help-wanted and tax related services or products in board newsletter:

(A) \$10 per 3 3/8 inch line or part line.

(B) \$350 for a full page ad.

(C) \$180 for a half page ad.

(D) \$100 for a quarter page ad.

(E) \$50 for a business card size ad.

(f) Fee for advertising of a tax consultant or tax business or as an employee of a tax business on the Boards website:

(A) Name, business address (physical & e-mail), and phone is \$10 per year per county.

(B) An additional \$10 per county annual fee may be charged for a link to a tax business related website.

(g) Fee for multiple records search including duplicating of documents is labor at an hourly rate of \$30, per page duplicating .05 cents, mailing costs and any Department of Justice costs that may need to be incurred.

(h) Fee for making general photocopies is labor at an hourly rate of \$25, per page duplicating .05 cents, mailing costs and any Department of Justice costs that may need to be incurred.

Stat. Auth.: ORS 192, 670 & 673
Stats. Implemented: ORS 673.605 - 673.740 & 673.990
Hist.: TSE 5-1986, f. & ef. 10-6-86; TSE 6-1990, f. & cert. ef. 5-3-90; BTSE 1-1999, f. & cert. ef. 11-23-99; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2004, f. 10-11-04 cert. ef. 11-1-04; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wage for the period beginning January 1, 2010.

Adm. Order No.: BLI 3-2010

Filed with Sec. of State: 1-19-2010

Certified to be Effective: 1-19-10

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning January 1, 2010.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act dated January 1, 2010*, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning January 1, 2010, and the effective dates of the applicable special wage determination and rates amendments:

(a) Amendments/Corrections to January 1, 2010 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective January 1, 2010).

(b) Amendments/Corrections to January 1, 2010 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective January 1, 2010).

(c) Amendments/Corrections to January 1, 2010 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective January 8, 2010).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act dated January 1, 2010*, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS 279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. & ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07, cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07, cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08;

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destruction.

Stat. Auth.: ORS 651.060, 658.220 & 659A.800
Stats. Implemented: ORS 279C, 651, 652, 653, 658 & 659A
Hist.: BLI 38-2007; f. 12-28-07, cert. ef. 1-1-08; BLI 33-2008, f. 10-22-08, cert. ef. 10-25-08; BLI 5-2010(Temp), f. 2-10-10 cert. ef. 2-12-10 thru 8-6-10

839-002-0040

Subpoena Duces Tecum

(1) A subpoena duces tecum may be issued to any person who has custody, possession, or control of documents or other things named in the subpoena duces tecum when the conditions set out in OAR 839-002-0030(3) have been met.

(2) A subpoena duces tecum issued to a corporation will be addressed to the records custodian of the corporation.

(3) A subpoena duces tecum will not require production of documents or other things less than 14 days from the date of service upon the person required to produce and permit inspection of the documents or things unless the commissioner finds a shorter period necessary to protect the documents and things from destruction or if the Division has an immediate need for the documents or things being subpoenaed.

(4) The commissioner may also command the person to whom a subpoena duces tecum is issued to produce documents and other things by mail or otherwise, at a time and place specified in the subpoena, without commanding inspection of the originals. The person to whom the subpoena is directed complies if the person produces copies of the specified items in the specified manner and certifies that the copies are true copies of all documents and other things responsive to the subpoena.

(5) The subpoenaed documents and other things must be produced at the location, time, and date required in the subpoena.

Stat. Auth.: ORS 651.060, 658.220 & 659A.800
Stats. Implemented: ORS 279C, 651, 652, 653, 658 & 659A
Hist.: BLI 38-2007; f. 12-28-07, cert. ef. 1-1-08; BLI 33-2008, f. 10-22-08, cert. ef. 10-25-08; BLI 5-2010(Temp), f. 2-10-10 cert. ef. 2-12-10 thru 8-6-10

839-002-0045

Subpoena Ad Testificandum

(1) A subpoena ad testificandum may be issued to any person when the conditions set out in 839-002-0030(1) or 839-002-0030(2) have been met.

(2) The subpoena ad testificandum must give the person a reasonable time for preparation and travel to the place of attendance and the place of attendance must be in a suitable place in the vicinity to which testimony is applicable.

Stat. Auth.: ORS 651.060, 658.220 & 659A.800
Stats. Implemented: ORS 279C, 651, 652, 653, 658 & 659A
Hist.: BLI 38-2007; f. 12-28-07, cert. ef. 1-1-08; BLI 33-2008, f. 10-22-08, cert. ef. 10-25-08; BLI 5-2010(Temp), f. 2-10-10 cert. ef. 2-12-10 thru 8-6-10

839-002-0050

Method of Service

(1) Except as noted in subsections (2) and (3) of this rule, subpoenas must be served in person by delivering a copy to the witness personally and, at the same time, giving or offering to the witness the fees to which the person is entitled for travel to and from the place where the witness is commanded to appear, along with one day's attendance fee. A subpoena may be served by any person 18 years of age or older.

(2) Subpoenas ad testificandum may be served by mail under the following circumstances:

(a) The Division must have, by personal or telephone contact, confirmed the witness's willingness to appear if subpoenaed and certify this on the return of service;

(b) The Division made arrangements for payment to the witness of fees and mileage satisfactory to the witness and pays those fees and mileage; and

(c) The subpoena is sent by certified mail to the witness more than 10 days before the date set for appearance or production of documents or other things and the Division receives a return receipt signed by the witness more than three days prior to that date.

(3) A subpoena duces tecum that commands production of documents or other things but is not accompanied by a subpoena ad testificandum may be served by mailing the subpoena to the person required to produce and permit inspection of the documents or things by first class mail and by certified or registered mail, return receipt requested.

(4) A subpoena duces tecum issued to a corporation will be served in accordance with requirements for service of summons on a corporation pursuant to ORCP 7 D(3)(b).

Stat. Auth.: ORS 651.060, 658.220 & 659A.800
Stats. Implemented: ORS 279C, 651, 652, 653, 658 & 659A; ORCP 7

Hist.: BLI 38-2007; f. 12-28-07, cert. ef. 1-1-08; BLI 33-2008, f. 10-22-08, cert. ef. 10-25-08; BLI 5-2010(Temp), f. 2-10-10 cert. ef. 2-12-10 thru 8-6-10

Construction Contractors Board Chapter 812

Rule Caption: Amends Continuing Education for Commercial Contractors and Information Notice to Owner About Construction Liens.

Adm. Order No.: CCB 1-2010

Filed with Sec. of State: 2-1-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 1-1-2010

Rules Amended: 812-001-0200, 812-020-0070

Rules Repealed: 812-020-0082

Subject: • 812-001-0200 is amended to adopt the revised Information Notice to Owner About Construction Liens form.

• 812-020-00070 is amended to clarify that the date applicable to all continuing education (CE) requirements is the date of the previous license issuance.

• 812-020-0082 is repealed, this rule is no longer necessary.

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-001-0200

Consumer Notices Adoption

(1) In order to comply with the requirement to adopt an information notice to owner under ORS 87.093, the Construction Contractors Board adopts the form entitled "Information Notice to Owner About Construction Liens," as revised January 1, 2010. This form may be obtained from the agency.

(2) In order to comply with the requirement to adopt a consumer notice form under ORS 701.330(1), the board adopts the form "Consumer Protection Notice" as revised February 20, 2009.

(3) In order to comply with the requirement to adopt an "Information Notice to Property Owners About Construction Responsibilities" form under ORS 701.325(3), the board adopts the form "Information Notice to Property Owners About Construction Responsibilities" as revised September 23, 2008.

(4) In order to comply with the requirement to adopt a notice of procedure form under ORS 701.330(2), the board adopts the form "Notice of Procedure" dated December 4, 2007.

(5) The board adopts the form "Notice of Compliance with Homebuyer Protection Act" (HPA) as revised December 16, 2003.

(6) The board adopts the form "Model Features for Accessible Homes" dated December 4, 2007.

(7) The board adopts the form "Home Inspection Consumer Notice" dated October 27, 2009.

Stat. Auth.: ORS 87.093, 670.310, 701.235, 701.325, 701.330 & 701.530
Stats. Implemented: ORS 87.093, 701.235, 701.325, 701.330 & 701.530
Hist.: IBB 4-1981, f. 11-24-81, ef. 1-1-82; IBB 3-1982, f. 6-4-82, ef. 1-1-83; IBB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0076; IBB 3-1983, f. 10-5-83, ef. 10-15-83; BB 2-1987, f. & ef. 7-2-87; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 6-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-17-00; CCB 9-2000, f. & cert. ef. 9-24-00; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 11-2002, f. 12-20-02, cert. ef. 12-23-02; CCB 3-2003(Temp), f. & cert. ef. 3-11-03 thru 9-6-03; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 12-2003(Temp), f. & cert. ef. 12-9-03 thru 6-6-04; CCB 13-2003(Temp), f. 12-19-03, cert. ef. 1-1-04 thru 6-14-04; CCB 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 5-2004(Temp), f. & cert. ef. 6-1-04 thru 11-28-04; CCB 7-2004, f. 8-26-04, cert. ef. 9-1-04; Renumbered from 812-001-0020, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 1-2006(Temp), f. & cert. ef. 1-11-06 thru 7-10-06; CCB 5-2006, f. & cert. ef. 3-30-06; CCB 5-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 1-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 7-2008, f. 4-28-08, cert. ef. 5-1-08; CCB 16-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 2-2009(Temp), f. & cert. ef. 2-23-09 thru 8-22-09; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 7-2009, f. 11-30-09, cert. ef. 1-1-10; CCB 1-2010, f. & cert. ef. 2-1-10

812-020-0070

Certification of Hours — Continuing Education for Commercial Contractors

(1) Upon renewal, a commercial contractor must certify that one or more key employees obtained the continuing education required by OAR 812-020-0050 to 812-020-0073.

(2) For a commercial general or specialty contractor — level 1 with five or more key employees, the commercial contractor must certify that one or more key employees completed at least 80 hours during the preceding license period.

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(3) For a commercial general or specialty contractor — level 1 with four or fewer key employees, the commercial contractor must certify as follows:

(a) With four key employees, that one or more key employees completed at least 64 hours during the preceding license period.

(b) With three key employees, that one or more key employees completed at least 48 hours during the preceding license period.

(c) With two key employees, that one or more key employees completed at least 32 hours during the preceding license period.

(d) With one key employee, that the key employee completed at least 16 hours during the preceding license period.

(4) For a commercial general or specialty contractor — level 2, the commercial contractor must certify that one or more key employees completed at least 32 hours during the preceding license period.

(5) For purposes of this rule, the required amount of continuing education hours for the renewing contractor is determined based on the contractor's endorsement status as of the previous date of license issuance, reissuance or renewal. If the contractor was not endorsed as a commercial contractor on the previous date, continuing education does not apply.

(6) For purposes of this rule, if a contractor is subject to the continuing education requirement, the number of key employees is the number of such persons employed by the commercial contractor as of the previous date of license issuance, reissuance or renewal as a commercial contractor.

Stat. Auth.: ORS 670.310, 701.124 & 701.235

Stats. Implemented: 701.124

Hist.: CCB 21-2008, f. & cert. ef. 11-20-08; CCB 1-2009, f. 1-30-09, cert. ef. 2-1-09; CCB 1-2010, f. & cert. ef. 2-1-10

Rule Caption: Amendments to Division 5 — Civil Penalties and Division 7 — Lead-Based Paint Rules.

Adm. Order No.: CCB 2-2010

Filed with Sec. of State: 2-1-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 1-1-2010

Rules Adopted: 812-007-0025, 812-007-0100, 812-007-0110, 812-007-0120, 812-007-0130, 812-007-0140, 812-007-0150, 812-007-0160, 812-007-0200, 812-007-0205, 812-007-0210, 812-007-0220, 812-007-0230, 812-007-0240, 812-007-0250, 812-007-0260, 812-007-0300, 812-007-0310, 812-007-0320, 812-007-0330, 812-007-0350, 812-007-0360, 812-007-0370, 812-007-0372, 812-007-0374

Rules Amended: 812-005-0800, 812-007-0000, 812-007-0020

Rules Repealed: 812-007-0010, 812-007-0030, 812-007-0040, 812-007-0050, 812-007-0060, 812-007-0070, 812-007-0080, 812-007-0090

Subject: • 812-005-0800 is amended to revise (30) to conform to Chapter 757, OR Laws 2009 (HB 2134), adds a new (31) and (32) regarding penalties for violation of the lead-based paint requirements, and renumbered.

• 812-007-000 is amended to correspond with amendments to ORS 701.505 to 701.515 and new provisions in chapter 757 OR Laws 2009 (HB 2134).

• 812-007-0010, 812-007-0030, 812-007-0040, 812-007-0050, 812-007-0060, 812-007-0070, 812-007-0080, and 812-007-0090 are repealed.

• 812-007-0020 is amended to create new definitions to match federal regulations, specifically 40 CFR §§ 745.83, 745.85, 745.223, 745.226 and Health Division rules.

• 812-007-0025 is adopted to recognize that civil penalty monies relating to lead-based paint will be deposited in a special fund and that the special fund will be used for payment of CCB lead-based paint activities.

• 812-007-0100 is adopted to prohibit any individual offering to perform or performing lead-based paint activities without having 1) a Department certification and 2) a CCB license. This includes lead assessor, lead inspector, lead supervisor, and lead worker (also known as lead abatement worker).

• 812-007-0110 is adopted to set forth the application and eligibility requirements for lead-based paint activities license for individuals.

• 812-007-0120 is adopted to set forth the effective date of the license, the period of the license (1 year) and other administrative matters regarding the license.

• 812-007-0130 is adopted to set forth requirements for license renewal.

• 812-007-0140 is adopted to require individuals to follow work practice standards for lead-based paint activities, as set forth by the Department (Oregon Dept. of Human Services).

• 812-007-0150 is adopted to set forth the basis for denial, suspension or revocation of individual license.

• 812-007-0160 is adopted set forth the fees for lead-based paint activity license for individuals.

• 812-007-0200 is adopted to prohibit any non-exempt person acting as a lead-based paint activities contractor from offering to perform lead-based paint activities without having: 1) a Department certification, and 2) a CCB license.

• 812-007-0205 is adopted to require lead abatement contractors to have at least one owner or employee that is a licensed lead supervisor or licensed lead (abatement) worker.

• 812-007-0210 is adopted to set forth applicant and eligibility requirements for lead-based paint activity licenses for contractors.

• 812-007-0220 is adopted to set forth the effective date of the license, the period of the license (1 year) and other administrative matters regarding the license.

• 812-007-0230 is adopted to set forth requirements for license renewal for lead-based paint activities contractors.

• 812-007-0240 is adopted to require contractors to follow work practice standards for lead-based paint activities, as set forth by the Department (Oregon Dept. of Human Services)

• 812-007-0250 is adopted to set forth the basis for denial, suspension or revocation of a contractor's license.

• 812-007-0260 is adopted to set forth the license fees for lead-based paint activities contractors.

• 812-007-0300 is adopted to prohibit any non-exempt contractor from offering to perform or performing renovation work without being a certified lead-based paint renovation contractor.

• 812-007-0310 is adopted to set application and eligibility requirements for certified lead-based paint renovation contractors.

• 812-007-0320 is adopted to set forth the effective date of the license, the period of the license (1 year) and other administrative matters for certified lead-based paint renovation contractors.

• 812-007-0330 is adopted to set forth requirements for license renewal for certified lead-based paint renovation contractors.

• 812-007-0350 is adopted to set forth the basis for denial, suspension or revocation of a contractor's license.

• 812-007-0360 is adopted to set forth the fees for certified lead-based paint renovation contractor licenses.

• 812-007-0370 is adopted to set forth the notification requirements for certified lead-based paint renovation contractors in target housing dwelling units.

• 812-007-0372 is adopted to set forth the notification requirements for certified lead-based paint renovation contractors in target housing common areas.

• 812-007-0374 is adopted to set forth the notification requirements for certified lead-based paint renovation contractors in child-occupied facilities.

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-005-0800

Schedule of Penalties

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.026 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

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(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.026 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.026 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and

(4) \$5,000 per offense for performing work as a contractor in violation of ORS 701.026, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.

(a) A "complaint for damages" as used in section (4) of this rule includes, but is not limited to:

(A) A Construction Contractors Board Dispute Resolution Services (DRS) complaint; or

(B) A letter to Construction Contractors Board indicating that a citizen has been damaged by the contractor; and

(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.026, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(6) \$500 per offense for failure to respond to the agency's request for the list of subcontractors required in ORS 701.345; and

(7) \$1,000 per offense for hiring an unlicensed subcontractor; and

(8) For failing to provide an "Information Notice to Owners about Construction Liens" as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.

(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.

(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260: First offense \$50, second offense \$100, subsequent offenses \$200.

(11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense warning, second offense \$50, subsequent offenses \$200.

(12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.

(13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

(14) Failure to conform to information provided on the application in violation of ORS 701.046(4), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.

(a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.

(b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (13) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

(15) Knowingly assisting an unlicensed contractor to act in violation of ORS chapter 701, \$1,000.

(16) Failure to comply with any part of ORS Chapters 316, 656, or 657, 701.035, 701.046 or 701.091, as authorized by ORS 701.106, \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(17) Violating an order to stop work as authorized by ORS 701.225(3), \$1,000 per day.

(18) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(19) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.

(20) Violation of ORS 701.098(1)(k) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(21) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

(a) Not paying prevailing wage on a public works job; or

(b) Violating the federal Davis-Bacon Act; or

(c) Failing to pay minimum wages or overtime wages as required under state and federal law; or

(d) Failing to comply with the payroll certification requirements of ORS 279C.845; or

(e) Failing to comply with the posting requirements of ORS 279C.840: \$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(22) Violation of ORS 701.098(1)(k) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in subparagraphs (19) or (20), where more than two violations have occurred: \$5,000 and revocation of the license.

(23) When, as set forth in ORS 701.098(1)(g), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under ORS 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(24) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): \$5,000.

(25) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): \$5,000.

(26) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: \$750 per offense.

(27) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(8): \$750 per offense.

(28) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: \$5,000 per offense.

(29) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0201(4): \$400 per offense.

(30) Violation of work practice standards for lead-based paint (LBP) activity pursuant to OAR 812-007-0140 or 812-007-0240: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 plus suspension of license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(31) Violation of OAR 812-007-0100, 812-007-0200 or 812-007-0300: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000. The civil penalty is payable to the Construction Contractors Board Lead-Based Paint (LBP) Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(32) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or \$15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to \$1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to

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six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(33) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(34) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(35) Violation of 701.098(1)(e), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.

(36) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.

(37) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.

(38) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.

(39) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(40) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.

(41) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.

(42) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.

(43) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.

Stat. Auth.: ORS 183.310 - 183.500, 670.310, 701.235 & 701.992

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345 & 701.992

Hist.: 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0080(13); 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 3-1985, f. & ef. 4-25-85; BB 1-1987, f. & ef. 3-5-87; BB 1-1988(Temp), f. & cert. ef. 1-26-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1990(Temp), f. & cert. ef. 7-27-90; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 4-1992, f. & cert. ef. 6-1-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2000(Temp), f. & cert. ef. 11-13-00 thru 5-11-01; CCB 2-2001 f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 1-2002(Temp), f. & cert. ef. 3-1-02 thru 8-26-02; CCB 2-2002, f. & cert. ef. 3-1-02; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; ; Renumbered from 812-005-0005, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2006, f. & cert. ef. 1-26-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 4-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 2-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 13-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 17-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 19-2008, f. & cert. ef. 11-20-08; CCB 1-2009, f. 1-30-09, cert. ef. 2-1-09; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 6-2009, f. & cert. ef. 9-1-09; CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0000

Authority, Purpose, Scope

(1) Authority. These rules are promulgated in accordance with and under the authority of ORS 701.505 to 701.520 and 701.995.

(2) Purpose. These rules establish a system to license individuals certified by the Oregon Department of Human Services to perform lead-based paint (LBP) activities. These rules establish a system to license contractors as LBP activities contractors and as certified LBP renovation contractors.

(3) Scope. These rules:

(a) Prescribe the requirements for, and the manner of, licensing applicants.

(b) Establish fees.

(c) Prescribe actions that constitute failure to achieve or maintain licensing requirements, or that otherwise are contrary to the public interest, for which the board may deny, suspend or revoke a license.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 6-1996(Temp), f. & cert. ef. 11-26-96; Administrative Renumber from 812-007-0005, 5-19-97; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0020

Definitions

The following definitions apply to division 7 of OAR chapter 812.

(1) "Abatement" means any measure or set of measures designed to permanently eliminate LBP hazards.

(2) "Accredited training program" means a training program provisionally accredited or accredited by the Department, either directly or reciprocity, to provide training for individuals engaged in LBP activities or renovation.

(3) "Certified" means certified by the Department to perform LBP activities.

(4) "Certified lead-based paint renovation contractor" means a construction contractor that is licensed by the board to conduct LBP renovation under ORS 701.515.

(5) "Child-occupied facility" means a building, or portion of a building, constructed before 1978 and visited regularly by the same child, six years of age or under, on at least two different days within any week (Sunday through Saturday), provided that each day's visit lasts at least 3 hours and the combined weekly visit lasts at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

(6) "Course completion certificate" means documentation issued by an accredited training program to an individual as proof of successful completion of an accredited renovator training program (initial or refresher).

(7) "Department" means the Oregon Department of Human Services.

(8) "Deteriorated lead-based paint (LBP)" means any interior or exterior paint or other covering that is peeling, chipping, chalking, cracking, flaking or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

(9) "Dust-lead hazard" means surface dust that contains a mass-per-area concentration of lead equal to or exceeding 40 $\mu\text{g}/\text{ft}^2$ on floors or 250 $\mu\text{g}/\text{ft}^2$ on interior windows or 400 $\mu\text{g}/\text{ft}^2$ in troughs based on wipe samples.

(10) "Inspection" means a surface-to-surface investigation to determine the presence of LBP and an accompanying report explaining the results of the investigation.

(11) "Lead abatement contractor" means a construction contractor that is licensed by the board to perform abatement.

(12) "Lead assessor" or "risk assessor" means an individual who has been trained by an accredited training program and certified by the Department to conduct risk assessments.

(13) "Lead-based paint" or "LBP" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

(14) "Lead-based paint activities" means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.

(15) "Lead-based paint (LBP) hazard" means deteriorated LBP, dust-lead hazard or soil-lead hazard.

(16) "Lead inspection contractor" means a construction contractor that is licensed by the board to perform inspections or risk assessments.

(17) "Lead inspector" means an individual who has been trained by an accredited training program and certified by the Department to conduct inspections.

(18) "Lead supervisor" means an individual who has been trained by an accredited training program and certified by the Department to supervise and conduct abatements and prepare abatement reports.

ADMINISTRATIVE RULES

(19) "Lead worker" or "lead abatement worker" means an individual who has been trained by an accredited training program and certified by the Department to perform abatements.

(20) "Minor repair and maintenance" means activities, (including minor heating, ventilation, air conditioning work, electrical work, or plumbing) that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities, that do not involve prohibited or restricted work activities and do not involve window replacement or painted surface demolition. Jobs, other than emergency renovations, performed within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

(21) "Prohibited or restricted work activities" include:

(a) Open flame burning or torching;

(b) Machines to remove paint through high-speed operation without HEPA exhaust control; and

(c) Operating a heat gun at temperatures at or above 750 degrees Fahrenheit.

(22) "Renovation" means the modification of any existing structure, or portion thereof, which results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term renovation includes, but is not limited to:

(a) Removal, modification or repair of painted surfaces or painted components, such as modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping or other such activities that may generate paint dust);

(b) The removal of building components, such as walls, ceilings, plumbing and windows;

(c) Window replacement;

(d) Weatherization projects, such as cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, or planing thresholds to install weather-stripping;

(e) Interim controls that disturb painted surfaces. A renovation for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation. The term "renovation" does not include minor repair and maintenance.

(23) "Renovation Right Pamphlet" means the pamphlet entitled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* or any pamphlet approved by the Environmental Protection Agency (EPA) for the same purpose.

(24) "Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of a LBP hazard and an accompanying report explaining the results of the investigation and options for reducing LBP hazards.

(25) "Soil lead hazard" means 400 ppm of lead in child play areas or 1200 ppm in non-child play areas.

(26) "Target housing" means any housing constructed before 1978, except housing for the elderly or persons with disabilities or any housing with no bedrooms.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 6-1996(Temp), f. & cert. ef. 11-26-96; Administrative Renumber from 812-007-0015, 5-19-97; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0025

Construction Contractors Board Lead-Based Paint Activities Fund

(1) Civil penalties imposed under ORS 701.995 will be deposited to the Construction Contractors Board LBP Activities Fund.

(2) The board will use the monies in the Construction Contractors Board LBP Activities Fund for lead poisoning prevention, including consumer and industry outreach, public education, and enforcement activities.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515, 701.520 & 701.995

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0100

Licenses Required for Lead-Based Paint Activities — Individuals

No individual shall offer to perform or perform LBP activities in target housing or child-occupied facilities without first receiving certification from the Department and a license from the board, unless such individual is exempt from the board's licensing requirements. The following are individuals that perform LBP activities:

(1) Lead assessor;

(2) Lead inspector;

(3) Lead supervisor;

(4) Lead worker.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0110

Application and Eligibility Requirements for Lead-Based Paint Activity Licenses — Individuals

(1) An individual applying for a license as a lead assessor must submit the following:

(a) Completed application on a form provided by the board;

(b) The fee established in OAR 812-007-0160; and

(c) Proof that the Department certified the individual as a certified risk assessor.

(d) Copy of Department photo identification badge.

(2) An individual applying for a license as a lead inspector must submit the following:

(a) Completed application on a form provided by the board;

(b) The fee established in OAR 812-007-0160; and

(c) Proof that the Department certified the individual as a certified inspector.

(d) Copy of Department photo identification badge.

(3) An individual applying for a license as a lead supervisor must submit the following:

(a) Completed application on a form provided by the board;

(b) The fee established in OAR 812-007-0160; and

(c) Proof that the Department certified the individual as a certified supervisor.

(d) Copy of Department photo identification badge.

(4) An individual applying for a license as a lead worker must submit the following:

(a) Completed application on a form provided by the board;

(b) The fee established in OAR 812-007-0160; and

(c) Proof that the Department certified the individual as a certified abatement worker.

(d) Copy of Department photo identification badge.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0120

Effective Dates of New License and License Term for Lead-Based Activity Licenses — Individuals

(1) The effective date of the license will be the date the applicant meets all board requirements, including, but not limited to, the receipt of the fee required under OAR 812-007-0160.

(2) All licenses issued will be non-transferable and will be effective for one year from the date of issue.

(3) All licenses will be assigned a unique number.

(4) An applicant for a license may withdraw the application at any time before issuance of the license upon written request to the board.

(5) If the board denies the license, it shall state, in writing, the reasons for denial.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0130

Renewal of Lead-Based Paint Activity Licenses — Individuals

Individuals licensed under these rules may renew their licenses by submitting the following:

(1) A properly completed application for license renewal on a form provided by the board;

(2) The fee established in OAR 812-007-0160; and

(3) Proof that the individual is certified by the Department.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0140

Work Practice Standards for Lead-Based Paint Activity Licenses — Individuals

A lead assessor, lead inspector, lead supervisor, and lead worker must comply with work practice standards as provided in OAR 333-069-0070.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

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812-007-0150

Denial, Suspension or Revocation of Lead-Based Paint Activity Licenses — Individuals

(1) The board may deny, suspend, or revoke an individual's license on the following grounds:

- (a) Obtaining Department certification through misrepresentation of certification requirements such as education, training, professional registration, or experience;
- (b) Gaining admission to or completing continuing education by misrepresenting initial or previous education;
- (c) Obtaining a license through invalid documentation;
- (d) Permitting the duplication or use of the license by another;
- (e) Failing to comply with applicable work practice standards set forth in these rules and OAR 333-069-0070; or
- (f) Being subject to a final administrative order or criminal conviction based on engaging in a prohibited act under rules of the Department or the board.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0160

Fees for Lead-Based Paint Activity Licenses — Individuals

(1) All license and renewal application fees are non-refundable and non-transferable.

(2) The following fees are established:

- (a) Lead assessor, \$50/year.
- (b) Lead inspector, \$50/year.
- (c) Lead supervisor, \$50/year.
- (d) Lead worker, \$25/year.

(3) If the board receives payment of fees by check and the check is returned to the agency as an NSF check, the agency will charge the applicant \$25 in addition to the required fees.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0200

Licenses Required for Lead-Based Paint Activities — Contractors

(1) No contractor shall offer to perform or perform LBP abatement in target housing or child-occupied facilities without first receiving certification from the Department and a license from the board as a lead abatement contractor, unless such contractor is exempt from the certification or licensing requirements.

(2) No contractor shall offer to perform or perform LBP inspection or risk assessment in target housing or child-occupied facilities without first receiving certification from the Department and a license from the board as a lead inspection contractor, unless such contractor is exempt from the certification or licensing requirements.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0205

Qualified Owner or Employee Required for Lead-Based Paint Activities — Contractors

(1) A lead abatement contractor must, at all times, have at least one owner or employee who is a licensed lead supervisor.

(2) A lead inspection contractor must, at all times, have at least one owner or employee who is a licensed lead inspector or a licensed lead risk assessor.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0210

Application and Eligibility Requirements for Lead-Based Paint Activity Licenses — Contractors

(1) A person applying for a license as a lead abatement contractor must submit the following:

- (a) Completed application on a form provided by the board;
- (b) Proof that the person is licensed by the board as a construction contractor;
- (c) The fee established in OAR 812-007-0260;
- (d) Proof that the applicant is owned by or employs one or more persons who are licensed lead supervisor(s); and

(e) Proof that the Department certified the person as qualified to perform abatement.

(2) A person applying for a license as a lead inspection contractor must submit the following:

- (a) Completed application on a form provided by the board;
- (b) Proof that the person is licensed by the board as a construction contractor;
- (c) The fee established in OAR 812-007-0260;
- (d) Proof that the applicant is owned by or employs one or more persons who are licensed lead inspector(s) or licensed lead risk assessor(s); and

(e) Proof that the Department certified the person as qualified to perform inspection or risk assessment.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0220

Effective Dates of New License and License Term for Lead-Based Activity Licenses — Contractors

(1) The effective date of the license will be the date the applicant meets all board requirements, including, but not limited to, the receipt of the fee required under OAR 812-007-0260.

(2) All licenses issued will be non-transferable and will be effective for one year from the date of issue.

(3) All licenses will be assigned a unique number.

(4) An applicant for a license may withdraw the application at any time before issuance of the license upon written request to the board.

(5) If the board denies the license, it shall state, in writing, the reasons for denial.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0230

Renewal of Lead-Based Paint Activity Licenses — Contractors

Persons licensed under these rules may renew their licenses by submitting the following:

(1) A properly completed application for license renewal on a form provided by the board;

(2) Proof that the person is licensed by the board as a construction contractor;

(3) The fee established in OAR 812-007-0260; and

(4) Proof that the contractor is certified by the Department.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0240

Work Practice Standards for Lead-Based Paint Activity Licenses — Contractors

A lead abatement contractor or lead inspection contractor must comply with work practice standards in OAR 333-069-0070.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0250

Denial, Suspension or Revocation of License for Lead-Based Paint Activities — Contractors

(1) The board may deny, suspend, or revoke a license of a lead abatement contractor or a lead inspection contractor on the following grounds:

(a) Obtaining Department certification through misrepresentation of certification requirements such as education, training, professional registration, or experience;

(b) Obtaining a license through invalid documentation;

(c) Performing work requiring a license without having a current valid original license identification card available at the job site for inspection;

(d) Performing work for which there is no current, appropriate certification issued by the Department;

(e) Permitting the duplication or use of the license by another;

(f) Failing to comply with applicable work practice standards set forth in these rules and OAR 333-069-0070;

(g) Failing to comply with local, state, or federal statutes or regulations including execution of a consent agreement in settlement of an enforcement action;

(h) Failing to maintain required records;

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(i) Being subject to a final administrative order or criminal conviction based on engaging in a prohibited act under rules of the Department or the board;

(j) Failing to comply with a consent agreement in settlement of an enforcement action;

(k) For a lead abatement contractor, failing to have an owner or employee that is a licensed lead supervisor or lead worker; or

(l) For a lead inspection contractor, failing to have an owner or employee that is a licensed lead inspector or licensed lead assessor.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0260

Fees for Lead-Based Paint Activity Licenses — Contractors

(1) All license and renewal application fees are non-refundable and non-transferrable.

(2) The following fees are established:

(a) Lead abatement contractor, \$50/year.

(b) Lead inspection contractor, \$50/year.

(3) If the board receives payment of fees by check and the check is returned to the board as an NSF check, the board will charge the applicant \$25 in addition to the required fees.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0300

License Required for Lead-Based Paint Renovation

Effective April 22, 2010, no contractor shall offer to perform or perform renovation in target housing or child-occupied facilities without first receiving a certified LBP renovation contractor license from the board, unless such contractor is exempt from the board's licensing requirements.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0310

Application and Eligibility Requirements for Certified Lead-Based Paint Renovation Contractor

A person applying to become a certified LBP renovation contractor must submit the following:

(1) Completed application on a form provided by the board;

(2) Proof that the person is licensed by the board as a construction contractor;

(3) The fee established in OAR 812-007-0360; and

(4) Proof that the licensee is owned by or employs at least one individual who has a current and valid course completion certificate evidencing that the individual is a certified renovator.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0320

Effective Dates of New License and License Term for Certified Lead-Based Paint Renovation Contractor License

(1) The effective date of the license will be the date the applicant meets all board requirements, including but not limited to the receipt of the fee required under OAR 812-007-0360.

(2) All licenses issued will be non-transferable and will be effective for one year from the date of issue.

(3) All licenses will be assigned a unique number.

(4) An applicant for a license may withdraw the application at any time before issuance of the license upon written request to the board.

(5) If the board denies the license, it shall state, in writing, the reasons for denial.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0330

Renewal of Certified Lead-Based Paint Renovation Contractor License

Persons licensed under these rules may renew their licenses by submitting the following:

(1) A properly completed application for license renewal on a form provided by the board;

(2) Proof that the person is licensed by the board as a construction contractor;

(3) The fee established in OAR 812-007-0360; and

(4) Proof that the licensee is owned by or employs at least one individual who has a current and valid course completion certificate evidencing that the individual is a certified renovator.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0350

Denial, Suspension or Revocation of Certified Lead-Based Paint Renovation Contractor License

(1) The board may deny, suspend, or revoke a license of a certified LBP renovation contractor on the following grounds:

(a) Obtaining a license through invalid documentation;

(b) Permitting the duplication or use of the license by another; or

(c) Violating a rule of the board.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0360

Fees for Certified Lead-Based Paint Renovation Contractor Licenses

(1) All license and renewal application fees are non-refundable and non-transferrable.

(2) The fee for a certified LBP renovation contractor license is \$50/year.

(3) If the board receives payment of fees by check and the check is returned to the agency as an NSF check, the board will charge the applicant \$25 in addition to the required fees.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0370

Notification Requirements for Certified Lead-Based Paint Renovation Contractors — Renovation in Target Housing Dwelling Units

(1) No more than 60 days before beginning renovation in target housing dwelling units, the contractor must provide the owner of the dwelling unit with an Renovation Right Pamphlet and do one of the following:

(a) Obtain from the owner a written acknowledgment that the owner has received the Renovation Right Pamphlet; or

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet dated at least 7 days before the start of the renovation.

(2) In addition to the requirements of (1), if the owner does not occupy the dwelling unit, the contractor must provide the Renovation Right Pamphlet to an adult occupant of the dwelling unit and comply with one of the following:

(a) Obtain, from the adult occupant, a written acknowledgment that the occupant has received the Renovation Right Pamphlet;

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet at least 7 days before the start of the renovation; or

(c) Certify in writing that the contractor delivered the Renovation Right Pamphlet to the dwelling unit but was unsuccessful in obtaining a written acknowledgment from an adult occupant. Certification must include:

(A) The address of the dwelling unit undergoing renovation;

(B) The date and method of delivery of the Renovation Right Pamphlet;

(C) The name of the person delivering the Renovation Right Pamphlet;

(D) A reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available);

(E) The signature of an owner or employee of the contractor; and

(F) The date the contractor's owner or employee signed the certification.

(3) The written acknowledgment required by paragraphs (1)(a) and (2)(a) must:

(a) Include a statement acknowledging receipt of the Renovation Right Pamphlet before the start of the renovation, the name of the recipient, the address undergoing renovation, the signature of the recipient and the date of signature;

(b) Be either a separate sheet of paper or part of a written contract or service agreement for the renovation; and

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(c) Be written in the same language as the agreement for renovation or, in the case of non-owner target housing, the same language as the lease or rental agreement.

Stat. Auth.: ORS 670.310, 701.235 & 701.515
Stats. Implemented: ORS 701.515
Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0372

Notification Requirements for Certified Lead-Based Paint Renovation Contractors — Renovation in Target Housing Common Areas

(1) No more than 60 days before beginning renovation in target housing common areas, the contractor must provide the owner of the target housing with an Renovation Right Pamphlet and do one of the following:

(a) Obtain from the owner a written acknowledgment that the owner has received the Renovation Right Pamphlet; or

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet dated at least 7 days before the start of the renovation.

(2) In addition to the requirements of (1), the contractor must comply with one of the following:

(a) Notify, in writing, each affected dwelling unit occupant and make the Renovation Right Pamphlet available upon request before the start of renovation. The written notice should describe:

(A) The general nature and locations of the planned renovation activities;

(B) The expected starting and ending dates; and

(C) A statement of how the occupant can obtain the Renovation Right Pamphlet, at no charge, from the contractor performing the renovation.

(b) While the renovation is ongoing, post signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they are likely to be seen by the occupants of all of the affected dwelling units. The signs must be accompanied by:

(A) A posted copy of the Renovation Right Pamphlet; or

(B) Information on how interested occupants can review or obtain a copy of the Renovation Right Pamphlet from the contractor at no cost.

(3) The contractor must prepare, sign, and date a statement describing the steps taken to notify occupants of the intended renovation and to provide the Renovation Right Pamphlet.

(4) The written acknowledgment required by paragraphs (1)(a) and (2)(a) must:

(a) Include a statement acknowledging receipt of the Renovation Right Pamphlet before the start of the renovation, the name of the recipient, the address undergoing renovation, the signature of the recipient and the date of signature;

(b) Be either a separate sheet of paper or part of a written contract or service agreement for the renovation; and

(c) Be written in the same language as the agreement for renovation or, in the case of non-owner target housing, the same language as the lease or rental agreement.

(5) If the scope, location, or expected starting or ending dates of the planned renovation change and the contractor provided written notification in accordance with (1) or (2)(a), the contractor must provide further written notification to the owners and occupants including revised information on the ongoing or planned renovation. This subsequent notification must be provided before the contractor performing the renovation initiates work beyond that described in the original notice.

Stat. Auth.: ORS 670.310, 701.235 & 701.515
Stats. Implemented: ORS 701.510 & 701.515
Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

812-007-0374

Notification Requirements for Certified Lead-Based Paint Renovation Contractors — Renovation in Child-Occupied Facilities

(1) No more than 60 days before beginning renovation in any child-occupied facility, the contractor performing the renovation must provide the building owner with the Renovation Right Pamphlet and comply with one of the following:

(a) Obtain from the owner a written acknowledgment that the owner has received the Renovation Right Pamphlet; or

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet dated at least 7 days before the start of the renovation.

(2) In addition to the requirements of (1), if the owner does not occupy the building, the contractor must provide the Renovation Right Pamphlet to an adult representative of the child-occupied facility and comply with one of the following:

(a) Obtain, from the adult representative, a written acknowledgment that the adult representative has received the Renovation Right Pamphlet;

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet at least 7 days before the start of the renovation; or

(c) Certify in writing that the contractor delivered the Renovation Right Pamphlet to the dwelling unit but was unsuccessful in obtaining a written acknowledgment from an adult occupant. Certification must include:

(A) The address of the facility undergoing renovation;

(B) The date and method of delivery of the Renovation Right Pamphlet;

(C) The name of the person delivering the Renovation Right Pamphlet;

(D) A reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available);

(E) The signature of an owner or employee of the contractor; and

(F) The date the contractor's owner or employee signed the certification.

(3) In addition to the requirements of (1) and (2), the contractor must provide the parents and guardians of children using the child-occupied facility with the Renovation Right Pamphlet and information describing the general nature and locations of the renovation and the anticipated completion date. The contractor may comply by doing one of the following:

(a) Mail or hand-deliver the Renovation Right Pamphlet and the renovation information to each parent or guardian of a child using the child-occupied facility;

(b) While the renovation is ongoing, post signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they are likely to be seen by the parents or guardians of the children frequenting the child-occupied facility. The signs must be accompanied by:

(A) A posted copy of the Renovation Right Pamphlet; or

(B) Information on how the parents or guardians can review or obtain a copy of the Renovation Right Pamphlet from the contractor at no cost.

(4) The contractor must prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended renovation activities and to provide the pamphlet.

(5) The written acknowledgment required by paragraphs (1)(a) and (2)(a) must:

(a) Include a statement acknowledging receipt of the Renovation Right Pamphlet before the start of the renovation, the name of the recipient, the address undergoing renovation, the signature of the recipient and the date of signature;

(b) Be either a separate sheet of paper or part of a written contract or service agreement for the renovation; and

(c) Be written in the same language as the agreement for renovation.

Stat. Auth.: ORS 670.310, 701.235 & 701.515
Stats. Implemented: ORS 701.510 & 701.515
Hist.: CCB 2-2010, f. & cert. ef. 2-1-10

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Rule Caption: Adopt Locksmith Certification Program Rules.

Adm. Order No.: CCB 3-2010

Filed with Sec. of State: 2-1-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 1-1-2010

Rules Adopted: 812-030-0000, 812-030-0010, 812-030-0100, 812-030-0110, 812-030-0200, 812-030-0210, 812-030-0220, 812-030-0230, 812-030-0240, 812-030-0250, 812-030-0300

Subject: • 812-030-0000 is adopts general definitions applicable to division 30 rules.

• 812-030-0010 is adopted to implement ORS 701.485 (HB 3127, section 4), requiring certified locksmith applicants to pass a test. This rule sets forth the requirements to take the test and the fees for the test.

• 812-030-0100 is adopted to set forth the criminal offenses that may be the basis for determining that an applicant is not qualified for certification as a locksmith. The crimes listed include many of the crimes that may disqualify an applicant for a contractor's license.

• 812-030-0110 is adopted to set forth the standards that CCB will apply to determine whether an applicant who has been convicted of a crime is qualified to be a certified locksmith.

• 812-030-0200 is adopted to set forth the general requirements for a new applicant for certification as a locksmith.

• 812-030-0210 is adopted to set the effective date, number and name affixed to each certificate. Provides for applicant to withdraw

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an applicant for certification. Indicates how the Board will handle the issuance or denial of a certificate. Provides that a certificate is valid for two years.

- 812-030-0220 is adopted to require a renewal application and fee to renew a locksmith certificate.

- 812-030-0230 is adopted to specify the effective date for a renewal certificate. Explains that a certificate that is not timely renewed is lapsed. During the period a certificate is lapsed, the individual may not work as or hold out as a locksmith. If the period of lapse is two years or less, the individual may renew the existing certificate. If the period of lapse is more than two years, the individual must obtain a new certificate.

- 812-030-0240 is adopted to require that a certified locksmith work with an active, licensed CCB contractor at all times; effective July 1, 2010.

- 812-030-0250 is adopted to implement HB 3127 § 4(4)(d)(A), (C), and (D) allowing the board to charge a fee of up to \$100 for the new or renewal application, up to \$300 for issuance of the initial certificate and up to \$300 for certificate renewal.

- 812-030-0300 is adopted to set forth standards of professional conduct. The rule follows similar standards for dishonest or fraudulent conduct and non-cooperation currently in CCB's rules. See OAR 812-003-0110 and 812-002-0260. Follows the client identification standards in the "Technical Standards Policy" of the Associated Locksmiths of America (ALOA).

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-030-0000

General Definitions

The following definitions apply to OAR 812-030-0100 to 812-030-0145:

(1) "Certificate" means the authorization issued by the board to an individual locksmith.

(2) "Conviction" means a final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere (no contest), or any other determination of guilt entered by a court against an individual in a criminal case unless the final judgment has been reversed or set aside by a subsequent court decision.

(3) "False statement" means a statement whereby an individual applying for a locksmith certificate:

(a) Provides the board with materially false information; or

(b) Fails to provide the board with information material to determining his or her qualifications.

(4) "License" means the construction contractor license issued by the board under ORS 701.046 to a business offering to or providing locksmith services.

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: ORS 701.475 - 701.490.

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0010

Testing

(1) The board shall provide and administer a test to each applicant for a locksmith certificate.

(2) The test shall demonstrate the competency of the applicant to act as a locksmith.

(3) The applicant must correctly answer 100 percent of the questions to pass the test.

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: ORS 701.485

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0100

Potentially Disqualifying Crimes

The following crimes will potentially disqualify an applicant for a locksmith certificate:

(1) Murder

(2) Kidnapping

(3) Assault in the first degree

(4) Rape

(5) Sodomy

(6) Unlawful sexual penetration

(7) Arson in the first degree

(8) Robbery in the first or second degree

(9) Burglary in the first or second degree

(10) Theft in the first or second degree

(11) Theft by extortion

(12) Aggravated theft in the first degree.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.098, 701.485

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0110

Fitness Determination — Criminal Offense

(1) Locksmiths have the knowledge and tools to bypass or neutralize security devices in vehicles, homes and businesses. An individual may not be fit to be a locksmith if the individual engaged or engages in activity that puts public safety or security at risk by unlawfully accessing property that does not belong to the individual.

(2) The fitness to engage in locksmithing also includes, but is not limited to, the ability to refrain from violent, threatening, intimidating or sexually predatory behavior and to refrain from dishonest or fraudulent conduct.

(3) The board may determine that an individual is not fit for a locksmith certificate based on:

(a) A conviction for any crime listed in OAR 812-030-0100 occurring within seven (7) years before the date of application;

(b) The nature of the crime;

(c) The facts that support the conviction;

(d) The relevancy, if any, of the crime to the requirements for certified locksmiths;

(e) The fact that the individual is currently on probation or post-prison supervision; and

(f) Intervening circumstances relevant to the responsibilities and circumstances of a certified locksmith. Intervening circumstances include, but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another crime listed in OAR 812-030-0100 or a closely related crime; and

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction. An individual shall not be denied certification on the basis of a criminal conviction that has been expunged pursuant to ORS 419A.260 and 419A.262, or other similar process under the laws of any jurisdiction.

(4) Upon notice and request from the board, an applicant for a new or renewal certificate will provide requested information to permit the board to conduct a criminal background check. Requested information includes, but is not limited to, police records, records of conviction, parole or probation reports, restitution records, counseling reports and letters of recommendation.

(5) Failure to provide the information requested in section (4) of this rule may result in denial, suspension or revocation of a certificate.

(6) If the board determines that an applicant is not fit for certification as a locksmith, the applicant is entitled to a hearing as provided in ORS 183.413 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 670.280, 701.098, 701.102 & 701.485

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0200

General Application Requirements

An individual must submit the following to qualify for a locksmith certificate:

(1) An application on a form provided by the board;

(2) The fee established in OAR 812-030-0250; and

(3) If applicable, the CCB license number of the business owned by or employing the applicant.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.485

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0210

Certificate Issuance

(1) The effective date of the certificate will be the date that the applicant meets all board requirements, including but not limited to passing the test required by OAR 812-030-0010 and paying the fee required under OAR 812-030-0250.

(2) A unique number will be assigned to each certificate.

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(3) All certificates shall be issued in the name of the individual who passed the test required by OAR 812-030-0010.

(4) If the board issues a certificate, it shall mail the certificate to the applicant.

(5) If the board denies a certificate, it shall state, in writing, the reasons for denial.

(6) A certificate shall be non-transferable.

(7) A certificate shall be effective for two years from the date of issue.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.485

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0220

Requirements for Certificate Renewal

A certified locksmith shall submit the following to the board for renewal of the locksmith's certificate:

(1) Renewal application information as required by the board;

(2) The fee established in OAR 812-030-0250; and

(3) If applicable, the CCB license number of the business owned by or employing the applicant.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.485

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0230

Certificate Renewal — Effective Date; Effect of Lapse

(1) A renewed certificate shall be effective on the day following the expiration date for which the renewal is sought if the certified locksmith fulfills all of the requirements in OAR 812-030-0220 on or before the expiration date.

(2) Except as provided in subsection (4), if a certified locksmith fails to fulfill all of the requirements in OAR 812-030-0220 on or before the expiration date, but fulfills the requirements at a future date, the renewal shall be effective on the date that all the requirements for renewal have been fulfilled. During the period from the expiration date to the effective date, the certificate is deemed to have lapsed.

(a) A locksmith may not undertake, offer to undertake or submit to do work as a locksmith for compensation while the certificate is lapsed.

(b) A locksmith may not use the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" while the certificate is lapsed.

(3) If the certificate lapses for two years or less, the applicant may renew its certification by renewing the certificate as provided for in OAR 812-030-0220.

(4) If the certificate lapses for more than two years, the applicant must apply for a new certificate as provided for in OAR 812-030-0200.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.485

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0240

Requirement that Locksmith Own or Work for a Licensed Contractor

(1) Effective July 1, 2010, in order to work as a locksmith, a certified locksmith must:

(a) Be an owner or employee of a licensed construction contractor; or

(b) Be otherwise exempt under ORS 701.490.

(2) Effective July 1, 2010, if the board refuses to issue, refuses to reissue, suspends or revokes the contractor's license, or if the construction contractor's license expires or becomes inactive, the certified locksmith, not otherwise exempt under ORS 701.490, may not:

(a) Undertake, offer to undertake or submit to do work as a locksmith for compensation; or

(b) Use the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith."

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: ORS 701.480 & 701.490

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0250

Application, Renewal and Certificate Fees

(1) The application fee for all certificates is \$60.

(2) The fee for the test required under OAR 812-030-0010 is \$60.

(3) The fee for issuance of an initial two-year certificate is \$60.

(4) The fee for renewal of a two-year certificate is \$60.

(5) All fees are non-refundable and non-transferrable.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.480 & 701.485

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

812-030-0300

Standards of Professional Conduct

(1) A certified locksmith shall not engage in dishonest or fraudulent conduct, including, but not limited to:

(a) Committing any crime that results in a conviction of an offense listed in OAR 812-003-0100 to the extent the conviction demonstrates a lack of fitness under OAR 812-003-0110;

(b) Submitting to the board an application for a certificate that includes a false statement; or

(c) Failing to timely pay a civil penalty or fine imposed by a unit of local, state or federal government.

(2) A licensed construction contractor that offers locksmith services shall not engage in dishonest or fraudulent conduct, including, but not limited to:

(a) Accepting payment in advance and failing to perform the work or provide the services agreed to and failing to return payment, upon reasonable and proper demand, within ten days of the demand;

(b) Displaying to the public false, misleading or deceptive advertising whereby a reasonable person could be misled or injured; or

(c) Failing to timely pay a civil penalty or fine imposed by a unit of local, state or federal government.

(3) A certified locksmith and a licensed construction contractor that offers locksmith services shall cooperate fully with any investigation undertaken by the board.

(4) When gaining entry to private or public property, a licensed construction contractor that offers locksmith services shall:

(a) Direct the certified locksmith to make positive identification of the client; and

(b) Obtain and retain, for three years, an authorization or work order signed by the client.

(5) Subsection (4) does not apply to licensed construction contractors where the construction contractor and the client have a standing agreement covering locksmith services.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.480 & 701.485

Hist.: CCB 3-2010, f. & cert. ef. 2-1-10

Rule Caption: Lay representation in certain classes of hearings.

Adm. Order No.: CCB 4-2010(Temp)

Filed with Sec. of State: 2-3-2010

Certified to be Effective: 2-3-10 thru 8-1-10

Notice Publication Date:

Rules Amended: 812-009-0340

Subject: OAR 812-009-0340: In 2007, the Oregon legislature changed several statutes. In 2008, the Attorney General changed the format for lay representation rules. There are some very basic cases not previously included (e.g., bond suspensions, insurance cancellations) in which the agency needs to appear. For all matters covered by the rule, the Attorney General authorized by the agency, by letter of June 12, 2008, to represent the agency.

Continuing use of the old rule may result in serious prejudice to the public because (1) persons reading the old will be unable to determine its meaning; and (2) persons requesting hearings before CCB impacted by the rule may not receive timely hearings unless CCB has an appropriate rule in place.

The revised rule will accomplish the following:

Revise the rule to follow the format in the AG's Administrative Law Manual (January 1, 2008) at page A-28.

Revise the rule to incorporate reference to OAR 812-005-0280(1), the "fitness" rule adopted by the board in 2008.

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-009-0340

Agency Representation by Officer or Employee

(1) Subject to the approval of the Attorney General as provided in ORS 183.452, agency officers and employees may appear, but not make legal argument, on behalf of the agency in the following types of hearings conducted by the agency:

(a) Hearings involving the possible imposition of civil penalties for violations of statutes or regulations;

(b) Hearings involving refusals to issue, reissue or renew, or suspensions, which will be lifted upon correction of a deficiency, payment of a penalty or payment of a construction debt, based upon:

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- (A) ORS 701.098(4)(a)(A) (no bond);
- (B) ORS 701.098(4)(a)(B) (no insurance);
- (C) ORS 701.098(4)(a)(E) (unpaid construction debt);
- (D) ORS 701.102 (unpaid construction debt);
- (E) ORS 701.106, where the violation is based on a final order issued

by:

- (i) Department of Consumer and Business Services, Building Codes Division;
 - (ii) Department of Consumer and Business Services, Workers' Compensation Division;
 - (iii) Department of Consumer and Business Services, Oregon-OSHA;
 - (iv) Employment Department;
 - (v) Department of Revenue; or
 - (vi) Landscape Contractors Board.
- (F) Failure to pay an outstanding obligation, as required by OAR 812-005-0280(1);
- (G) Failure to obtain or maintain an increased bond, as required by ORS 701.068(5) or (6).
- (H) Failure to provide information such as a date of birth or driver's license number, as required under ORS 701.046.

(2) The agency representative may not make legal argument on behalf of the agency.

(a) "Legal argument" includes argument on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual argument or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statute or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence;

(E) The correctness of procedures being followed in the contested case hearing.

Stat. Auth.: ORS 183.310 - 183.550, 670.310 & 701.235

Stats. Implemented: ORS 183.450

Hist.: BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; Renumbered from 812-001-0006, CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 4-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10

**Department of Administrative Services,
Oregon Educators Benefit Board
Chapter 111**

Rule Caption: Amended to update new processes and new optional benefits that affect OEBB's eligible retired employees.

Adm. Order No.: OEBB 1-2010

Filed with Sec. of State: 2-1-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 10-1-2009

Rules Adopted: 111-050-0016

Rules Amended: 111-050-0010, 111-050-0015, 111-050-0020, 111-050-0025, 111-050-0080

Rules Repealed: 111-050-0010(T), 111-050-0015(T), 111-050-0020(T), 111-050-0025(T), 111-050-0080(T)

Subject: OAR 111-050-0010, 111-050-0015, 111-050-0020 and 111-050-0080 are amended to include the optional benefits related to OEBB eligible retired employees. OAR 111-050-0025 is amended to include the effective date for optional benefit plans and clarify newborn and adopted children benefit coverage. 111-050-0016 is adopted to clarify life and accidental death and dismemberment termination dates for retirees.

Rules Coordinator: April Kelly—(503) 378-6588

111-050-0010

Eligibility for Retiree Insurance Coverage

(1) An eligible retired employee and their eligible dependents enrolled in an OEBB benefit plan or district benefit plan for active employ-

ees may continue participation in any OEBB retiree medical, dental, vision, life or accidental death and dismemberment insurance plan or plans available to his or her Employee Group. Insurance coverage under the OEBB or district active benefit plans, as an employee or as a dependent of an employee, and retiree benefit plans must be continuous.

(2) A retired employee must be:

(a) Receiving a service or disability retirement allowance or pension under the Public Employees Retirement System (PERS) or under any other retirement or disability benefit plan or system offered by an OEBB participating organization for its employees;

(b) Eligible to receive a service retirement allowance under PERS and has reached earliest retirement age under ORS Chapter 238;

(c) Eligible to receive a pension under ORS 238A.100 to 238A.245 and has reached earliest retirement age as described in ORS 238A.165; or

(d) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by an OEBB participating organization and has reached earliest retirement age under the plan or system.

(3) A retired eligible employee may elect insurance coverage for themselves only or may elect to cover any eligible dependents covered by the employee's active plan immediately prior to the retirement.

(4) A former eligible employee who elects COBRA and is also eligible for retiree benefits or later becomes eligible as a retired employee will have the right to transfer the COBRA medical, dental, and vision insurance coverage to the OEBB retiree benefit plans at any time during COBRA or within 30 days of the COBRA end date. Insurance coverage under the OEBB active, COBRA and retiree benefit plans must be continuous.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 7-2008, f. & cert. ef. 4-15-08; OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10

111-050-0015

Medical, Dental and Vision Termination Dates for Retirees

(1) A retiree enrolled in OEBB retiree insurance plans who becomes eligible for Medicare coverage may not continue on an OEBB medical or vision plan, unless they are eligible as a result of end-stage renal disease. OEBB benefits end the last day of the month prior to the Medicare effective date.

(2) If a retiree becomes eligible for Medicare coverage, but his or her currently-enrolled eligible dependents are not, these eligible individuals may continue OEBB medical, dental and vision insurance coverage until such time as they no longer meet OEBB eligibility requirements or become eligible for Medicare coverage for reasons other than end-stage renal disease, whichever occurs first. The eligible individuals must confirm intent to continue coverage with the retiree plan administrator within 60 days of the retiree's eligibility for Medicare.

(3) Eligible dependents who were covered on a plan at the time of retirement who are eligible for Medicare, or who become eligible for Medicare, may not continue coverage on an OEBB medical or vision plan unless it is stated in a collective bargaining agreement or documented district policy in effect on or before February 1, 2010, that they may continue on OEBB medical plans until the retiree becomes eligible for Medicare with the following exception: OEBB coverage must end for Medicare-eligible dependents of a retiree enrolled on a Kaiser Permanente medical plan.

(4) Dental coverage may be continued subject to the Educational Entity's documented district policy or collective bargaining agreement. Coverage is based on the OEBB dental plans that the Educational Entity offers to retired OEBB Medicare-eligible individuals.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 7-2008, f. & cert. ef. 4-15-08; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10

111-050-0016

Life and Accidental Death and Dismemberment Termination Dates for Retirees

(1) Retired employees may continue to participate until they reach age 65 or unless otherwise specified in a documented district policy or collective bargaining agreement effective on or before February 1, 2010.

(2) Any basic or optional life insurance plans offered to retired employees and their dependents ending due to reaching age 65 can be converted if requested within 31 days of the date the coverage ends.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a), 243.868(1)

Hist.: OEBB 1-2010, f. & cert. ef. 2-1-10

ADMINISTRATIVE RULES

111-050-0020

Initial Enrollment

(1) A retired eligible employee has 60 calendar days from the end date of active eligible employee insurance coverage to enroll in OEBB-sponsored medical, dental, vision, basic life, basic accidental death and dismemberment, optional life and optional accidental death and dismemberment plans, and can elect to continue coverage for themselves only or can continue coverage on eligible dependents covered on his or her benefit plans as an active employee.

(2) All coverage and dependent enrollments must be continuous from the date the active coverage ends.

(3) Coverage not elected at the time of initial eligibility for early retiree benefits cannot be added at a later date.

(4) Retired eligible employees may choose to enroll in an OEBB-sponsored medical plan, dental plan, basic life, basic accidental death and dismemberment, optional life, or optional accidental death and dismemberment plan, or any combination of these, unless determined otherwise by a collective bargaining agreement or documented district policy with the following restrictions:

(a) The retiree must enroll in an OEBB-sponsored medical plan to continue an OEBB-sponsored vision plan; and

(b) The retiree must enroll in an OEBB-sponsored optional life or optional accidental death and dismemberment plan to continue optional spouse or dependent life or accidental death and dismemberment, respectively.

Plan Change Periods

(5) OEBB will offer an annual plan change period for retired eligible employees.

(6) A retired eligible employee can change benefit plans consistent with members of their former active Employee Group.

(7) A retired eligible employee may not add dependents or enroll in coverage(s) he or she did not select during the initial enrollment period.

Midyear Benefit Plan Changes

(8) A retired eligible employee may make midyear changes consistent with 111-040-0040.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10

111-050-0025

Effective Dates

(1) Benefit plan changes or initial elections, unless otherwise specified in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective on the later of:

(a) The first of the month following a completed online enrollment in the OEBB benefit management system or submission of a paper enrollment or change form,

(b) The first of the month following the date of eligibility; or

(c) The first of the month following the approval date of additional optional life insurance requested above the guarantee issue amount.

(2) Covered dependent changes are effective the first of the month following the date of the event causing the dependent to be eligible under OEBB administrative rules with the following exceptions:

(a) Coverage for a newborn child is effective on the date of birth. Retired eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth for the newborn child to be eligible for benefit coverage.

(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption. Retired eligible employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement for the newly adopted child to be eligible for benefit coverage; and

(A) The retired eligible employee must submit the adoption agreement with the enrollment forms to the Participating District.

(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.

(c) Coverage for a dependent child by affidavit as defined in OEBB administrative rules starts the first of the month following receipt of the affidavit by the district benefits administrator.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10

111-050-0080

Portability and Conversion of Coverage

(1) OEBB medical, life and accidental death and dismemberment carrier(s) will make portability plans available to members in accordance with related state and federal laws, rules and regulations. Eligibility criteria for this coverage can be found in carrier member handbooks.

(2) OEBB life insurance carrier(s) will make conversion plans available to members in accordance with related state and federal laws, rules and regulations. Eligibility criteria for this coverage can be found in the carrier's member handbook.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 16-2008(Temp), f. & cert. ef. 10-16-08 thru 4-13-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10

Department of Agriculture Chapter 603

Rule Caption: Definition of rapeseed and vegetable Brassica species rewritten for clarity.

Adm. Order No.: DOA 3-2010

Filed with Sec. of State: 1-21-2010

Certified to be Effective: 1-21-10

Notice Publication Date: 12-1-2009

Rules Amended: 603-052-0860, 603-052-0880

Subject: The proposed amendments to Oregon's rapeseed control area rule clarify the definition of rapeseed to distinguish rapeseed/canola from vegetables derived from the same species. Production of vegetable varieties, including seed production, is not regulated.

The proposed amendment would not change current restrictions on growing rapeseed/canola A redundant section requiring a written request for a special permit (5)(d) was deleted as this requirements is already present in (5).

Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-0860

Definitions

For purposes of this rule, the following terms are defined as indicated:

(1) "Brassica spp." means any plants in the genus Brassica.

(2) "Cover crop" means any species of rapeseed that is grown as a cover crop and is not allowed to flower.

(3) "Department" means the department of agriculture of the state of Oregon.

(4) "Director" means the director of the department or his duly authorized representative.

(5) "Forage" means any species of rapeseed that is grown for live-stock feed and is not allowed to flower.

(6) "Person" means an individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons having a joint or common interest, or any unit or agency of local, state, or federal government.

(7) "Producer" means any person who is the owner, tenant, or operator of land who has an interest in, and is entitled to receive all or any part of the proceeds from the sale of any commodity produced on that land.

(8) "Rapeseed" means plants of the species Brassica napus, Brassica rapa and Brassica juncea, where seeds of high oil content are the economically valuable product. Included are the industrial seed types, with high erucic acid levels and canola with low erucic acid content used for edible oils.

(9) Vegetable/forage Brassica spp. Includes crops where the primary use is as a vegetable or forage crop. Species and common names for crops included in this category are Brassica napus (*rutabaga*, *Siberian kale*), *B. rapa* (turnip, turnip rapa, forage turnip, Napa or Chinese cabbage, Chinese flat cabbage, pak choi, pe-tsai, mizuna or mibuna, tendergreen mustard, and broccoli raab), *B. juncea* (Chinese mustard), *B. oleracea* (kale, collards, Chinese kale or Chinese broccoli or gai lan or kalia, cauliflower and heading broccoli, cabbage, Brussels sprouts, kohlrabi and sprouting broccoli or calabrese) and *B. carinata* (*Ethiopian mustard*).

Stat. Auth.: ORS 561.190 & 570.450

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450

Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; AD 19-1991, f. & cert. ef. 12-5-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 3-2010, f. & cert. ef. 1-21-10

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603-052-0880

General Production Area

(1) All lands in Oregon outside of protected districts are for the purposes of this rule, in the general production area. Rapeseed production in the General Production Area is subject to the following regulations.

(a) Growing Brassica spp. crops including rapeseed, for any purpose including oil is allowed.

(b) All rapeseed seed stock which trades in commerce in General Production Areas must be certified seed which has been produced under standards established by the Association of Seed Certifying Agencies and state standards, and must be accompanied by a phytosanitary certificate stating that a test performed on untreated seed was free from blackleg, *Leptosphaeria maculans*; the seed must also be treated (after the phytosanitary test) prior to planting with a fungicide officially approved for blackleg control;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests, rapeseed may not be grown on the same plot of land more often than two years in every five;

(d) All untagged loads of rapeseed transported through Protected Districts must be in enclosed bins or in containers lined and covered in a manner to prevent seed loss.

Protected Districts

(2) Production of rapeseed for oil or seed is incompatible with production of crops of the same or related species grown for seed or vegetables. Therefore, protected districts are established where rapeseed production for oil or seed is prohibited except under special permit. Production of rapeseed for forage or cover crop in these protected production areas is subject to measures to minimize undesirable cross-pollination, disease and pest buildup, and volunteers. The following rules apply to all land in Protected Districts:

(a) Growing rapeseed crops for oil or seed is prohibited, except under special permit as outlined in (5) below and in northeast Oregon. Growing vegetable/forage Brassica spp. for seed is allowed and does not require a special permit. In northeast Oregon's protected district, special permits are not required for growing rapeseed crops for oil or seed, but all other requirements, (b) to (h) below, do apply;

(b) All rapeseed seed stock which trades in commerce in Protected Districts must be certified seed which has been produced under standards established by the Association of Seed Certifying Agencies and state standards, and must be accompanied by a phytosanitary certificate stating that a test performed on untreated seed was free from blackleg, *Leptosphaeria maculans*; the seed must also be treated (after the phytosanitary test) prior to planting with a fungicide officially approved for blackleg control;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests, rapeseed may not be grown on the same plot of land more often than one year in every four years;

(d) To prevent cross-pollination problems, rapeseed must be isolated from other crops with which it will cross-pollinate, by a distance of not less than three miles. In Baker, Union and Wallowa counties the required isolation distance shall be not less than two miles;

(e) The location of all rapeseed fields, and experimental plots, must be recorded at the appropriate Oregon State University County Extension Office at least ten days prior to planting. In the Willamette Valley, the recording system used shall be that adopted by the Willamette Valley Specialty Seed Crops Association;

(f) Forage and cover crop rapeseed may be grown for forage but shall not be allowed to flower;

(g) All unbagged loads of rapeseed transported within Protected Districts must be in enclosed bins or in containers lined and covered in a manner to prevent seed loss;

(h) Any volunteer or uncontrolled rapeseed in or around production fields must be prevented from flowering by the producer.

Designation of Protected Districts

(3) The following areas are designated as Protected Districts:

(a) in the Willamette Valley, the area encompassed by a rectangle beginning at the northwest corner of Township 1N, Range 6W and proceeding east to the northeast corner of Township 1N, Range 2E, then south to the southeast corner of Township 19S, Range 2E, then west to the southwest corner of Township 19S, Range 6W, then north to the point of beginning.

(b) In Central Oregon, the entire counties of Crook, Deschutes and Jefferson;

(c) In Northeastern Oregon, the entire counties of Baker, Union and Wallowa, except the following part of Wallowa County which is designated as a general production area: Township 4N, Range 43E; Township 4N,

Range 44E; Township 4N, Range 45E; Township 5N, Range 43E; Township 5N, Range 44E; and Township 5N, Range 45E; and those portions of Township 6N, Range 43E; Township 6N, Range 44E; and Township 6N, Range 45E falling within the State of Oregon;

(d) In Malheur County, a 3-mile wide strip of land along the Idaho border from the point where Payette County, Idaho's northern border intersects Malheur County's eastern border, south to the point where Highway 95 crosses the Oregon border. This strip of land borders Idaho's rapeseed production district IV (IDAPA 02.06.13) where rapeseed production is prohibited. The rest of Malheur Co. is a general production area.

Changes to Rapeseed Control Area Rules

(4) Interested persons may petition the department to amend or repeal these rules, including designation changes creating or removing protected district status, by following the procedures in the Administrative Procedures Act, ORS 183.390. The agency must either deny the petition or initiate rulemaking within 90 days of receiving the petition. In deciding whether to grant or deny a request to amend or repeal these rules, the agency must consider six criteria:

(a) The continued need for the existing rule;

(b) Any complaints and comments about the rule received from the public;

(c) The complexity of the rule;

(d) The extent to which the rule overlaps, duplicates or conflicts with other state or federal rules and, to the extent feasible, with local government regulations;

(e) The degree to which circumstances have changed since the rule was adopted; and

(f) The legal basis for the rule.

(g) If no petitions requesting review of this rule are received by December 31, 2012, the Department shall initiate a review including stakeholder involvement.

Special Permits for Exemptions

(5) The department may issue special permits providing exemptions to the rapeseed control area rules for the purpose of research. Persons requesting a special permit shall petition the Department in writing and include the following conditions:

(a) Research must include the involvement of an accredited university;

(b) All conditions of section 2 above (b) to (h) must be met including pinning of fields;

(c) A nonrefundable application fee of \$2.00/ acre is due upon application to the Department to cover the Department's costs associated with review of the applications;

(d) The Director of the Department of Agriculture retains the final authority to approve or deny special permit requests. Any action under a special permit shall be subject to any conditions or restrictions set forth in the permit, and these conditions and restrictions may vary depending on the proposed action and its potential risk.

Violations

(6) The Director shall have the authority to require destruction prior to bloom of any rapeseed production that violates these rules. In the event that the person or producer of said production does not comply with the destruction order, the Director is authorized to have the production destroyed by a third party. The cost of such destruction is to be charged to the producer. In addition, persons violating these regulations are subject to the penalties provided by ORS 570.410 and 570.990, including civil penalties up to \$10,000.

Stat. Auth.: ORS 561.190 & 570.450

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450

Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; AD 19-1991, f. & cert. ef. 12-5-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 1-2008, f. & cert. ef. 1-7-08; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 3-2010, f. & cert. ef. 1-21-10

Rule Caption: Updates USDA administrative fees collected for certificates issued by ODA and email contact for Japanese Beetle.

Adm. Order No.: DOA 4-2010

Filed with Sec. of State: 1-28-2010

Certified to be Effective: 1-28-10

Notice Publication Date: 12-1-2009

Rules Amended: 603-052-0127, 603-054-0024

Subject: The propose amendment to OAR 603-054-0024 updates USDA administrative fees collected by the ODA for issuance of federal phytosanitary certificates. Beginning October 1, 2009, the USDA administrative charge will be \$6 for federal phytosanitary certificates

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completed by ODA personnel or \$3 for federal phytosanitary certificates issued through the Phytosanitary Issuance and Tracking System (PCIT). Beginning October 1, 2010, the USDA administrative charge for federal phytosanitary certificates will be \$12 for federal phytosanitary certificates completed by ODA personnel or \$6 for federal phytosanitary certificates issued through PCIT. The proposed amendment to OAR 603-052-0127(f) changes the email address for the Oregon Department of Agriculture to quarantine@oda.state.or.us
Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-0127

Quarantine; Japanese Beetle, European Chafer and Oriental Beetle

(1) Establishing a Quarantine. A quarantine is established against the pest known as Japanese beetle (*Popillia japonica*) European chafer (*Rhizotrogus majalis*), and Oriental beetle (*Anomala orientalis*), a member of the family Scarabaeidae, which in the larval stage feed on the roots of many plants and in the adult stage feed on the flowers, foliage and fruit of many plants.

(2) Areas Under Quarantine. The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provinces of Ontario, Quebec, and British Columbia, Canada, and any other state, territory or province where the presence of an established population of any of these insects is confirmed and effective eradication procedures have not been implemented.

(3) Commodities Covered. All life stages of the Japanese beetle, European chafer, and Oriental beetle, including eggs, larvae, pupae, and adults; and the following hosts or possible carriers of Japanese beetle:

(a) Soil, growing media, humus, compost, and manure (except when commercially packaged, and except soil samples under a federal Compliance Agreement);

(b) All plants with roots;

(c) Grass sod;

(d) Plant crowns or roots for propagation (except when free from soil and growing media; clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection);

(e) Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free from soil and growing media; clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection); and

(f) Any other plant, plant part, article or means of conveyance when it is determined by the department to present a hazard of spreading live Japanese beetle due to either infestation, or exposure to infestation, by Japanese beetle.

(4) Restrictions. All commodities covered are prohibited entry into Oregon from the area under quarantine unless they have the required certification. Plants may be shipped from the area under quarantine into Oregon provided such shipments conform to one of the options below and are accompanied by a certificate issued by an authorized state agricultural official at origin. Note that not all protocols in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Oregon. Advance notification of regulated commodity shipment is required. The certifying official shall mail, FAX or e-mail a copy of the certificate to: Administrator, Plant Division, Oregon Department of Agriculture, 635 Capitol Street NE, Salem, Oregon 97310, FAX: 503/986-4786, e-mail: quarantine@oda.state.or.us. The shipper shall notify the receiver to hold such commodities for inspection by the Oregon Department of Agriculture. The receiver must notify the Oregon Department of Agriculture of the arrival of commodities imported under the provisions of this quarantine and must hold such commodities for inspection. Such certificates shall be issued only if the shipment conforms fully with (a), (b), (c), (d), (e) or (f) below:

(a) Bareroot Plants. Plants with roots are acceptable if they are bare-root, free from soil and growing media (clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection). The certificate accompanying the plants shall bear the following additional declaration: "Plants are bareroot, attached clumps of soil or growing media are less than 1/2 inch in diameter." Advance notification required (see section 4 above).

(b) Production in an Approved Japanese Beetle Free Greenhouse/Screenhouse. All the following criteria apply. All media must be sterilized and free of soil. All stock must be free of soil (bareroot) before planting into the approved medium. The potted plants must be maintained within the greenhouse/screenhouse during the entire adult flight period. During the adult flight period the greenhouse/screenhouse must be made

secure so that adult Japanese beetles can not gain entry. Security will be documented by the appropriate phytosanitary official. No Japanese beetle contaminated material shall be allowed into the secured area at any time. The greenhouse/screenhouse will be officially inspected by phytosanitary officials and must be specifically approved as a secure area. They shall be inspected by the same officials for the presence of all life stages of the Japanese beetle. The plants and their growing medium must be appropriately protected from subsequent infestation while being stored, packed and shipped. Certified greenhouse/screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation. Each greenhouse/screenhouse operation must be approved by the phytosanitary officials as having met and maintained the above criteria. The certificate accompanying the plants shall bear the following additional declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free greenhouse or screenhouse and were grown in sterile, soilless media." Advance notification required (see section 4 above).

(c) Production During a Pest Free Window. The entire rooted plant production cycle will be completed within a pest free window, in clean containers with sterilized and soilless growing medium, i.e., planting, growth, harvest, and shipment will occur outside the adult Japanese beetle flight period, June through September. The accompanying phytosanitary certificate shall bear the following additional declaration: "These plant were produced outside the Japanese beetle flight season and were grown in sterile, soilless media." Advance notification required (see section 4 above).

(d) Application of Approved Regulatory Treatments. All treatments will be performed under direct supervision of a phytosanitary official or under compliance agreement. Treatments and procedures under a compliance agreement will be monitored closely throughout the season. State phytosanitary certificates listing and verifying the treatment used must be forwarded to Oregon via fax or electronic mail, as well as accompanying the shipment. Note that not all treatments approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Oregon. The phytosanitary certificate shall bear the following additional declaration: "The rooted plants are in soilless media and were treated to control *Popillia japonica* according to the criteria for shipment to category 1 states as provided in the U.S. Domestic Japanese Beetle Harmonization Plan and Oregon's Japanese beetle quarantine." Advance notification required (see section 4 above).

(A) Dip Treatment — B&B and Container Plants. Not approved.

(B) Drench Treatments — Container Plants Only. Not approved for ornamental grasses or sedges. Potting media used must be sterile and soilless, containers must be clean. Containers must be one gallon or smaller in size. Field potted plants are not eligible for certification using this protocol. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. If the containers are exposed to a second flight season they must be retreated.

(i) Imidacloprid (Marathon 60WP). Apply one-half (0.5) gram of active ingredient per gallon as a prophylactic treatment just prior to Japanese beetle adult flight season (June 1, or as otherwise determined by the phytosanitary official). Apply tank mix as a drench to wet the entire surface of the potting media. A twenty-four (24) gallon tank mix should be enough to treat 120-140 one-gallon containers. Avoid over drenching so as not to waste active ingredient through leaching. During the adult flight season, plants must be retreated after sixteen (16) weeks if not shipped to assure adequate protection.

(ii) Bifenthrin (Talstar Nursery Flowable 7.9%). Mix at the rate of twenty (20) ounces per 100 gallons of water. Apply, as a drench, approximately eight (8) ounces of tank mix per six (6) inches of container diameter.

(C) Media (Granule) Incorporation — Container Plants Only. Containers must be one gallon or smaller in size. Not approved for ornamental grasses or sedges. All pesticides used for media incorporation must be mixed prior to potting and plants potted a minimum of thirty (30) days prior to shipment. Potting media used must be sterile and soilless; containers must be clean. The granules must be incorporated into the media prior to potting. Field potted plants are not eligible for treatment. This treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are to be exposed to a second flight season they must be repotted with a granule incorporated mix or retreated using one of the approved drench treatments. Pesticides approved for media incorporation are:

(i) Imidacloprid (Marathon 1 G). Mix at the rate of five (5) pounds per cubic yard.

ADMINISTRATIVE RULES

(ii) Bifenthrin (Talstar Nursery Granular or Talstar T&O Granular (0.2G)). Mix at the rate of 25 ppm or one-third (0.33) of a pound per cubic yard based on a potting media bulk density of 200.

(iii) Tefluthrin (Fireban 1.5 G). Mix at the rate of 25 ppm based on a potting media bulk density of 400.

(D) Methyl Bromide Fumigation. Nursery stock: methyl bromide fumigation at NAP, chamber or tarpaulin. See the California Commodity Treatment Manual for authorized schedules.

(e) Detection Survey for Origin Certification. Japanese Beetle Harmonization Plan protocol not approved. Alternative approved protocol: States listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of commodities covered may be accepted from these noninfested counties if annual surveys are made in such counties and adjacent counties and the results of such surveys are negative for Japanese beetle. In addition, the plants must be greenhouse grown in media that is sterilized and free of soil and the shipping nursery must grow all their own stock from seed, unrooted cuttings or bareroot material. A list of counties so approved will be maintained by the Oregon Department of Agriculture. Agricultural officials from a quarantined state or province may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how surveys were conducted giving the following information:

- (A) Areas surveyed;
- (B) How survey was carried out;
- (C) Number of traps;
- (D) Results of survey;
- (E) History of survey;

(F) If county was previously infested, give date of last infestation. If infestations occur in neighboring counties, approval may be denied. To be maintained on the approved list, each county must be reappraised every twelve (12) months. Shipments of commodities covered from noninfested counties will only be allowed entry into Oregon if the uninfested county has been placed on the approved list prior to the arrival of the shipment in Oregon. The certificate must have the following additional declaration: "The plants in this consignment were produced in sterile, soilless media in (name of county), state of (name of state of origin) that is known to be free of Japanese beetle." Advance notification required (see section 4 above).

(f) Privately owned house plants obviously grown, or certified at the place of origin as having been grown indoors without exposure to Japanese beetle may be allowed entry into this state without meeting the requirements of section (4). Contact the Oregon Department of Agriculture for requirements: Administrator, Plant Division, Oregon Department of Agriculture, 635 Capitol Street NE, Salem, Oregon 97301, telephone: 503/986-4644, FAX: 503/986-4786, e-mail: quarantine@oda.state.or.us.

(5) Exceptions. Upon written request, and upon investigation and finding that unusual circumstances exist justifying such action, the department may issue a permit allowing entry into this state of commodities covered without meeting the requirements of section (4). However, all conditions specified in the permit shall be met before such permit will be recognized.

(6) Violation of Quarantine. All covered commodities described in section (3) of this rule found to be in violation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, or at the owner's option be destroyed under the supervision of the department, without expense to or indemnity paid by the department. Violation of this quarantine may result in a fine, if convicted, of not less than \$500 nor more than \$5,000, as provided by ORS 561.990(4). Violators may also be subject to civil penalties of up to \$10,000 as provided by Oregon Laws 1999, chapter 390, section 2; nursery license suspension or nursery license revocation.

Stat. Auth.: ORS 561.020, 561.190, 561.510 & 570.305
Stats. Implemented: ORS 561.510

Hist.: AD 12-1977, f. 6-6-77, ef. 6-20-77; AD 7-1988(Temp), f. & cert. ef. 8-2-88; DOA 10-1998, f. & cert. ef. 12-30-98; DOA 27-2000, f. & cert. ef. 10-13-00; DOA 9-2006, f. & cert. ef. 3-22-06; DOA 7-2008, f. & cert. ef. 2-8-08; DOA 4-2010, f. & cert. ef. 1-28-10

603-054-0024

Fees for Issuance of Phytosanitary and Other Certificates

The following fees and charges are established for inspections requested by nurseries in order to issue state or federal phytosanitary certificates and any other certificate that requires inspection prior to issuance of such certificates. The base charge for certificates will be \$15 each. In addition, beginning October 1, 2009, the USDA administrative charge will be \$6 for federal phytosanitary certificates completed by ODA personnel or \$3 for federal phytosanitary certificates issued through the Phytosanitary Issuance and Tracking System (PCIT). Beginning October 1, 2010, the USDA administrative charge for federal phytosanitary certificates will be

\$12 for federal phytosanitary certificates completed by ODA personnel or \$6 for federal phytosanitary certificates issued through PCIT.

Stat. Auth.: ORS 561 & 571

Stats. Implemented: ORS 571.145

Hist.: DOA 2-2003, f. & cert. ef. 1-7-03; DOA 9-2006, f. & cert. ef. 3-22-06; DOA 3-2008, f. & cert. ef. 1-7-08; DOA 4-2010, f. & cert. ef. 1-28-10

Rule Caption: Updates the grape quarantine's list of harmful organisms, commodities covered, and required mitigation measures.

Adm. Order No.: DOA 5-2010

Filed with Sec. of State: 1-28-2010

Certified to be Effective: 1-28-10

Notice Publication Date: 12-1-2009

Rules Amended: 603-052-0051

Subject: The proposed amendments: (1) List specific harmful organisms recognized as a threat to the State's wine-grape and nursery industries; (2) Update the list of commodities covered by the quarantine; and (3) Specify measures that must be taken if a harmful organism is found in Oregon. Specifies precautions that must be taken with table grapes and wine grapes for pressing to mitigate the risk of introducing the harmful organism vine mealybug.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-0051

Quarantine

(1) Establishing Quarantine. A quarantine is established against harmful pests and diseases of wine grapes.

(2) Area Under Quarantine. All states, districts, and territories of the United States, and in Oregon, any property where a harmful pest or disease is found (see Section (4)).

(3) Commodities Covered. Plants, cuttings, and all other plant parts of grape (*Vitis* species).

(4) Harmful Pests and Diseases. Grapevine fanleaf virus, grapevine leaf roll-associated viruses, grapevine corky bark disease agent, grape phylloxera (*Daktulosphaira vitifoliae*), vine mealybug (*Planococcus ficus*), and European grapevine moth (*Lobesia botrana*).

(5) Restrictions: All covered commodities are prohibited entry into the State of Oregon unless they meet the requirements in (a) through (d) below:

(a) Freedom from Soil: Only grape cuttings and rooted plants produced in sterile soil-less media are permitted entry into Oregon. Potting media must be treated with a soil insecticide effective against vine mealybug and any pests that may be present on the roots. Grape cuttings and rooted plants must receive a hot water dip treatment effective against vine mealybug prior to potting.

(b) Freedom from harmful pests and diseases: Cuttings, fruit, and plants must be free of harmful pests and diseases. Fruit may be imported under the following conditions:

(A) Table grapes must be commercially packed in compliance with USDA recommendations for protecting perishable food products shipped interstate by truck (USDA-Agricultural Marketing Service-Transportation and Marketing Programs, In: Protecting Perishable Foods During Transport by Truck, Handbook No. 669 (2006), pp. 40-41).

(B) The wine grapes have been:

(i) Harvested from a county known to be free of vine mealybug or from a vineyard that has been officially inspected and found free of vine mealybug; or,

(ii) The fruit has been hand harvested from a vineyard infested with vine mealybug and shipped in a covered container. Any pomace resulting from pressing of the wine grapes must be placed in piles located away from vineyard rows and securely covered with clear plastic for four (4) weeks or composted for four (4) weeks or any other appropriate method approved by the Department before spreading in vineyards rows.

(c) Phytosanitary Certificate Required: All shipments must be accompanied by a phytosanitary certificate issued by an official of the state of origin certifying that the fruit, grape cuttings, or rooted plants have been inspected and to the best of the knowledge of the inspecting official are free from harmful pests and diseases. In addition, the phytosanitary certificate must certify that rooted plants were grown in sterile soil-less media and treated with a soil or systemic insecticide and a hot water dip treatment effective against vine mealybug and any other pests that may be present on the roots. Note: depending on origin, other State quarantines may apply (e.g. glassywinged sharpshooter, European brown garden snail, Japanese

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beetle) and may require other additional declarations on the phytosanitary certificate.

(d) Prenotification of regulated commodity shipment of *Vitis* plants, cuttings, or similar propagative material is required as described in OAR 603-054-0027, Notification of Imported Trees and Shrubs. The Department may require that shipments be held until inspected and released. If the recipient is not a licensed nursery, the Department may charge established rates for time and mileage to recover the cost of inspection.

(6) Control and eradication methods for harmful pests and diseases. Control and eradication methods used shall only be those approved by the Department and will be based on the best available science. These methods may include:

(a) Destruction of infected plants or composting of infected fruit, including pomace;

(b) A directive specifying implementation of Departmentally approved mitigation measures to prevent the spread of the harmful pest or disease;

(c) A directive requiring the equipment, tools, and machinery used within an infested area be thoroughly cleaned of all dirt and debris by the use of steam under pressure.

(7) Properties within Oregon. Properties where harmful pests and diseases are known to occur must implement mitigation methods as approved by the Department to prevent further spread of the harmful pest or disease (see Section (6)).

(8) Violation of Quarantine. All covered commodities determined to be in violation of this quarantine, shall be immediately returned by the recipient to the point of origin or, at their option and without expense or indemnity paid by the Department, destroyed. Violation of this quarantine may result in a fine, if convicted, of not less than \$500 nor more than \$5,000 as provided by ORS 561.990(4). Violators may also be subject to civil penalties of up to \$10,000 as provided by ORS 561.995 and 570.990 and 570.995; nursery license suspension or nursery license revocation.

(9) Exceptions. The Department, upon receipt of an application in writing, may issue a Director's Exemption allowing movement into this state, or movement within this state, of regulated commodities not otherwise eligible for movement under the provisions of this quarantine order. Movement of such commodities will be subject to any conditions or restrictions stipulated in the exemption, and these conditions and restrictions may vary depending upon the intended use of the commodity and the potential risk of escape or spread of a harmful pest or disease.

(10) Review. The Department and other interested parties shall review the quarantine pest list and restrictions biennially for accuracy and effectiveness.

Stat. Auth.: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415
Stat. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415
Hist.: AD 913(19-69), f. 12-26-69, ef. 1-25-70; AD 939(7-71), f. 8-18-71, ef. 9-1-71; Suspended by DOA 19-2001(Temp), f. & cert. ef. 9-11-01 thru 2-22-02; DOA 14-2002, f. & cert. ef. 5-23-02; DOA 2-2005, f. & cert. ef. 2-14-05; DOA 5-2010, f. & cert. ef. 1-28-10

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Rule Caption: Added weeds to weed quarantine, modified restrictions on English ivy and butterfly bush.

Adm. Order No.: DOA 6-2010

Filed with Sec. of State: 2-4-2010

Certified to be Effective: 2-4-10

Notice Publication Date: 12-1-2009

Rules Amended: 603-052-1200

Subject: The proposed amendment to the noxious weed quarantine (603-052-1200) would update the list of prohibited plants. Add the following weeds: common reed (*Phragmites australis*), flowering rush (*Butomus umbellatus*), Japanese dodder (*Cuscuta japonica*), taurian thistle (*Onopordum tauricum*), yellowtuft (*Alyssum mural* & *A. corsicum*), Herb Robert (*Geranium robertianum*), shiny leaf geranium (*Geranium lucidum*), lesser celandine (*Ranunculus ficaria*), spruce laurel (*Daphne laureola*), oblong spurge (*Euphorbia oblongata*), and white bryonia (*Bryonia alba*) would be added to the list. Restrictions would be modified for English ivy (*Hedera helix/hibernica*) and butterfly bush (*Buddleia davidii/varabilis*). English ivy would be prohibited, including indoor and topiary uses. Seedless varieties of butterfly bush would be allowed if they are tested and produce less than 2% viable seed. These changes would bring the noxious weed quarantine in line with the State Noxious Weed List maintained by the State Weed Board.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-1200

Quarantine; Noxious Weeds

(1) Establishing Quarantine. A quarantine is established against the noxious weeds listed herein. Noxious weeds have become so thoroughly established and are spreading so rapidly that they have been declared a menace to the public welfare. ORS 570.505.

(2) Areas Under Quarantine. The entire state of Oregon and all other States of the United States and all foreign countries.

(3) Covered Plants. For purposes of this rule the term "plants" applies to whole plants, plant parts, and seeds. This rule applies to all "A" and "B" designated noxious weeds listed herein, except as provided in subsections (c) and (d). Plants on the *Federal Noxious Weed List* (7 C.F.R. 360.200) are also covered by this rule, with the exception of Japanese blood grass, *Imperata cylindrica*, var. Red Baron and Chinese water spinach, *Ipomoea aquatica*.

(a) "A" designated weeds. Weeds of known economic importance which occur in the state in small enough infestations to make eradication/containment possible; or which are not known to occur, but their presence in neighboring states makes future occurrence in Oregon seem imminent.

(A) African rue — *Peganum harmala*;

(B) Camelthorn — *Alhagi pseudalhagi*;

(C) Coltsfoot — *Tussilago farfara*;

(D) Common reed — *Phragmites australis*;

(E) Cordgrasses:

(i) Common — *Spartina anglica*;

(ii) Dense-flowered — *Spartina densiflora*;

(iii) Saltmeadow — *Spartina patens*;

(iv) Smooth — *Spartina alterniflora*.

(F) European water chestnut — *Trapa natans*;

(G) Flowering rush — *Butomus umbellatus*;

(H) Giant hogweed — *Heracleum mantegazzianum*;

(I) Goatgrasses:

(i) Barbed — *Aegilops triuncialis*;

(ii) Ovate — *Aegilops ovata*.

(J) Hawkweeds:

(i) King-devil — *Hieracium piloselloides*;

(ii) Meadow — *Hieracium pratense*;

(iii) Mouse-ear — *Hieracium pilosella*;

(iv) Orange — *Hieracium aurantiacum*;

(v) Yellow — *Hieracium floribundum*.

(K) Hydrilla — *Hydrilla verticillata*;

(L) Japanese dodder — *Cuscuta japonica*;

(M) Kudzu — *Pueraria lobata*;

(N) Matgrass — *Nardus stricta*;

(O) Oblong spurge — *Euphorbia oblongata*;

(P) Paterson's curse — *Echium plantagineum*;

(Q) Purple nutsedge — *Cyperus rotundus*;

(R) Silverleaf nightshade — *Solanum elaeagnifolium*;

(S) Skeletonleaf bursage — *Ambrosia tomentosa*;

(T) Squarrose knapweed — *Centaurea virgata*;

(U) Starthistles:

(i) Iberian — *Centaurea iberica*;

(ii) Purple — *Centaurea calcitrapa*.

(V) Syrian bean-caper — *Zygophyllum fabago*;

(W) Texas blueweed — *Helianthus ciliaris*;

(X) Thistles:

(i) Plumeless — *Carduus acanthoides*;

(ii) Smooth distaff — *Carthamus baeticus*;

(iii) Taurian — *Onopordum tauricum*;

(iv) Woolly distaff — *Carthamus lanatus*;

(v) White bryonia — *Bryonia alba*.

(Y) Yellow floating heart — *Nymphoides peltata*;

(Z) Yellowtuft — *Alyssum murale* and *Alyssum corsicum*.

(b) "B" designated weeds. Weeds of economic importance which are regionally abundant, but which may have limited distribution in some counties.

(A) Armenian (Himalayan) blackberry — *Rubus armeniacus* (*R. procerus*, *R. discolor*);

(B) Bidy-bidy — *Acaena novae-zelandiae*;

(C) Brooms:

(i) French — *Genista monspessulana*;

(ii) Portuguese — *Cytisus striatus*;

(iii) Scotch — *Cytisus scoparius*;

(iv) Spanish — *Spartium junceum*;

(D) Buffalobur — *Solanum rostratum*;

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(E) Butterfly bush — *Buddleja davidii/variabilis** (*Effective January 1, 2010, all the prohibitions of section (4)(a)–(d) apply. Plants being sold in Oregon that are labeled “Butterfly Bush” are assumed to be *B. davidii* and will be subject to a stop sale order. ODA approved sterile varieties of *Buddleja* including inter-specific hybrids are not regulated and may be propagated and sold if labeled as follows: “Seedless Butterfly Bush*” “*Produces less than 2% viable seed.” Information concerning process, criteria and approved seedless varieties is available online at: <http://oregon.gov/ODA/PLANT/NURSERY/>.);

- (F) Common bugloss — *Anchusa officinalis*;
- (G) Common crupina — *Crupina vulgaris*;
- (H) Creeping yellow cress — *Rorippa sylvestris*;
- (I) Cutleaf teasel — *Dipsacus laciniatus*;
- (J) Dodder — *Cuscuta spp.** (*except northwest natives);
- (K) Dyers woad — *Isatis tinctoria*;
- (L) English ivy — *Hedera helix/hibernica**;
- (M) Eurasian watermilfoil — *Myriophyllum spicatum*;
- (N) False brome — *Brachypodium sylvaticum*;
- (O) Field bindweed — *Convolvulus arvensis*;
- (P) Garlic Mustard — *Alliaria petiolata*;
- (Q) Geranium:
 - (i) Herb Robert — *Geranium robertianum*;
 - (ii) Shiny leaf geranium — *Geranium lucidum*;
- (R) Giant horsetail — *Equisetum telmateia*;
- (S) Gorse — *Ulex europaeus*;
- (T) Halogeton — *Halogeton glomeratus*;
- (U) Houndstongue — *Cynoglossum officinale*;
- (V) Johnsongrass — *Sorghum halepense*;
- (W) Jointed goatgrass — *Aegilops cylindrical*;
- (X) Jubata grass — *Cortaderia jubata*;
- (Y) Knapweeds:
 - (i) Diffuse — *Centaurea diffusa*;
 - (ii) Meadow — *Centaurea pratensis* (jacea x nigra);
 - (iii) Russian — *Acroptilon repens*;
 - (iv) Spotted — *Centaurea maculosa* (C. stoebe).
- (Z) Knotweeds:
 - (i) Giant — *Fallopia sachalinensis* (Polygonum);
 - (ii) Himalayan — *Polygonum polystachyum*;
 - (iii) Japanese (fleece flower) — *Fallopia japonica* (*Polygonum cuspidatum*).
- (AA) Kochia — *Kochia scoparia*;
- (BB) Lesser celandine — *Ranunculus ficaria*;
- (CC) Mediterranean sage — *Salvia aethiopsis*;
- (DD) Medusahead rye — *Taeniatherum caput-medusae*;
- (EE) Old man’s beard — *Clematis vitalba*;
- (FF) Parrots Feather — *Myriophyllum aquaticum*;
- (GG) Perennial peavine — *Lathyrus latifolius*;
- (HH) Perennial pepperweed — *Lepidium latifolium*;
- (II) Poison hemlock — *Conium maculatum*;
- (JJ) Policeman’s helmet — *Impatiens glandulifera*;
- (KK) Puncturevine — *Tribulus terrestris*;
- (LL) Purple loosestrife — *Lythrum salicaria*;
- (MM) Quackgrass — *Agropyron repens*;
- (NN) Ragweed — *Ambrosia artemisiifolia*;
- (OO) Rush skeletonweed — *Chondrilla juncea*;
- (PP) Saltcedar — *Tamarix ramosissima*;
- (QQ) Small broomrape — *Orobancha minor*;
- (RR) South American waterweed (Elodea) — *Egeria* (Elodea) *densa*;
- (SS) Spikeweed — *Hemizonia pungens*;
- (TT) Spiny cocklebur — *Xanthium spinosum*;
- (UU) Spurge laurel — *Daphne laureola*;
- (VV) Spurges:
 - (i) Leafy — *Euphorbia esula*;
 - (ii) Myrtle — *Euphorbia myrsinites*.
- (WW) Sulfur cinquefoil — *Potentilla recta*;
- (XX) Swainsonpea — *Sphaerophysa salsula*;
- (YY) Tansy ragwort — *Senecio jacobaea*;
- (ZZ) Thistles:
 - (i) Bull — *Cirsium vulgare*;
 - (ii) Canada — *Cirsium arvense*;
 - (iii) Italian — *Carduus pycnocephalus*;
 - (iv) Musk — *Carduus nutans*;
 - (v) Scotch — *Onopordum acanthium*;
 - (vi) Slender-flowered — *Carduus tenuiflorus*.
- (AAA) Toadflax:

- (i) Dalmation — *Linaria dalmatica*;
- (ii) Yellow — *Linaria vulgaris*.
- (BBB) Velvetleaf — *Abutilon theophrasti*;
- (CCC) Whitetops:
 - (i) Hairy — *Lepidium pubescens*;
 - (ii) Lens-podded — *Lepidium chalepensis*;
 - (iii) Whitetop (hoary cress) — *Lepidium draba*.
- (DDD) Yellow flag iris — *Iris pseudacorus*;
- (EEE) Yellow nutsedge — *Cyperus esculentus*;
- (FFF) Yellow starthistle — *Centaurea solstitialis*;
- (c) Agricultural seed as defined in Oregon’s Seed Law, ORS 633.511 to 633.750, is exempt from this quarantine but subject to the noxious weed seed tolerances in OAR 603-056-0205.

(d) Other commodities such as but not limited to wheat are exempt from this quarantine to the extent that they are contaminated with noxious weed seed.

(4) Prohibited and Permitted Acts.

(a) All plants covered in section (3) of this rule are prohibited entry into the State of Oregon.

(b) All plants listed in section (3) of this rule are prohibited from transport, purchase, sale or offering for sale in the State of Oregon.

(c) All plants listed in section (3) of this rule are prohibited from being propagated in the State of Oregon.

(d) All plants listed in section (3) may be collected from the wild in areas that are already infested with the specific species that is collected, provided that the plants, plant parts, or seed are not used for propagation or sale within the State of Oregon.

(5) Disposition of Plants in Violation of the Quarantine. All covered plants listed in section (3) of this rule are found to be in violation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, if from out of state, or at the owner’s option be destroyed under the supervision of the department, without expense to or indemnity paid by the department.

(6) Exceptions. The director may issue a permit allowing entry into this state, propagation, or selling of plants covered by this rule, upon request, and upon investigation and finding that unusual circumstances exist justifying such action, and that the benefits of granting the permit outweigh the potential harm that may result from the requested action. The director may impose specific conditions on any permit issued hereunder, and the permit may be canceled for failure to meet the conditions therein. Any permit issued under this section shall be for a limited duration not to exceed one year.

Stat. Auth.: ORS 561.020, 561.190, 561.510 & 570.305

Stats. Implemented: ORS 561.510

Hist.: DOA 5-1999, f. & cert. ef. 4-5-99; DOA 13-2000, f. & cert. ef. 5-8-00; DOA 7-2002, f. & cert. ef. 2-1-02; DOA 26-2002, f. & cert. ef. 12-10-02; DOA 27-2004, f. & cert. ef. 12-28-04; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 11-2008, f. & cert. ef. 3-7-08; DOA 6-2010, f. & cert. ef. 2-4-10

Rule Caption: Establishes system for state review of federal permit applications for growing biopharmaceutical crops in Oregon.

Adm. Order No.: DOA 7-2010

Filed with Sec. of State: 2-4-2010

Certified to be Effective: 2-4-10

Notice Publication Date: 12-1-2009

Rules Adopted: 603-052-1236

Subject: The proposed rule would establish a system for a coordinated joint review of any federal permit applications for growing biopharmaceutical crops in Oregon. The intent is not to duplicate the federal permit review process, rather to allow the state to provide input on Oregon specific issues and requirements. The applicant would be billed \$100/hour, up to \$10,000, for state services related to permit review and oversight of the biopharmaceutical crop production.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-1236

Biopharmaceutical Crops

(1) As authorized by ORS 561.738 and 561.740 a system is established for joint federal-state oversight of biopharmaceutical crops in Oregon.

(2) Memoranda of understanding (MOU’s).

(a) ORS 561.740 authorizes the Director of Agriculture and an appointee of the Director of Human Services to enter into a MOU or other state-federal cooperative agreement designed to increase state input to the

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federal biopharmaceutical crop permitting system on issues and requirements of specific interest to the State. These rules clarify the procedures for carrying out the provisions of ORS 561.740.

(b) ODA and DHS will enter into a separate MOU or other cooperative agreement to clarify how they will interact during the joint review of a biopharmaceutical crop permits and oversight of biopharmaceutical crop production.

(3) Federal Regulations. Federal permit regulations related to genetically engineered crops are contained in 7 CFR, Part 340. As part of the permit process (7 CFR, Part 340.4 (14)(c)), USDA submits the application and initial review (minus confidential business information (CBI)) to the department of agriculture of the State of destination.) ORS 561.740(2)(a) authorizes certain Oregon state officials from the departments of Agriculture and Human Services to receive CBI and keep it confidential if the application is for a biopharmaceutical crop.

(4) ODA/DHS Review of Federal Biopharmaceutical Crop Permit. The intent of ODA/DHS review is not to duplicate the efforts of USDA, rather to allow ODA/DHS to provide input on Oregon-specific issues and requirements. ODA/DHS officials may not disclose CBI revealed to them as part of this process.

(5) Public Input

(a) ODA will maintain a list of interested parties requesting notification in the event the State receives a biopharmaceutical crop permit application. Notification to interested parties will be done via email. Only non-CBI will be shared with interested parties and other members of the public.

(b) If ten or more people or an association with ten or more members requests a public information meeting, ODA will conduct such a meeting pursuant to ORS 192.610 to 192.710 in the county of the proposed biopharmaceutical planting to answer questions and gather input. Notice of the meeting will be via email and will include the list of interested parties and the OSU County Extension office in the county of the proposed planting so that local growers can be invited. The meeting notice will also be posted on ODA's website as will addresses for sending comments via postal mail or email. All input received by the end of the public information meeting will be supplied to the ODA and DHS officials reviewing the application for their consideration.

(c) The period for public comment will be 30 days or as long as possible if the State receives the application with less than 30 days before any USDA-imposed deadlines related to maximum review periods outlined in 7 CFR, Part 340.4(14)(c).

(6) State Response. After thorough review, ODA, in consultation with DHS, will jointly issue a letter to USDA with signatures of designated officials from both agencies. If either agency has concerns, those concerns will be expressed in the joint letter. The letter will recommend approval, approval with additional safeguards, or denial of the biopharmaceutical crop permit application.

(7) Monitoring.

(a) In coordination with USDA, and to the extent resources are available, ODA/DHS officials will participate in inspecting and monitoring of biopharmaceutical crops and take action if it is determined that there is evidence an existing or proposed biopharmaceutical crop is likely to endanger human health, the environment, Oregon agriculture, horticulture, or forest production.

(b) The costs of any required remedial action, which may include crop destruction, are the responsibility of the permit applicant.

(8) State Fees. The applicant will be billed at a maximum rate of \$100/hour for state services related to the authorization and oversight of biopharmaceutical crop production, including but not limited to permit application review, site inspections, monitoring, administration and enforcement. Invoices will be sent quarterly by the ODA. DHS will receive its share of payments received via interagency transfer. Total fees charged under this paragraph may not exceed \$10,000 for each federal permit and the resulting production.

Stat. Auth.: ORS 561.738 & 561.740
Stats. Implemented: ORS 561.190
Hist.: DOA 7-2010, f. & cert. ef. 2-4-10

Rule Caption: Amends an ODA permit requirement and a fee and outlines requirements for permitting crocodilians.

Adm. Order No.: DOA 8-2010

Filed with Sec. of State: 2-10-2010

Certified to be Effective: 2-10-10

Notice Publication Date: 12-1-2009

Rules Adopted: 603-011-0701, 603-011-0706

Rules Amended: 603-011-0700, 603-011-0705, 603-011-0725

Subject: Effective on January 1, 2010, the Oregon Revised Statute 609, through enactment of SB 391, will require the Agency to enact rules to reduce the fee for the exotic animal permitting process. The statute will further require the Agency to enact rules that describe the requirements for permitting and owning crocodilians in Oregon. These rules amend the fees for issuing an exotic animal permit for Class 1 felines, Class 1 primates and bears. These rules remove the requirement to permit wolves. These rules adopt directions for regulation of hybrid animals and adopt requirements for permitting, keeping and owning crocodilians in Oregon.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-011-0700

Definitions

As used in ORS 609.335(3) and in OAR 603-011-0705 to 603-011-0725, unless the context requires otherwise:

(1) "Exotic animal" has the meaning given by ORS 609.305.

(2) "Facility" means the cage(s), compound(s), room(s), building(s), or other premises specified in a Permit in which the exotic animal(s) is/are to be confined or maintained.

(3) "Keep" does not include the temporary holding of an exotic animal at an animal shelter operated by a city or county, or the immediate transportation of an abandoned, neglected or abused exotic animal to such a Facility.

(4) "Permit" means a document issued by the Department which authorizes (subject to other laws) the Permittee to keep one or more specified exotic animals in captivity at a Facility for a stated period of time.

(5) "Permittee" means the person authorized by a Permit to keep an identified species of exotic animal.

(6) "Species" means the class of an exotic feline, non-human primate, exotic canine, or any exotic bear or any crocodilian.

(7) "Hybrid" means any animal that is produced by crossing at least one exotic animal with any other species of subspecies.

(8) "Domestic animal" means domestic cat (*Felis catus*), domestic dog (*Canis familiaris*) and does not include livestock as defined in ORS 607.125

Stat. Auth.: ORS 561 & 609

Stats. Implemented: ORS 609.305 & 609.335

Hist.: AD 9-1986, f. & ef. 5-27-86; AD 18-1997(Temp), f. & cert. ef. 12-8-97 thru 6-5-98; DOA 8-1998, f. & cert. ef. 9-14-98; DOA 30-2000, f. & cert. ef. 11-6-00; DOA 8-2010, f. & cert. ef. 2-10-10

603-011-0701

Hybrid Crossed Animals

For the purposes of OAR603-011-0705 – 603-011-0725, any hybrid animal that is produced by crossing a domestic animal and an exotic animal shall be regulated according to the laws governing domestic animals and not subject to exotic animal permit by the Department.

Stat. Auth.: ORS 561 & 609

Stats. Implemented: ORS 609.305 & 609.335

Hist.: DOA 8-2010, f. & cert. ef. 2-10-10

603-011-0705

Permit Application, Issuance, and Renewal

(1) A person intending to keep an exotic animal in captivity shall before acquiring the animal, apply to the Department for the issuance of a Permit by submitting an application therefore to the Animal Health Division of the Department at its address of Agriculture Building, 635 Capitol Street N.E., Salem, OR 97301, accompanied by a permit fee. Holders of a valid license or registration from the U.S. Department of Agriculture under the federal Animal Welfare Act of 1970, or holders of a valid permit from the Oregon Department of Fish and Wildlife to operate a wildlife rehabilitation facility are not subject to OAR 603-011-0700 through 603-011-0725, including the requirement to obtain a Permit from the Department. Permit fees shall be:

(a) \$100 for Class 1 and 2 felines, Class 1 and 2 primates, bears and Class 1 canines

(b) \$75 for crocodilians

(c) \$50 for all other exotic animal classes

(2) Before the stated date of expiration of a Permit, the holder of the Permit may apply to the Department for a renewal thereof for an additional term of up to two years from the stated expiration date, and thereafter for additional two-year renewals of the permit. Notwithstanding the term of the Permit, the Department may modify in writing the conditions and/or limitations of the Permit at any time. Renewal fees shall be:

(a) \$100 for Class 1 felines, Class 1 primates and bears.

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(b) \$50 for crocodylians.

(c) \$25 for all other exotic animal classes

(3) An application for a Permit shall be on a form prescribed by the Department, shall be signed by the Permittee, and shall include:

(a) The name, address and telephone number of the Permittee, and the owner of the animal(s) if different than the Permittee;

(b) The specific location and nature of the proposed Facility. If the real property containing the proposed Facility is leased, the application shall also include the name and written consent of the owner to the keeping of the exotic animals on the property. For Class 1 and 2 exotic felines, Class 1 and 2 non-human primates, bears, and Class 1 exotic canines the application shall include a sketch map of the premises owned or leased by the Permittee with dimensions of the real property and description of all adjacent properties;

(c) The species of exotic animals for which the Permit is sought;

(d) A certification by the Permittee that all federal, state, county and city permitting requirements have been met, including copies of each relevant permit;

(e) The name, address and telephone number of the veterinarian intended to provide medical care for the exotic animal(s);

(f) The documented experience, training and education of the Permittee relating to the care and keeping of the particular species of exotic animal(s) for which application is being made;

(g) A written plan for nutrition, health maintenance, and general welfare of the animal which has been prepared by or approved by an authoritative reference person. Such approval or plan shall include the name, title, position, qualification, address and telephone number of the reference person. The plan will be reviewed by the Department prior to approval; and

(h) The date upon which the proposed Facility will be available for inspection by the Department, which shall be not less than 7 days prior to the time the exotic animal(s) is/are kept at the proposed Facility.

(4) The Department shall review the permit application and in determining whether to issue or renew the Permit shall consider factors relating to public safety and health, welfare and safety of the animal. Such factors include but are not limited to:

(a) Proximity of the Facility to public routes of travel, residential neighborhoods, schools, and other public gathering places;

(b) Potential for unintended or accidental public access to the Facility;

(c) Potential for vandalism that compromises the security of the Facility; and

(d) Potential for willful harassment or disturbance of the animal(s).

(e) Whether, based on the Permittee's certification and any other evidence received by the Department in connection with the proposed Facility, all federal, state, county and city laws applicable to the Facility have been met.

(5) The Department shall conduct an interview with the Permittee to determine if the Permittee is likely to be able to keep the exotic animal(s) so as to assure the health, welfare and safety of the animal(s) and the security of the proposed Facility so as to avoid undue risk to the public. In determining whether to issue or renew the Permit, the Department shall also consider whether:

(a) The Permittee has adequate knowledge, experience and training to maintain the health, welfare and safety of the animal(s), and to handle the animal(s) with safety and competence. This will include review of the written plan for nutrition and health maintenance and consideration for the needs of infant animal(s). Approval of permits for Class 1 & 2 exotic felines, Class 1 non-human primates, and bears shall require a minimum of 500 hours of hands-on experience including nutrition, feed preparation, safe handling, transportation, and general welfare and maintenance of the animal type involved or of other species of exotic felines, non-human primates, or bears. Fewer hours of hands-on-experience are required for permitting other classes or species. At least one-half of such experience must be with animals of the classification for which the permit is sought. Such experience may be documented by a log book, employment records, or other means by which experience may be authenticated; and

(b) The Facility is adequately designed, constructed, and is likely to be managed to protect the public from escape of the confined animal(s) including when the Permittee is not on the premises.

(6) Before issuing a Permit the Department may perform an inspection of the Facility to determine its design, construction and proposed operation is consistent with the applicable provisions of OAR 603-011-0700 to 603-011-0725 and ORS 609.309.

(7) Following its review of the application and any other relevant information, the Department shall either issue the Permit or deny the application and notify the applicant. If the Department issues the Permit, it may

include any conditions intended to ensure the health, welfare and safety of the animal(s) covered by the Permit and, where the Department finds it necessary, conditions intended to assure the security of the Facility so as to avoid undue risk to the public. Such conditions may include limitations on the number of animals that can be kept at the Facility.

Stat. Auth.: ORS 561 & 609

Stats. Implemented: ORS 609.205 - 609.335

Hist.: AD 9-1986, f. & cf. 5-27-86; AD 18-1997(Temp), f. & cert. ef. 12-8-97 thru 6-5-98; DOA 8-1998, f. & cert. ef. 9-14-98; DOA 30-2000, f. & cert. ef. 11-6-00; DOA 30-2000, f. & cert. ef. 11-6-00; DOA 8-2010, f. & cert. ef. 2-10-10

603-011-0706

Crocodylians — Special Requirements

(1) Animal Classification:

(a) Exotic crocodylians include all individuals of the order Crocodylia including but not limited to American Alligators and Crocodile Hybrids.

(2) Inside enclosure: The indoor enclosure should be constructed in such a way as to prevent escape of the animal. Latching clips and/or locks are required on doors and windows that open. The lid to the enclosure shall be well ventilated and may be covered with wire mesh, appropriate to the size of the animal, to prevent its escape. The enclosure area shall consist of a dry area and a water area. Both areas must be easily accessible by the animal. The area of the enclosure must be large enough such that the animal can turn around without its body touching any side and can perch its entire body on dry surface. The depth of the water shall be enough to fully submerge the animal. The temperature on the dry surface in the enclosure must be maintained between 75 -90 degrees F. Ambient air temperature shall be kept between 75 to 90 degrees F. The water temperature must be maintained between 75 - 85 degrees F at all times.

(3) Outside enclosure: Crocodylians may be kept outside if weather conditions and ambient temperatures meet minimum temperatures as described for indoor enclosures, otherwise may only be outside during exercise regiment. When transporting the animal to and from outside it is required that the animal be carried in a secure portable container that encloses the animal completely. Fencing for outside enclosures must be of sufficient strength and height to prevent escape of the animal. Bottom of the fence must also be secure enough to prevent escape of the animal. Fencing must also prevent unauthorized persons and animals from entering the enclosure.

(4) Feeding: Owners must demonstrate knowledge of crocodylian nutrition. Exotic crocodylians must be fed a balanced diet sufficient to their needs but such food items may not include live animals.

(5) No exotic crocodylian may be restrained by a harness or muzzle as primary means of confinement.

(6) Security: In order to provide for the safety of the public, exotic crocodylians shall be handled in accordance with the following:

(a) All outside enclosures for exotic crocodylians shall be kept separate from the public in a way that prevents contact with animals or persons outside the enclosure.

(b) Exotic crocodylians shall be confined within their enclosures (inside and/or outside) and only allowed outside them for medical treatment or for removal to another approved facility. When being transported, the animal must be secured in a portable container within the vehicle.

(7) Sanitation: Excreta, uneaten food and any type of algae or debris shall be removed from enclosures (including the water pond) as often as necessary to prevent contamination of the food or water, reduce disease hazards and reduce odors.

Stat. Auth.: ORS 561 & 609

Stats. Implemented: ORS 609.305 & 609.335

Hist.: DOA 8-2010, f. & cert. ef. 2-10-10

603-011-0725

Exotic Canines — Special Requirements

(1) Animal Classification:

(a) Class 1 exotic canines shall include any non-indigenous, non wolf canine whose weight is 50 pounds or more; and

(b) Class 2 exotic canines shall include all non-indigenous canines whose weight is less than 50 pounds.

(2) Any Facility for Class 1 exotic canines shall comply with the following:

(a) Outdoor and Indoor Facilities: Outdoor and indoor facilities shall be constructed and maintained so as to provide sufficient space for each animal to make normal postural and social adjustments with freedom of movement; to keep the animals(s) clean, dry, and safe from injury; and to provide the animal(s) ready access to clean water and wholesome food. All outdoor pens shall have an exterior fence of such height and construction so as to prevent the animal(s) within to surmount it, and to prevent entry of the public;

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(b) Security: In order to provide reasonable precautions for the safety of the public, all classes of exotic canines shall be confined inside the permitted Facility and shall only be allowed outside the Facility for medical treatment or for removal to another approved Facility. When being transported the animal(s) shall be restrained inside a cage within the vehicle so as to prevent escape from, or interference with the operator of the vehicle;

(c) All exotic canines that are held within a single enclosure shall be selected so as to be compatible with each other and shall not be housed near other animals whose presence may cause them stress or other discomfort; and

(d) Sanitation: Excreta and debris shall be removed from the Facility as often as necessary to prevent contamination of the food or water supplies, reduce disease hazards, and reduce odors.

(3) The primary enclosure or caging for Class 2 exotic canines shall be no less than 10 times the area occupied by the animal when standing on four feet.

(4) No exotic canine may be restrained by a tether as primary means of confinement.

(5) The Department may modify or waive the confinement requirements established in sections (2) and (3) of this rule subject to the following:

(a) The animal is determined by the Department to be less than 180 days of age;

(b) The Department's approval to modify or waive the requirements must be in writing and must include an expiration date; and

(c) The Department may impose reasonable conditions on such approval.

Stat. Auth.: ORS 561 & 609

Stats. Implemented: ORS 609.205 - 609.335

Hist.: AD 9-1986, f. & ef. 5-27-86; AD 18-1997(Temp), f. & cert. ef. 12-8-97 thru 6-5-98; DOA 8-1998, f. & cert. ef. 9-14-98; DOA 30-2000, f. & cert. ef. 11-6-00; DOA 8-2010, f. & cert. ef. 2-10-10

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**Department of Consumer and Business Services,
Director's Office
Chapter 440**

Rule Caption: Adopt rules to define and address indebtedness and financial interest of employees with regulatory responsibilities.

Adm. Order No.: DO 1-2010

Filed with Sec. of State: 1-28-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 1-1-2010

Rules Adopted: 440-015-0100, 440-015-0105, 440-015-0110, 440-015-0115

Rules Repealed: 440-015-0001, 440-015-0010, 440-015-0020, 440-015-0030, 440-015-0040, 440-015-0050, 440-015-0060, 440-015-0070, 440-015-0080, 440-015-0090

Subject: Existing ORS 702.135(3) duplicates provisions of ORS Chapter 244. We are modifying this rule to repeal duplicative and outdated provisions, and better identify circumstances under which employees of the agency may not become indebted to or hold interest in entities subject to the regulation of the department. The rule also provides a procedure for the reporting of indebtedness or interest by employees for the purposes of preventing or resolving possible conflicts of interest.

Rules Coordinator: Kristen Miller—(503) 947-7866

440-015-0100

Purpose

(1) These rules implement ORS 705.135(3). The purpose of these rules is to identify the circumstances under which employees of the Department may or may not become indebted to or hold any interest in an entity subject to the regulation of the Department.

(2) These rules also provide for the reporting of such indebtedness or interests by employees for the purpose of preventing or resolving possible conflicts of interest.

(3) These rules are in addition to, and not in lieu of, the provisions of ORS Chapter 244, ORS 731.228, and any other statutes, rules, and policies applicable to indebtedness, financial interests, and conflicts of interest of employees of the Department.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 244, 705.135

Hist.: DO 1-2010, f. 1-28-10, cert. ef. 2-1-10

440-015-0105

Definitions

For the purpose of these rules:

(1) "Department" means the Department of Consumer and Business Services.

(2) "Director" means the director of the Department.

(3) "Designated position" means a position in the Department listed or designated under OAR 440-015-0110(2).

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 244, 705.135

Hist.: DO 1-2010, f. 1-28-10, cert. ef. 2-1-10

440-015-0110

Indebtedness and Financial Interest of Department Employees

(1) Due to the scope of their authority, and to prevent actual and potential conflicts of interest or the appearance of conflicts of interest, certain employees of the Department holding executive and senior management positions, or positions exercising particular regulatory responsibilities, shall not be or become indebted to, or hold a financial interest in, or engage in business transactions with, entities over which those employees exercise regulatory responsibilities.

(2) Positions subject to section (1) of this rule include, but are not limited to, the Director, the Deputy Director, and the Administrators and Deputy Administrators of the Building Codes Division, Division of Finance and Corporate Securities, Insurance Division, Occupational Safety and Health Division (Oregon OSHA), and Workers' Compensation Division. The Director, or division administrators subject to the Director's approval, may designate additional positions as subject to section (1) of this rule. In determining which positions shall be designated pursuant to this section, the Director or administrator shall consider the scope of the responsibilities assigned to the position and the extent to which employee holding the position could influence the regulation of an entity regulated by the Department.

(3) For each designated position, the Director (or administrator, for positions designated by an administrator) shall identify the specific types of entities in which employees holding the position may not hold financial interests or engaged in business transactions, and to which employees holding the position may not become indebted.

(4) Any employee holding a designated position shall disclose any financial interests, business transactions or indebtedness prohibited by this rule, and shall come into compliance with this rule not later than 30 days following the effective date of this rule. The Director may grant extensions to prevent undue hardship, and may grant exceptions in the event of unusual circumstances (such as inheritance), subject to such conditions as the Director shall determine.

(5) Employees newly hired into a designated position shall disclose any financial interests, business transactions or indebtedness prohibited by this rule, and shall promptly divest themselves of any such interests or indebtedness. The Director may allow such employees a reasonable period to accomplish such divestiture to prevent undue hardship, subject to such conditions as the Director shall determine.

(6) Except as provided in this rule, or in ORS 731.228 or any other statutes, rules or policies restricting the indebtedness and interests of employees, and subject to applicable statutes, rules, and policies relating to conflicts of interest and ethics, Department employees may be indebted to or hold a financial interest in an entity regulated by the Department.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 244, 705.135

Hist.: DO 1-2010, f. 1-28-10, cert. ef. 2-1-10

440-015-0115

Reporting of Indebtedness and Interests

If the director or a division administrator believes that a Department employee is engaged in a conflict of interest, or is in a situation that has the potential of being or of appearing to be a conflict of interest, in violation of the provisions of ORS Chapter 244, ORS 731.228, or any other statutes, rules, and policies applicable to indebtedness, financial interests, or conflicts of interest of employees of the Department, the Director or administrator may require the employee to complete a financial disclosure form prescribed by the Director. The Director or division administrator may also reassign the employee's duties to eliminate the potential conflict or take any other reasonable actions necessary to resolve the potential conflict.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 244, 705.135

Hist.: DO 1-2010, f. 1-28-10, cert. ef. 2-1-10

ADMINISTRATIVE RULES

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Treatment of reinsurance reserve credits of assets under agreements entered prior to November 9, 1995.

Adm. Order No.: ID 4-2010

Filed with Sec. of State: 2-5-2010

Certified to be Effective: 2-5-10

Notice Publication Date: 12-1-2009

Rules Adopted: 836-012-0332

Rules Amended: 836-012-0300, 836-012-0310

Subject: NAIC accreditation Part A Laws & Regulation standards require states to include in statute or regulation a provision that insurers reduce to zero any reserve credits or assets established with respect to existing reinsurance agreements entered into prior to the effective date of the Life and Health Reinsurance Agreements Model Regulation (OAR 836-012-0300 to 836-012-0332) which would not be recognized under the provisions of this regulation. This requirement was contained in OAR 836-012-0330, repealed September 26, 2006.

This rule was repealed in a 2006 rulemaking, the purpose of which was to correct and update erroneous or superseded statutory, rule and other references in OAR chapter 836; to eliminate and replace obsolete material; and to make other editorial and non-substantive changes.

This rule appears to have been repealed in error. The repeal of this rule removed the prohibition of an insurer reporting reserve credits or assets established with respect to existing reinsurance agreements entered into prior to the effective date of the Life and Health Reinsurance Agreements Model Regulation. This repeal violates the Reinsurance Ceded accreditation standard, Part A, 10(m).

In order to remain accredited, the Division must re-adopt and retain this rule until the NAIC accreditation standards are adjusted. The replacement rule simple states that any reserve credits or assets established with respect to reinsurance agreements entered into prior to November 9, 1995 that would not be entitled to recognition under the provisions of OAR 836-012-0300 to 836-012-0332 must be reduced to zero for purposes of the insurer's annual statement filing.

Rules Coordinator: Sue Munson—(503) 947-7272

836-012-0300

Authority; Statement of Purpose; Director's Authority

(1) OAR 836-012-0300 to 836-012-0332 are adopted pursuant to the authority of ORS 731.244 and 731.508 for the purpose of implementing ORS 731.508(6).

(2) OAR 836-012-0300 to 836-012-0332 apply to each domestic insurer transacting life insurance, health insurance or both, to each domestic health care service contractor, and to each other authorized insurer or health care service contractor transacting life insurance, health insurance or both who is not subject to substantially similar rules or regulations in its domiciliary state. 836-012-0300 to 836-012-0332 do not apply with respect to assumption reinsurance, yearly renewable term reinsurance or certain nonproportional reinsurance such as stop loss or catastrophic reinsurance.

(3) The Director recognizes that authorized insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus. It is improper for an authorized insurer, however, in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance and effect, the expected potential liability to the ceding insurer in agreements that do not transfer all of the significant risks remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival.

Stat. Auth.: ORS 731.244 & 731.508

Stats. Implemented: ORS 731.508(6)

Hist.: ID 8-1993, f. & cert. ef. 9-23-93; ID 7-1995, f. & cert. ef. 11-15-95; ID 4-2010, f. & cert. ef. 2-5-10

836-012-0310

Accounting Requirements

(1) An insurer that is subject to OAR 836-012-0300 to 836-012-332 shall not, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Director if by the terms of the reinsurance agreement, in substance or effect, one or more of the following conditions exist:

(a) Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes and direct expenses, including but not limited to expenses for billing, valuation, claims and maintenance expected by the ceding insurer at the time the business is reinsured;

(b) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses under the agreement nor payment by the ceding insurer of an amount equal to current and prior years' losses under the agreement upon voluntary termination of in-force reinsurance by the ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations in which termination occurs because of unreasonable provisions that allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels, forcing the ceding insurer to prematurely terminate the reinsurance treaty;

(c) The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for non-payment of reinsurance premiums or other amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld and tax reimbursements, shall not be considered to be such a deprivation of surplus or assets;

(d) The ceding insurer, at specific points in time scheduled in the agreement, must terminate or automatically recapture all or part of the reinsurance ceded;

(e) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the reinsured policies. For example, it is improper for a ceding insurer to pay reinsurance premiums or other fees or charges to a reinsurer that are greater than the direct premiums collected by the ceding insurer;

(f) The treaty does not transfer all of the significant risk inherent in the business being reinsured. The following table in this subsection identifies, for a representative sampling of products or type of business, the risks that are considered to be significant. For products not specifically included, the risks determined to be significant must be consistent with this table. The risk categories are as follows:

(A) Morbidity;

(B) Mortality;

(C) Lapse, which is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy;

(D) Credit Quality (C1), which is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that there will be a decrease in earning power. Credit quality excludes market value declines due to changes in interest rate;

(E) Reinvestment (C3), which is the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase;

(F) Disintermediation (C3), which is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The insurer may have to sell assets at a loss to provide for these withdrawals.

For purposes of the following chart: + - Significant 0 - Insignificant

RISK CATEGORY A B C D E F

Health Insurance - other than long + 0 + 0 0 0
term care insurance and long term disability insurance
Health Insurance - long term care + 0 + + + 0
insurance and long term disability insurance
Immediate Annuities 0 + 0 + + 0

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Single Premium Deferred Annuities 0 0 + + + + +
Flexible Premium Deferred Annuities 0 0 + + + + +
Guaranteed Interest Contracts 0 0 + + + + +
Other Annuity Deposit Business 0 0 + + + + +
Single Premium Whole Life 0 + + + + + + + + + + +
Traditional Non-Par Permanent 0 + + + + + + + + + + +
Traditional Non-Par Term 0 + + + 0 0 0
Traditional Par Permanent 0 + + + + + + + + + + +
Traditional Par Term 0 + + + 0 0 0
Adjustable Premium Permanent 0 + + + + + + + + + + +
Indeterminate Premium Permanent 0 + + + + + + + + + + +
Universal Life Flexible Premium 0 + + + + + + + + + + +
Universal Life Fixed Premium 0 + + + + + + + + + + +
Universal Life Fixed Premium 0 + + + + + + + + + + +
dump-in premiums allowed

(g)(A) The credit quality, reinvestment or disintermediation risk is significant for the business reinsured and the ceding insurer does not (other than for the classes of business excepted in paragraph (B) of this subsection (g) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the Director that legally segregates, by contract or contract provision, the underlying assets;

(B) Notwithstanding the requirements of paragraph (A) of this subsection (g), the assets supporting the reserves for the following classes of business and any classes of business that do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding insurer without segregation of such assets:

- (i) Health Insurance — long term care insurance and long term disability insurance;
- (ii) Traditional Non-Par Permanent;
- (iii) Traditional Par Permanent;
- (iv) Adjustable Premium Permanent;
- (v) Indeterminate Premium Permanent; and
- (vi) Universal Life Fixed Premium, (no dump-in premiums allowed).

(C) For assets that are not legally segregated, the associated formula for determining the reserve interest rate adjustment must reflect the ceding insurer's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

Rate = $2(I + CG)$
 $X + Y - I - CG$
When: I -- is the net investment income;
CG -- is capital gains less capital losses;
X -- is the current year cash and invested assets plus investment income due and accrued less borrowed money; and
Y -- is the same as X but for the prior year.

(h) Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within 90 days of the settlement date;

- (i) The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured;
- (j) The ceding insurer is required to make representations or warranties about future performance of the business being reinsured; or
- (k) The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged.

(2) Notwithstanding section (1) of this rule, with the prior approval of the Director, an insurer that is subject to OAR 836-012-0300 to 836-012-332 may take such reserve credit or establish such asset as the Director determines to be consistent with the Insurance Code or rules adopted thereunder, including actuarial interpretations or standards adopted by the Director.

(3)(a) An agreement entered into on or after November 9, 1995, that involves the reinsurance of business issued prior to the effective date of the agreement, along with any subsequent amendments thereto, shall be filed by the ceding insurer with the Director not later than the 30th day after its date of execution. Each filing must include data detailing the financial effect of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider OAR 836-012-0300 to 836-012-332 and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with the Director. The actuary shall maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to OAR 836-012-0300 to 836-012-0332.

(b) Any increase in surplus net of federal income tax resulting from arrangements described in subsection (a) of this section shall be identified

separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account) and recognition of the surplus increase as income must be reflected on a net of tax basis in the "Reinsurance ceded" line, as earnings emerge from the business reinsured. The following example applies to this subsection:

(A) On the last day of calendar year N, company XYZ pays a \$20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34% tax rate, the net increase in surplus at inception is \$13.2 million (\$20 million - \$6.8 million) that is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. \$6.8 million (34% of \$20 million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations;

(B) At the end of year N+1 the business has earned \$4 million. ABC has paid \$.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement would report \$1.65 million (66% of (\$4 million - \$1 million - \$.5 million) up to a maximum of \$13.2 million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -\$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.

Stat. Auth.: ORS 731.244 & 731.508
Stats. Implemented: ORS 731.508(6)
Hist.: ID 8-1993, f. & cert. ef. 9-23-93; ID 7-1995, f. & cert. ef. 11-15-95; ID 4-2010, f. & cert. ef. 2-5-10

836-012-0332

Existing Agreements

For purposes of an insurer's statutory financial statement filings, each insurer subject to OAR 836-012-0300 to 836-012-331 shall reduce to zero any reserve credits or assets established with respect to reinsurance agreements entered into prior to November 9, 1995 that, under the provisions of OAR 836-012-0300 to 836-012-331 as amended, would not be entitled to recognition of the reserve credits or assets.

Stat. Auth.: ORS 731.244 & 731.508
Stats. Implemented: ORS 731.508(6)
Hist.: ID 4-2010, f. & cert. ef. 2-5-10

Department of Energy Chapter 330

Rule Caption: Procedure and Fees for Public Records Request and Adopt Attorney General's Model Rules of Procedure.

Adm. Order No.: DOE 2-2010

Filed with Sec. of State: 1-27-2010

Certified to be Effective: 1-27-10

Notice Publication Date: 12-1-2009

Rules Adopted: 330-001-0025

Rules Amended: 330-001-0005

Subject: The rule adopts provisions for the public to follow when requesting to inspect Oregon Department of Energy documents under the public records law, ORS 192.

The rules also adopt the latest Attorney General's Model Rules of Procedure.

Rules Coordinator: Kathy Stuttaford—(503) 378-4128

330-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Department of Energy adopts the Attorney General's Model Rules of Procedure under the Administrative Procedure Act as amended and effective January 1, 2008.

Stat. Auth.: ORS 183
Stats. Implemented: ORS 183
Hist.: DOE 1, f. 8-27-75, ef. 9-25-75; DOE 4-1978, f. & ef. 5-2-78; DOE 4-1980, f. & ef. 3-12-80; DOE 6-1981, f. & ef. 12-1-81; DOE 5-1988, f. & cert. ef. 8-18-88; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 2-2010, f. & cert. ef. 1-27-10

330-001-0025

Public Records Request

(1) All public records of the Oregon Department of Energy are available for public inspection and copying at the Department during usual business hours, except for records that the Department has determined to be exempt or conditionally exempt from disclosure in accordance with ORS

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Chapter 192.410–191.505 and any other references establishing an exemption to disclosure of public records.

(2) A request to inspect or obtain copies of a public record or information from public records shall be made in writing or in person, and shall include:

(a) The name, address and telephone number of the requester, except as considered unnecessary by the director;

(b) An identification of the needed public record, or of the type and format of needed public record information, if known to the requester; and

(c) The number of copies requested of the record, if copies are requested.

(3) A person who is receiving a copy of a public record or information from a public record shall pay for the department's actual cost for:

(a) Staff time necessary to locate and handle the records, to delete material exempt from disclosure and to supervise the inspection by the requester;

(b) Producing the copy or the information; and

(c) Other supplies or services necessary to furnish the copy or information.

(4) In accordance with Chapter 192 the Director may reduce or waive payment of the fee for access of a public record if the director determines that the reduction or waiver is in the public interest including when the costs associated with collecting the fee would exceed the cost of producing the public record.

(5) The requester shall pay all fees for access of a public record in advance unless later payment is approved by the director.

(6) The director establishes fees and miscellaneous charges in agency policy, reviewed periodically, but not less than every three years, to insure all charges reflect no more than the actual cost of producing and processing.

Stat. Auth.: ORS 192.430 & 192.440
Stats. Implemented: ORS 192.410 - 192.505
Hist.: DOE 2-2010, f. & cert. ef. 1-27-10

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Department of Environmental Quality
Chapter 340

Rule Caption: Streamlining Water Quality General Permit Application.

Adm. Order No.: DEQ 1-2010

Filed with Sec. of State: 1-22-2010

Certified to be Effective: 1-22-10

Notice Publication Date: 9-1-2009

Rules Amended: 340-045-0033

Subject: The proposed amendment to Oregon Administrative Rule OAR 340-045-0033 will allow general permits previously adopted by the Environmental Quality Commission by rule to be superseded by permits subsequently be a department order by the Director, Oregon Department of Environmental Quality. There are 22 NPDES and WPCF general permits that were adopted by rule in OAR 340-045 that cover such discharges as stormwater, washwater, suction dredges and seafood processing. Eight permits that are listed there will be removed from OAR 340-045 because they expired and were superseded by a new permit. The remaining permits will be superseded by general permits adopted y department order in the future. In addition, text revisions were made to clarify the rule language in OAR 340-045.

Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-045-0033

General Permits

(1) General permits may be adopted by a rule of the Environmental Quality Commission or by order issued by the Director. A permit adopted by rule may be terminated by a later permit issued by order if the later permit covers the same activity and specifically provides for termination of the earlier permit.

(2) General permits may be developed for certain categories of minor discharge sources or minor activities where individual NPDES or WPCF permits are not necessary to adequately protect the environment. Before the Director can issue a general permit, the following conditions must be met:

(a) There must be several minor sources or activities that involve the same or substantially similar types of operations.

(b) The sources or activities must have the potential to discharge or dispose of the same or similar types of wastes.

(c) The general permit must require the same or similar monitoring requirements, effluent limitations and operating conditions for the categories.

(d) The category of sources or activities would be more appropriately controlled under a general permit than an individual permit.

(3) General permits issued after the effective date of this rule will specify the following:

(a) The requirements to obtain coverage under a general permit, including application requirements and application submittal deadlines. The Department may determine that submittal of an application is not necessary after evaluating the type of discharge, potential for toxic and conventional pollutants in the discharge, expected discharge volume, availability of other means to identify dischargers, and estimated number of dischargers to be covered by the permit. The Department's evaluation must be provided in the public notice for the general permit.

(b) The process used by the Department to notify a person that coverage under a general permit has been obtained and the discharge or activity is authorized.

(4) Although general permits may include activities throughout the state, they may also be restricted to more limited geographical areas.

(5) Prior to issuing a general permit, the Department will follow the public notice and participation procedures outlined in OAR 340-045-0027 and 340-045-0035(3). If the general permit is to be adopted into rule, the Department will also follow ORS 183.325 to 183.410. In addition the Department will make reasonable efforts to notify potentially interested persons.

(6) Any person operating a discharge source or conducting an activity described in a general permit must apply for coverage under the general permit, unless the general permit does not require submission of an application pursuant to subsection (3)(a) of this rule or the source or activity is specifically covered by an individual NPDES or WPCF permit, or a person makes an application for an individual permit pursuant to subsection (9) of this rule. Any person seeking coverage under a general permit must submit an application as required under the terms of the applicable NPDES or WPCF general permit. If application requirements are not specified in the general permit, procedures in OAR 340-045-0030 or 340-071-0162, whichever is applicable, must be followed. A person who fails to submit an application in accordance with the terms of the general permit, OAR 340-045-0030 or 340-071-0162, whichever is applicable, is not authorized to conduct the activity described in the permit.

(7) Any person required to have coverage under a general permit must pay permit fees as required in OAR 340-045-0070 to 340-045-0075 or 340-071-0140 to obtain and maintain coverage under that permit.

(8) Any permittee covered by an individual NPDES or WPCF permit may request that the individual permit be canceled or allowed to expire, and that it be covered by a general permit if its discharge or activity may be covered by an existing general permit. As long as the permittee is covered by an individual NPDES or WPCF permit, the conditions and limitations of the individual permit govern until such time as it is canceled or expires.

(9) Any person not wishing to be covered by a general permit may make application for an individual permit in accordance with OAR 340-045-0030 or 340-071-0162, whichever is applicable.

(10) The Director may refuse to authorize or renew coverage or may revoke existing coverage under a general permit as it applies to any person and require such person to apply for and obtain an individual NPDES or WPCF permit.

(a) The procedures for denial of a permit in OAR 340-045-0050 and for permit revocation in OAR 340-045-0060 apply.

(b) Any interested person may petition the Director to take action under this section.

(c) The grounds for requiring an individual permit include the following:

(A) The discharge or activity is a significant contributor of pollution or creates other environmental problems;

(B) The permittee failed to comply or is not currently in compliance with the terms and conditions of the general permit, submitted false information, or the permittee is in violation of any applicable law;

(C) A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants being discharged;

(D) For NPDES general permits, effluent limitation guidelines are promulgated for point sources covered by a general permit and the guidelines are not already in the general permit;

(E) Circumstances have changed so that the discharge or activity is no longer appropriately controlled under a general permit, or either a tempo-

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rary or permanent reduction or elimination of the authorized discharge is necessary; or

(F) Any other relevant factors.

(11) The following general permits are adopted by reference in this rule and available for review at the Department:

(a) NPDES 200-J, Filter backwash (issued August 29, 1997);

(b) NPDES 500-J, Boiler blowdown (issued August 29, 1997);

(c) NPDES 700-PM, Suction dredges (issued July 5, 2005);

(d) NPDES 1200-A, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from sand, gravel & non-metallic quarrying and mining in Standard Industrial Classification (SIC) 14, asphalt mix batch plants and concrete batch plants. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 26, 2002);

(e) NPDES 1200-A, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from sand, gravel & non-metallic quarrying and mining in SIC 14, asphalt mix batch plants and concrete batch plants. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 1, 2007);

(f) NPDES 1200-C, Storm water runoff from construction activities, including clearing, grading, and excavation, and stockpiling that disturbs one or more acres, and may discharge to surface waters or conveyance systems leading to surface waters. Also included are activities that will disturb less than one acre if such activities are part of a larger common plan of development that will disturb one or more acres over time (issued December 28, 2005)

(g) NPDES 1200-CA, Government agencies responsible for storm water runoff from construction activities that disturbs five or more acres; effective December 1, 2002, construction activities that disturb one or more acres are covered (issued February 20, 2001);

(h) NPDES 1200-COLS, Storm water runoff that may discharge to surface waters in the Columbia Slough watershed or conveyance systems leading to surface waters in the Columbia Slough watershed from industrial activities; see Sources Covered section of the permit for list of specific activities. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued September, 1, 2006);

(i) NPDES 1200-Z, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from industrial activities; see Sources Covered section of permit for a specific list of activities. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 26, 2002);

(j) NPDES 1200-Z, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from industrial activities; see Sources Covered section of permit for a specific list of activities covered. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 1, 2007);

(k) NPDES 1500-A, Petroleum hydrocarbon cleanups discharged to surface waters (issued August 22, 2000);

(l) NPDES 1700-A, Vehicle and equipment wash water discharged to surface waters (issued March 5, 1998);

(m) NPDES 1900-J, Non-contact geothermal heat exchange (issued September 11, 1997);

(n) NPDES 01, Confined animal feeding operations (issued October 1, 2003).

Stat. Auth.: ORS 468.020, 468B.020 & 468B.035

Stats. Implemented: ORS 468.065, 468B.015, 468B.035 & 468B.050

Hist.: DEQ 28-1980, f. & ef. 10-27-80; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 13-2001, f. & cert. ef. 10-16-01; DEQ 8-2002, f. & cert. ef. 8-9-02; DEQ 14-2002, f. & cert. ef. 10-16-02; DEQ 12-2003, f. & cert. ef. 9-2-03; DEQ 5-2005, f. & cert. ef. 7-1-05; DEQ 11-2005, f. & cert. ef. 12-28-05; DEQ 10-2006, f. 8-15-06, cert. ef. 9-1-06; DEQ 1-2010, f. & cert. ef. 1-22-10

Department of Fish and Wildlife Chapter 635

Rule Caption: Modifications to Regulations Governing Marine Reserves and Protected Areas in Oregon's Territorial Sea.

Adm. Order No.: DFW 6-2010

Filed with Sec. of State: 1-22-2010

Certified to be Effective: 6-30-11

Notice Publication Date: 11-1-2009

Rules Adopted: 635-012-0020, 635-012-0030, 635-012-0050, 635-012-0060

Subject: These adopted rules replace incorrect versions filed previously. These rules will regulate hunting and fishing activities in the Otter Rock and Redfish Rocks Marine Reserves and the Redfish Rocks Marine Protected Area. The proposed rules prohibit fishing for, hunting for, or take of any fish or wildlife species in the marine reserves; and allow for removing crab pots and other fishing gear; scientific research; transiting, drifting, or anchoring; and non-extractive activities. In the marine protected area, the proposed rules prohibit and allow the same activities as in marine reserves, with the addition of allowing commercial and recreational salmon trolling and crabbing for Dungeness and red rock crab.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-012-0020

Purpose

(1) The purpose of the regulations in this section are to implement Oregon House Bill 3013 (2009) by regulating activities in areas of Oregon's territorial sea designated as marine reserves or marine protected areas.

(2) These rules are effective June 30, 2011.

Stat. Auth.: ORS 506.119, 506.129

Stats. Implemented: HB 3013 (2009)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11

635-012-0030

Definitions

For the purposes of OAR 635, Division 012 the following definitions apply:

(1) "Commission" means the Oregon Fish and Wildlife Commission.

(2) "Department" means the Oregon Department of Fish and Wildlife.

(3) "Fish" means all game fish as defined by ORS 496.009 and food fish as defined by ORS 506.036.

(4) "Fishing gear" has the meaning given in OAR 635-004-0020.

(5) "Take" means to kill or obtain possession or control.

(6) "Wildlife" means all wild birds, amphibians, reptiles, and wild mammals.

Stat. Auth.: ORS 506.119, 506.129

Stats. Implemented: HB 3013 (2009)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11

635-012-0050

Marine Reserve Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Otter Rock and Redfish Rocks marine reserve areas: Take or attempt to take, including fishing or hunting, of any fish or wildlife species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Remove fishing gear from within the marine reserve boundary, provided that the retrieving vessel operator must notify the Oregon State Police at 1-800-452-7888 and receive permission before retrieving the gear and no fish or wildlife species from the retrieved gear shall be retained. Specific to commercial crab pots:

(A) If the pot(s) do not belong to the retrieving vessel, the vessel operator must follow the retrieval requirements set forth in OAR 635-005-0055(9)(b).

(B) If the pot(s) do belong to the retrieving vessel, the vessel operator may re-set the pot(s) outside of the reserve area.

(b) Take fish and wildlife species if authorized by a valid scientific taking permit as required by OAR divisions 635-007 and 635-043.

(c) Have catch onboard while transiting or anchoring in the marine reserve area. Except as allowed by subsection (2)(b) above, fishing gear shall not be deployed in the water at any time within the marine reserve.

(3) Nothing in this rule supersedes the Agreement between the Siletz Tribe, the United States and the State of Oregon, recorded at OAR 635-041-0500, defining specified tribal hunting, fishing, trapping and gathering rights by the Siletz Tribe and its members.

Stat. Auth.: ORS 506.119, 506.129

Stats. Implemented: HB 3013 (2009)

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Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11

635-012-0060

Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Redfish Rocks marine protected areas:

(a) Take or attempt to take any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries otherwise authorized by Commission rule.

(b) Commercially or recreationally fish for and take crab in fisheries otherwise authorized by Commission rule.

(c) Take fish and wildlife species if authorized by a valid scientific taking permit as required by OAR divisions 635-007 and 635-043.

(d) Have catch onboard while transiting or anchoring in the marine protected area. Except as allowed by subsections (2)(a), (2)(b), and (2)(c) above, fishing gear shall not be deployed in the water at any time within the marine protected area.

(3) It is unlawful to fish for or take any legal species in the marine protected area while possessing onboard any species not allowed to be taken in the marine protected area.

Stat. Auth.: ORS 506.119, 506.129

Stats. Implemented: HB 3013 (2009)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11

Rule Caption: 2010 Spring Chinook Season on the Deschutes River.

Adm. Order No.: DFW 7-2010(Temp)

Filed with Sec. of State: 1-25-2010

Certified to be Effective: 4-1-10 thru 7-31-10

Notice Publication Date:

Rules Amended: 635-018-0090

Subject: Amended rule allows the sport harvest of spring Chinook salmon in the Lower Deschutes River from April 1 through July 31, 2010. The open area would extend from Sherars Falls downstream to the mouth of the river. During the open period, the proposed bag limit would be 2 adipose fin-clipped Chinook salmon per day, and 5 adipose fin-clipped jack salmon per day. All unmarked Chinook salmon must be released unharmed and it will be unlawful to angle from Sherars Falls downstream to the upper railroad trestle after taking a daily bag limit of 2 adult Chinook salmon.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-018-0090

Inclusions and Modifications

(1) The **2010 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2010 Oregon Sport Fishing Regulations**.

(2) The Deschutes River from the mouth at the I-84 Bridge upstream to Sherars Falls is open to angling for trout, steelhead, and adipose fin-clipped Chinook salmon from April 1 through July 31, 2010.

(a) The catch limit is two adult adipose fin-clipped salmon and five adipose fin-clipped jack salmon per day. All non-adipose fin-clipped Chinook salmon must be released unharmed.

(b) It is unlawful to continue angling from Sherars Falls downstream to the upper railroad trestle after taking a daily bag limit of two adult Chinook salmon.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp) f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-

24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04, Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 5-1-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09; DFW 61-2009(Temp), f. 6-1-09, cert. ef. 8-1-09 thru 10-31-09; DFW 104-2009(Temp), f. 8-28-09, cert. ef. 9-1-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 7-2010(Temp), f. 1-25-10, cert. ef. 4-1-10 thru 7-31-10

Rule Caption: Amend rules to add Virginia to cervid part importation ban.

Adm. Order No.: DFW 8-2010(Temp)

Filed with Sec. of State: 1-25-2010

Certified to be Effective: 1-25-10 thru 7-24-10

Notice Publication Date:

Rules Amended: 635-065-0765

Subject: This temporary rule amends rules to add Virginia to the list of states from which the importation of certain cervid parts is banned.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-065-0765

Tagging, Possession, Transportation and Evidence of Sex

(1) When the owner of any game mammal tag kills a game mammal for which a tag is issued, the owner shall immediately remove in its entirety only the month and day of kill and attach the tag in plain sight securely to the game mammal. The tag shall be kept attached to such carcass or remain with any parts thereof so long as the same are preserved.

(2) It is unlawful to have in possession any game mammal tag from which all or part of any date has been removed or mutilated except when the tag is legally validated and attached to a game mammal.

(3) It is unlawful to possess the meat or carcass of any pronghorn antelope, bighorn sheep, or Rocky Mountain goat without the animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, horns, and eyes if the animal is male.

(4) It is unlawful to possess the meat or carcass of any deer or elk without evidence of sex while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. Evidence of sex for deer and elk is:

(a) Evidence of sex for deer and elk which will be taken out of Oregon is:

(A) For Bucks and Bulls: Either the head with antlers naturally attached to at least one quarter of the carcass or testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat. For hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(B) For Does and Cows: Either the head naturally attached to at least one quarter of the carcass or vulva or udder (mammary) naturally attached to one quarter of the carcass or to another major portion of meat.

(C) For Either Sex Hunts: Either the head naturally attached to at least one quarter of the carcass or reproductive organs (testicles, scrotum, penis, vulva, udder, mammary) naturally attached to one quarter of the carcass or to another major portion of meat. For bucks or bulls killed in either sex hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one

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quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(D) For hunts where only white-tailed deer and for hunts where only mule deer are legal: in addition to evidence of sex, either the head or tail shall remain naturally attached to one quarter of the carcass or to another major portion of meat as evidence of the species taken while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(b) Evidence of sex for deer and elk which will not be taken out of Oregon is either:

(A) The animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, antlers, and eyes if the animal is male, or;

(B) The head naturally attached to at least one quarter of the carcass or reproductive organs naturally attached to one quarter of the carcass or to another major portion of meat as described in (4)(a)(i)-(iv) above.

(5) When any game mammal or part thereof is transferred to the possession of another person, a written record describing the game mammal or part being transferred indicating the name and address of the person whose tag was originally attached to the carcass and the number of that tag shall accompany such transfer and shall remain with such game mammal or part so long as the same is preserved or until replaced by a tag or seal of the Department.

(6) All game mammals in possession in the field or forest or in transit more than 48 hours after the close of the open season for such mammal must be tagged with a tag or metal seal by the Department or by the Oregon State Police.

(7) All game mammals or portions thereof shipped by commercial carrier shall be tagged with a tag or metal seal provided by the Department or by the Oregon State Police.

(8) It is unlawful to receive or have in possession any game mammal or part thereof which:

(a) Is not properly tagged;

(b) Was taken in violation of any wildlife laws or regulations; or

(c) Was taken by any person who is or may be exempt from the jurisdiction of such laws or regulations.

(9) No person shall possess any game mammal or part thereof which has been illegally killed, found or killed for humane reasons, except shed antlers, unless he has notified and received permission from the Department or personnel of the Oregon State Police prior to transporting.

(10) No person shall possess the horns of bighorn sheep or Rocky Mountain goat that were not taken legally during an authorized season. Any horns of bighorn sheep or Rocky Mountain goat obtained by the Department may be made available to scientific and educational institutions and for ceremonial purposes.

(11) Except for the following parts, importation of a cervid carcass or parts of a cervid carcass is prohibited if the cervid was killed in a state or province with a documented case of Chronic Wasting Disease:

(a) meat that is cut and wrapped commercially or privately;

(b) meat that has been boned out;

(c) quarters or other portions of meat with no part of the spinal column or head attached;

(d) hides and/or capes with no head attached;

(e) skull plates with antlers attached that have been cleaned of all meat and brain tissue;

(f) antlers with no tissue attached;

(g) upper canine teeth (buglers, whistlers, ivories);

(h) finished taxidermy heads.

(12) For the purposes of the parts and carcass import ban in subsection (11), the states or provinces with a documented case of Chronic Wasting Disease (CWD) are Alberta, Colorado, Illinois, Kansas, Michigan, Minnesota, Montana, Nebraska, New Mexico, New York, Oklahoma, South Dakota, Wisconsin, Wyoming, Utah, Virginia, West Virginia, and Saskatchewan. The Department shall add by temporary rule any additional states or provinces when any new cases of CWD arise.

(13) The parts and carcass import ban in subsection (11) does not apply to parts or carcasses shipped to the National Fish and Wildlife Forensics Laboratory (Ashland, Oregon) for the purpose of law enforcement investigations and also does not apply to parts or carcasses of reindeer/caribou.

(14) Cervid carcasses or parts of cervid carcasses found in Oregon in violation of the parts and carcass ban in subsection (11) shall be disposed of in a manner as follows:

(a) Brain tissue, spinal columns, and whole heads or heads minus the cleaned skull plate and attached antlers, shall be disposed of either by incineration at temperatures exceeding 800° F or at lined landfills registered by Oregon Department of Environmental Quality capable of accepting animal carcasses without environmental contamination; rendering is not an allowed means of disposal.

(b) The person(s) who imported parts in violation of the parts and carcass ban in subsection

(11) shall pay for appropriate disposal of cervid carcasses or parts of cervid carcasses.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1988, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 90-2002(Temp), f. & cert. ef. 8-16-02 thru 2-11-03; DFW 114-2002(Temp), f. & cert. ef. 10-18-02 thru 2-11-03; DFW 126-2002, f. & cert. ef. 11-12-02; DFW 127-2002(Temp), f. & cert. ef. 11-14-02 thru 2-11-03; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 61-2003, f. & cert. ef. 7-16-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 111-2005(Temp), f. & cert. ef. 9-23-05 thru 10-31-05; Administrative correction 11-18-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 135-2008, f. & cert. ef. 10-17-08; DFW 2-2009, f. & cert. ef. 1-9-09; DFW 8-2010(Temp), f. & cert. ef. 1-25-10 thru 7-24-10

Rule Caption: White Sturgeon Legal Size Determined Using Fork Length Measuring Method In Treaty Winter Fisheries.

Adm. Order No.: DFW 9-2010(Temp)

Filed with Sec. of State: 2-3-2010

Certified to be Effective: 2-3-10 thru 8-1-10

Notice Publication Date:

Rules Amended: 635-041-0065

Subject: Amended rule relating to the method by which white sturgeon are measured to determine if they are of legal length for retention in winter Treaty Indian fisheries above Bonneville Dam.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0065

Winter Season

(1) Salmon, steelhead, shad, white sturgeon, walleye and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21.

(2) There are no mesh size restrictions.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) White sturgeon with a fork length of 43–54 inches taken in The Dalles and John Day pools and white sturgeon with a fork length of 38–54 inches taken in the Bonneville Pool may be sold or kept for subsistence use.

(5) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. & cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-

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13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 7-31-09; Administrative correction 8-21-09; DFW 9-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10

Rule Caption: Commercial Smelt Fishing Area Boundaries Modified in Zone Two of the Columbia.

Adm. Order No.: DFW 10-2010(Temp)

Filed with Sec. of State: 2-4-2010

Certified to be Effective: 2-8-10 thru 3-31-10

Notice Publication Date:

Rules Amended: 635-042-0130

Rules Suspended: 635-042-0130(T)

Subject: This amended rule modifies the boundaries within Zone 2 of the Columbia River mainstem authorized for the commercial harvest of smelt. Modifications close those waters of Zone 2 upstream of the markers at USCG navigation marker #16 in Deep River; those waters upstream of the outer most uplands at the mouth of the Grays River; and those waters upstream of the outer most uplands at the mouth of the Elochoman River. This modification will prohibit harvest in these Washington tributaries and align recreational and commercial area regulations. Revisions are consistent with the action taken February 4, 2010 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0130

Smelt Season

(1) Smelt may be taken for commercial purposes from the Columbia River in Zones 1 through 5, except those waters of Zone 2 upstream of the markers at USCG navigation marker #16 in Deep River; those waters upstream of the outer most uplands at the mouth of the Grays River; and those waters upstream of the outer most uplands at the mouth of the Elochoman River, during the following times: Mondays and Thursdays from 7:00 a.m. to 2:00 p.m. (7 hrs.) during the period from January 1 through March 31.

(2) It is unlawful to use any gear other than those listed below for the taking of smelt in the Columbia River:

(a) Gill nets of a mesh size not more than two inches. Nets may consist of, but are not limited to, monofilament webbing;

(b) Dip nets having a bag frame no greater than 36 inches in diameter;

(c) Trawl nets with:

(A) Head rope not to exceed 25 feet in length;

(B) Foot rope or groundline not to exceed 25 feet in length;

(C) Door size not to exceed three feet by four feet;

(D) Mesh size not to exceed two inches;

(E) Bag length from the center of the head rope to the terminal end of the bunt not to exceed 35 feet;

(F) Breast rope not to exceed five feet;

(G) Bridle rope from rear of doors to foot rope and head rope not to exceed eight feet.

(3) No more than one trawl net at a time may be fished from any fishing vessel to take smelt.

(4) In the Columbia River upstream from Zone 1, it is *unlawful* to take smelt from a trawl vessel which exceeds 32 feet in overall length.

(5) For the purposes of this rule, Zone 1 is the area downstream of a straight line from a beacon light at Grays Point on the Washington bank to the flashing 4-second red buoy "44" off the easterly tip of Tongue Point on the Oregon Bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 8-2000(Temp), f. 2-18-00, cert. ef. 2-20-00 thru 2-29-00; Administrative correction

3-17-00; DFW 80-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 10-2001(Temp), f. & cert. ef. 3-6-01 thru 3-31-01; Administrative correction 6-21-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; Administrative correction 8-19-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 8-2005(Temp), f. & cert. ef. 2-24-05 thru 4-1-05; Administrative correction 4-20-05; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; Administrative correction 8-22-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; Administrative correction 9-16-07; DFW 125-2007(Temp), f. 11-29-07, cert. ef. 12-1-07 thru 5-28-08; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 10-2008, f. & cert. ef. 2-11-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 20-2009, f. & cert. ef. 2-26-09; DFW 151-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 3-31-10; DFW 10-2010(Temp), f. 2-4-10, cert. ef. 2-8-10 thru 3-31-10

Rule Caption: Adopt Rules for the Mid-Columbia Steelhead Conservation and Recovery Plan.

Adm. Order No.: DFW 11-2010

Filed with Sec. of State: 2-8-2010

Certified to be Effective: 2-8-10

Notice Publication Date: 1-1-2010

Rules Adopted: 635-500-6550

Subject: This adopted rule implements the Oregon Mid-Columbia Steelhead Conservation and Recovery Plan. The Plan is in response to a listing under the federal Endangered Species Act and in keeping with planning requirements under Oregon's Native Fish Conservation Policy.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-500-6550

Conservation and Recovery Plan for Oregon Steelhead Populations in the Middle Columbia River Steelhead Distinct Population Segment

(1) **Policy.** The Conservation and Recovery Plan for Oregon Steelhead Populations in the Middle Columbia River Steelhead Distinct Population Segment (Oregon Mid-C Steelhead Plan) (State of Oregon 2010, available at Oregon Department of Fish and Wildlife offices) implements the State's strategy for protecting and enhancing Oregon populations of steelhead in the Middle Columbia, in cooperation with other federal and local partners, including Oregon Plan natural resource agencies and NOAA Fisheries. This rule describes the Commission's contribution toward this collective effort and directs the Department's implementation of the Oregon Mid-C Steelhead Plan. The Oregon Mid-C Steelhead Plan is based on the following general premises: first, that habitat management and improvement is the key to protecting and enhancing Mid-C steelhead; second, that much of the most important steelhead habitat is on private land; third, that habitat improvement on private land is most likely to occur through incentive-based cooperative partnerships with landowners; and fourth, that the Oregon Plan for Salmon and Watersheds provides the best vehicle for securing these partnerships and implementing habitat improvements. This rule describes the Department's role in implementing the Oregon Mid-C Steelhead Plan consistent with the Department's statutory authorities and the Native Fish Conservation Policy (OAR 635-007-0502 thru 635-007-0505). The rule is not intended to be a rigid recipe but rather to identify the range of opportunities the Department should pursue and how the effectiveness of those opportunities should be evaluated, following the template first established in the Native Fish Conservation Policy.

(2) **Description of Species Management Unit and Populations.** The Species Management Unit (SMU) for Oregon Mid-C steelhead is the Oregon portion of the Middle Columbia Distinct Population Segment (DPS) that is comprised of component major population groups (MPGs) and independent populations, as described by the National Oceanic and Atmospheric Administration (NOAA) Interior Columbia Technical Recovery Team (ICTRT) reported in ICTRT in 2003 and 2005. The Department adopts the definitions of steelhead populations proposed by the NOAA ICTRT. These include all significant Oregon streams flowing directly into the Columbia River from, and inclusive of, Fifteenmile Creek east to, and inclusive of, the Walla Walla River. To avoid confusion and because the SMU is the same as the federal DPS designation, the term DPS will be used to designate the SMU for Oregon Mid-C steelhead.

(3) **Desired Status.** The desired status goal for Oregon populations of Mid-C steelhead is two-tiered such that:

(a) Initial improvements in steelhead survival from actions implemented for habitat, hydrosystem and hatcheries so that:

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(A) The DPS-level criteria, based on the Viability Criteria for Application to Interior Columbia Basin Salmonid ESUs as described by the NOAA ICTRT in 2007, are met for long-term persistence of the DPS; and

(B) Those independent populations identified in the MPG Recovery Scenarios in Section 5 of the plan as needing to be viable achieve the level classified as viable, based on the Viability Criteria for Application to Interior Columbia Basin Salmonid ESUs, as described by the NOAA ICTRT in 2007.

(b) Eventual improvements in steelhead survival from management actions provide for all independent populations to be sufficiently abundant, productive, and diverse (in terms of life histories and geographic distribution) so that they provide significant ecological, social, cultural, and economic benefits.

(c) This broad sense recovery goal for the DPS shall be achieved when all Oregon independent Mid-C steelhead populations pass all of the measurable criteria for highly viable and reintroduction efforts are underway for extirpated populations.

(d) The seven measurable criteria for desired status of Oregon Mid-C steelhead independent populations are:

- (A) Abundance;
- (B) Productivity;
- (C) Spawning distribution;
- (D) Life history, phenotypic and genotypic variation expression;
- (E) Natural spawner composition;
- (F) Habitat occupancy; and
- (G) Habitat integrity and selective mortality.

(e) The above measurable criteria are defined in Section 5 of the Oregon Mid-C Steelhead Plan. While criteria for survival rate to each critical life history stage can not yet be developed with the available information and monitoring, staff shall establish such criteria for these biological attributes when adequate information and monitoring is available.

(4) **Current Status.** The current status of the Oregon Mid-C steelhead DPS at the time of the adoption of this rule is described in Section 6 of the Oregon Mid-C Steelhead Plan. This assessment describes the biological attributes, criteria and metrics used to assess the status of the DPS. Those biological attributes, criteria, and metrics are adopted by reference into this rule. The Department shall update current status periodically consistent with timelines described in Section 12 of the Oregon Mid-C Steelhead Plan, Implementation and Adaptive Management, but these updates do not require rule modification of current status, but rather will serve as a measurement of progress toward desired status.

(5) **Primary Limiting Factors.**

(a) Numerous factors contribute to the gap between current and desired status of populations comprising the Oregon Mid-C Steelhead DPS. Marine survival of steelhead associated with ocean conditions is the largest single factor regulating steelhead productivity and abundance. Marine survival is not considered a primary limiting factor for steelhead because management has little influence on marine survival.

(b) The factors generally causing the gap between current and desired status for the Oregon Mid-C Steelhead DPS that can be managed are:

- (A) Impaired mainstem Columbia River and tributary fish passage;
- (B) Stream habitat complexity including riparian condition;
- (C) Water quality;
- (D) Water quantity;
- (E) Altered sediment routing;
- (F) Blocked access to historical habitat;
- (G) Hatchery impacts; and
- (H) Predation.

(c) Primary and secondary limiting factors are identified for each population within the Oregon portion of the DPS in Section 8 of the Oregon Mid-C Steelhead Plan. Staff will continue to help revise and identify new management actions addressing these factors to aid in reaching desired status. Staff may analyze the limiting factors at a finer, more localized scale when selecting or prioritizing management actions for specific areas. These analyses may find primary and secondary factors different at a local scale than what was found at the DPS or population scale.

(6) **Management Strategies.** Staff shall consider and attempt to implement these management strategies designed for the DPS as a whole, and for constituent populations as applicable, as mechanisms to reach the desired status.

(a) **Short-term Strategies (1 to 5 years):**

(A) Provide technical support to local watershed groups to inform them of the primary and secondary limiting factors at local scales within populations.

(B) Educate and inform watershed groups and co-managers of the highest priority tributary management actions. Facilitate implementation of the highest priority tributary habitat actions.

(C) Continue implementing the Reintroduction and Conservation Plan for Anadromous Fish in the Upper Deschutes River.

(D) Facilitate the implementation of the adaptive management strategy and framework identified in Section 12 of the Oregon Mid-C Steelhead Plan.

(E) Implement actions to reduce the abundance of stray hatchery origin steelhead in the Deschutes River populations.

(F) Continue to support improvement in flow and passage conditions in mainstem Columbia River hydrosystem operations.

(b) **Additional Long-term Strategies (1 to 25 years):**

(A) Manage hatchery steelhead programs in a manner that will contribute to fisheries and attainment of the desired status goal.

(B) Continue to manage for low impact recreational and commercial fisheries to manage harvest impacts to naturally produced steelhead consistent with the US vs OR Columbia River Management Agreement.

(C) Provide monitoring data and conduct analyses for applicable annual and periodic reviews to assess action effectiveness and support the desired status goal for the Oregon Mid-C Steelhead DPS.

(D) Provide technical support to, and coordinate with, federal, state and local agencies and groups to protect existing high quality steelhead habitat.

(E) Provide technical support to, and coordinate with, federal, state and local agencies and groups to create additional high quality steelhead habitat.

(F) Provide technical and outreach support to willing landowners that will enhance the maintenance and/or creation of high quality steelhead habitat.

(G) Restore sustained natural steelhead production to blocked areas in the upper Deschutes Basin.

(H) Reduce the abundance of stray hatchery steelhead in the John Day River populations.

(I) Improve the quality of abundance, productivity, spatial structure, and diversity information for select populations in the Oregon Mid-C Steelhead DPS.

(7) **Adaptive Management.** The Department shall employ adaptive management principles within its statutory authority in support of achieving the desired status goal for the DPS by participating in the adaptive management and implementation processes defined in Section 12 of the Oregon Mid-C Steelhead Plan. The Department's contribution to adaptive management of the DPS by the state of Oregon will include five elements: research; monitoring; evaluation; a feedback loop; and reporting.

(a) **Research.** The Department shall support high priority research identified in the Plan that addresses uncertainties related to management strategies and actions needed to achieve desired status. Research needs identified in the Oregon Mid-C Steelhead Plan at the time of adoption (but which are not intended to be the exclusive research projects to be pursued) are:

(A) The effectiveness of hatchery supplementation to enhance natural production in the Umatilla River population;

(B) The relative importance of limiting factors to steelhead through-out freshwater and estuarine residence;

(C) The survival and productivity benefits provided by tributary habitat, mainstem hydrosystem, hatchery, estuary and predation control management actions;

(D) The methods to maintain, enhance, or promote high quality steelhead rearing and spawning habitat;

(E) The impact of predation (from marine mammals, birds, and exotic fishes) on Oregon Mid-C steelhead;

(F) Effectiveness of the re-establishment of a naturally producing steelhead in the upper Deschutes River Basin;

(G) Improved methodologies to determine population abundance and productivity; and

(H) The impacts of stray hatchery steelhead on the viability of Deschutes River populations.

(I) Future research needs shall be identified during periodic assessments of the effectiveness of the Oregon Mid-C Steelhead Plan.

(b) **Monitoring.** The Department shall continue to identify, implement, and support monitoring needed to assess the status of the DPS and steelhead populations relative to desired status criteria, evaluate habitat status trends in the Oregon Mid-C steelhead DPS, and evaluate the effectiveness of management actions.

ADMINISTRATIVE RULES

(A) The Department shall immediately enhance implementation of annual juvenile steelhead, adult steelhead and habitat monitoring, as funding allows and under the guidance of the Mid-C Technical Team, at levels that provide estimates at the scale of independent populations and MPG's.

(B) Monitoring needs identified in the Oregon Mid-C Steelhead Plan at the time of plan adoption include the monitoring of habitat restoration projects, abundance of hatchery origin spawners, life stage specific survival rate, and harvest rates.

(C) Future monitoring needs shall be identified during periodic assessments of the effectiveness of the Oregon Mid-C Steelhead Plan.

(c) **Evaluation.** The Department shall identify and support evaluation needed to determine the effectiveness of management strategies and actions in achieving their intended outcomes.

(A) Evaluation needs identified in the Oregon Mid-C Steelhead Plan at the time of adoption are the evaluation of effectiveness of habitat protection, management and restoration programs in the Oregon Mid-C Steelhead DPS.

(B) Future evaluation needs shall be identified during periodic assessments of the effectiveness of the Oregon Mid-C Steelhead Plan.

(d) **Feedback Loop.** The Department shall review the results of assessments identified in 635-500-6550(7)(e) and modify management strategies and actions as appropriate and within its statutory authority based on the review results. The Department shall implement the Adaptive Management processes identified in the Oregon Mid-C Steelhead Plan and recommend to the Oregon Mid-C Recovery and Oregon Plan Core Teams and other agencies or entities, as necessary, appropriate modifications to management strategies and actions needed to support attainment of the desired status goal for the DPS. This feedback shall include refinement of management actions, research, monitoring and evaluation programs and desired status criteria based on the best available scientific information.

(e) **Reporting.** Monitoring and evaluation data analyzed for the annual and periodic evaluation of DPS status and Plan implementation shall be made available to the public. As part of the Mid-C Technical and Recovery Teams, the Department shall participate in the preparation of a report summarizing the results for the 5-year (2014) status update and each subsequent 5-year assessment, or additional assessments called for by the Oregon Recovery Team, of the effectiveness of the Oregon Mid-C Steelhead Plan.

(f) Modifications to the Oregon Mid-C Steelhead Plan are required if the fish become listed as endangered under the federal ESA or by the direction of the Oregon Mid-C Recovery Team in periodic Oregon Mid-C Steelhead Plan status reports. These reports by the Recovery Team will serve as an early warning system that will direct additional monitoring, evaluation, or management actions, if needed, based on annual review of monitoring data.

(8) **Impact on Other Native Fish Species.** Management strategies identified in the Oregon Mid-C steelhead Plan are likely to be beneficial to other native fish species present in the DPS because they focus on restoring natural processes. New or modified actions shall consider impacts to other native species, as appropriate, to minimize harm and optimize benefits.

Stat. Auth.: ORS 496.138, 496.146, & 506.119
Stats. Implemented: ORS 496.162, 506.109 & 506.129
Hist.: DFW 11-2010, f. & cert. ef. 2-8-10

Rule Caption: Treaty Indian Winter Gillnet Season Closes in Bonneville Pool.

Adm. Order No.: DFW 12-2010(Temp)

Filed with Sec. of State: 2-10-2010

Certified to be Effective: 2-11-10 thru 8-1-10

Notice Publication Date:

Rules Amended: 635-041-0065

Rules Suspended: 635-041-0065(T)

Subject: Amended rule closes the Treaty Indian winter season gillnet fishery in the Bonneville Pool due to reaching the white sturgeon harvest guideline. The platform/hook-and-line fishery in the Bonneville Pool will continue as previously scheduled, however, white sturgeon may not be sold but those landed between 38 and 54 inches in fork length may be retained for subsistence.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0065

Winter Salmon Season

(1) Salmon, steelhead, shad, white sturgeon, walleye, catfish, bass, yellow perch and carp may be taken for commercial purposes from the

Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21, 2010.

(a) The winter gillnet fishery in the Bonneville Pool closes at 6:00 p.m. Thursday, February 11, 2010. The platform/hook-and-line fishery in the Bonneville Pool will continue as previously scheduled except that sturgeon may not be sold, but sturgeon between 38 and 54 inches in fork length may be retained for subsistence. Chinook salmon may not be sold but may be retained for ceremonial and subsistence use.

(b) John Day and The Dalles pools are open seven days per week or until the sturgeon guideline is met.

(c) Salmon, steelhead, white sturgeon, walleye, shad, carp, catfish, bass and yellow perch landed during an open commercial fishing period may be sold at any time.

(d) Live release of all oversize and undersize sturgeon is required.

(2) There are no mesh size restrictions.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) White sturgeon 43 54 inches in fork length in The Dalles and John Day pools and white sturgeon 38 54 inches in fork length in the Bonneville Pool may be sold or kept for subsistence use.

(5) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

(6) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake/Little White Salmon River; and Big White Salmon River, including the Yakama Nation subsistence fishery on the Washington shore downstream of Bonneville Dam, are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods, subject to restrictions as specified in sections (1) through (5) above, except that:

(a) Steelhead, walleye, carp, shad, catfish, bass and yellow perch caught from the Washington shore downstream of Bonneville Dam to Beacon Rock may be sold or retained for subsistence;

(b) White sturgeon caught below Bonneville Dam must be released;

(c) Dates of allowable sales are from 6:00 a.m. February 2 through 6:00 p.m. March 21, 2010. Sales may not occur on USACE property.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 7-31-09; Administrative correction 8-21-09; DFW 9-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10; DFW 12-2010(Temp), f. 2-10-10, cert. ef. 2-11-10 thru 8-1-10

ADMINISTRATIVE RULES

**Department of Human Services,
Addictions and Mental Health Division:
Mental Health Services
Chapter 309**

Rule Caption: Amend OAR 309-040 to include the opportunity for adult Foster Home Residents to file Advance Directives.

Adm. Order No.: MHS 1-2010

Filed with Sec. of State: 1-29-2010

Certified to be Effective: 1-29-10

Notice Publication Date: 12-1-2009

Rules Amended: 309-040-0410

Rules Repealed: 309-040-0410(T)

Subject: The Addictions & Mental Health Division is amending OAR 309-040-0410 to require Adult Foster Home providers to offer information & assistance with understanding & filing Advance Directives, including the "Declaration for Mental Health Treatment".

Rules Coordinator: Richard Luthe—(503) 947-1186

309-040-0410

Residents' Rights, Complaints, and Grievances

(1) Residents' Bill of Rights.

(a) The Provider will guarantee the Residents' Bill of Rights as described in ORS 443.739. The provider will post them in a location that is accessible to residents, parents/guardian/advocates. A copy of the Residents' Bill of Rights will be given to each resident and parent/guardian/advocate along with a description of how to exercise these rights.

(b) The provider will explain and document in the resident's file that a copy of the Resident's Bill of Rights is given to each resident at admission, and is posted in a conspicuous place including the name and phone number of the office to call in order to report complaints. The Bill of Rights states each resident has the right to:

(A) Be treated as an adult, with respect and dignity;

(B) Be encouraged and assisted to exercise constitutional and legal rights as a citizen including the right to vote and be informed of all house rules;

(C) Receive appropriate care and services and prompt medical care as needed. Be informed of the resident's medical condition and the right to consent to or refuse treatment;

(D) Adequate personal privacy and privacy to associate and communicate privately with any person of choice, such as family members, friends, advocates, and legal, social service and medical professionals, send and receive personal mail unopened, and engage in telephone conversations as explained in 309-040-0365(17); have medical and personal information kept confidential;

(E) Have access to and participate in activities of social, religious, and community groups;

(F) Be able to keep and use a reasonable amount of personal clothing and belongings and to have a reasonable amount of private, secure storage space.

(G) Be free of discrimination in regard to race, color, national origin, sex, religion, sexual orientation, or disability;

(H) Manage his/her financial affairs unless legally restricted. Be free from financial exploitation. The provider will not charge or ask for application fees or nonrefundable deposits and will not solicit, accept or receive money or property from a resident other than the amount agreed to for services;

(I) A safe and secure environment;

(J) Written notices prior to rate increases and evictions;

(K) A written agreement regarding services to be provided and agreed upon rates;

(L) Voice suggestions, complaints, or grievances without fear of retaliation;

(M) Freedom from training, treatment, chemical or physical restraints except as agreed to, in writing, in a resident's PCP. Be free from chemical or physical restraints except as ordered by a physician or other qualified practitioner;

(N) Be allowed and encouraged to learn new skills, to act on their own behalf to their maximum ability, and to relate to residents in an age appropriate manner;

(O) An opportunity to exercise choices including such areas as food selection, personal spending, friends, personal schedule, leisure activities, and place of residence;

(P) Freedom from punishment. Behavior intervention programs must be approved in writing on the resident's PCP;

(Q) Freedom from abuse and neglect;

(R) The opportunity to contribute to the maintenance and normal activities of the household;

(S) Access and opportunity to interact with persons with/without disabilities;

(T) The right not to be transferred or moved out of the adult foster home without 30 days' advance written notice and an opportunity for a hearing as described in ORS 443.738(11)(b) and OAR 411-088-0080. A provider may transfer or discharge a resident only for medical reasons including a medical emergency described in ORS 443.738(11)(a), or for the welfare of the resident or other residents, or for nonpayment; and

(U) Utilize advance directives. Advance directives will be explained to each resident upon admission. If the resident does not already have any advance directive or directives, he or she will be given an opportunity to complete them. If any advance directives are completed by the resident the provider shall document these directives in the resident's record; if the resident declines to file any advance directives, this declination will be documented in the resident's record.

(i) As used in this section, the term "advance directive" has the meaning given under ORS 127.505, and includes the "Declaration for Mental Health Treatment" under ORS 127.700 through 127.737.

(2) Complaints and Grievances. Any person who believes these rules have been violated may file a complaint with the Department and/or CMHP. OMHAS and/or CMHP will investigate any complaint or grievance regarding the AFH.

(3) Complaint and Grievance Notice. The OMHAS and/or CMHP will furnish each Adult Foster Home with a Complaint and Grievance Notice, which must be posted in a conspicuous place stating the telephone number of OMHAS and the CMHP and the procedure for making complaints or grievances.

(4) Complaint and Grievance Actions. A copy of all Adult Foster Home complaints or grievances will be maintained by OMHAS. All complaints or grievances and actions taken on the complaint or grievance, indexed by the name of the provider, will:

(a) Be placed into the public file at OMHAS. Information regarding the investigation of the complaint or grievance will not be filed in the public file until the investigation has been completed;

(b) Protect the privacy of the complainant or grievant and the resident; and

(c) Treat the names of the witnesses as confidential information.

(5) Substantiated Complaints or Grievances. Providers who acquire substantiated complaints or grievances pertaining to the health, safety or welfare of residents may have their licenses suspended, revoked or not renewed, or may have conditions placed on the license.

(6) Retaliation Against a Resident. The Adult Foster Home provider, resident manager, or caregiver will not retaliate in any way against any resident after a complaint or grievance has been filed with the Department. Retaliation may include, but is not limited to:

(a) Increasing charges or threatening to increase charges;

(b) Decreasing or threatening to decrease services, rights or privileges;

(c) Threatening to increase charges or decrease services, rights or privileges;

(d) Taking or threatening to take any action to coerce or compel the resident to leave the Adult Foster Home; or

(e) Abusing, harassing, or threatening to abuse or harass a resident in any manner.

(7) Retaliation Against Others. A complainant, grievant, witness or caregiver of an Adult Foster Home will not be subject to retaliation by a provider, or resident manager, or substitute caregiver for making a report or being interviewed about a complaint or being a witness. Retaliation may include, but is not limited to, caregiver dismissal or harassment, or restriction of access to either the Adult Foster Home or a resident.

(8) Immunity. The complainant will have immunity from any civil or criminal liability with respect to the making or content of a complaint or grievance made in good faith.

(9) Public Complaint Files. Any person has the right to inspect and receive a photocopy of the public complaint files, including protective services files, maintained by the Department upon written request subject to the Department's procedures, ORS 192.410 through 192.505, and photocopy charges for public record requests.

Stat. Auth.: ORS 409.010, 409.050 & 443.735

Stats. Implemented: ORS 127.700 - 127.737 & 443.705 - 443.825

ADMINISTRATIVE RULES

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0065, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 4-2009(Temp), f. & cert. ef. 8-6-09 thru 2-2-10; MHS 1-2010, f. & cert. ef. 1-29-10

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**Department of Human Services,
Children, Adults and Families Division:
Child Welfare Programs
Chapter 413**

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 1-2010(Temp)

Filed with Sec. of State: 2-1-2010

Certified to be Effective: 2-1-10 thru 6-14-10

Notice Publication Date:

Rules Amended: 413-070-0905, 413-070-0925, 413-070-0939, 413-070-0949, 413-070-0964, 413-070-0974

Rules Suspended: 413-070-0905(T), 413-070-0925(T), 413-070-0939(T), 413-070-0949(T), 413-070-0964(T), 413-070-0974(T)

Subject: OAR 413-070-0905 about the definitions used in the Department's Guardianship Assistance program rules, OAR 413-070-0925 about when the Department may approve guardianship assistance, OAR 413-070-0939 about the requirements for income and payment standards and medical benefits in the Guardianship Assistance program, OAR 413-070-0949 about the formulation of a guardianship assistance agreement between the Department and a guardian, OAR 413-070-0964 about changes a guardian must report, and OAR 413-070-0974 about the suspension or termination of guardianship assistance benefits (which were amended by temporary rule on December 16, 2009) are being amended to remove cooperation requirements for guardians with Department of Justice Division of Child Support, clarify the Department's policies for the Guardianship Assistance program, include definitions used throughout the Guardianship Assistance program rules, reflect current Department terminology, and bring the Guardianship Assistance program into compliance with federal requirements.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-070-0905

Definitions

The following definitions apply to OAR 413-070-0900 to 413-070-0974:

(1) "APPLA" means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child that includes building relationships with significant people in the child's life that may continue after substitute care. APPLA is the least preferred permanency plan of the four permanency plan options for a child and is appropriate only in very limited circumstances.

(a) "Planned" means the arrangement is intended, designed, and deliberate.

(b) "Permanent" means enduring and stable.

(2) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of integrating information on a child or young adult's needs and strengths for the purposes of case planning, service planning, and determining the supervision needs of the child or young adult. The Department uses two versions of the CANS Comprehensive Screening Tool, one version for an individual birth through five years old and another version for an individual six through twenty years old.

(3) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which he or she resides, to a child or young adult in the care or custody of the Department.

(4) "Child" means a person less than 18 years of age.

(5) "Enhanced supervision" means the additional support, direction, observation, regulation, and guidance provided by a certified family to a child or young adult to promote and ensure the safety and well-being of the child or young adult, beyond the level of supervision that typically is required for a child or young adult of the same age.

(6) "Guardianship assistance" means financial assistance or medical benefits to a child's guardian on behalf of an eligible child under guardianship. Benefits may be in the form of a monthly guardianship assistance payment, Medicaid coverage, and nonrecurring legal costs incurred in establishing the guardianship.

(7) "Guardianship assistance agreement" means a written agreement between the Department and the guardian of an eligible child setting forth the assistance the Department is to provide the child, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(8) "Guardianship assistance payment" means a monthly cash payment made by the Department to the guardian on behalf of the eligible child.

(9) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(10) "Permanency Committee" means a group of three individuals, responsible for making a recommendation regarding a child's permanency plan when the child likely is not returning to his or her parent.

(a) The committee must:

(A) Include two Department staff and may include a community partner, all of whom are approved by the District Manager or designee; and

(B) When the child is an ICWA child, and a Permanency Committee is appropriate, identify an individual from a federally recognized tribe as one of the three individuals on the committee; and

(C) Have an identified chairperson approved by the District Manager or designee.

(b) The Permanency Committee members must:

(A) Be knowledgeable of permanency issues;

(B) Be knowledgeable of the importance of cultural connections;

(C) Have no personal or professional relationship to the child or prospective placement resource; and

(D) Represent multiple child welfare offices.

(11) "Qualified alien" means, but is not limited to, a permanent resident, an asylee, or a refugee under 8 USC 1641(b), as described in OAR 413-130-0045.

(12) "Relative" means:

(a) An individual with one of the following relationships to the child through the child's parent:

(A) Any blood relative or half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological parent are half-blood relatives).

(B) A sibling.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if the marriage is terminated by death or divorce.

(E) To be considered a relative under paragraph (D) of this subsection, when a marriage has been terminated by death or divorce, the child must have had a personal relationship with the spouse prior to the child or young adult entering substitute care.

(F) For the purposes of an international adoption, "relative" means an individual described in paragraphs (A) to (C) of this subsection.

(b) An individual with one of the following relationships to the child:

(A) A stepparent described in OAR 413-100-0020(27)(c), stepbrother, or stepsister.

(B) For the purposes of the Guardianship Assistance Program described in these rules (OAR 413-070-0900 to 413-070-0974), a stepparent is considered a parent and is not a relative under these rules unless the marriage to the child's biological parent has been terminated by legal separation, divorce, or death.

(C) The adoptive parent of a child's sibling.

(D) The unrelated legal or biological father or mother of a child's half-sibling when the child's half-sibling is living with the unrelated legal or biological father or mother.

(E) An individual defined as a relative by the law or custom of the child's tribe if the child is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(F) An individual defined as a relative of a refugee child under Child Welfare Policy I-E.2.2, "Placement of Refugee Children," (OAR 413-070-0300 to 413-070-0380).

(G) The registered domestic partner of the child's parent or a former registered domestic partner of the child's parent if the child had a personal

ADMINISTRATIVE RULES

relationship with the former domestic partner prior to the child or young adult entering substitute care.

(c) An individual identified by the child or the child's family, or an individual who self-identifies, related to the child through the child's parent by blood, adoption, or marriage to a degree other than an individual specified as a child's relative in paragraphs (A) to (C) of subsection (a) of this section.

(d) An individual presented by the child or the child's family, not related by blood, marriage, or adoption, as an individual with an emotionally significant relationship with the child or the child's family.

(13) "Sibling" means one of two or more children or young adults related:

(a) By blood or adoption through a common legal parent;
(b) Through the marriage of the children's or young adults' legal or biological parents; or

(c) Through a legal or biological parent who is the registered domestic partner of the child or young adult's legal or biological parent.

(14) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(15) "Tribe" means a federally recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10

413-070-0925

Eligibility: Prospective Guardian

The Department may approve a *prospective guardian for guardianship assistance* when the prospective guardian:

(1) Currently provides care to the *child* being considered for guardianship assistance and meets one of the following requirements:

(a) Has a current Certificate of Approval from the Department under Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents" OAR 413-200-0301 to 413-200-0396.

(b) Currently is certified as a foster home by the participating tribe as meeting the tribe's certification and licensing standards; or

(c) Currently is certified or otherwise approved by the state in which the prospective guardian resides and approved as a placement for the child under the Interstate Compact on Placement of Children (ICPC).

(2) Agrees with the Department, and the Department documents in the child's case record, that the child and the prospective guardian can maintain a stable relationship and function effectively without Department supervision.

(3) Has an updated home study documenting how the prospective guardian meets the child's best interests and needs for safety and permanency.

(4) Has adequate means of financial support and connections to community resources.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10

413-070-0939

Determination of Guardianship Assistance Payments and Medical Benefits

(1) The guardianship assistance benefits are negotiated when a guardianship assistance application is approved by the Department's Adoption and Guardianship program. The total amount of the guardianship assistance payment may not exceed the amount of the base foster care rate the child is eligible to receive while in foster care and, when applicable, the current level of care payment for enhanced supervision as determined by a CANS screening under Child Welfare Policy I-E.5.1, "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy," (OAR 413-090-0000 to 413-090-0050).

(2) The base guardianship assistance payment for a child residing outside of the State of Oregon may not exceed the base foster care rate determined by Child Welfare Policy I E.5.1, "Payment for Foster Care Base

Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy," (OAR 413-090-0000 to 413-090-0050).

(3) The base guardianship assistance payment is determined by negotiation between the Adoption and Guardianship program and the prospective guardian prior to the completion of the Guardianship Assistance Agreement. The payment is established and paid as follows:

(a) The monthly guardianship assistance negotiation takes into consideration relevant factors which include, but are not limited to:

- (A) The needs of the child;
- (B) The services required to meet the needs of the child;
- (C) The cost of the services required to meet the needs of the child;
- (D) The guardian's ability to provide the services required to meet the needs of the child; and

(E) The community resources available to the child and guardian.

(b) Medicaid coverage, private insurance, public education, and all community resources must be considered as resources for the child and the guardian when determining the amount of the guardianship assistance payment.

(c) The Department considers all sources of income, except tribal dividend payments, available to the child when negotiating the monthly guardianship assistance payment.

(4) The guardianship assistance payment must be reduced by other financial benefits received by the child with the exception of tribal dividend payments.

(5) When the child is receiving a level of care payment, as indicated by a Child and Adolescent Needs and Strengths (CANS) screening under Child Welfare Policy I-E.5.1, "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy," (OAR 413-090-0000 to 413-090-0050), at the time of negotiation, the full amount of the level of care payment is provided as part of the guardianship assistance payment.

(6) The Department may complete a CANS screening for a child residing outside the State of Oregon as part of the determination of the guardianship assistance payment.

(7) Except for tribal dividend payments, the guardian must be the designated payee for any benefit the child receives, such as social security benefits.

(8) The guardianship assistance payment begins when:

(a) All parties have signed the Guardianship Assistance Agreement; and

(b) The court has issued an order of guardianship.

(9) A guardianship assistance payment to a guardian who was a Department certified foster parent for the child prior to becoming a court designated guardian is inalienable, not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon, as long as the payment can be identified as a Guardianship Assistance program payment and is kept separate from other money in the guardian's possession.

(10) A child eligible for guardianship assistance with a relative caretaker is eligible for medical benefits in the child's state of residence. If a child is eligible for guardianship assistance, resides in a state other than Oregon with a non-relative guardian, and is not able to obtain medical benefits in his or her state of residence the Department provides medical benefits under Child Welfare Policy I-E.6.2, "Title XIX and General Assistance Medical Eligibility," (OAR 413-100-0400 to 413-100-0610).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0930, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10

413-070-0949

Guardianship Assistance Agreement Requirements

(1) Before a guardian may receive guardianship assistance, there must be a negotiated written guardianship assistance agreement between the Department and the guardian signed by all parties prior to the court order establishing the legal guardianship.

(2) The guardianship assistance agreement must include the following:

(a) A statement indicating that a guardianship assistance payment remains in effect without regard to the state of residency of the guardian.

(b) The amount of the guardianship assistance and the manner in which it is to be provided.

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(c) The basis and requirements for periodic changes in the guardianship assistance payment, in consultation with the guardian, based on the circumstances of the guardian and the needs of the child.

(d) The additional services and assistance for which the child and guardian are eligible under the agreement and the procedure by which the guardian may apply for such services.

(e) The limitation on Department payments for nonrecurring expenses associated with obtaining legal guardianship of the child.

(f) A statement indicating the effective date of the guardianship assistance agreement is the date of the court order of guardianship.

(g) A statement that no retroactive guardianship assistance payment may be authorized except as provided under OAR 413-070-0969.

(h) A statement indicating that the guardian understands that a guardianship assistance payment may be terminated or suspended under OAR 413-070-0974.

(i) A statement indicating that the child for whom the Department is providing the guardianship assistance payment remains eligible for medical assistance once the guardianship is established.

(j) A statement indicating that the guardian understands that ORS 192.520 allows the Department of Human Services' Oregon Health Plan (OHP) and the OHP managed care plans to exchange the following protected health information without the guardian's authorization for the purpose of treatment activities related to the behavioral or physical health of the child when the child is the recipient of OHP services:

- (A) The child's name and Medicaid recipient number;
- (B) The name of the child's hospital or medical provider;
- (C) The hospital or medical provider's Medicaid number;
- (D) Each diagnosis for the child;
- (E) Each treatment activity's date of service;
- (F) Each treatment activity's procedure or revenue code;
- (G) The quantity of units or services provided; and
- (H) Information about medication prescription and monitoring.

(k) A statement indicating that the guardian agrees to comply with the Guardianship Assistance program reporting requirements under OAR 413-070-0964 and 413-070-0969(5).

(l) A statement indicating that in the event a legislative or executive branch action affecting the Department's budgeting or spending authority makes it necessary for the Department to implement budget reductions to the Guardianship Assistance program, a guardianship assistance payment on behalf of the child may not be reduced without the agreement of the guardian. However, budget reductions may result in a reduced guardianship assistance payment under any new agreement.

(m) The Department unilaterally may amend, suspend, or terminate the guardianship assistance agreement with notice to the guardian of the intended action when an action by a state or federal court or a law adopted through a state or federal legislative or executive branch action necessitates a suspension, termination, or change in guardianship assistance.

(3) The Department must provide the guardian with a copy of the guardianship assistance agreement.

(4) The Department may review any guardianship assistance agreement at any time.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0935, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10

413-070-0964

Changes That Must be Reported and Annual Report

(1) A guardian receiving a *guardianship assistance payment* must report immediately, orally or in writing, to the Department's Adoption and Guardianship Program any of the following:

- (a) Any change described in OAR 413-070-0974.
- (b) A change of address.
- (c) When the guardian is planning to move from his or her state of residency.

(2) The guardian, within 30 days after each annual anniversary of the court appointment of guardianship, must file a written report with the court and submit a copy of the report to the Department's Adoption and Guardianship Program. The report must contain assurances that each school-aged child receiving a guardianship assistance payment is a full-time elementary or secondary school student or is incapable of attending school due to a documented medical condition.

(3) When the court does not require an annual report as part of the appointment of guardianship, the Department requires the guardian to submit an annual report to the Adoption and Guardianship Program.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0945 & 413-070-0955, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10

413-070-0974

Suspension or Termination of Guardianship Assistance Benefits

(1) The Department must terminate or suspend guardianship assistance benefits on the day when any of the following occurs:

- (a) The *child* reaches 18 years of age or is emancipated, whichever comes first.
- (b) Child custody or guardianship is awarded to another individual.
- (c) The child dies.
- (d) The child marries.
- (e) The *child* is adopted;
- (f) The child is placed in *substitute care* with no plan for the child to return to the care of the guardian.

(g) The guardian dies or terminates the guardianship.
(2) The Department may terminate or suspend a guardianship assistance payment when any of the following occurs:

- (a) The child is incarcerated for more than three consecutive months.
- (b) The child is out of the guardian's home for more than a 30-day period or is no longer living in the home.
- (c) The guardian is no longer legally responsible for the financial support of the child or the child is no longer receiving financial support from the guardian.

(3) The Department may terminate a guardianship assistance agreement upon 30 days written notice to the guardian when the guardian is no longer responsible for the child or is no longer providing support to the child, or in the event of legal or legislative action requiring discontinuance of guardianship assistance.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0940, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 2-2010(Temp)

Filed with Sec. of State: 2-12-2010

Certified to be Effective: 2-12-10 thru 8-11-10

Notice Publication Date:

Rules Amended: 413-015-0420

Subject: OAR 413-015-0420 about the actions the Department takes when making an initial contact in response to suspected child abuse or neglect is being amended in responses to a recent federal court opinion to remove language allowing a Child Protective Services (CPS) worker to make an exception to the requirement to notify parents of the intent to interview a child when the notification might compromise a criminal investigation.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0420

Make Initial Contact

The CPS worker must make an initial contact within the assigned response time line.

(1) To make an initial contact, the CPS worker must:

- (a) Have face-to-face contact with and interview the alleged victim, his or her siblings, and other children living in the home. The purpose of the face-to-face contact and interview with the alleged victim, his or her siblings, and other children living in the home is to gather information regarding possible child abuse and neglect, assess if the children are vulnerable to identified safety threats, and assess the children's immediate safety. If it is not possible during the initial contact for the CPS worker to make a face-to-face contact with and interview the siblings or other children living in the

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home, the CPS worker must document why contact was not made and must complete the face-to-face contact and interview as soon as possible.

(b) Interview and observe children as follows:

(A) The CPS worker must notify parents of the intent to interview a child, unless notification could compromise the child's safety.

(B) The CPS worker must make diligent efforts to contact the child at home, school, day care, or any other place where the worker believes the child may be found. If the CPS worker is unsuccessful, the CPS worker must document in the assessment activities section of the GAP all attempts made to contact the child and the dates of those attempted contacts.

(C) When the CPS worker contacts the child at home and the parent or caregiver is not present:

(i) The CPS worker must consult with a CPS supervisor and seek assistance from LEA if the referral indicates that: there may be severe harm or threat of severe harm to the child; there is reasonable cause to believe the child's health or safety is endangered by the conditions of the dwelling; or the child is inadequately supervised and there is an immediate need to evaluate the child's health and safety.

(ii) The CPS worker must wait until the parent is present in the home to complete a child interview in the home if the referral does not indicate severe harm or threat of severe harm to the child or if there is not reasonable cause to believe the child's health or safety is endangered by the conditions of the dwelling or that the child is inadequately supervised.

(D) When the CPS worker is denied access to the child or to the child's residence, the CPS worker must:

(i) If the referral indicates that the child may be unsafe, request assistance from LEA in assessing the situation and in taking the child into protective custody if needed.

(ii) If the referral indicates that the child is presently safe, the CPS worker must do the following:

(I) Attempt to contact other persons who may have relevant information regarding the referral;

(II) Persist in attempts to gain cooperation from the family or caregivers, depending on the known child safety information; and

(III) Seek LEA assistance.

(iii) Consult with the CPS supervisor, the district attorney, assistant attorney general, or the county juvenile department to discuss possible juvenile court action; or

(iv) Seek a protective custody order from the juvenile court.

(E) The CPS worker must notify the parents or caregivers the same day a child is interviewed. If the same day notification could make a child or adult unsafe, a CPS supervisor may authorize an extension for one day to allow a planned notification that is less likely to compromise safety. The CPS worker must document the supervisory approval and an explanation describing the basis for the approval.

(F) The CPS worker must conduct interviews in a manner that assures privacy for the child.

(G) If the parent or caregiver is the alleged perpetrator or if the presence of the parent or caregiver might impede the interview, the CPS worker must attempt to interview children outside the presence of their parents or caregivers.

(H) A CPS worker must allow a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the abuse to have a personal representative be present during an interview. If a CPS worker believes that the personal representative would compromise the CPS assessment, the CPS worker may prohibit a personal representative from being present during the interview.

(I) The CPS worker must observe the child's injuries or signs of neglect. The CPS worker may need to remove a child's clothing to make adequate observations. In that event, the CPS worker must:

(i) Use discretion and make the child as comfortable as possible.

(ii) Seek parental consent and assistance, when possible and appropriate.

(iii) Consider requesting a worker or other support person, who is the same gender as the child, be present to serve as a witness and provide comfort for the child.

(J) The CPS worker may observe injuries to a child's anal or genital region if the child is not school aged and if the injury can be observed without the CPS worker touching the child's anal or genital region.

(c) Have face-to-face contact with and interview the non-offending parent or caregiver and all adults living in the home. The purpose of this face-to-face contact and interview is to find out what the non-offending parent or caregiver and other adults living in the home know about the alleged child abuse or neglect, gather information related to the safety of the child, and gather information to determine if the parent or caregiver can or cannot

and will or will not protect the child. If it is not possible during the initial contact for the CPS worker to make face-to-face contact with and interview the non-offending parent or caregiver and other adults living in the home, the CPS worker must document why the contact was not made and must complete the face-to-face contact and interview as soon as possible.

(A) Whenever practicable, the CPS worker must interview both parents and caregivers in person, as follows:

(i) Interview each person individually;

(ii) Ask questions about domestic violence in separate interviews only; and

(iii) Provide all adults living in the home with a written notice that a criminal records check may be conducted on them.

(B) The CPS worker must provide the parent or caregiver with a "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the rights of the parent and caregiver.

(C) The CPS worker must interview the non-custodial legal parent during the CPS assessment. This is not required during the initial contact, but must be completed as part of the assessment process because the non-custodial parent may have essential information or be a placement resource. If the interview of the non-custodial legal parent may make a child or adult unsafe, a CPS supervisor may authorize an exception to this requirement based on written documentation that supports the conclusion that an interview with a non-custodial legal parent should not be conducted.

(d) Have face-to-face contact with and interview the alleged perpetrator. Except as provided in this subsection, the CPS worker must make face-to-face contact with and interview the alleged perpetrator during the initial contact when he or she is the child's custodial parent, caregiver, any person living in the home, or is present in the home when the CPS worker makes contact. The purpose of this interview is to evaluate the alleged perpetrator's reaction to allegations of abuse or neglect as well as to the child and his or her condition, and to gather further information about the alleged perpetrator and the family in relation to the safety of the child. When the alleged perpetrator is a minor parent, the purpose is also to determine if the minor parent is an alleged victim of abuse (under paragraph (D) of this subsection).

(A) The CPS worker is not required to make face-to-face contact with or interview the alleged perpetrator during the initial contact if:

(i) The alleged perpetrator is not a custodial parent, caregiver, anyone living in the home, or is not present in the home when the CPS worker makes contact. The CPS worker still must interview the alleged perpetrator, but may complete the interview during the course of the CPS assessment; or

(ii) There is a criminal investigation and the interview cannot be coordinated with an LEA within the time lines for initial contact.

(B) The decision not to interview an alleged perpetrator as provided in subparagraphs (A)(i) or (ii) of this subsection must be approved by a CPS supervisor, and the CPS worker must document both the approval and the reason for not completing the interview.

(C) When interviewing the alleged perpetrator, the CPS worker must:

(i) Coordinate the interviews of the alleged perpetrator with LEA when law enforcement is conducting an investigation;

(ii) Consult with a CPS supervisor if an interview with the alleged perpetrator could make a child or adult unsafe;

(iii) Provide the alleged perpetrator with a written notice that a criminal records check may be conducted on them; and

(iv) Make inquiries about the employment status of the alleged perpetrator. If the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department or OYA, the CPS worker must notify a CPS supervisor. The CPS supervisor must confirm the person's employee status by contacting a Central Office Field Services representative. If the CPS supervisor determines the alleged perpetrator is an employee of the Department or OYA, the CPS supervisor must notify the Department Office of Human Resources at the time of the assessment and at the time the assessment is reviewed as required in OAR 413-015-0475. The CPS supervisor must document the notifications in FACIS.

(D) When interviewing the alleged perpetrator who is a minor and the parent of the alleged victim, the CPS worker must ask questions to determine if there is an allegation of abuse or neglect with the minor parent as an alleged victim. If it is determined that there is an allegation of abuse or neglect with the minor parent as an alleged victim, the information must be reported to a screener.

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(E) When interviewing an alleged perpetrator who is the parent or caregiver, the CPS worker must provide the parent or caregiver with a "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the rights of the parent and caregiver.

(e) Gather safety-related information through interviews and observation.

(A) The CPS worker must gather relevant information and facts necessary to complete all parts of the CPS assessment. The CPS worker must gather information through interview and observation about the following:

- (i) The extent of the child abuse or neglect;
- (ii) The circumstances surrounding the child abuse or neglect;
- (iii) Child functioning;
- (iv) Adult functioning;
- (v) Parenting practices and skills; and
- (vi) Disciplinary practices.

(B) Interview. If possible, family members should be interviewed separately in the following order, using information gathered from one interview to assist in the next interview:

- (i) Alleged victim.
- (ii) Siblings and other children in the home.
- (iii) Non-offending parents and caregivers, including all of the non-offending adults in the home.
- (iv) Non-custodial legal parent.
- (v) Alleged perpetrator.

(C) The CPS worker must, to the extent possible, do the following during interviews with family members:

(i) Present identification to the family at the beginning of the interview and provide a business card or other document to the parents and caregivers containing the CPS worker's name and phone number.

(ii) Clearly state the reason for the interview, provide statutory authority to assess reports of child abuse and neglect, and give an explanation of the alleged child abuse or neglect.

(iii) Allow the parent or caregiver to respond to each allegation.

(iv) Assure the privacy of the persons being interviewed.

(v) Focus the interview on the safety of the children.

(vi) Assess whether the parents or caregivers are involved in domestic violence.

(vii) Summarize and discuss the initial impressions and intentions resulting from the interview with appropriate family members or caregivers.

(viii) Obtain from the parents or caregivers the names of persons who can provide additional information in determining child safety and completing the CPS assessment.

(ix) Ask the parents and caregivers to sign an authorization to release information to enable Child Welfare to obtain confidential information from physicians, mental health providers, school employees, or other service or treatment providers.

(x) Inform the parents and caregivers about the Child Welfare grievance procedure.

(D) Observation. The CPS worker must observe the identified child, parent or caregiver, and the home environment. Specific areas for observation are:

(i) Physical condition of the child, including any observable effects of child abuse or neglect;

(ii) Emotional status of the child, including mannerisms, signs of fear, and developmental status;

(iii) Reactions of the parents or caregivers to the Department concerns;

(iv) Emotional and behavioral status of the parents or caregivers during the interviewing process;

(v) Interactions between family members, including verbal and body language;

(vi) Condition of the child's living space, including where the child sleeps; and

(vii) Physical condition of the home.

(f) Determine if there is a safety threat. During the initial contact, the CPS worker must determine, based on the information obtained at that time, if there is a safety threat to the child.

(A) To determine that there is a safety threat, the CPS worker must analyze the information gathered and conclude that:

(i) A specific, observable, describable family behavior, condition, or circumstance is present; and

(ii) The specific, observable, describable family behavior, condition, or circumstance reasonably could result in harm to a child.

(B) If the CPS worker determines during the initial contact that there is no safety threat and the child is safe, then the CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(C) If the CPS worker determines there is a safety threat to the child, the CPS worker must determine if, because of the safety threat, the child is unsafe and a protective action is required. The CPS worker must then continue the activities required to sufficiently complete the CPS assessment.

(g) Determine if the child is unsafe. If the CPS worker determines, based on the available information, that there is a safety threat to the child, the CPS worker must determine if the safety threat makes the child unsafe.

(A) To assess the child's safety, the CPS worker must analyze the information gathered, and

(i) Determine if the child is vulnerable to harm resulting from the identified family behavior, condition, or circumstance, as described in OAR 413-015-0425.

(ii) Determine if the child's parent or caregiver can or cannot and will or will not protect the child from harm resulting from the identified family behavior, condition, or circumstance, as described in OAR 413-015-0430.

(B) If the CPS worker determines that the child is not vulnerable to harm resulting from the identified safety threat, then the child is safe and the CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(C) If the CPS worker determines that the child's parent or caregiver can and will protect the child from harm resulting from the identified safety threat, then the child is safe. The CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(D) If the CPS worker determines that the child is vulnerable to the identified safety threat and the child's parent or caregiver cannot or will not protect the child from harm resulting from the identified safety threat, the child is unsafe and the CPS worker must initiate a protective action as described in OAR 413-015-0435. The CPS worker must then continue the activities required to sufficiently complete the CPS assessment.

(2) Documentation of the Initial Contact. The CPS worker must document the dates of the initial contact using the GAP. The CPS worker must document attempted and successful contacts.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 418.785 & 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 15-2009, f. & cert. ef. 11-3-09; CWP 2-2010(Temp), f. & cert. ef. 2-12-10 thru 8-11-10

Department of Human Services, Children, Adults and Families Division: Self-Sufficiency Programs Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 1-2010(Temp)

Filed with Sec. of State: 1-26-2010

Certified to be Effective: 1-26-10 thru 6-30-10

Notice Publication Date:

Rules Amended: 461-180-0090

Rules Suspended: 461-180-0090(T)

Subject: OAR 461-180-0090 about the effective dates for the initial month of medical benefits is being amended to comply with federal law by restating how the Department determines the effective date for starting the Medicare Savings Program (MSP) benefits.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-180-0090

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits for an eligible client is as follows:

(1) In the CEC and CEM programs, it is the first of the month following the month that eligibility for Child Welfare medical, EXT, MAA, MAF, OHP, OHP-CHP, OSIPM, or SAC program benefits ends.

(2) In the EXT program, it is the first of the month following the month that MAA or MAF program eligibility ends.

(3) In the GAM, MAA, MAF, OHP, OSIPM, QMB-DW, REFM, and SAC programs:

(a) Except as provided for in sub-section (b) of this section:

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(A) If the client meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the date of request. An OSIPM program client who is assumed eligible under OAR 461-135-0010(7) meets "all eligibility requirements" for the purposes of this section as follows:

(i) Effective the first day of the month of the initial SSI payment if the client is age 21 or older.

(ii) Effective the first day of the month prior to the month of the initial SSI payment if the client is under the age of 21.

(B) If the client does not meet all eligibility requirements on the date of request, it is the first day following the date of request that all eligibility requirements are met.

(b) If the client does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new date of request.

(4) In the HKC program, the Office of Private Health Partnerships (OPHP) determines the effective date for enrolling an eligible child in one of the HKC program categories of coverage.

(5) In the QMB-BAS program, it is the first of the month after the benefit group (see OAR 461-110-0750) has been determined to meet all QMB-BAS program eligibility criteria and the Department receives the required verification.

(6) In the QMB-SMB and QMB-SMF programs, it is:

(a) The first of the month in which the benefit group meets all program eligibility criteria and the Department receives the required verification; or

(b) The first of the month in which the Low Income Subsidy (LIS) information is received by the Social Security Administration (SSA), if the SMB or SMF program application was generated by the electronic transmission of LIS data from the SSA and the benefit group meets all program eligibility criteria.

(7) Retroactive eligibility is authorized under certain circumstances in some medical programs (see paragraph (2)(a)(A) of this rule, OAR 461-135-0875, and 461-180-0140).

Stat. Auth.: ORS 411.060, 411.070, 414.042, 2009 OL Ch. 867
Stats. Implemented: ORS 411.060, 411.070, 414.042, 2009 OL Ch. 867
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 5-2003, f. 2-26-03, cert. ef. 3-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 1-2010(Temp), f. & cert. ef. 1-26-10 thru 6-30-10

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 2-2010(Temp)

Filed with Sec. of State: 2-5-2010

Certified to be Effective: 2-5-10 thru 8-4-10

Notice Publication Date:

Rules Amended: 461-135-0570

Subject: OAR 461-135-0570 about how the Department determines if a student is eligible or ineligible for Supplemental Nutrition Assistance Program (SNAP) benefits is being amended in response to a recent change in the Food and Nutrition Service interpretation of federal SNAP law to state that an individual 18 years of age or older and under 50 years of age, enrolled at least half time in higher education, and receiving Training Unemployment Insurance (TUI) benefits from the Oregon Employment Department is eligible for SNAP benefits.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-0570

Eligible and Ineligible Students; SNAP

(1) For the purposes of this rule, higher education includes the following:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL and high school equivalency programs at those institutions are not considered higher education.

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, pro-

grams at those institutions that do not require the diploma or certificate are not considered higher education.

(2) An individual 18 years of age or older, but under the age of 50 years, who is enrolled at least half time in higher education is ineligible to receive SNAP benefits, unless one of the following is true:

(a) The student is:

(A) A paid employee working an average of 20 hours or more per week; or

(B) Self-employed for a minimum of 20 hours per week and receives weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.

(b) The student is participating in a state or federally funded work-study program and expects to actually perform work in a work-study job in the current term or semester. The period of eligibility for a student eligible because of this sub-section:

(A) Begins with the month in which school begins or with the month that work study is approved, whichever is later.

(B) Continues for the duration of the term or semester, unless the student refuses a work-study job.

(C) Continues through breaks of less than a month. For breaks of a month or longer, eligibility continues only if the student performs work in a work-study job during the break.

(c) The student is responsible for the care of a child in the filing group, and the child is:

(A) Under six years of age; or

(B) Six years of age or older, but under the age of 12 years, and adequate child care is not available to enable the student to both attend class and meet the employment requirements of sub-section (a) of this section or the work-study requirements of sub-section (b) of this section.

(d) The student is enrolled full time in higher education and is a single parent (meaning there is only one parent in the filing group) or a single adult who has parental control, with the responsibility of caring for a child under 12 years of age.

(e) The student is in a TANF benefit group.

(f) The student is physically or mentally unfit for employment.

(g) The student is in job training classes under the Workforce Investment Act of 1998 (Pub. L. 105-220).

(h) The student is in a program serving displaced workers under Section 236 of the Trade Act of 1974, 19 U.S.C. 2296.

(i) The student is receiving Oregon Employment Department Training Unemployment Insurance (TUI) benefits.

(j) The student is enrolled as a result of participation in the higher education component of the JOBS program.

(k) The student is enrolled as a result of employer-sponsored on-the-job training.

(3) A student's enrollment status continues during school vacation and breaks. A student's enrollment status ends when the student graduates, drops out (as verified by their disenrollment), is suspended or expelled, or does not intend to register for the next school term (excluding summer term).

(4) A student residing in a dormitory or other living situation with meal plans is ineligible for SNAP benefits.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 3-2002(Temp), f. 2-26-02, cert. ef. 3-1-02 thru 6-30-020; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 2-2010(Temp), f. & cert. ef. 2-5-10 thru 8-4-10

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Department of Human Services, Division of Medical Assistance Programs Chapter 410

Rule Caption: Federal change to over the counter Plan B emergency contraceptive drug reimbursement.

Adm. Order No.: DMAP 2-2010

Filed with Sec. of State: 2-1-2010

Certified to be Effective: 2-5-10

Notice Publication Date: 1-1-2010

Rules Amended: 410-121-0145

ADMINISTRATIVE RULES

Subject: The Pharmaceutical Services rules (division 121) govern the Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients.

DMAP filed 410-121-0145 to correct a technical error in the previous Notice filing. The rule was included in the Summary, however the rule number was not included in the Rulemaking Action on the filing document and subsequently not in the SOS Bulletin. While the rule amendment was reviewed by a rule advisory committee and DMAP stakeholders, this rulemaking action provides a transparent process for public review and comment regarding DMAP compliance with Federal changes. The rules will be filed permanently on or after February 5, 2010.

410-121-0145 Prescription requirements: As a result of Federal changes, the age at which DMAP may reimburse a pharmacy for distributing the over-the-counter Plan B emergency contraceptive drug product will be lowered to age 17 and older from age 18 and older who are (fee-for-service) Medicaid eligible.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0145

Prescription Requirements

(1) Division of Medical Assistance Programs (DMAP) will make payment for covered drugs supplied on drug order or prescription of a licensed practitioner and dispensed by a pharmacist. Dispensings include new prescriptions, refills of existing prescriptions, and over-the-counter (OTC) medications.

(a) Each drug order or prescription filled for a DMAP client must be retained in the pharmacy's file at the pharmacy's place of business; and,

(b) All drug orders or prescriptions must comply with the Oregon State Board of Pharmacy rules and regulations as listed in OAR 855 Division 041.

(2) Notwithstanding subsection (1) of this rule, the following rules shall apply to over-the-counter Plan B emergency contraceptive drugs:

(a) DMAP may reimburse a pharmacy for distributing over-the-counter Plan B emergency contraceptive drug products to women who are 17 years old and older and who are Medicaid eligible; and,

(b) As a condition of reimbursement for over-the-counter Plan B emergency contraceptive drugs, DMAP may require that the pharmacy show proof that it has complied with Oregon Board of Pharmacy rules pertaining to the distribution of over-the-counter Plan B emergency contraceptive drugs.

Stat. Auth.: ORS 409

Stats. Implemented ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82; AFS 53-85, f. 9-20-85, ef. 10-1-85 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 4-1989, f. 1-31-89, cert. ef. 2-1-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89, Renumbered from 461-016-0020; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0200; HR 25-1994, f. & cert. ef. 7-1-94; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 2-2010, f. 2-1-10, cert. ef. 2-5-10

Department of Human Services, Public Health Division Chapter 333

Rule Caption: Vital Records adding two fees: Commemorative Certificate of Stillbirth and electronic verification.

Adm. Order No.: PH 3-2010

Filed with Sec. of State: 2-3-2010

Certified to be Effective: 2-3-10

Notice Publication Date: 12-1-2009

Rules Amended: 333-011-0106

Subject: The Department of Human Services, Public Health Division is permanently amending OAR 333-011-0106 related to fees for vital records. The Center for Health Statistics (CHS) is creating fees for two new services. The first, Commemorative Certificate of Stillbirth, was created in 2005 and a fee is authorized in ORS 432.266. CHS is now implementing the fee and is requesting \$20 for the first copy and \$15 for each additional copy, the same as other record types. The second, electronic verification, is a new service that will be available as part of a national system which will allow CHS to offer verifications at a reduced price from the current (manual) ver-

ification service. As part of a national system, Oregon does not directly determine the fee and has asked for a range to accommodate future changes without having to suspend the service until the fees rule can be changed. The fees are determined by a consortium including SSA, AAMVA, CMS and other national and federal agencies, as well as the National Association of Public Health Statistics and Information Systems (who also administers the system). Also, CHS is inserting the word 'manual' in the current verification service to distinguish from the electronic verification service. As the services affected are for parents who have experienced a fetal death and government agencies, no impact on business is anticipated.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-011-0106

Fees

(1) The fee for a full certified copy of a vital statistics record or for an abbreviated birth or death certificate shall be \$20. Additional copies of each record ordered at the same time shall have a fee of \$15 per certificate.

(2) The fee for a Commemorative Certificate of Stillbirth shall be \$20. Additional copies of each record ordered at the same time shall have a fee of \$15 per certificate.

(3) The fee for any search of the files and records shall be \$20. The fee shall include the issuing, when requested, of one certified copy or abbreviated certificate.

(4) The \$20 fee shall cover the cost of a five year search for death, marriage and divorce records. If more than a five year search is requested, an additional fee of \$1 per year shall be charged.

(5) The fee for a certified copy of a recorded court order registering an unrecorded birth under ORS 432.142, to be furnished by the Clerk of the circuit court or the State Registrar shall be \$20.

(6) Overpayment of a required fee received in the office of the State Registrar shall be refunded if in excess of \$6 and any overpayment less than \$6 shall be refunded upon written request of the applicant within one year.

(7) A fee of \$50 shall be paid to the State Registrar for the preparation of a new or supplemental birth certificate under the provisions of ORS 432.140, 432.142, 432.230 432.290 and 432.414 due to amendment, correction, adding the father's name to the birth record or filing of adoption orders and delayed and court registered birth records. The fee shall include the charge for one certified copy of the new or supplementary birth certificate. If a certified copy is not requested at the time of amendment or creation of the supplementary record, the amendment fee shall be \$30.

(a) The \$30 amendment fee may be waived to correct an error or omission by a reporting source if a birth record is corrected within the first year from the date of the event.

(b) The \$30 amendment fee may be waived at any future time to correct an error on a birth certificate by a reporting source for date of birth, time of birth or gender of registrant.

(8) A fee of \$50 shall be paid to the State Registrar for the preparation of an amended death certificate, if amendments are filed more than one year after the date of death. However, no fee shall be paid for amendments to the cause of death filed by the physician or medical examiner that signed the death certificate.

(9) A fee of \$5.50 shall be paid to expedite the search and filling of an order for a certificate when the order is placed by telephone, fax or the internet, billed to a credit card and processed the same or the next working day. This fee is in addition to the fee charged by a subcontractor providing computer, prepayment, billing and collection services for orders processed using the subcontractor's services.

(10) A fee of \$45 shall be paid for heirloom birth certificates.

(11) A fee of \$5 per year shall be charged for duplicate copies of microfiche cards containing index information for death, marriage and divorce records.

(12) A fee of \$8.50 per reel shall be charged for duplicate copies of microfilm containing index information of death, marriage and divorce records.

(13) Persons requesting special services or specific data sets shall be charged actual time and material costs of producing the data.

(14) The fee for certificates to be used in research approved by the State Registrar shall be \$20 for quantities less than one hundred certificates. If the quantity is one hundred or more the following scale shall apply:

(a) If a listing is supplied which provides year and certificate number, or name, date, and place of event, the fee shall be \$10 per copy;

(b) If a listing is supplied which provides name and year of event, the fee shall be \$15 per copy;

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(c) Listings supplying less information shall be at the regular fee.

(15) A fee of \$20 shall be paid for making certified copies of documents from sealed files.

(a) A fee of \$20 shall be paid for making certified copies of affidavits and supplemental reports.

(b) A fee of \$2 per page shall be charged for uncertified copies of affidavits and supplemental reports that can be issued without opening sealed files.

(16) A fee of \$25 may be charged for each check returned for non-payment.

(17) A flat fee of \$20 shall be paid for the replacement of certified copies when the original documents are returned within a year of issuance with an acceptable correction document and appropriate amendment fee. This fee may be waived when fewer than four certified copies are being replaced.

(18) A fee of \$8 shall be paid for each manual verification of a vital event for each government agency or subdivision of a government agency requesting over ten verifications per month.

(19) A fee not to exceed \$4 shall be paid for each electronic verification of a vital event. This fee is in addition to the fee charged by a subcontractor providing computer system, billing and collection services for verifications processed using the subcontractor's services.

Stat. Auth.: ORS 432.015, 432.121(2)(f), 432.146 & 432.266

Stats. Implemented: ORS 432.146 & 432.266

Hist.: HB 169, f. & ef. 10-16-63; HD 13-1979(Temp), f. & ef. 10-1-79; HD 18-1979, f. & ef. 12-12-79; HD 2-1985, f. & ef. 2-19-85; HD 1-1987, f. 1-20-87, ef. 2-2-87; HD 10-1990, f. 5-3-90, cert. ef. 7-1-90; HD 4-1992(Temp), f. & cert. ef. 4-28-92; HD 8-1992, f. & cert. ef. 6-22-92; HD 19-1993(Temp), f. & cert. ef. 10-27-93; HD 21-1994, f. & cert. ef. 8-15-94; PH 17-2003, f. 10-31-03, cert. ef. 12-1-03; PH 3-2010, f. & cert. ef. 2-3-10

Department of Justice Chapter 137

Rule Caption: Child support guideline issues: calculations when children not with a parent, determining income shares.

Adm. Order No.: DOJ 5-2010(Temp)

Filed with Sec. of State: 2-12-2010

Certified to be Effective: 2-12-10 thru 8-10-10

Notice Publication Date:

Rules Amended: 137-050-0700, 137-050-0710

Subject: OAR 137-050-0700 is amended to clarify how calculations are to be performed when a child is not with a parent, including cases in which children do not have the same parents.

OAR 137-050-0710 is amended to correct a math error in the step which calculates each parent's income share.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-050-0700

General Provisions

(1) ORS 25.270 through 25.280 require that child support be calculated according to a formula. The formula is known as the "Oregon Child Support Guidelines" and is contained in OAR 137-050-0700 through 137-050-0765 and in the "Obligation Scale" which is located in the appendix.

(2) Any change to the guidelines applies to all judicial or administrative actions which are pending as of the date of the change or initiated thereafter.

(3) Changes to these rules do not constitute a substantial change in circumstances for purposes of modifying a support order.

(4) "Pending" as used in section (2) means any matter that has been initiated before the effective date of a rule change but requires amendment, modification or hearing before a final judgment can be entered.

(5) The method of calculating child support described in OAR 137-050-0710 presumes that a child lives with one parent and an order is sought to determine the support obligation between the child's parents. When a child does not reside with either parent and an order is sought to reimburse a third party for support of the child, follow OAR 137-050-0710 with the following exceptions: calculate each obligated parent's support obligation separately, using the obligated parent's information and the caretaker's child care costs, if any. For the other parent in the calculation, use the same amounts shown for the obligated parent's income, spousal support, union dues and number of additional children.

Stat. Auth.: ORS 25.270 - 25.290 & 180.345

Stats. Implemented: ORS 25.270 - 25.290

Hist.: DOJ 16-2009, f. 12-1-09, cert. ef. 1-4-10; DOJ 5-2010(Temp), f. & cert. ef. 2-12-10 thru 8-10-10

137-050-0710

Calculating Support

(1) Apply standard rules of rounding to perform a child support calculation under the guidelines. Round to the hundredth place (two decimal places). For example, if the number beyond the one to be used is less than five, round the number down (2.443 becomes 2.44). If the number beyond the one to be used is equal to or greater than five, round up (2.445 becomes 2.45).

(2) Although reliable and comprehensive data is not available for costs of children between the ages of 18 and 21, the guidelines are used to calculate appropriate support amounts for a child attending school as defined in ORS 107.108. The presumption that the amounts are appropriate may be rebutted under OAR 137-050-0760.

(3) Determine an appropriate amount of support by following the steps in sections (4) through (16).

(4) Determine each parent's income as defined in OAR 137-050-0715.

(5) Determine each parent's adjusted income, as provided in OAR 137-050-0720.

(6) Determine each parent's income share by dividing the total combined income into each parent's individual adjusted income.

(7) Determine the basic support obligation and the parents' shares, as provided in OAR 137-055-0725.

(8) Determine parenting time credit, if any, as provided in OAR 137-050-0730.

(9) Determine each parent's costs for child care, as provided in OAR 137-050-0735.

(10) Determine the credit to be applied to the support obligation as a result of any Social Security or veterans' benefits as provided in OAR 137-050-0740.

(11) Determine each parent's support obligation before medical support by adding the parent's basic support obligation, subtracting the parenting time credit, adjusting for child care expenses, and subtracting the amount of credit given for Social Security or veterans' benefits. If the total is less than zero, use zero.

(12) Determine each parent's support obligation after application of the self-support reserve as provided in OAR 137-050-0745. Round the result to the nearest dollar.

(13) Determine each parent's medical support obligation, as provided in OAR 137-050-0750. Round the result to the nearest dollar.

(14) Determine whether the provisions of OAR 137-050-0755 (minimum order) apply, and if appropriate, enter the amount of the minimum order.

(15) If the support amount is unjust or inappropriate, as authorized in ORS 25.280, apply any appropriate rebuttal as provided in OAR 137-050-0760. Round the result to the nearest dollar.

(16) Determine whether an agreed support amount is appropriate as provided in OAR 137-050-0765.

Stat. Auth.: ORS 25.270 - 25.290 & 180.345

Stats. Implemented: ORS 25.270 - 25.290

Hist.: DOJ 16-2009, f. 12-1-09, cert. ef. 1-4-10; DOJ 5-2010(Temp), f. & cert. ef. 2-12-10 thru 8-10-10

Rule Caption: Child support guideline rebuttals and income.

Adm. Order No.: DOJ 6-2010(Temp)

Filed with Sec. of State: 2-12-2010

Certified to be Effective: 2-12-10 thru 7-1-10

Notice Publication Date:

Rules Adopted: 137-050-0760

Rules Amended: 137-050-0715

Rules Suspended: 137-050-0760(T)

Subject: OAR 137-050-0715 and 137-050-0760 are amended to restore "return of capital" from the income rule back into the rebuttal rule. This term was mistakenly moved in the rewrite of the child support guidelines effective 1/4/10.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-050-0715

Income

(1) "Income" means the actual or potential gross income of a parent, as determined in this rule.

(2) "Actual income" means all earnings and income from any source, except as provided in section (4). Actual income includes but is not limited to:

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(a) Employment-related income including salaries, wages, commissions, advances, bonuses, dividends, severance pay, pensions, and honoraria;

(b) Return on capital, such as interest, trust income and annuities;

(c) Income replacement benefit payments including Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits;

(d) Gifts and prizes, including lottery winnings;

(e) Income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, minus costs of good sold, minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the fact finder to be inappropriate or excessive for determining gross income; and

(f) Expense reimbursements or in kind payments received by a parent in the course of employment, self employment, or operation of a business are income to the extent they reduce personal living expenses.

(3) To determine average monthly income when wages are paid weekly, multiply the weekly earnings by 52 and divide by 12. To determine average monthly income when wages are paid every two weeks, multiply the bi-weekly income earnings by 26 and divide by 12.

(4) Child support, adoption assistance, guardianship assistance, and foster care subsidies are not considered income for purposes of this calculation.

(5) "Potential income" means the greater of:

(a) The parent's probable full-time earnings level based on employment potential, relevant work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community; or

(b) The amount of income a parent could earn working full-time at the current state minimum wage.

(6) Income is presumed to be the amount determined as potential income in the following scenarios:

(a) An unemployed parent;

(b) A parent employed on less than a full-time basis;

(c) A parent with income less than Oregon minimum wage for full-time employment; or

(d) A parent with no direct evidence of any income.

(7) Income is presumed to be the parent's actual income in the following scenarios.

(a) A parent working full-time at or above the state minimum wage;

(b) A parent unable to work full-time due to a verified disability;

(c) A parent receiving workers' compensation benefits;

(d) An incarcerated obligor as defined in OAR 137-055-3300; or

(e) When performing a calculation for a temporary modification pursuant to ORS 416.425(13), except as provided in section (9) of this rule.

(8) The presumptions in sections (6) and (7) of this rule may be rebutted by a finding that the presumption is inappropriate in light of the parent's probable full-time earnings level based on employment potential, relevant work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community.

(9) Notwithstanding any other provision of this rule, if the parent is a recipient of Temporary Assistance for Needy Families, the parent's income is presumed to be the amount which could be earned by full-time work at the current state minimum wage. This income presumption is solely for the purposes of the support calculation and not to overcome the rebuttable presumption of inability to pay in ORS 25.245.

(10) As used in this rule, "full-time" means 40 hours of work in a week except in those industries, trades or professions in which most employers, due to custom, practice or agreement, utilize a normal work week of more or less than 40 hours in a week.

Stat. Auth.: ORS 25.270 - 25.290 & 180.345

Stats. Implemented: ORS 25.270 - 25.290

Hist.: DOJ 16-2009, f. 12-1-09, cert. ef. 1-4-10; DOJ 6-2010(Temp), f. & cert. ef. 2-12-10 thru 7-1-10

137-050-0760

Rebuttals

(1) The presumed support amount may be rebutted by a finding that sets out the presumed amount, concludes that this amount is unjust or inappropriate, and states the reason the presumed amount is unjust or inappropriate. The rebuttal factors may be applied by adjusting the income of a par-

ent, the costs for the child or the presumed support amount. The rebuttal factors include but are not limited to:

(a) Evidence of the other available resources of the parent;

(b) The reasonable necessities of the parent;

(c) The net income of the parent remaining after withholding required by law or as a condition of employment;

(d) A parent's ability to borrow;

(e) The number and needs of other dependents of a parent;

(f) The special hardships of a parent affecting the parent's ability to pay support, including, but not limited to, any medical circumstances, extraordinary travel costs related to the exercise of parenting time, or requirements of a reunification plan if the child is in state-financed care;

(g) The desirability of the custodial parent remaining in the home as a full-time parent or working less than full-time to fulfill the role of parent and homemaker;

(h) The tax consequences, if any, to both parents resulting from spousal support awarded, the determination of which parent will name the child as a dependent, child tax credits, or the earned income tax credit received by either parent;

(i) The financial advantage afforded a parent's household by the income of a spouse or domestic partner;

(j) The financial advantage afforded a parent's household by benefits of employment including, but not limited to, those provided by a family owned corporation or self-employment, such as housing, food, clothing, health benefits and the like, but only if unable to include those benefits as income under OAR 137-050-0715;

(k) Evidence that a child who is subject to the support order is not living with either parent or is a child attending school as defined in ORS 107.108;

(l) Findings in a judgment, order, decree or settlement agreement that the existing support award is or was made in consideration of other property, debt or financial awards, and those findings remain relevant;

(m) The net income of the parent remaining after payment of mutually incurred financial obligations;

(n) The tax advantage or adverse tax effect of a parent's income or benefits;

(o) The extraordinary or diminished needs of the child, except:

(A) Expenses for extracurricular activities and

(B) Social Security benefits paid to a child because of a child's disability;

(p) The return of capital.

(2) Amounts used to rebut income will be applied prior to determining income shares. Amounts used to rebut costs will be based on the respective income shares of the parties. Amounts used to rebut the presumed support amount will be applied on a dollar-for-dollar basis.

Stat. Auth.: ORS 25.270 - 25.290 & 180.345

Stats. Implemented: ORS 25.270 - 25.290

Hist.: DOJ 17-2009(Temp), f. 12-1-09, cert. ef. 1-4-10 thru 7-1-10; DOJ 3-2010(Temp), f. & cert. ef. 1-8-10 thru 7-1-10; DOJ 6-2010(Temp), f. & cert. ef. 2-12-10 thru 7-1-10

Department of Oregon State Police, Office of State Fire Marshal Chapter 837

Rule Caption: Update and streamlining of Community Right to Know hazardous substance reporting requirements.

Adm. Order No.: OSFM 1-2010

Filed with Sec. of State: 1-27-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 12-1-2009

Rules Amended: 837-085-0020, 837-085-0030, 837-085-0040, 837-085-0050, 837-085-0060, 837-085-0070, 837-085-0080, 837-085-0090, 837-085-0100, 837-085-0110, 837-085-0120, 837-085-0140, 837-085-0150, 837-085-0170, 837-085-0180, 837-085-0190, 837-085-0200, 837-085-0210, 837-085-0220, 837-085-0230, 837-085-0250, 837-085-0260, 837-085-0270, 837-085-0280, 837-085-0290, 837-085-0300, 837-085-0305, 837-085-0310, 837-085-0340, 837-085-0350, 837-085-0380

Subject: This proposed rulemaking consists of numerous grammatical revisions intended to eliminate duplicative language and create consistency. It clarifies that some exemptions currently provided for in rules, are still subject to federal requirements of the Emergency Planning and Community Right to Know Act. It updates the definition of Hazard Classification to the most current US Dept.

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of Transportation reference. The proposed rulemaking replaces the term Poison A&B with Highly Toxic Material as one of the criteria that requires reporting at a lower threshold quantity. It updates references to federal requirements to a consistent format and current reference. The proposed rulemaking simplifies the penalty calculation method and assessment criteria for noncompliance with hazardous substance reporting requirements.

Rules Coordinator: Pat Carroll — (503) 934-8276

837-085-0020

Purpose and Scope

(1) The purpose of OAR chapter 837, division 085 is:

(a) To ensure that all reportable hazardous substances or wastes manufactured, generated, used, stored, possessed or disposed of at fixed facilities are identified and the information is submitted to the Office of State Fire Marshal;

(b) To address the process by which hazardous substance information is identified and communicated to the Office of State Fire Marshal;

(c) To address the process by which information received through the Office of State Fire Marshal's Hazardous Substance Information Survey and Incident Reporting System is distributed to emergency personnel, public agencies, and the public;

(d) To address the process of assessing penalties;

(e) To address the process by which covered employers, owners, and operators will be evaluated to determine their level of compliance with the Oregon Community Right-to-Know and Protection Act;

(f) To establish procedures for issuing a Notice of Noncompliance and Proposed/Final Penalty Assessment Order to covered employers, owners, and operators who fail to comply with the reporting requirements.

(2) The Community Right-to-Know and Protection Act, ORS 453.307 to 453.414, requires covered employers, owners, and operators to report to the Office of State Fire Marshal, the identity, associated hazard classifications and other information for all reportable hazardous substances or waste which they manufacture, generate, use, store or dispose of at fixed facilities.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.307 & 453.372

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0030

Covered Employers, Owners, Operators and the North American Industry Classification System (NAICS)

(1) Persons operating one or more facilities, where hazardous substances are present in reportable quantities are required to notify the Office of State Fire Marshal within 30 days and are subject to the hazardous substance information reporting requirements contained in ORS 453.307 to 453.414 and OAR 837-085-0090.

(2) Persons operating facilities within North American Industry Classification System (NAICS) codes that have been identified by the Office of State Fire Marshal as having the potential to possess, store or otherwise use hazardous substances in reportable quantities are subject to the hazardous substance information reporting requirements contained in ORS 453.307 to 453.414 and OAR 837-085-0090 if sent a Hazardous Substance Information Survey by the Office of State Fire Marshal.

(3) Persons with facilities not covered may voluntarily complete and submit the Office of State Fire Marshal's Hazardous Substance Information Survey. Such persons shall not be subject to Hazardous Substance Possession Fees.

(4) Persons classified within construction or logging NAICS codes are not required to report their temporary work sites unless required in 40 CFR 370.

(5) Persons having facilities classified within the NAICS code 424930 (Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers) or the NAICS code 444220 (Nursery, Garden Center, and Farm Supply Stores), that do not sell, or otherwise market, products that require a Material Safety Data Sheet to be developed by the manufacturer, are not required to report for that facility unless required in 40 CFR 370.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.307(2)

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; FM 4-1994, f. 12-14-94, cert. ef. 12-15-94; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0040

Definitions

(1) "Act" means the Community Right-to-Know and Protection Act, ORS 453.307 to 453.414.

(2) "Appeal" means the written request for a contested case in order to contest the required submission of Hazardous Substance Information Survey information or to contest a "Notice of Noncompliance and Proposed/Final Penalty Assessment" order, or a response to a request for exemption.

(3) "Approved Form" means a form provided by or authorized by the Office of State Fire Marshal.

(4) "Audit" means the evaluation of covered employers, owners or operators to determine their level of compliance with the Oregon Community Right-to-Know and Protection Act.

(5) "Average Daily Amount" means the average amount of a hazardous substance present at a facility during the twelve-month survey period.

(6) "Chemical" means any element, chemical compound, or mixture of elements or compounds.

(7) "Chemical Name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service's (CAS) rules of nomenclature.

(8) "Common Name" means any designation or identification such as code name, code number, trade name, brand name or generic name, used to identify a chemical other than by its chemical name.

(9) "Compliance Auditor" means a designated employee of the Office of State Fire Marshal whose responsibility is to conduct audits, identify noncompliance issues, propose penalties, establish correction dates and assist employers, owners, and operators in voluntarily complying with ORS 453.307 to 453.414.

(10) "Compliance or Due Date" means the date set for submitting a Hazardous Substance Information Survey, substantive change or other information requested by the Office of State Fire Marshal.

(11) "Compressed Gas" means:

(a) A gas or mixture of gases, in a container, having an absolute pressure exceeding 40 psi at 70° F (21.1° C); or

(b) A gas or mixture of gases, in a container, having an absolute pressure exceeding 104 psi at 130° F (54.4° C) regardless of the pressure at 70° F (21.1° C); or

(c) A liquid having a vapor pressure exceeding 40 psi at 100° F (37.8° C) as determined by ASTM D-323-72, Test Method of Vapor Pressure of Petroleum Products (Reid Method).

(12) "Confidential" means information submitted to a public body in confidence (ORS 192.502(3)).

(13) "Confidentiality Agreement" means a written agreement between a covered employer, owner or operator and an entity authorized under ORS 453.337 and OAR chapter 837, division 085 to request and receive trade secret information.

(14) "Correction Order" means a written order that directs an employer, owner or operator to submit Hazardous Substance Information Survey information.

(15) "Covered Employer, Owner or Operator" means:

(a) Any person operating a facility possessing reportable quantities of hazardous substances as defined by the Office of State Fire Marshal in OAR 837-085-0070.

(b) Any person operating a facility that the Office of State Fire Marshal believes has the potential to store, generate, use, or otherwise possess hazardous substances in reportable quantities.

(16) "Division" means OAR chapter 837, division 085 of the Office of State Fire Marshal.

(17) "Emergency" means any human caused or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss which includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills of oil or other substances, contamination, utility or transportation accidents, disease, blight, infestation, civil disturbance, riot, sabotage/war.

(18) "Emergency Services" means those activities provided by state or local government agencies with emergency operational responsibilities to prepare for or carry out any activity to prevent, minimize, respond to or recover from an emergency. Without limitation, these activities include coordination, preplanning, training, interagency liaison, fire fighting, hazardous substance management, law enforcement, medical, health or sanitation services, engineering or public works, search and rescue activities, public information, damage assessment, administration and fiscal management.

(19) "Emergency Service Agency" means an organization, which performs essential services for the public's benefit prior to, during, or following an emergency. This includes, but is not limited to, organizational units

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within local governments, such as emergency medical technicians, health, medical or sanitation services, public works or engineering, public information or communications.

(20) "Entity" means any individual trust, firm, association, corporation, partnership, joint stock company, joint venture, public or municipal corporation, commission, political subdivision, the state or any agency or commission thereof, interstate body, or the federal government or any agency thereof.

(21) "Exempted Substance" means a substance that is not required to be reported.

(22) "Exemption" means the written authority given to a person by the Office of State Fire Marshal, granting an exemption from the requirements of a rule or law.

(23) "Explosive" means a hazardous substance classified as an explosive by the U.S. Department of Transportation.

(24) "Extension" means the written authorization of the Office of State Fire Marshal to extend a compliance or due date.

(25) "Facility" means all buildings, equipment structures or other stationary items that are located on a single site or on contiguous or adjacent sites that are owned or operated by a covered employer, owner or operator.

(26) "Facility Representative" means any individual designated by an employer, owner or operator to serve as spokesperson or, in the absence of a designated spokesperson, the person in charge of a facility being audited.

(27) "Filed" means the receipt of a document by the Office of State Fire Marshal, except that an appeal will be considered filed upon receipt at any regional office of the Office of State Fire Marshal.

(28) "Fire District" means any agency having responsibility for providing fire protection services.

(29) "Fixed Facility" means a facility having permanent or non-mobile operations.

(30) "Hazard Classification" means the U.S. Department of Transportation hazard classes and divisions as defined in 49 CFR 173.2. However, when the definitions in 49 CFR 173.2 refer to transportation or hazards associated with transportation, they shall be deemed to refer to storage or other regulated activities under OAR chapter 837, division 085.

(31) "Hazardous Substance" means:

(a) Any substance designated as hazardous by the Director of the Department of Consumer and Business Services or by the Office of State Fire Marshal; or

(b) Any substance required to have a Material Safety Data Sheet (MSDS) pursuant to Oregon Occupational Safety and Health Division's OAR 437, division 2 (29 CFR 1910.1200), subdivision Z, and which appears on the list of Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment by the American Conference of Governmental Industrial Hygienist (ACGIH); or

(c) Any substance required to have an MSDS pursuant to Oregon Occupational Safety and Health Division's OAR 437, division 2 (29 CFR 1910.1200), subdivision Z, except:

(A) Substances exempted by designation of the Office of State Fire Marshal; or

(B) Substances which are solids and do not react or dissolve and are stored in unprotected areas; or

(C) Substances exempted by the rules of OAR chapter 837, division 085; or

(D) Gases intended and used for human or animal ingestion or inhalation either directly or added to a product, if the gas is present at the site where ingestion or inhalation occurs; and the gas is not being used in a manufacturing process; and the gas is not a cryogenic; and the gas is not being stored at the site in a quantity that exceeds 1,000 cubic feet.

(d) Any substance for which a manufacturer is required to develop an MSDS, that presents a physical or health hazard to emergency response personnel or the public under normal conditions of use or during an emergency situation; or

(e) Any waste substance that presents a physical or health hazard to emergency response personnel or the public under normal conditions of use or during an emergency situation; or

(f) Any radioactive waste or radioactive material as defined in ORS 469.300(19) and radioactive substance as defined in ORS 453.005.

(32) "Hazardous Substance Information Survey" means a hazardous substance report that covered employers, owners or operators are required to submit, on an approved form, to the Office of State Fire Marshal.

(33) "Health Professional" means a physician as defined in ORS 677.010, registered nurse, industrial hygienist, toxicologist, epidemiologist or emergency medical technician.

(34) "Highly Toxic Material" means a material which produces a lethal dose or lethal concentration which falls within any of the following categories:

(a) A chemical that has a median lethal dose (LD50) of 50 milligrams or less per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each;

(b) A chemical that has a median lethal dose (LD50) of 200 milligrams or less per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each;

(c) A chemical that has a median lethal concentration (LC50) in air of 200 parts per million by volume or less of gas or vapor, or two milligrams per liter or less of mist, fume or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each;

(d) Mixture of these materials with ordinary materials, such as water, may not warrant a classification of highly toxic. While this system is basically simple in application, any hazard evaluation which is required for the precise categorization of this type of material shall be performed by experienced, technically competent persons.

(35) "Identity" means any chemical or common name that is indicated:

(a) On a Material Safety Data Sheet (MSDS) as required under OAR 437, Division 2 (CFR 1910.1200), subdivision Z; or

(b) On shipping documents as required under 49 CFR 171-177 under the Transportation Safety Act of 1974 (49 U.S.C. 1801 et seq.); or

(c) On hazardous waste manifests as required by OAR Chapter 340, Division 102 as adopted by the Department of Environmental Quality; or

(d) On packaging or container labels as required under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and labeling regulations issued under the Act by the Environmental Protection Agency; or

(e) On a radioactive material license as issued under OAR Chapter 333, Divisions 100 through 113 as adopted by the Radiation Control Section of the Health Division of the Oregon Department of Human Resources.

(36) "Incident" means the threatened or actual injury or damage to a human, wildlife, domestic animal or the environment, or any property loss resulting from a hazardous substance release.

(37) "Law Enforcement Agency" means county sheriffs, municipal police departments, state police, other police officers of this or other states or law enforcement agencies of the federal government.

(38) "Liquefied Gas" means a gas that is received and stored as a liquid through the use of pressure or cryogenic conditions.

(39) "Material Safety Data Sheet (MSDS)" means written, printed or electronic material concerning a hazardous chemical which is prepared in accordance OAR 437, Division 2 (29 CFR 1910.1200), subdivision Z, Hazard Communication rules of the Occupational Safety and Health Division of the Department of Consumer and Business Services.

(40) "Maximum Amount" means the largest amount of a hazardous substance located at a facility at any one time during the 12-month survey period.

(41) "North American Industry Classification System" means a system developed by the Office of Management and Budget for the purpose of classifying establishments by the type of activity they engage in. The number assigned to each group classified is called the NAICS code.

(42) "No Longer Reportable" means a previously reported substance was not on site in a reportable quantity during the current survey period.

(43) "Noncompliance" means failure of a covered employer, owner or operator to comply with the Community Right-to-Know and Protection Act or its administrative rules.

(44) "Noncompliance Classification" means the category assigned to issues of noncompliance for the purposes of assessing a penalty.

(45) "Notice of Noncompliance and Proposed/Final Penalty Assessment Order" means a written document issued to covered employers, owners or operators that states they were not complying with the Community Right-to-Know and Protection Act, establishes correction dates and notifies them of penalty assessments.

(46) "Person" means any entity including, but not limited to, an individual, trust, firm, joint stock company, corporation, partnership, association, municipal corporation, political subdivision, interstate body, the state or any agency or commission thereof, or the federal government or any agency thereof.

(47) "Record" means any recorded information.

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(48) "Repeat Noncompliance" means a covered employer, owner and or operator has failed to comply with the same rule of OAR 837-085 two or more times within a five year period of time.

(49) "Reportable Hazardous Substance" is a hazardous substance that is manufactured, generated, used, stored, possessed, or disposed of at a fixed site location by covered employers, owners, or operators at or above the reportable quantities at any time during the survey period.

(50) "Reportable Quantity" means the amount of hazardous substance that must be present at a facility before reporting is required.

(51) "Reporting Range" means a range of quantities assigned by the Office of State Fire Marshal for reporting hazardous substances.

(52) "Single Combined Survey" means a survey that has multiple substations reported on it.

(53) "Source Generation Sites" means facilities generating that which is relayed, pumped or stored by substations.

(54) "State Fire Marshal" means the State Fire Marshal or designee.

(55) "Substantive Change" means a change in hazardous substance reporting information that requires notification to the Office of State Fire Marshal.

(56) "Substation" means facilities that function only as electrical transmission relays, telephone transmission relays, pager transmission relays, cable TV transmission relays, cellular phone transmission relays, radar transmission relays, water storage reservoir, water pump or chlorinating stations, sewerage/storm water pump stations, natural gas pump stations or road sand storage.

(57) "Survey Period" means the 12 months preceding the date the Hazardous Substance Information Survey is mailed to, or completed by, the covered employer, owner or operator.

(58) "Temporary Worksite" means a single site location where activities, such as construction or logging, will occur for less than 24 months.

(59) "Trade Name" means the brand name or trademark given to a hazardous substance by a manufacturer or distributor.

(60) "Trade Secret" means, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented; which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service or to locate minerals or other substances having commercial value; and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(61) "Total Amount Transported from the facility" means the total amount of a hazardous substance that has been transported from the facility site during the 12-month survey period.

(62) "Total Amount Transported to the facility" means the total amount of a hazardous substance that has been transported on to the facility site during the 12-month survey period.

(63) "Waste Hazardous Substance" means any substance, which meets the Department of Environmental Quality's definition of "hazardous waste".

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-1999, f. 2-2-99 & cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0050

Hazardous Substance Survey — General

(1) The Office of State Fire Marshal shall develop and distribute an annual Hazardous Substance Information Survey to covered employers, owners, and operators. The information received shall be used to establish and maintain the hazardous substance information program required by the Community Right-to-Know and Protection Act.

(2) The Hazardous Substance Information Survey period shall be for the 12 months preceding the date the survey is mailed to, or completed by the facility.

(3) Covered employers, owners or operators operating facilities where hazardous substances are present in reportable quantities must notify the Office of State Fire Marshal that the substances are present. This notification must be made within 30 days of the substance being on site and at a minimum must include the information required in OAR 837-085-0090(6)(b), (D), (E), (F), (G), and (H).

(4) Covered employers, owners or operators operating facilities where hazardous substances were present in reportable quantities during the survey period must complete and submit a Hazardous Substance Information Survey.

(5) Covered employers, owners or operators operating facilities receiving the Hazardous Substance Information Survey for the first time must complete and submit the survey by the due date.

(6) Covered employers, owners, or operators that reported hazardous substances were present in reportable quantities during the previous survey period must complete and submit a Hazardous Substance Information Survey.

(7) Covered employers, owners or operators that have had changes or additions to the information previously reported on their Hazardous Substance Information Survey must complete and submit the survey.

(8) Covered employers, owners or operators operating facilities where hazardous substances were not present in reportable quantities during the survey period and did not have hazardous substances on the previous Hazardous Substance Information Survey are not required to submit a Hazardous Substance Information Survey, provided they are not otherwise required to do so by these rules.

(9) A separate Hazardous Substance Information Survey must be submitted for each single address owned or operated by a covered employer, owner, or operator that meets the reporting requirements of this section.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.307 - 453.372

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0060

Hazardous Substance Survey — Substance Determinations

Covered employers, owners, and operators must identify and evaluate all substances and wastes manufactured, generated, used, stored, possessed, or disposed of at their facilities to determine if they are reportable on the survey. The definition of hazardous substance in OAR 837-085-0040(31) shall be used..

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0070

Hazardous Substance Information Survey — Reportable Quantities

(1) If at anytime during the survey period, a covered employer, owner or operator has manufactured, generated, used, stored, possessed, or disposed of a hazardous substance in an amount at or above the reportable quantities, they must report the hazardous substance.

(2) The hazardous substance reportable quantities shall be as follows:

(a) Any quantity of radioactive substance including radioactive wastes, except:

(b) Sealed source radioactive materials, as defined by OAR 333-100-0005(118) contained in smoke detectors, survey equipment and small laboratory testing equipment.

(c) Any highly toxic material or explosive in quantities equal to, or greater than, ten pounds, five gallons or 20 cubic feet;

(d) Any Extremely Hazardous Substance that meets or exceeds the Threshold Planning Quantities as defined by 40 CFR 355.

(e) Any other hazardous substance in quantities equal to, or greater than, 50 gallons, 200 cubic feet, or 500 pounds.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; FM 4-1994, f. 12-14-94, cert. ef. 12-15-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0080

Hazardous Substance Information Survey — Reportable Quantities

(1) Covered employers, owners, and operators must calculate the following for each hazardous substance manufactured, generated, used, stored, possessed or disposed of during the survey period:

(a) Average daily amount;

(b) Maximum amount onsite at one time;

(c) Maximum amount at each storage location reported;

(d) Total amount transported to the facility;

(e) Total amount transported from the facility.

(2) The amounts of hazardous substances shall be measured in the physical state assumed at "Standard Temperature and Pressure" (STP) or when released into the environment.

NOTE: Although liquefied gases are reported in gallons, their reportability is determined by measuring them in cubic feet.

(3) The amounts of hazardous substances must be reported in the following units:

(a) Solids must be reported in units of pounds;

(b) Liquids must be reported in units of gallons;

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- (c) Liquefied gases must be reported in units of gallons;
- (d) Compressed gases that are not liquefied must be reported in units of cubic feet;
- (e) Radioactive materials must be reported in units of millicuries.
- (4) For a mixture, the total amount of the substance is reported regardless of the concentration of the hazardous substance in the mixture.
- (5) The amounts of a hazardous substance with the same chemical composition in separate containers at one facility shall be added together for reporting purposes.
- (6) Like substances which are exempted from the Hazardous Substance Possession Fee shall be grouped and reported together. Examples of these groups include, but are not limited to: Gasoline, motor oils, asphalt emulsion, and diesels.
- (7) Water-based paints with the same major components shall be grouped and reported together. Solvent-based paints with the same major components shall be grouped and reported together.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0090

Hazardous Substance Information Survey — Reporting Requirements

(1) Covered employers, owners, and operators must report hazardous substance information as required by these rules on the survey form provided or approved by the Office of State Fire Marshal.

(2) Covered employers, owners, and operators who receive the Hazardous Substance Information Survey must complete and return it to the Office of State Fire Marshal by the due date indicated on the survey in accordance with OAR 837-085-0050(3) through (8) of these rules.

(3) Covered employers, owners, and operators receiving a survey for one or more of their facilities must submit a separate survey for each of their facilities that are subject to the reporting requirements.

(4) Covered employers, owners, and operators who operate substations that are of the same type may report all their substations on a single combined survey instead of reporting each location separately.

(a) Source generation sites must be reported separately.

(b) Substations that have no hazardous substances are exempt from reporting.

(c) Each substation reported on a single combined survey must have identification posted at it that identifies the site by a company unique number or name and the Facility ID number issued by the Office of State Fire Marshal.

(A) The identification must be readable from a distance of 50 feet.

(B) Substations that are completely underground and can only be accessed through a manhole or excavation are exempt from this posting requirement.

(5) Within 30 days of receiving a survey, covered employers, owners, and operators must request a survey from the Office of State Fire Marshal for each of their subject facilities not receiving a survey.

(6) Covered employers, owners, and operators receiving the survey must provide the following information:

(a) The facility's reporting status, including:

(A) Whether or not hazardous substances were present at the site in reportable quantities;

(B) Whether or not Extremely Hazardous Substances were present that met or exceeded the threshold planning quantity of 40 CFR 355, Appendix A and B;

(C) Whether or not the facility is subject to the reporting requirements of Section 112(r) of the Clean Air Act;

(D) Whether or not the facility is subject to the Process Safety Management (PSM) requirements of the Occupational Safety and Health Administration (OSHA);

(b) Demographic information including:

(A) The primary and, if applicable, secondary North American Industry Classification System code for the facility;

(B) A description of the type of business conducted at the site;

(C) The Dun and Bradstreet Number, if applicable;

(D) The name of the Owner/Chief Executive Officer/Registered Agent of the entity;

(E) The business name which the entity operates under;

(F) The department or division, if applicable;

(G) The physical site address including the street, city, county, and zip code; or a grid location acceptable to the responding fire department if no address exists;

(H) The facility phone number for the site;

(I) The e-mail address of the business or contact person, if available;

(J) The mailing address, if different from the site address;

(K) The number of employees at the site;

(L) The name and telephone number of personnel qualified to give technical, on-site information about hazardous substances present at the facility in the event of an emergency. Listed phone numbers shall include both business and after-hours contact information;

(M) The name of the responding fire department by local jurisdiction;

(N) A brief summary of any procedures established by the covered employer, owner or operator for the control of hazardous substances in the event of an emergency; and

(O) Whether the hazardous substance storage location for each reportable hazardous substance is placarded according to National Fire Protection Association (NFPA) Standard 704.

(c) The name and signature of the person completing the survey and the date the survey was completed.

(d) Information about each reportable hazardous substance meeting the reportable quantity thresholds including, but not limited to:

(A) The common name or trade name;

(B) The chemical name of the hazardous ingredient present in the highest concentration;

(C) Whether or not the substance reported contains an extremely hazardous substance as listed in 40 CFR 355;

(D) Whether or not the substance reported contains a Clean Air Act, Section 112(r) listed chemical;

(E) Whether or not the substance reported contains a Process Safety Management listed chemical;

(F) Information regarding whether the substance is pure or a mixture;

(G) The physical state of the hazardous substance as it is released into the environment at Standard Temperature and Pressure (STP) relating whether it is a solid, liquid or a gas;

(H) The unit of measure used to report the quantity range of the hazardous substance, relating whether it is reported in pounds, gallons, cubic feet or millicuries;

(I) The average amount;

(J) The maximum amount;

(K) The maximum amount of each reported hazardous substance for each location reported;

(L) The total amount transported to the facility;

(M) The total amount transported from the facility;

(N) The total estimated number of days the hazardous substance was on-site;

(O) The type of container the substance is stored in;

(P) The pressure and temperature at which the substance is stored;

(Q) The primary and secondary hazard classification for each reportable hazardous substance;

(R) The Chemical Abstract Service (CAS) number, if known;

(S) The four-digit United Nations (UN) or North American (NA) number, if known;

(T) The EPA Pesticide Registration number if applicable; and

(U) The storage location;

(e) Upon request of the Office of State Fire Marshal, covered employers, owners, and operators must provide Material Safety Data Sheets (MSDS);

(f) Other information that may be requested by the Office of State Fire Marshal in order to meet the intent of The Community Right-to-Know and Protection Act.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317(1) & 453.317(2)

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; FM 4-1994, f. 12-14-94, cert. ef. 12-15-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0100

Hazardous Substance Information Survey — Substantive Changes

(1) Covered employers, owners, and operators must notify the Office of State Fire Marshal whenever a substantive change occurs. This notification must be made within 30 days of the substantive change on a form provided or approved by the Office of State Fire Marshal.

(2) The occurrence of any of the following events is a substantive change and must be reported:

(a) A covered employer, owner or operator has become exempt from reporting requirements;

(b) A covered employer, owner or operator who was previously surveyed and placed in the inactive files because they had no reportable quantities now has reportable quantities of hazardous substances on site;

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(c) A hazardous substance not previously reported is introduced at the facility;

(d) An increase in the maximum quantity reporting range to a higher quantity reporting range than previously reported;

(e) The reported location of a reportable hazardous substance has changed and it is now located in another building at the same site or it has been moved 300 feet or more from its previously reported location within the same building or it has been moved to a different floor level;

(f) A change of mailing or site address has occurred;

(g) A change of emergency contact person has occurred;

(h) A change of phone numbers has occurred;

(i) A change of ownership or business name has occurred; or

(j) The facility is no longer in business.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; FM 4-1994, f. 12-14-94, cert. ef. 12-15-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0110

Record Keeping Requirements

(1) Covered employers, owners, and operators must maintain complete and accurate records of each hazardous substance they manufacture, generate, use, store, possess or dispose of:

(a) These records must be maintained for a period of three calendar years;

(b) Copies of these records must be kept at the facility for which they apply.

EXCEPTION: Records for facilities and/or remote sites, where the covered employer, owner or operator is not set up to maintain such records, may be maintained at another of their facilities within the state.

(c) Hazardous substance records include, but are not limited to:

(A) Hazardous Substance Information Surveys

(B) Material Safety Data Sheets (MSDSs);

(C) Invoice and purchase records;

(D) Receiving and shipping papers;

(E) Bills of lading;

(F) Production records;

(G) Waste/recycling records; and

(H) Inventory/dispensing records.

(I) Risk Management Plan if facility is required to create one by the Environmental Protection Agency.

(2) Covered employers, owners, and operators must maintain copies of Notice of Noncompliance and Proposed/Final Penalty Assessment Orders issued by the Office of State Fire Marshal:

(a) Copies of Notice of Noncompliance and Proposed/Final Penalty Assessment Orders must be maintained for a period of five years;

(b) These copies must be kept with the covered employer, owner or operator's Hazardous Substance Information Survey;

(3) Covered employers, owners, and operators must, upon request, make records information available and provide copies of those records to the Office of State Fire Marshal.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.406

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0120

Application for an Exemption

(1) Any covered employer, owner or operator may apply for an exemption from all or part of the reporting requirements of the Community Right-to-Know and Protection Act and its administrative rules.

(2) An application for an exemption must be in writing and contain the following:

(a) The name and mailing address of the person making application;

(b) The site address and location of the facility;

(c) The facility number assigned by the Office of State Fire Marshal;

(d) The rule or law, identified by number, from which the exemption is sought; and

(e) The basis for the request.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.307 - 453.372

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0140

Trade Secrets — General

(1) A covered employer, owner or operator may request to withhold the specific chemical identity, including the chemical name and other spe-

cific identification of a reportable substance, from the Hazardous Substance Information Survey provided that:

(a) The claim that the information withheld is a trade secret can be supported with the burden of proof placed on the covered employer, owner or operator;

(b) The information required by the Office of State Fire Marshal concerning the properties and effects of reportable substances are disclosed; and

(c) The specific chemical identity is made available to health professionals in accordance with OAR 837-085-0170(1) and (2).

(2) Any claim of trade secret by a covered employer, owner or operator must be made in writing and submitted at the time they return the Hazardous Substance Information Survey or a substantive change notice to the Office of State Fire Marshal.

(3) A claim of trade secret by a covered employer, owner or operator may be recognized by the Office of State Fire Marshal as sufficient if the claim is substantiated by the Occupational Safety and Health Division of the Department of Consumer and Business Services or the U.S. Environmental Protection Agency.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.327 - 453.337

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0150

Trade Secrets — Claim Submissions

(1) To substantiate a trade secret claim, a covered employer, owner or operator must submit both of the following:

(a) Hazardous Substance Information Survey with the generic name included and the information being claimed as Trade Secret deleted; and

NOTE: Only the identity and percentage of the chemical components can be claimed as trade secrets.

(b) A Material Safety Data Sheet (MSDS) (as released to the public) for each chemical or formulation for which the covered employer is claiming trade secret protection.

(2) Covered employers, owners, and operators must submit a justification to support their trade secret claims. In order to substantiate a claim, the following must be provided for each chemical or formulation for which trade secret protection is being requested:

(a) The specific measures the covered employer has taken to safeguard the confidentiality of any chemical identity claimed as trade secret;

(b) Whether the chemical identity has been disclosed to any person not an employee of the covered employer or of a local, state, or federal government entity, who has not signed a confidentiality agreement requiring the person to refrain from disclosing the chemical identity to others;

(c) A list of all local, state and federal government entities to which the covered employer has disclosed the specific chemical identity. For each, indicate whether or not a confidentiality claim was asserted for the chemical identity, and whether or not the government entity denied that claim;

(d) The measures that have been taken with respect to distribution of the product to maintain trade secrets;

(e) Whether discovery of trade secret information is feasible by sophisticated chemical analysis ("reverse engineering"). The covered employer, owner or operator must provide evidence to support their answer;

(f) An explanation of why the covered employer owner or operator's use of the substance would be valuable information to their competitors;

(g) An analysis of the nature of the harm to the covered employer, owner or operator's competitive position that would likely result from disclosure of the specific chemical identity, including an estimate of the potential loss in sales and profitability; and

(h) Whether the substance, or the covered employer, owner or operator's use of it, is subject to any U.S. patent of which the covered employer is aware. If so, identify the patent and explain why this does not protect the covered employer from competitive harm.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.327 - 453.337

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0170

Trade Secrets — Disclosures

(1) Where a treating physician, registered nurse, or emergency medical technician determines that a medical emergency exists and the specific identity of a chemical substance or waste is necessary for emergency or first-aid treatment, the covered employer, owner or operator must immediately disclose the specific identity of a trade secret chemical to that treating physician, registered nurse, or emergency medical technician regardless of a written statement of need or a confidentiality agreement. The covered

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employer may require a written statement of need and a confidentiality agreement in accordance with the provisions of sections (2) and (3) of this rule as soon as the circumstances permit.

(2) In a non-emergency situation, a covered employer must, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under OAR 837-085-0140(1), to a health professional, if:

(a) The request is in writing on a form approved by the Office of State Fire Marshal;

(b) The request describes, with reasonable detail, one or more of the following community health needs for information:

(A) To assess the hazards of the chemical substance or waste to which emergency service personnel will be exposed;

(B) To provide medical treatment to exposed employees, emergency service personnel or members of the community;

(C) To select or assess appropriate protective equipment for potential exposures;

(D) To design or assess engineering controls or other protective measures for emergency situations.

(c) The request explains, in detail, why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information would not enable the health professional to provide the services described in subsection (2)(b) of this rule:

(A) The properties and effects of the chemical;

(B) Measures for controlling community exposure to the chemical; and

(C) Methods of diagnosing and treating harmful exposures to the chemical.

(d) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and

(e) The health professional, and the covered employer, owner or operator agree in a written confidentiality agreement that the health professional will not use the trade secret information for any purpose other than the health needs asserted and will not release the information under any circumstances other than to the Office of State Fire Marshal, except as authorized by the terms of the agreement or by the covered employer.

(3) The confidentiality agreement authorized by section (1) of this rule:

(a) May restrict the use of the information for the purposes as indicated in the written statement of need;

(b) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and

(c) May not include requirements for the posting of a penalty bond.

(4) If the health professional receiving the trade secret information decides that there is a need to disclose it to the Office of State Fire Marshal, the covered employer who provided the information shall be informed by the health professional prior to, or at the same time as, such disclosure.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.327 - 453.337

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0180

Trade Secrets — Refusal to Disclose

(1) If the covered employer denies a written request, submitted in accordance with OAR 837-85-170(2), for disclosure of a specific chemical identity, the denial must:

(a) Be provided to the health professional within 30 days of the request;

(b) Be in writing;

(c) State the specific reasons why the request is being denied;

(d) Include evidence to support the claim that the specific chemical identity is a trade secret; and

(e) Explain in detail how alternative information may satisfy the specific planning or health need without revealing the specific chemical identity.

(2) The health professional whose request for information, as authorized by OAR Chapter 837, Division 085, is denied may refer the request and the covered employer's written denial to the Office of State Fire Marshal for consideration.

(3) When the health professional refers the denial to the Office of State Fire Marshal, the State Fire Marshal shall consider the evidence to determine if:

(a) The covered employer has supported the claim that the specific chemical identity is a trade secret;

(b) The health professional has supported the claim that there is a medical, planning, or health need for the information; and

(c) The health professional has demonstrated adequate means to protect the confidentiality.

(4) If a covered employer, owner or operator demonstrates to the Office of State Fire Marshal that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of trade secret data, the State Fire Marshal may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the health or planning services are provided without undue risk of harm to the covered employer.

(5) If the Office of State Fire Marshal determines that the specific chemical identity requested under OAR 837-085-0140 is not a bona fide trade secret, or that it is a trade secret but the requesting health professional has a legitimate need for the information, has executed a written confidentiality agreement and has shown adequate means to protect the confidentiality of the information, the covered employer, owner or operator must provide the requested information.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.327 - 453.337

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0190

Hazardous Substance Information Survey — Availability of Survey Information

(1) The Office of State Fire Marshal shall provide hazardous substance information furnished by covered employers to:

(a) Each county public health authority;

(b) Each local fire district; and

(c) Each county emergency manager.

(2) Upon request, the Office of State Fire Marshal shall also provide information to the following agencies located in the geographic jurisdiction of the local fire district:

(a) Emergency service personnel responding to a hazardous substance incident;

(b) Health professionals;

(c) Law enforcement agencies;

(d) Local emergency management agencies; and

(e) Any public or private safety agency administering an emergency telephone system pursuant to ORS 401.710 to 401.790.

(3) If the Office of State Fire Marshal considers the information essential to the safe control of an emergency, the Office of State Fire Marshal may distribute the information to persons outside the jurisdiction of the fire district.

(4) The Office of State Fire Marshal shall provide, upon request, access to reportable substance information, except for trade secret restrictions identified in OAR 837-085-0140, to any agency of this state.

(5) Site specific information regarding the exact amount and the exact storage location of reportable substances provided to the Office of State Fire Marshal shall be treated as confidential:

(a) The Office of State Fire Marshal may require written statement of need and a written confidentiality agreement to be executed by the requesting agency prior to the release of confidential information; and

(b) During emergency situations, the Office of State Fire Marshal may immediately release confidential information and require requesting agencies to complete a written statement of need as soon as circumstances permit.

(6) The public shall be permitted access to hazardous substance information that is not otherwise protected as a trade secret or is designated as confidential under OAR 837-085-0140(1) and ORS 453.332(3) and (4):

(a) Public access to Hazardous Substance Information Survey information may be provided through the Office of State Fire Marshal in Salem;

(b) If, in the discretion of the Office of State Fire Marshal, it is necessary to protect the public safety and welfare, the Office of State Fire Marshal may require a person requesting information to complete an approved form which includes their name, address and proof of identity.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.322

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0200

Compliance Audit Program — General

(1) The Office of State Fire Marshal shall provide a compliance audit program to assist and ensure covered employers, owners, and operators comply with the statutes, regulations, rules, standards or orders of the Community Right-to-Know and Protection Act.

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(2) The compliance audit program shall include, but is not limited to:
(a) Providing training, guidance and assistance to covered employers, owners, and operators and the community;

(b) Evaluating and auditing facilities where hazardous substances are likely to be manufactured, generated, used, stored, possessed, or disposed of;

(c) Issuing Notice of Noncompliance and Proposed/Final Penalty Assessment Orders for noncompliance with the Community Right-to-Know and Protection Act and administrative rules;

(d) Issuing correction orders;

(e) Assessing civil monetary penalties for noncompliance;

(f) Holding informal conferences with covered employers, owners, and operators or their representatives to discuss notices of noncompliance, penalty assessments, survey reporting requirements or correction orders without limiting or extending their appeal rights;

(g) Granting or denying requests for extensions of the time set by correction orders; and

(h) Examining and auditing a covered employer, owner or operator's hazardous substance information records.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317(8)

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0210

Scheduling and Selection of Compliance Audits

(1) Compliance audits may be conducted when the Office of State Fire Marshal deems it necessary to confirm or validate Hazardous Substance Information Surveys.

(2) The reasons the Office of State Fire Marshal would deem it necessary to conduct an audit include, but are not limited to, the following:

(a) A covered employer, owner or operator fails to submit their survey;

(b) A review of survey records show reporting errors may have been made;

(c) Information is received that indicates reporting errors may have been made;

(d) A covered employer, owner or operator requests an audit be conducted;

(e) A North American Industry Classification System code review indicates misreporting may exist;

(f) To verify survey information.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317(8)

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0220

Right of Entry

(1) In accordance with ORS 453.317(8), a compliance auditor has the right to enter and audit any facility of a covered employer, owner or operator during normal working hours or at other reasonable times.

(2) If the covered employer, owner or operator or their representative are not present at the facility, an audit will not be conducted, except when:

(a) Executing an inspection warrant;

(b) The covered employer, owner or operator has been notified that the audit is to be conducted.

(3) Compliance auditors will identify themselves as representatives of the State Fire Marshal and, as necessary, present their credentials to the covered employer, owner or operator or their representative to establish the right of entry.

(4) The compliance auditor will not sign any form of liability release or agree to waive any rights of the agency.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317(8)

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0230

Compliance Audit Warrants

If a compliance auditor is denied entry, the Office of State Fire Marshal may obtain an inspection warrant, as provided for in ORS 476.155.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317(8)

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0250

Notice of Noncompliance and Proposed/Final Penalty Assessment Order

(1) If, during an audit initiated by the Office of State Fire Marshal, it is concluded that a covered employer, owner or operator has not complied with the Community Right-to-Know and Protection Act and its administrative rules, a Notice of Noncompliance and Proposed/Final Penalty Assessment Order will be issued to the covered employer, owner or operator which shall:

(a) State the name of the covered employer, owner or operator, location of the facility, and the date of the compliance audit. The period of time the employer, owner or operator is in noncompliance will be included;

(b) Describe how the covered employer, owner or operator was in noncompliance, such description to take the form of findings of fact and inclusion of law and rule;

(c) State the classification of noncompliance;

(d) Identify the rule or order the covered employer, owner or operator failed to comply with and any other statute or rules involved;

(e) Establish a compliance date if compliance is not achieved by the facility prior to issuing a Notice of Noncompliance and Proposed/Final Penalty Assessment Order;

(f) State the total dollar amount of penalties assessed and the amount subject to suspension;

(g) Inform the covered employer, owner or operator of the right to appeal the Notice of Noncompliance and Proposed/Final Penalty Assessment Order and the compliance date; and

(h) Notify the covered employer, owner or operator that the Office of State Fire Marshal has designated its file in this matter as the record in this case and that the Notice of Noncompliance and Proposed/Final Penalty Assessment Order becomes final if a written appeal is not filed within 30 days of its service.

(2) The Notice of Noncompliance and Proposed/ Final Penalty Assessment Order shall be served on the covered employer, owner or operator in person or by:

(a) Regular mail, postage prepaid, true, exact and full copies when penalties for noncompliance have been suspended in full;

(b) Certified or registered mail, postage prepaid, true, exact and full copies when penalties for noncompliance have been assessed.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; FM 4-1995, f. 12-14-94, cert. ef. 12-15-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0260

Covered Employer, Owner or Operator Response to Notice of Noncompliance and Proposed/Final Penalty Assessment Order

(1) After receipt of a Notice of Noncompliance and Proposed/Final Penalty Assessment Order, the covered employer, owner or operator must submit all information requested by the Office of State Fire Marshal on or before the established compliance date.

(2) The above requirements shall not limit a covered employer's appeal rights.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0270

Penalty Criteria for Noncompliance — General

(1) Issuance of any penalty is subject to appeal in accordance with OAR 837-085-0330 through 837-085-0370.

(2) Any covered employer, owner or operator found to be in noncompliance may be assessed a penalty of up to a maximum of \$1,000 per day for each day of noncompliance in accordance with ORS 453.357.

(a) The daily penalty maximum for failing to comply with OAR 837-85 shall be based on the total number of days that pass between the date compliance was required to the date compliance is achieved.

(b) Compliance shall be considered achieved when the required correct and accurate information is received by the Office of State Fire Marshal or in the case of noncompliance with OAR 837-85-0170(1) or (2) the required information is received by the requesting health professional.

(c) The daily maximum penalty is calculated by dividing the total penalties assessed by the number of days it takes the covered employer, owner or operator to achieve compliance.

(3) The noncompliance classification established in OAR 837-085-0280 shall be used to determine the penalty, if any, that will be assessed.

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(4) Covered employers, owners or operators found to be in noncompliance in more than one Noncompliance Class (OAR 837-085-0280) shall have a penalty calculated and assessed for each Noncompliance Class.

(5) Covered employers, owners or operators found to be in noncompliance with the same administrative rule within a five-year period of time will be assessed additional penalties for the repeat noncompliance.

(a) If a covered employer, owner or operator is found to be in repeat noncompliance within any classification the penalty for that classification shall be based on the repeat noncompliance.

(b) The maximum amount of penalty for each classification cannot exceed the amount of the 5th instance penalty identified in OAR 837-85-0290(2) or 837-85-300 (6).

(c) OAR 837-85-270(5) does not apply to class V Noncompliance.

(6) At any time prior to a Notice of Noncompliance and Proposed/Final Penalty Assessment Order becoming final, the Office of State Fire Marshal may modify the notice to reflect the correct noncompliance classification or penalty assessment.

(7) Nothing in these rules shall affect the ability of the Office of State Fire Marshal to modify penalties through a Stipulated Final Order.

(8) Penalty suspensions may be made in accordance with OAR 837-085-0310.

(9) Daily penalties shall be assessed in accordance with OAR 837-085-0305.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0280

Noncompliance Classes

For the purpose of determining the penalties that may be assessed for noncompliance, the following Noncompliance Classes are established:

(1) Class I Noncompliance. Covered employers, owners, and operators who fail to notify the Office of State Fire Marshal they have reportable quantities of hazardous substances, or fail to submit their Hazardous Substance Information Survey or substantive changes when required, shall be considered in Class I Noncompliance.

(2) Class II Noncompliance. Covered employers, owners, and operators who fail to maintain records in accordance with OAR 837-085-0110; or when requested by the Office of State Fire Marshal, fail to provide an MSDS or other hazardous substance information not elsewhere classified, shall be considered in Class II Noncompliance.

(3) Class III Noncompliance. Covered employers, owners, and operators who report all their hazardous substances but fail to submit the information required by OAR 837-085-0090 or who report the information incorrectly shall be considered in Class III Noncompliance. Exceptions: Failing to submit or submitting incorrect information on the following will not be considered Class III Noncompliance or any other class of noncompliance:

- (a) North American Industry Classification System;
- (b) Dun and Bradstreet Number;
- (c) Send to Attention of;
- (d) E-Mail Address;
- (e) Department or Division;
- (f) Number of Employees;
- (g) Special Fire Department Information including, but not limited to:
 - (A) Written Emergency Plan and, if so, the location;
 - (B) Automatic Fire Suppression System;
 - (C) NFPA 704 Placarding;
 - (D) Other Types of Placarding.
- (h) Pure or Mixture;
- (i) Chemical Abstract Service Number; or
- (j) UN or NA Numbers

(4) Class IV Noncompliance. Covered employers, owners, and operators who, when submitting their Hazardous Substance Information Survey, substantive changes or survey corrections, fail to report all reportable hazardous substances or fail to report the correct maximum daily quantity shall be considered in Class IV Noncompliance.

(5) Class V Noncompliance. Covered employers, owners, and operators who intentionally misreport on their Hazardous Substance Information Survey, substantive changes, survey corrections or records of hazardous substances or fail to provide health professionals with any pertinent hazardous substance information, in accordance with OAR 837-085-0170, shall be considered in Class V Noncompliance.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0290

Penalties for Class I, II and III Noncompliance

(1) Covered employers, owners or operators identified as being in Class I, II, or III Noncompliance shall be assessed a penalty for each Noncompliance Class for which they are found to be in noncompliance. The penalty assessments shall be made using the penalty schedule set forth in subsection 2 of this section.

(2) Class I, II and III Noncompliance Penalty Schedule:

Class — 1st Instance — 2nd Instance — 3rd Instance — 4th Instance — 5th Instance

I — \$1000 — \$2000 — \$4000 — \$8000 — \$16000

II — \$200 — \$400 — \$800 — \$1600 — \$3200

III — \$100 — \$200 — \$400 — \$800 — \$1600

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0300

Penalties for Class IV Noncompliance

(1) A penalty shall be calculated for each individual unreported radioactive substance, radioactive waste, explosive or highly toxic material. These substances are required to be reported at the "Lower Reporting Levels" (LRL) of five gallons, ten pounds or 20 cubic feet. Penalties for all Extremely Hazardous Substances shall be calculated at the LRL.

(2) A separate penalty shall be calculated for all other individual unreported hazardous substances. These substances are required to be reported at the "Upper Reporting Levels" (URL) of 50 gallons, 500 pounds or 200 cubic feet. For the purpose of determining Class IV Noncompliance penalties, these substances shall be identified as URL substances.

(3) For the purpose of determining individual substances, Material Safety Data Sheets will be used.

(4) A penalty determination shall be made for Lower Reporting Levels (LRL) and Upper Reporting Levels (URL) substances using the following criteria:

(a) Substances required to be reported at the LRL will be subject to a penalty amount of \$250 for each individual substance that is not reported;

(b) Substances required to be reported at the URL will be subject to a penalty amount of \$100 for each individual substance that is not reported.

(5) Penalties for repeat class IV Noncompliance within a five year period of time shall be calculated in accordance with 837-085-0300 and increased using the following schedule:

2nd Instance — 3rd Instance — 4th Instance — 5th Instance

penalty x 2 — penalty x 4 — penalty x 8 — penalty x 16

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0305

Penalties for Class V Noncompliance

(1) Covered employers, owners or operators identified as being in Class V Noncompliance shall be assessed a \$1000 penalty for each day they are in noncompliance.

(2) The number of days the covered employer owner or operator is considered in noncompliance shall be based on the total number of days that pass between the date compliance was required to the date compliance is achieved.

(3) Compliance shall be considered achieved when the required correct and accurate information is received by the Office of State Fire Marshal or in the case of noncompliance with OAR 837-85-0170(1) or (2) the required information is received by the requesting health professional.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0310

Penalty Suspensions

(1) Penalties assessed for Class I, II, III and IV Noncompliance will be suspended in accordance with the following criteria:

(a) To receive a penalty suspension covered employers, owners or operators receiving a Notice of Noncompliance and Proposed/Final Penalty Assessment Order must comply with all the noncompliance issues identified in the notice.

(b) Compliance must be achieved no later than the established compliance date set forth in the notice.

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(c) Penalty suspensions will be calculated for each class of noncompliance identified in the Notice of Noncompliance and Proposed/Final Penalty Assessment Order.

(d) Penalty suspensions will be calculated using the Penalty Suspension Schedule set forth in subsection 3 of this section.

(2) If a covered employer, owner or operator is found to be in repeat noncompliance the amount of penalty suspended shall be reduced based on the instance of the repeat noncompliance.

(3) Penalty Suspension Schedule

Instance	Amount Suspended
1st	100%
2nd	75%
3rd	50%
4th	25%
5th	0%

(4) Penalty suspensions will not be made on Class V Noncompliance penalty assessments.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0340

Filing an Appeal

(1) Appeals must be filed in writing, within 30 days following:

(a) The issuance of Notice of Noncompliance and Proposed/Final Penalty Assessment Order;

(b) Issuance of decision related to an application for exemption.

(2) Appeals must be sent to the Office of State Fire Marshal and must include:

(a) The name, address and telephone number of the person making the appeal;

(b) The facility's name and address;

(c) The facility number assigned to the firm by the Office of State Fire Marshal;

(d) The Notice of Noncompliance and Proposed/Final Penalty Assessment Order number and amount of penalty for which the appeal is made; and

(e) The basis upon which the appeal is being made and the specific defense relied upon.

(3) The filing of an appeal shall stay payment of penalties until the Notice of Noncompliance and Proposed Final Penalty Assessment Order or an Opinion and Order become final.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0350

Informal Conference

(1) The Office of State Fire Marshal will provide an opportunity for a person to discuss their appeal informally. An informal conference may be requested and held prior to or in lieu of a formal hearing.

(2) An informal conference concerning survey reporting requirements, Notice of Noncompliance and Proposed/Final Penalty Assessment Order shall not extend the 30 days allowed for filing appeals.

(3) The informal conference may be used to:

(a) Clarify requirements of the Community Right-to-Know and Protection Act;

(b) Discuss the basis for any Notice of Noncompliance and Proposed/Final Penalty Assessment Order;

(c) Discuss correction dates;

(d) Clarify the wording and meaning of the Notice of Noncompliance and Proposed/Final Penalty Assessment Order;

(e) Improve a person's understanding of the Community Right-to-Know and Protection Act;

(f) Correct errors in a Notice of Noncompliance and Proposed/Final Penalty Assessment Order or penalty;

(g) Narrow issues of concern; or

(h) Arrive at the basis for an informal disposition of an appeal

(4) As the result of an informal conference, the Office of State Fire Marshal may amend, withdraw, extend, delete or reduce a Notice of Noncompliance and Proposed/Final Penalty Assessment Order, for good cause.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

837-085-0380

Incident Reporting System

(1) Emergency service personnel responding to an incident of threatened or actual injury to a human, wildlife, domestic animal, or in which damage to the environment, or any property loss occurs resulting from a chemical substance or waste incident must make a written report of the incident to the Office of State Fire Marshal:

(a) This report must be on a form approved by the Office of State Fire Marshal;

(b) Only one written incident report for each incident is required. Responsibility for completing the written report shall be in the following order:

(A) Where fire department units have responded to the incident, the fire department having jurisdiction shall be responsible for completing and forwarding the written report;

(B) Where no fire department unit has responded to the incident and where one or more law enforcement agency is at the scene, the first law enforcement agency to have arrived at the scene shall be responsible for completing and forwarding the written report;

(C) Where no fire department unit or law enforcement agency has responded to the incident and where health professionals, including emergency medical technicians or ambulance personnel, are at the scene, the first health professional to arrive at the scene shall be responsible for completing and forwarding the written report; and

(D) Where no fire department unit, law enforcement agency or health professional has responded to the incident, any other emergency service agency, including agencies of this state, who are at the scene shall confer and determine who shall be responsible for completing and forwarding the written report.

(2) The written report required under section (1) of this rule should be submitted to the Office of State Fire Marshal no later than ten working days after the incident occurs.

(3) The following incidents are exempted from the reporting requirements of section (1) of this rule:

(a) Motor fuels which are spilled in quantities of less than 42 gallons from a vehicle, unless it enters a waterway; or is determined to endanger the public safety or immediate or surrounding environment, including groundwater; or

(b) Sewage overflows; or

(c) Structure fires or other emergencies where hazardous substances are involved as exposures, if the quantities exposed are less than 42 gallons. This means that a Hazardous Materials Incident Report would not be required for a structure fire or other emergency if consumer quantities of hazardous substances did not directly relate to the cause of the emergency or to injuries or death. If these consumer quantities caused the incident or contributed to an injury or death, a written Oregon State Fire Marshal Hazardous Materials Incident Report would be required. As with any fire, a State Fire Marshal Fire Report is required.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 435.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10

Rule Caption: Adoption of the 2009 International Fire Code with Oregon Amendments.

Adm. Order No.: OSFM 2-2010(Temp)

Filed with Sec. of State: 2-3-2010

Certified to be Effective: 7-1-10 thru 9-30-10

Notice Publication Date:

Rules Amended: 837-040-0010, 837-040-0020, 837-040-0140

Subject: (1) OAR 837-040-0010(2) adopts the 2009 International Fire Code with Oregon amendments to be known as the Oregon Fire Code, 2010 Edition with an effective date of July 1, 2010 with a three month phase-in period.

(2) Amendment to OAR 837-040-0020(3) removes mid-cycle Oregon amendments to the 2007 Oregon Fire Code as they will be incorporated into the 2010 Oregon Fire Code.

(3) OAR 837-040-0140 changes edition dates of the Oregon Structural Specialty Code and the Oregon Mechanical Specialty Code from 2007 to 2010.

The proposed adoption of the 2009 International Fire Code with Oregon amendment should have no adverse impact on government, local government, business or the public. Any cost increases or savings cannot be quantified at this time. The Oregon Fire Code

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Committee made the finding that the added cost, if any, is necessary to the health and safety of the public.

Rules Coordinator: Pat Carroll—(503) 934-8276

837-040-0010

Adoption of the International Fire Code

(1) The Oregon Fire Code is generally adopted every three years coinciding with the publication of a nationally recognized fire code.

(2) Effective July 1, 2010 the 2010 Oregon Fire Code is the 2009 edition of the International Fire Code, as published by the International Code Council, and as amended by the Office of State Fire Marshal. (Referenced publications are available for review at the agency. See agency web site for information on where to purchase publications.)

(3)(a) For the purposes of new construction plan review only a phase-in period is being implemented for the **2010 Oregon Fire Code, the 2007 Oregon Fire Code** is adopted for a period of 90 days beginning July 1, 2010 and ending September 30, 2010.

(b) During the 90 day phase in period established in subsection (3)(a), new construction plan review will be done to either the **2010 Oregon Fire Code or the 2007 Oregon Fire Code** as directed by the local building official.

Stat. Auth: ORS 476.030

Stats. Implemented: ORS 476.030

Hist.: FM 3-1986, f. & ef. 3-11-86; FM 5-1986 (corrects FM 3-1986), f. & ef. 4-30-86 & Renumbered from 837-040-0005, Sec. (3) Uniform Fire Code; FM 3-1989, f. 6-30-89, cert. ef. 7-1-89; FM 6-1990, f. & cert. ef. 9-13-90; FM 6-1992, f. 6-15-92, cert. ef. 7-15-92; FM 2-1996, f. 1-22-96, cert. ef. 4-1-96; OSFM 1-1998, f. & cert. ef. 4-30-98; OSFM 3-1998, f. & cert. ef. 9-30-98; OSFM 4-1999, f. 12-29-99, cert. ef. 1-1-00; OSFM 3-2000, f. 4-1-00, cert. ef. 5-1-00; OSFM 13-2000, f. 10-3-00, cert. ef. 11-1-00; OSFM 9-2001, f. 10-3-01, cert. ef. 2-1-02; OSFM 4-2004, f. 3-26-04, cert. ef. 10-1-04; OSFM 8-2004(Temp), f. 12-29-04, cert. ef. 1-3-05 thru 6-30-05; OSFM 11-2005, f. & cert. ef. 6-27-05; OSFM 1-2006(Temp), f. 1-9-06 cert. ef. 2-1-06 thru 7-28-06; OSFM 9-2006, f. & cert. ef. 6-12-06; OSFM 13-2006, f. 12-1-06, cert. ef. 4-1-07; OSFM 4-2009, f. 11-19-09, cert. ef. 4-1-10; OSFM 2-2010(Temp), f. 2-3-10, cert. ef. 7-1-10 thru 9-30-10

837-040-0020

Amendments to the Oregon Fire Code

(1) The Office of State Fire Marshal may amend the Oregon Fire Code approximately midway between publications of the International Fire Code based on proposed code amendments submitted for consideration by interested persons.

(2) Any time between publications of the international Fire Code, the Office of State Fire Marshal may initiate and adopt code amendments to the Oregon Fire Code, as circumstanced merit (Referenced publications are available for review at the agency. See agency web site for information on where to purchase publications.)

[Publications: Publications referenced are available from the agency.]

Stat. Auth: ORS 476.030

Stats. Implemented: ORS 476.030

Hist.: OSFM 1-2006(Temp), f. 1-9-06 cert. ef. 2-1-06 thru 7-28-06; OSFM 9-2006, f. & cert. ef. 6-12-06; OSFM 13-2006, f. 12-1-06, cert. ef. 4-1-07; OSFM 6-2008, f. 9-2-08, cert. ef. 10-1-08; OSFM 10-2008, f. 12-18-09, cert. ef. 12-31-09; OSFM 4-2009, f. 11-19-09, cert. ef. 4-1-10; OSFM 2-2010(Temp), f. 2-3-10, cert. ef. 7-1-10 thru 9-30-10

837-040-0140

Adoption of the Oregon Structural Specialty Code and Oregon Mechanical Specialty Code

The fire and life safety provisions of the **2010 edition of the Oregon Structural Specialty Code and the 2010 edition of the Oregon Mechanical Specialty Code** is hereby adopted as a standard for the purpose of evaluation of existing buildings. (Referenced publications are available for review at the agency. See Building Codes Division web site for information on where to purchase publications.)

Stat. Auth: ORS 476.030

Stats. Implemented: ORS 476.030

Hist.: OSFM 1-1998, f. & cert. ef. 4-30-98; OSFM 9-2001, f. 10-3-01, cert. ef. 2-1-02; OSFM 4-2004, f. 3-26-04, cert. ef. 10-1-04; OSFM 1-2006(Temp), f. 1-9-06 cert. ef. 2-1-06 thru 7-28-06; OSFM 9-2006, f. & cert. ef. 6-12-06; OSFM 13-2006, f. 12-1-06, cert. ef. 4-1-07; OSFM 4-2009, f. 11-19-09, cert. ef. 4-1-10; OSFM 2-2010(Temp), f. 2-3-10, cert. ef. 7-1-10 thru 9-30-10

Department of Transportation, Driver and Motor Vehicle Services Division Chapter 735

Rule Caption: Consular corps registration plates and group registration plates.

Adm. Order No.: DMV 1-2010

Filed with Sec. of State: 1-28-2010

Certified to be Effective: 1-28-10

Notice Publication Date: 12-1-2009

Rules Adopted: 735-040-0098

Rules Amended: 735-040-0097, 735-046-0010, 735-046-0050

Rules Repealed: 735-040-0097(T), 735-040-0098(T), 735-046-0010(T), 735-046-0050(T)

Subject: These rules implement legislation enacted by the 2009 Legislative Assembly:

As required by section 2 of chapter 621, Oregon Laws 2009 DMV will issue consular corps registration plates to a resident of Oregon who has been duly appointed by a foreign country as an honorary consular officer to the United States, pursuant to the Vienna Convention on Consular Relations. In these amendments to OAR 735-046-0010 and 735-046-0050, DMV has established what it will accept as proof that a person is appointed as an honorary consul and is acting in that capacity. Additional amendments add procedures and requirements concerning the issuance or renewal of consular corps plates.

As required by ORS 805.205 DMV will collect a surcharge amount (determined by DMV) for each non-profit group plate issued or renewed. DMV has adopted OAR 735-040-0098 to set this surcharge at \$2.50 per plate for each year of the registration period upon issuance of a non-profit group plate.

The amendment of 735-040-0097 requires a non-profit group applying for a group plate to specify the surcharge amount the group is requesting that DMV collect per plate upon issuance of that group's plates.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-040-0097

Application, Approval, Renewal and Issuance Process for Non-Profit Groups

(1) A non-profit group that is qualified to apply for group plates under OAR 735-040-0040 and 735-040-0061 must submit the following to DMV:

(a) A completed and signed Application for Approval of Group Plates for Institutions of Higher Education and Non-Profit Groups (DMV Form 735-7076);

(b) A \$10,000 application fee at the time of application. This fee is in addition to any other fee required by law or rule;

(c) Fees to cover DMV's anticipated administrative expenses related to the design and production of the non-profit group plates requested. At the time of application, DMV will estimate the costs, including but not limited to computer programming costs, plate design costs, color costs and vendor set-up fees, which must be paid prior to approval of the application;

(d) The written documentation required under OAR 735-040-0061, and a copy of the group's bylaws and articles of incorporation;

(e) The names and addresses of the group's current directors or officers and the name, address and phone number of the group's authorized representative. The authorized representative is the person authorized to apply for non-profit group plates on behalf of the group and is the contact person for DMV on any matter related to the group plates;

(f) The word(s) or initials the group is requesting for use on the plate to identify the group. DMV must approve and authorize any request before it will be used on a non-profit group plate;

(g) A certification or other evidence as may be required by DMV that the group has the authority to use the requested word(s), or initials on a registration plate;

(h) The surcharge amount the group is requesting that DMV collect per plate for each year of the registration period upon issuance of the group's plate. The surcharge may not be less than \$2.50 per plate or more than \$16 per plate.

(i) Specific information as to where surcharge amounts collected from the sale of group plates should be deposited. If no account is specified by the time moneys collected from the sale of the group's plates are distributed by DMV, the moneys will be deposited to the Passenger Rail Transportation Account as provided by law.

(2) In addition to the requirements described in section (1) of this rule, the group must provide an estimate of the number of plates it will sell during the next 12 months.

(3) DMV may at any time request from the authorized representative further information or documentation necessary to determine if the non-profit group is eligible for group plates. DMV may refuse to approve the issuance of group plates, or may withdraw approval previously granted if DMV determines:

(a) The group is not eligible;

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(b) The word(s), or initials used or proposed to be used to name or describe the group contain an expression of political opinion or religious belief, contrary to ORS 805.205; or

(c) The authorized representative fails to provide information or documentation as requested by DMV.

(4) DMV will contact the authorized representative:

(a) At the time the application is approved or denied;

(b) When additional information or documentation is required or consultation is necessary; or

(c) If DMV proposes to withdraw its approval to issue plates for the group.

(5) Once plates are approved the authorized representative must file an annual statement with DMV showing the group continues to be eligible for non-profit group plates. The statement must:

(a) Be on a form provided by DMV or that is acceptable to DMV;

(b) Include a statement that the group continues to meet the requirements described in OAR 735-040-0061;

(c) Include the names and addresses of the current group directors, or officers and the group's authorized representative;

(d) Certify the group continues to be registered with the IRS as a 501(c)(3) non-profit corporation or foundation; and

(e) Provide an estimate of the number of plates the group expects to sell during the next 12 months.

(6) The group must immediately notify DMV anytime:

(a) There is a change in the name or address of the group's authorized representative; or

(b) The group is dissolved, is no longer a tax-exempt 501(c)(3) organization or is otherwise no longer qualified for non-profit group plates under OAR 735-040-0061.

Stat. Auth.: ORS 184.616; 184.619, 802.010, 805.205 & 805.206

Stats. Implemented: ORS 805.205 & 805.206

Hist.: DMV 3-1995, f. 3-9-95, cert. ef. 3-20-95; DMV 29-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; DMV 14-2004, f. & cert. ef. 6-24-04; DMV 15-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; DMV 1-2010, f. & cert. ef. 1-28-10

735-040-0098

Non-profit Group Plate Surcharge

In addition to any other fee authorized by law, DMV will collect a surcharge of \$2.50 per plate for each year of the registration period upon issuance of a non-profit group plate.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 15-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; DMV 1-2010, f. & cert. ef. 1-28-10

735-046-0010

Custom Plates: Application and Standards

(1) A person who wishes to obtain custom plates must submit an application for custom plates and all applicable fees to DMV. Custom plate choices:

(a) May not be reserved in advance of application and payment of required fees; and

(b) Are approved and assigned by DMV on a first-come, first-served basis. When two or more applications requesting an identical plate choice are received, DMV will consider for approval the first one received with the required fees, without regard to whether the first application received is an original application for a custom plate or an application for renewal of a custom plate that has been expired for more than 30 days. "Application," as used in this subsection, may include application by phone, provided DMV is in possession of the required fees.

(2) Except as provided for in OAR 735-046-0020, an applicant for custom plates must qualify for Oregon title and registration for the vehicle listed on the custom plate application.

(3) A custom plate choice is assigned to a vehicle at the time the plate is issued by DMV.

(4) A custom plate choice must:

(a) Be compatible with DMV's computer system;

(b) Not be identical to any plate configuration reserved for:

(A) Qualified Congressional Medal of Honor recipients;

(B) Current Oregon office holders;

(C) An Honorary Consul as defined under Oregon Laws 2009, chapter 621; or

(D) The Governor, unless the custom plate is being issued under the provisions of OAR 735-046-0050;

(c) Not begin with the letters CMH, MOH, ORE, SEN, REP, USS, or USR and be followed by numbers;

(d) Be alphabetic or numeric characters, or alphanumeric characters. A plate choice may not include punctuation or symbols other than a dash or space;

(e) Include at least one alphabetic or numeric character;

(f) Be limited to no more than six alphabetic characters, numeric characters, spaces or dashes, except that a seventh character may be a space or dash;

(g) Except as provided in section (5) of this rule, not be identical to any other plate configuration in current use. The use of a space or a dash within a plate choice is not considered when determining whether the plate is identical to another plate configuration.

(5) In addition to other provisions of this rule, all of the following apply to approval of a plate choice that is identical to a plate configuration that is in current use:

(a) DMV may approve a plate choice that conflicts with a plate configuration currently in use for motor vehicles registered under ORS 803.420(1) (i.e., passenger plated vehicles) if:

(A) The specific plate configuration requested has previously been issued and is not still in inventory or reserved for future issuance;

(B) The previously issued plates bearing the plate choice are surrendered to DMV with the custom plate request, or are no longer in circulation. If there is any question about such plates being in circulation, it is the applicant's responsibility to satisfy DMV that the plates have been destroyed, surrendered to DMV or another jurisdiction, or are not available for use on a vehicle; and

(C) The plate choice is to be assigned to a vehicle that qualifies for registration under ORS 803.420(1).

(b) For motor vehicles other than those registered under ORS 803.420(1), specifically, vehicles that are not passenger plated vehicles, DMV may approve a plate choice that is identical to a plate configuration that is in current use if:

(A) The vehicle to which the custom plates are to be issued is of a different type than the vehicle to which the plates bearing the identical plate configuration are in current use or could be issued. For example, a plate choice that is identical to a disabled veteran plate configuration (for example D00001) will not be assigned to a custom plate issued to either a passenger vehicle or motor home. A plate choice that is identical to a motor home plate configuration (for example H00001) will not be assigned to a custom plate issued to a motor home but can be assigned to a custom plate issued to a passenger vehicle;

(B) The plate choice requested is not currently assigned to a registration plate; and

(C) The plate choice requested will not be assigned to a future plate series.

(6) DMV will not approve a custom plate choice, including plate choices that would do so by means of foreign or slang words or phrases, by use of phonetic, numeric or reverse spelling, or by being viewed in mirror image, that:

(a) Would have the effect of alarming, threatening, offending or misleading a reasonable person. Such choices may include, but are not limited to, combinations of letters, numbers or both that:

(A) Refer to intimate bodily parts or to sexual or excretory acts or functions;

(B) Refer in an alarming or offensive manner to a person or class of persons on the basis of race, color, gender, ethnic heritage, national origin, or other characteristic;

(C) Suggest that the vehicle to which the custom plate is issued is an official vehicle of a public agency or official, when it is in fact not such a vehicle; or

(D) Refer to illegal acts.

(b) Refer to alcoholic beverages, or controlled substances or paraphernalia used in the consumption thereof by combinations of letters, numbers or both.

(7) DMV may use any reliable lexicological source to determine the meaning of any word, symbol or phrase.

(8) When reviewing a plate choice for approval, DMV need not consider the applicant's subjective intent or declared meaning.

(9) DMV will approve the transfer of registration plates that are not from a current issue of plates as custom plates under the provisions of ORS 805.242. All of the following apply to such a transfer:

(a) For vehicles that require two registration plates, the applicant must have two registration plates available for transfer to the vehicle;

(b) The registration plates being transferred must not be so old, damaged, mutilated or otherwise rendered illegible as to be not useful for purposes of identification;

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(c) The registration plates being transferred must be from a series in current use;

(d) The registration plates may only be transferred to a vehicle type that is otherwise eligible for custom plates; and

(e) The registration plates may only be transferred to a vehicle of the same registration type to which they were originally issued (e.g., passenger vehicle to passenger vehicle).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.103, 805.200, 805.205 & 805.220
Stats. Implemented: ORS 803.420, 803.535, 805.103, 805.200, 805.220, 805.240, 805.242 & 805.250
Hist.: MV 25-1988, f. & cert. ef. 10-3-88; MV 48-1989, f. & cert. ef. 11-16-89; DMV 9-1994, f. & cert. ef. 9-30-94; DMV 8-1997, f. & cert. ef. 10-16-97; DMV 23-2007(Temp), f. 12-24-07, cert. ef. 1-1-08 thru 6-27-08; DMV 15-2008, f. & cert. ef. 6-23-08; DMV 22-2008, f. & cert. ef. 9-11-08; DMV 15-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; DMV 1-2010, f. & cert. ef. 1-28-10

735-046-0050

Congressional Medal of Honor, Elected Official and Consular Corps Plates

(1) Requirements and Qualifications. In addition to all other requirements for registration, an applicant for Congressional Medal of Honor plates, elected official plates or consular corps plates must submit to DMV an application for registration and all applicable fees, including any fee required for the custom plate requested. At the time of application, the applicant must be the registered owner of the vehicle listed on the application and:

(a) For Congressional Medal of Honor recipients, meet the qualifications for issuance of Congressional Medal of Honor plates under ORS 805.103 and this rule;

(b) For elected officials, meet the qualifications of ORS 805.220, and hold the office specified on the application. DMV may contact the Secretary of State to verify compliance with this subsection;

(c) For consular corps plates, provide proof to DMV that the applicant is appointed by a foreign government as an honorary consul and is acting in that capacity. Proof under this subsection is a copy of the applicant's current Consular Identification Card issued by the U.S. Department of State, Office of Protocol.

(2) Elected official plates are assigned to a specific vehicle and — if requested by the applicant — are issued in addition to the regular registration plates issued to the vehicle. The fee for an elected official plate issued in addition to a regular series plate is the plate manufacturing fee established under ORS 803.570. Elected official plates may be transferred to another vehicle if:

(a) The vehicle to which the plates are to be transferred is registered in the name of the elected official who qualifies for the particular plate configuration; and

(b) The applicant submits to DMV a completed application that identifies the vehicle to which the elected official plates are to be assigned.

(3) Consular corps plates are assigned to a specific vehicle and may only be transferred to another vehicle under section (4) of this rule.

(4) Plate Transfer. In addition to all other requirements for transferring registration plates, an applicant for a plate transfer must submit to DMV a completed, signed application to transfer registration plates and all applicable fees. At the time of transfer, the applicant must be the registered owner of the vehicle listed on the application. There is no plate transfer fee for elected official plates.

(5) Plate Configurations. The following plate configurations are reserved as specified:

(a) For Congressional Medal of Honor recipients: Except as provided in paragraph (B) of this subsection, the applicant may choose the letter combination "MOH" or "CMH," which will be followed by a single number from 1 to 9, to be designated by DMV;

(A) A total of 18 pairs of Congressional Medal of Honor plates are reserved for issuance to qualified Congressional Medal of Honor recipients.

(B) When a Congressional Medal of Honor plate configuration is issued, it will be removed from the list of available plates and will not be issued again. For example, after plate configuration "CMH 1" is issued, that configuration is no longer available. The next qualified applicant is issued the next available plate number in numeric order.

(b) For elected officials:

(A) Governor: "GOVERNOR 1";

(B) Secretary of State: "SECRETARY OF STATE 2";

(C) State Treasurer: "STATE TREASURER 3";

(D) President of the Senate: "PRESIDENT OF THE SENATE 4";

(E) President pro tempore of the Senate: "SENATE PRESIDENT PRO TEMPORE 4A";

(F) Speaker of the House of Representatives: "SPEAKER OF THE HOUSE OF REPRESENTATIVES 5";

(G) Speaker pro tempore of the House: "SPEAKER OF THE HOUSE PRO TEMPORE 5A";

(H) State Senators: "STATE SENATOR" followed by the applicable Senate district number;

(I) State Representatives: "STATE REP." followed by the applicable House district number;

(J) U.S. Senator: "U.S. SENATOR" followed by the number 1 or 2, depending on seniority;

(K) U.S. Representative: "U.S. REP." followed by the House District number; and

(c) For consular corps plates: "OFFICIAL CONSULAR CORPS" followed by a number assigned by DMV.

(6) In addition to the elected official plate for the Governor under subsection (3)(b) of this rule, DMV will issue regular series plates to the Governor upon request from the Governor's office. The fee for a regular series plate issued under this section is the plate manufacturing fee established under ORS 803.570.

(7) The plates must be removed from the vehicle to which they are assigned when the person no longer qualifies for elected official plates or consular corps plates because the term of office or appointment expires, or the person otherwise ceases to act in the official capacity required to qualify for the plates. After removing the plates from the vehicle, the person may surrender the plates to DMV or retain the plates as a souvenir.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.103, 805.200, 805.205 & 805.220
Stats. Implemented: ORS 803.420, 803.530, 803.535, 805.103, 805.200, 805.220, 805.240, 805.242 & 805.250
Hist.: MV 25-1988, f. & cert. ef. 10-3-88; MV 13-1992, f. & cert. ef. 10-16-92; DMV 23-2007(Temp), f. 12-24-07, cert. ef. 1-1-08 thru 6-27-08; DMV 15-2008, f. & cert. ef. 6-23-08; DMV 22-2008, f. & cert. ef. 9-11-08; DMV 15-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; DMV 1-2010, f. & cert. ef. 1-28-10

Rule Caption: Provisions for Conducting a Drive Test.

Adm. Order No.: DMV 2-2010

Filed with Sec. of State: 1-28-2010

Certified to be Effective: 1-28-10

Notice Publication Date: 12-1-2009

Rules Amended: 735-062-0070

Subject: OAR 735-062-0070 establishes requirements regarding the drive test(s) needed to qualify for an Oregon driver license. DMV amended this rule to allow an SR-22 as acceptable proof of vehicle liability insurance for purposes of a drive test and to specify that the vehicle in which the test occurs must have required equipment in working order and must not present health or safety risks for the DMV examiner.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-062-0070

Drive Test

(1) A drive test examiner of the Driver and Motor Vehicle Services Division, Department of Transportation (DMV) or a third party drive test examiner certified by the department will conduct the actual demonstration of an applicant's ability to drive a motor vehicle (the drive test) required under ORS 807.070(3) in a vehicle or combination of vehicles that can be driven only with the license class for which the application is made. For example, the drive test examiner will test a person applying for a Class C driver license in a vehicle that can be driven only by a person with a Class C driver license; the drive test examiner will test a person applying for a Class A commercial driver license in a vehicle that can be driven only by a person with a Class A commercial driver license. All persons must qualify for a Class C driver license before applying for a Class A, B or C commercial driver license.

(2) Prior to conducting a drive test, DMV will ask the person for proof of compliance with financial responsibility requirements as described in OAR 735-050-0120 or proof of a uniform financial responsibility certificate as described in OAR 735-050-0050.

(3) Prior to conducting a drive test, the drive test examiner will determine if the vehicle being used for the drive test has required equipment (e.g. lights, horn, rearview mirrors, seat belts) that is in working order and may be operated in a safe condition. The examiner may refuse to conduct a drive test in a vehicle that is determined to present health or safety risks for the examiner.

(4) The drive test examiner will conduct the drive test on public streets and highways.

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(5) The drive test may include checks of the applicant's ability to safely and skillfully do the following:

- (a) Operate vehicle equipment and controls;
- (b) Start the vehicle;
- (c) Stop the vehicle;
- (d) Turn and steer the vehicle;
- (e) Change lanes;
- (f) Merge with other traffic;
- (g) Signal;
- (h) Use lanes properly and maintain lane position;
- (i) Control speed and obey speed limits;
- (j) Back the vehicle;
- (k) Observe signs, signals, other traffic and pedestrians;
- (l) Use courtesy on the road and defensive driving techniques; and
- (m) Demonstrate general driving ability and vehicle control.

(6) In addition to the actual drive test, applicants for a Class A or B commercial driver license will perform a pre-trip inspection. Applicants for a Class C commercial driver license with a passenger endorsement also will perform a pre-trip inspection. The pre-trip inspection will include checks of the applicant's ability to demonstrate his or her knowledge and skill in inspecting the vehicle's equipment to ensure it is in safe operating condition. A pre-trip inspection may include the following:

- (a) Inspection of the following vehicle equipment:
 - (A) Tires and wheels;
 - (B) Controls, including steering wheel, brake pedal, clutch pedal (if applicable) and accelerator pedal;
 - (C) Engine start;
 - (D) Engine compartment;
 - (E) Suspension;
 - (F) Exterior parts of vehicle, including driver and fuel areas, undercarriage of vehicle and lighting indicators;
 - (G) Other miscellaneous equipment, including passenger exits, seating and baggage compartment; and
 - (H) Braking system, including the air brake system warning devices and controls if the vehicle is equipped with air brakes.
- (b) Explanation to the drive test examiner as to what possible problem is being identified; and
- (c) Explanation to the drive test examiner as to how to determine if the vehicle equipment is in safe operating condition.

(7) The first drive test may be conducted the day an applicant, who is otherwise eligible, satisfactorily completes the knowledge test and vision screening, or presents a valid instruction permit, except as indicated in section (8) of this rule. If the applicant fails the first drive test, a drive test examiner will conduct additional drive tests as needed, with the following frequency:

- (a) A second drive test may be conducted no sooner than seven days after the first drive test;
- (b) A third drive test may be conducted no sooner than 14 days after the second drive test;
- (c) A fourth drive test may be conducted no sooner than 28 days after the third drive test; and
- (d) A fifth drive test may be conducted no sooner than 28 days after the fourth drive test.

(8) The first drive test for a provisional license applicant under 18 years of age may be conducted the day the applicant becomes eligible for the test. To be eligible for a drive test, the applicant must present a valid instruction permit. A drive test examiner will conduct additional drive tests with the following frequency:

- (a) A second drive test may be conducted no sooner than 28 days after the first drive test;
- (b) A third drive test may be conducted no sooner than 28 days after the second drive test;
- (c) A fourth drive test may be conducted no sooner than 28 days after the third drive test; and
- (d) A fifth drive test may be conducted no sooner than 28 days after the fourth drive test.

(9) No more than five drive tests may be conducted within any 12-month period. Following a fifth drive test failure within a 12 month period, no further drive tests will be conducted for one year from the date of the fifth drive test failure.

Stat. Auth.: ORS 184.614, 184.619, 802.010, 802.200, 802.540, 807.070 & 807.080
Stats. Implemented: ORS 807.070

Hist.: MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0027; MV 25-1989, f. & cert. ef. 10-3-89; MV 53-1989, f. & cert. ef. 12-1-89; MV 6-1990, f. & cert. ef. 4-2-90; MV 7-1991, f. & cert. ef. 7-16-91; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 2-2010, f. & cert. ef. 1-28-10

Rule Caption: Issuance, Replacement or Renewal of Undercover Driver Licenses or Identification Cards to Law Enforcement Officials.

Adm. Order No.: DMV 3-2010

Filed with Sec. of State: 1-28-2010

Certified to be Effective: 1-28-10

Notice Publication Date: 12-1-2009

Rules Adopted: 735-062-0290

Subject: Section 4, Chapter 258, Oregon Laws 2009 (Senate Bill 128) authorizes DMV to issue a fictitious driver license or identification card to a law enforcement official for use in discharging the undercover criminal investigative duties of a law enforcement agency. DMV has adopted OAR 735-062-0290 to identify what constitutes a law enforcement agency for purposes of this law and the criteria for application and issuance of a fictitious license or identification card to a law enforcement official.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-062-0290

Issuance, Replacement or Renewal of Undercover Driver Licenses or Identification Cards to Law Enforcement Officials

(1) For purposes of Oregon Laws 2009, Chapter 258, Section 4 and this rule:

(a) A "law enforcement agency" or "agency" is a county sheriff, city or municipal police department, Oregon State Police, a district attorney, the Criminal Justice Division of the Department of Justice, or an equivalent law enforcement agency of another state or the federal government;

(b) A "law enforcement official" or "official" is a certified peace officer who is performing undercover criminal investigative duties for a law enforcement agency.

(2) DMV will issue, replace or renew a fictitious driver license or fictitious identification card to a law enforcement official upon:

(a) Approval of an application submitted by the law enforcement agency for which an official is providing undercover criminal investigative duties; and

(b) Payment of the fees for a driver license or identification card as set forth in ORS 807.370, 807.375, and 807.410.

(3) For purposes of section (2) of this rule, an application for the issuance, replacement or renewal of a fictitious driver license or fictitious identification card must:

(a) Be submitted by the law enforcement agency that employs the official, or if the official is on a special assignment with another agency, such as an inter-agency task force, may be submitted by the agency for which the official is performing undercover criminal investigative duties;

(b) Be on official agency letterhead or on DMV Form 735-7343, Oregon DMV Undercover Driver License/Identification Card Request;

(c) Contain proof that the official is a certified peace officer. Such proof includes, the official's badge number or Department of Public Safety Standards and Training (DPSST) number, an equivalent identifying number from another state or the federal government or other verifiable proof of certification;

(d) Provide the following information:

(A) The official's true name, date of birth, driver license or identification card number and state of issuance;

(B) The information that will be used on the official's fictitious driver license or identification card and fictitious DMV record, including name, address, date of birth, hair color, eye color, height and weight, and mother's maiden name;

(C) The class of license and endorsement requested. The official must already have qualified for and been issued the license class or endorsement type requested; and

(D) The mailing address, telephone number and if applicable, the Originating Agency Identifier (ORI) of the law enforcement agency.

(e) Indicate whether the request is for issuance, replacement or renewal of a fictitious driver license or identification card; and

(f) Be signed by the Sheriff, Chief of Police, Superintendent or agency head, or his or her designee.

(4) The DMV Confidential Records Desk will review the application. When approved, an appointment with the official will be scheduled to issue the fictitious driver license or identification card. A fictitious driver license or identification card will only be issued from DMV Headquarters. For verification purposes, at the appointment the official must provide proof of his or her true identity and badge number, DPSST number or equivalent certification number as described in section (5)(c) of this rule.

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(5) A fictitious driver license or fictitious identification card must be surrendered to the DMV Confidential Records Desk when the official is no longer performing undercover criminal investigative duties for the law enforcement agency requesting the fictitious license or identification card.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & Sec. 4, Ch. 258, OL 2009
Stats. Implemented: Sec. 4, Ch. 258, OL 2009
Hist.: DMV 3-2010, f. & cert. ef. 1-28-10

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**Department of Transportation,
Highway Division
Chapter 734**

Rule Caption: Department of Transportation Tow Hearing Process addressing 2009 legislative changes.

Adm. Order No.: HWD 1-2010(Temp)

Filed with Sec. of State: 1-28-2010

Certified to be Effective: 1-28-10 thru 7-19-10

Notice Publication Date:

Rules Adopted: 734-020-0148

Subject: This temporary rule is needed to establish the hearing process required by changes to the agency responsibility for tow hearings in Chapter 371 OL 2009 (HB 2738) passed by the 2009 Legislature. The change shifts responsibility for abandoned vehicle and hazard vehicle tows from the sheriff's office to the agency responsible for ordering the tow.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-020-0148

Tow Hearing Process

If a vehicle has been taken into custody by The Oregon Department of Transportation (department) in accordance with ORS 819.110 or 819.120, the department shall provide written notice to the owner of the vehicle in accordance with ORS 819.170 or 819.180. The vehicle owner(s), person entitled to possession or any person with an interest recorded on the title of the vehicle, may request a hearing in writing, which must be received by the department at the address identified in the notice, within 5 days (Saturdays, Sundays, and holidays excluded) from the date of the posting or mailing of the notice, to contest the validity of the towing and custody of the vehicle, and subject to subsection 7 below, the reasonableness of the charges for towing and storage. The hearing shall comply with all of the following:

(1) The department shall set a time for the hearing within 72 hours of the receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owner(s) of the vehicle, and any lessors or security interest holders shown in the department records. The 72 hour period of time does not include Saturdays, Sundays, or Holidays.

(2) Actions taken by department, including conducting the hearing, are not subject to ORS chapter 183; and are therefore, not subject to the Administrative Procedures Act and the hearings are not conducted by the Office of Administrative Hearings.

(3) The department District Manager for the district within which the tow occurred is hereby designated to act as the department's hearings officer. In the event the District Manager is unable or unavailable to conduct the hearing, a department employee shall be designated by the District Manager to act as hearings officer.

(4) The hearing shall be conducted via telephone unless the person requesting the hearing requests other accommodations with justification for the request in which case the hearing shall be held at the District Manager's or the designee's office.

(5) If the District Manager, or designee, determines the towing of the vehicle was invalid, the vehicle shall be immediately released upon payment by the department of the towing and storage fees, which shall occur as quickly as reasonably possible. The person to whom the vehicle is released is not liable for any towing or storage charges. If the towing and storage fee has already been paid, the department shall reimburse the person who paid the fee for the charges upon presentation of satisfactory proof of payment.

(6) If the District Manager, or designee, determines the custody and towing of the vehicle was valid, the department shall order the vehicle to be held in custody until the costs of the hearing and all towing and storage costs are paid by the party claiming the vehicle.

(7) If the person requesting the hearing contests the reasonableness of the charges for towing and storage, the District Manager, or designee, shall consider such request only when the department has used its own personnel, equipment and facilities for the towing and storage of vehicles and shall

provide a determination concerning the reasonableness of the department's charges in the written statement of the results of the hearing.

(8) The department shall only conduct one hearing for each vehicle custody and tow even if the person requesting the hearing, or any other interested party or witness fails to appear at the scheduled hearing unless the person provides reasons satisfactory to the District Manager or designee for such failure to appear.

(9) Hearings shall be informal in nature, and the presentation of evidence shall be consistent with the requirements of ORS 183.450.

(10) The District Manager, or designee, shall provide a written statement of the results of the hearing to the person requesting the hearing.

(11) The determination of a hearing is final and is not subject to appeal.

Stat. Authority: ORS 184.616, 184.619, 819.120, Ch. 371 OL 2009
Stats. Implemented: ORS 819.110 - 819.215, Ch. 371 OL 2009
Hist.: HWD 1-2010(Temp), f & cert. ef. 1-28-10 thru 7-19-10

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**Department of Transportation,
Public Transit Division
Chapter 732**

Rule Caption: Add General Fund to the Special Transportation Program and clarify program requirements.

Adm. Order No.: PTD 1-2010

Filed with Sec. of State: 1-29-2010

Certified to be Effective: 1-29-10

Notice Publication Date: 12-1-2009

Rules Adopted: 732-030-0005, 732-030-0010, 732-030-0015, 732-030-0020, 732-030-0025, 732-030-0030, 732-030-0035

Rules Amended: 732-005-0000, 732-005-0010, 732-005-0016, 732-005-0021, 732-005-0027, 732-005-0031, 732-005-0036, 732-005-0046, 732-005-0051, 732-005-0056, 732-005-0061, 732-005-0066, 732-005-0076, 732-005-0081

Rules Repealed: 732-005-0000(T), 732-005-0010(T), 732-005-0016(T), 732-005-0021(T), 732-005-0027(T), 732-005-0031(T), 732-005-0036(T), 732-005-0046(T), 732-005-0051(T), 732-005-0056(T), 732-005-0061(T), 732-005-0066(T), 732-005-0076(T), 732-005-0081(T), 732-030-0005(T), 732-030-0010(T), 732-030-0015(T), 732-030-0020(T), 732-030-0025(T), 732-030-0030(T), 732-030-0035(T)

Subject: Section 31(3) of chapter 910 OL 2009 allocates \$10 million of general fund to ODOT's Public Transit Division and directs the division to offer funds for operating grants to communities to provide transit services for seniors and people with disabilities. These permanent rule amendments allow the division to allocate the funds, engage an application and review process, execute and monitor agreements and distribute funds.

Rules Coordinator: Lauri Kunze—(503) 986-3171

732-005-0000

Purpose of Rule

(1) The rules in Chapter 732, Divisions 5, 10 and 20 establish the procedures and requirements of the Public Transit Division for the administration of the Special Transportation Fund (STF) for the Elderly and Disabled.

(2) The rules in Chapter 732, Divisions 5 and 30 establish the procedures and requirements of the Public Transit Division for the administration of the Special Transportation Operating (STO) Grants Program.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1990, f. & cert. ef. 5-31-90; PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2010, f. & cert. ef. 1-29-10

732-005-0010

Definitions

The following definitions apply to rules in chapter 732 divisions 5, 10, 20 and 30:

(1) "Administration" means the essential activities incurred by the STF Agency: receiving, disbursing and accounting for STF moneys.

(2) "Administrative Allotment" means a fixed amount, disbursed annually to a STF Agency, for Administration.

(3) "Advisory Committee" means a committee appointed by a STF Agency to advise and assist the STF Agency in carrying out the purposes of the Special Transportation Fund.

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(4) "Capital equipment" means tangible property having a useful life of more than one year and with an acquisition cost of more than \$5,000. Examples include and are not limited to: vehicles, buildings, and passenger shelters. Aggregated purchases, e.g., groups of computers and communication equipment purchased as a single procurement, even if delivered and paid for individually, are treated as capital if the total cost exceeds \$5,000.

(5) "Coordination" means working cooperatively with Providers and other individuals and agencies representing people unable to drive, low-income, Elderly and People with Disabilities, to more effectively apply funding and other resources to meet common transportation needs. Coordination actions may reduce duplication of service, reduce cost, increase service levels or make services more widely available in a community.

(6) "Disabled," also "People with Disabilities" or "Individual with Disabilities" means a person or persons who, by reason of illness, injury, advanced age, congenital malfunction, or other permanent or temporary incapacity, have a physical or mental impairment that substantially limits one or more of their major life activities. This definition does not include substance abuse disorders resulting from the current illegal use of drugs.

(7) "Discretionary Account" means a Special Transportation Fund account for distribution of the remaining cigarette tax receipts and other revenues contributed to the STF set aside following distribution of the Formula Allocation, Minimum Allocation and Administrative Allotment.

(8) "Discretionary Grant" means a grant award from the Discretionary Program.

(9) "Discretionary Program" means a program financed by the Discretionary Account that may be offered by the Division to support Projects benefiting the Elderly and People with Disabilities.

(10) "District" means a mass transit district organized under ORS 267.010 to 267.390 or a transportation district organized under ORS 267.510 to 267.650.

(11) "Division" means the Oregon Department of Transportation, Public Transit Division.

(12) "Elderly" also "Seniors" means individuals who are 60 years of age or older.

(13) "Formula Allocation" means an amount of STF moneys made available to a STF Agency on the basis of the STF Agency's share of resident population in proportion to the population of the state as a whole.

(14) "Formula Program" means the program of regular distribution of STF moneys from the Division to the STF Agencies that is composed of the Formula and Minimum Allocations, plus the Administrative Allotment.

(15) "Incidental Use" means a use of a Project that is not the primary purpose of the Project.

(16) "Indian Tribe" means a federally recognized Indian Tribe in Oregon that has members residing on a reservation or tribal trust lands in Oregon.

(17) "Minimum Allocation" means a minimum annual amount for which each STF Agency will be eligible, composed of the Formula Allocation moneys plus moneys from the Discretionary Account sufficient to equal the Minimum Allocation.

(18) "Operations" means provision of transportation services.

(19) "Operating Expense" means the costs associated with the provision of transportation services. Operating Expense does not include expense associated with procuring or leasing capital equipment. Common Operating Expenses include, and are not limited to: personnel, insurance, utilities, vehicle and facility maintenance, professional and technical services, security, fuel and tires, purchased transportation services, personnel training, communication and technology maintenance, marketing/public information, and planning integral to the provision of transit services.

(20) "Oregon Transportation Commission" means a commission established under ORS 184.612.

(21) "Project" means a Public Transportation System or Service, a Capital Item or any associated activity including, but not limited to, planning and needs assessment, training, and research and that falls within the purposes defined in OAR 732-005-0016.

(22) "Provider" means a city, county, district, Indian tribe, or any other person or agency, whether public or private, that maintains, operates, or sponsors vehicles and facilities for Public Transportation Services for profit or on a nonprofit or voluntary basis.

(23) "Public Transportation Services" means any form of passenger transportation by car, bus, rail or other conveyance, either publicly or privately owned, which provides service to the general public (not including charter or sightseeing or exclusive school bus) on a regular and continuing basis. Such transportation may include services designed to meet the needs of a specific user group, including for the Elderly and People with

Disabilities, and for purposes such as health care, shopping, education, employment, public services, personal business or recreation.

(24) "Recipient" means a city, county, transportation district, mass transit district, county service district, Indian tribe, public or private nonprofit corporation, or other person or agency, that is in receipt of STF moneys to finance in whole or part a Project for the elderly and people with disabilities.

(25) "Representative of Disabled Persons" means an individual who is familiar with the needs of People with Disabilities and is knowledgeable or aware of the transportation needs of People with Disabilities.

(26) "Representative of Elderly Persons" means an individual who is familiar with the needs of the Elderly and is knowledgeable or aware of the transportation needs of the Elderly.

(27) "Special Transportation Fund for Elderly and Disabled" also "STF" means moneys generated by a tax on cigarettes, or from other sources, appropriated to the Division for distribution to STF Agencies for the purpose of financing and improving transportation programs and services for the Elderly and People with Disabilities.

(28) "Special Transportation Fund Operating Grants" also "STO Grants" means moneys appropriated from the Oregon General Fund to the Division for distribution to STF Agencies for the purpose of financing Operating Expenses that provide access to Transportation Systems and Services for Seniors and Individuals with Disabilities.

(29) "STF Agency" means the mass transit district, transportation district, county in which no part of a mass transit or transportation district is located or Indian tribe that is eligible to receive STF and STO moneys directly from the Division.

(30) "STF Plan" means a plan developed by the STF Agency to guide the investment of STF moneys over at least a three year period.

(31) "STF Program" means a set of policies and procedures that guide the expenditure of STF moneys to benefit transportation services for the Elderly and People with Disabilities.

(32) "Transportation Service" means a project that provides rides or improves access to rides for seniors and individuals with disabilities.

(33) "Transportation System" means one or more transit services that are operated in coordination with each other, and when viewed as a whole, offers access to Transportation Service appropriate to the individual.

(34) "User of Transportation Services" means a person who is Elderly or a Person with Disabilities and who makes use of transportation programs and services for the Elderly and People with Disabilities financed in whole or part with STF moneys.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1990 f. & cert. ef. 5-31-90; PTD 1-2004(Temp), f. & cert. ef. 7-15-04 thru 1-10-05; PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0016

Purpose and Use of the STF and STO Moneys

(1) The STF and STO funds are intended to provide a flexible, coordinated, reliable and continuing source of revenue in support of Transportation Systems and Services that provide transportation for the Elderly and People with Disabilities.

(2) STF and STO moneys may be used for the following purposes:

(a) Maintenance of existing Transportation Systems and Services for the Elderly and People with Disabilities.

(b) Expansion of such Systems and Services.

(c) Creation of new Systems and Services.

(d) Planning for, and development of, access to transportation for the Elderly and People with Disabilities who are not currently served by transportation programs and services.

(3) The STF and STO moneys may be used as matching funds for state and federal programs also providing transportation programs and services to the Elderly and People with Disabilities.

(4) Use of STO moneys is limited to Operations Expense; Capital equipment is not eligible.

(5) When funded by STF and STO moneys:

(a) Projects will comply with the requirements of USDOT Federal Transit Administration regulations, 49 CFR PART 37 TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (Americans with Disabilities Act) section 37.3, as applicable to the specific Project and Provider.

(b) Projects financed in whole or part with STF and STO moneys will be coordinated with other transportation programs and services to the maximum extent feasible.

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(6) Except in the case of a uniform budget reduction, STF and STO moneys will not be used to supplant moneys currently appropriated by STF Agencies for transportation projects benefiting the Elderly and People with Disabilities. STF and STO moneys may supplement funds from other sources.

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009
Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1990, f. & cert. ef. 5-31-90; Renumbered from 732-005-0060(3)(a-d); PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0021

Administration by the Public Transit Division

(1) The Division will conduct the necessary activities to manage the STF and STO Grant Fund programs.

(2) Activities conducted by the Division include, and are not limited to, distribution of funds, application and review processes, agreement procedures, program oversight, protests, statewide planning and research, training and technical assistance.

(3) STF and STO moneys will be accounted for separately.

(4) After payment of the state administrative costs of the program, the Division will make available STO moneys annually to STF Agencies.

(a) The distribution will be determined by the Division.

(b) Each STF Agency that applies will receive at least \$15,000.

(c) STO moneys will be claimed by STF Agencies through an application submitted to the Division during the STO grant application period defined by the Division. Failure to apply will result in forfeiture of the available funds.

(5) After payment of the state administrative costs of the program, the Division will make available moneys from the STF:

(a) Three-fourths of STF moneys will be made available annually to STF Agencies on the basis of population distribution. This will be known as the Formula Allocation; and

(b) Of the remaining one-fourth of STF moneys:

(A) An Administrative Allotment of \$2,000 will be made available annually to each STF Agency:

(i) The annual Administrative Allotment of \$2000 is intended to defray the STF Agency's cost of Administration of their STF program: receiving, disbursing and accounting for their STF moneys.

(ii) The STF Agency will not use moneys from the STF Formula Allocation to defray administrative costs.

(iii) Additional costs of developing and managing the STF program including, and not limited to, planning, advisory committee management, contract management, and technical assistance, are not defined as Administration, and may be supported by moneys from the Formula Allocation.

(iv) The STF Agency may finance the cost of administration of STF discretionary grants awarded in accordance with OAR 732-020-0030 with funds from the grant award.

(B) A Minimum Allocation will be made available annually as a supplement to the moneys made available based on population.

(i) Each STF Agency will have no less than the minimum allocation made available, irrespective of population, under the STF Formula Program. This Minimum Allocation, when combined with formula moneys, will be defined by the Oregon Transportation Commission;

(ii) The Minimum Allocation will equal at least \$15,000; and

(iii) The Minimum Allocation will be based on factors defined by the Division related to the cost of providing transportation services and programs by the STF Agencies with the least population.

(C) Any remaining moneys will be set aside to a Discretionary Account. The Discretionary Account is intended to provide a flexible resource for addressing the transportation needs of the Elderly and People with Disabilities in accordance with OAR 732-005-0016. Discretionary Account moneys may be used for:

(i) A Discretionary Program to award Discretionary Grants in accordance with OAR 732-020-0005 through 732-020-0045; or

(ii) Projects of statewide importance identified and implemented by the Division.

(iii) Discretionary Grants and Projects of statewide importance will be approved by the Oregon Transportation Commission.

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009
Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1990, f. & cert. ef. 5-31-90; Renumbered from 732-005-0015(1)(a-c); PTD 1-2004(Temp), f. & cert. ef. 7-15-04 thru 1-10-05; PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0027

STF Agencies Eligible for STF and STO Moneys

(1) After payment of the state's administrative costs of the program, the Division will make available moneys from the STF. STF moneys may be distributed to the following:

(a) To Districts where they exist;

(b) To counties where no Districts exist; and

(c) To federally recognized Indian Tribes in Oregon.

(d) If two or more Districts are located in one county, the moneys will be distributed to the Mass Transit District. If there is no Mass Transit District located in the county, then the moneys will be distributed to the Transportation District with highest population.

(2) Districts, Indian Tribes and counties receiving STF and STO moneys are known as STF Agencies.

(3) Withdrawal from Eligibility: STF Agencies eligible to receive STF and STO moneys may voluntarily withdraw from eligibility:

(a) A STF Agency intending to withdraw its eligibility will notify the Division of the decision to withdraw and the reason for withdrawal;

(b) A STF Agency may rescind its withdrawal at any time; and

(c) After a three-year period, the STF Agency that has withdrawn from eligibility will not be included in the population-based distribution of STF and STO moneys in accordance with OAR 732-010-0010:

(A) The population of the Indian Tribe that has withdrawn from eligibility will be included in the resident population of Districts and counties; and

(B) The population of a District or county that has withdrawn from eligibility will be included in the population of another STF Agency identified by the Division.

(4) Failure to apply for Formula Program and STO moneys for three or more consecutive years will be considered withdrawal from eligibility to receive STF and STO Funds.

(5) Accumulation of Formula Program moneys allocated to a STF Agency that has withdrawn will:

(a) Not exceed the total of three consecutive years dating from the year of withdrawal, or from the first year of failure to apply for Formula Program moneys;

(b) The Administrative Allotment will not accumulate;

(c) The STF Agency that rescinds its withdrawal may receive up to three years of accumulated Formula Program moneys;

(d) The STF Agency that rescinds its withdrawal is eligible to receive one year of Administrative Allotment for the year of application; and

(e) STO moneys will not accumulate.

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1990, f. & cert. ef. 5-31-90; Renumbered from 732-005-0015(1)(a-c); PTD 1-2004(Temp), f. & cert. ef. 7-15-04 thru 1-10-05; PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0031

Advisory Committee Requirements

(1) The STF Agency will appoint an Advisory Committee.

(2) The purpose of the Advisory Committee is to advise and assist the STF Agency in carrying out the purposes of the STF and STO.

(3) The Advisory Committee will:

(a) Advise the STF Agency regarding the opportunities to coordinate STF and STO moneys and STF- and STO-funded Projects with other transportation programs and services to avoid duplication and gaps in service;

(b) Review the proposed distribution of Formula Program moneys and make recommendations to the STF Agency;

(c) Review STO and Discretionary Grant proposals and make recommendations to the STF Agency;

(d) Adhere to Oregon Public Meetings laws, as applicable;

(e) Meet a minimum of two times per year, or a sufficient number of times so as to advise the STF Agency in carrying out the purposes of the STF and STO Programs;

(f) Participate in developing in the STF Plan that will be used to perform the activities described in this section; and

(g) Be guided by written bylaws that may include, but are not limited to, committee membership criteria, terms of office for the committee members, procedures of the committee, meeting schedule and other operating and decision-making procedures.

(4) To perform the activities described in subsections (3)(a) through (c) of this rule, the Advisory Committee will review the Projects proposed for funding by Formula Program and Discretionary Program moneys,

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including the proposed Recipient, Project purpose, intended User of Transportation Services, and the proposed funding level.

(5) The Advisory Committee may recommend to the STF Agency any changes to the proposed distribution of Formula Program moneys or Discretionary Grant applications it considers necessary.

(6) The terms of office for the Advisory Committee members are at the discretion of the STF Agency.

(7) The Division will be notified by the STF Agency of changes in the Advisory Committee membership.

(8) Copies of Advisory Committee bylaws, minutes and meeting notices will be made available to the Division, upon reasonable notice.

(9) Indian Tribes:

(a) The Advisory Committee of a STF Agency that is an Indian Tribe will be composed of at least three members; and

(b) To be qualified to serve on an Advisory Committee of an Indian Tribe, an individual must be able to represent the transportation needs of the Elderly and People with Disabilities served by the Indian Tribe.

(10) Districts and Counties: The Advisory Committee of a District or county will be composed of at least five members, of which a majority will meet the qualifications of paragraphs (11)(c)(A) through (D) of this rule.

(11) To be qualified to serve on the Advisory Committee for a STF Agency that is a District or county, an individual will:

(a) Reside in the District or county;

(b) Be knowledgeable about the transportation needs of the Elderly and People with Disabilities; and

(c) Be a person who:

(A) Is Elderly or a person with a disability and is a User of Transportation Services in the District or county;

(B) Is Elderly or is a person with a disability and who lives in an area of the District or county where there are no Public Transportation Services;

(C) Is Representative of Elderly persons residing in the District or county;

(D) Is Representative of People with Disabilities residing in the District or county; or

(E) Represents a Provider of services to the Elderly or People with Disabilities residing in the District or county.

(d) The STF Agency will consider geographic diversity and balance of the membership qualifications identified in paragraphs (11)(c)(A) through (E) of this rule when appointing STF Advisory Committee members.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1986, f. & ef. 1-10-86; PTD 1-1990, f. & cert. ef. 5-31-90; Renumbered from 732-005-0065; PTD 1-2004(Temp), f. & cert. ef. 7-15-04 thru 1-10-05; PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0036

Accounting Requirements

(1) The STF Agency will receive and disburse STF and STO moneys from a separate governmental fund. Any money realized as a result of interest accrued will be added to the moneys and will be reported to the Division.

(2) Record Retention:

(a) The STF Agency will maintain all financial records for at least three years after the Division's final disbursement for the fiscal year; and

(b) The STF Agency will maintain all records relating to Capital Items for three years after disposition.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1990, f. & cert. ef. 5-31-90; Renumbered from 732-005-0070; PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0046

Audit Requirements

(1) STF and STO moneys will be specifically and individually addressed in the STF Agency's annual audit. If requested by the Division, the STF Agency will provide the Division with a copy of the audit report.

(2) The Division may request additional information including, but not limited to, audits of specific Projects.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1990, f. & cert. ef. 5-31-90; Renumbered from 732-005-0080; PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0051

Reporting Requirements

(1) The purpose of reporting is to:

(a) Ensure that STF and STO moneys are being used for the purpose of financing and improving transportation programs for the Elderly and People with Disabilities;

(b) Measure the effects of the program; and

(c) Provide information to the Oregon State Legislature.

(2) The STF Agency will prepare, or require its Recipients to prepare, a quarterly report to the Division. The STF Agency will approve and sign reports prepared by Recipients prior to submission to the Division:

(a) For Projects funded by the Formula Program, a report form, provided by the Division, will be completed for each Recipient on the List of Projects;

(b) For Projects funded by STO Grant Funds, a report form, provided by the Division, will be completed for each recipient on the List of Projects

(c) A STF Agency may require additional reporting information from its Recipients;

(d) Reports will be due within 45 days following the end of a quarter. The fourth quarter report may be a preliminary report, subject to adjustment after completion of the STF Agency's audit.

(3) Failure to submit the required reports may result in withholding of Formula and STO Funds:

(a) The Division may withhold Formula and STO Funds if reports have not been submitted for a period of three consecutive quarters; and

(b) A STF Agency may negotiate an alternate reporting schedule with the Division.

(4) For Projects funded by the Discretionary Program, a report form will be provided by the Division:

(a) The report is required for payment of Discretionary Grant moneys;

(b) The Division may identify alternate dates for reporting; and

(c) Recipients of Capital Items will report regularly during the period of useful life of the Capital Item.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1990, f. & cert. ef. 5-31-90; Renumbered from 732-005-0085; PTD 1-2004(Temp), f. & cert. ef. 7-15-04 thru 1-10-05; PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0056

Withholding of Funds from a STF Agency

(1) The Division may withhold payment of STF and STO moneys if:

(a) The funds are not being used in accordance with these rules;

(b) All required reporting has not been submitted; or

(c) There are any unresolved audit findings relating to the moneys.

(2) If an audit or a review of the agreement finds that STF and STO moneys were used improperly, the STF Agency will repay the STF that portion used improperly.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 1-1986, f. & ef. 1-10-86; PTD 1-1987, f. & ef. 11-24-87; PTD 1-1989(Temp), f. & cert. ef. 12-29-89; PTD 1-1990, f. & cert. ef. 5-31-90; Renumbered from 732-005-0050; PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0061

Management of Agreements

(1) The Division will enter into agreements with a STF Agency after approval of the STF Agency's application for STF and STO moneys.

(a) The agreement will include:

(A) A description of the use of the STF or STO moneys. The description of an STO funded project must clearly indicate that the project meets the definition of an Operations Expense;

(B) A beginning and end date;

(C) Termination and suspension clauses;

(D) Other applicable requirements of these rules; and

(E) Sanctions for failure to comply with the requirements of the agreement, including and not limited to, withholding and repayment of funds for cause.

(b) Inspection of records and Projects:

(A) An STF Agency, and any organization acting on the STF Agency's behalf, will permit the Division, the Secretary of State of the State of Oregon, or their authorized representatives, upon reasonable notice, access to all data and records relating to the STF and STO moneys.

(B) The Division, the Secretary of State of the State of Oregon, or their authorized representatives, upon reasonable notice, may inspect the Projects financed with STF moneys including, but not limited to, the finan-

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cial records, physical premises and Capital Items used to deliver Public Transportation Services.

(2) The STF Agency will enter into written agreements with Recipients for Projects financed with STO funds, Formula Program and Discretionary Program moneys.

(a) The form of the agreement will include:

(A) A statement of work to be performed in consideration of the moneys; for STO moneys, the statement of work will include a detailed description of the project sufficient to ensure the project meets the definition of Operations :

(B) A beginning and end date;

(C) Termination and suspension clauses;

(D) Other applicable requirements of OAR 732-005-0000 through 732-030-0035; and

(E) Sanctions associated with failure to perform, including but not limited to, withholding and repayment of funds for cause.

(b) The STF Agency may impose additional requirements under its own authority.

(c) The STF Agency will submit copies of Recipient agreements to the Division.

(d) The STF Agency will monitor the performance of the agreement on a regular basis, and will take action when the terms and conditions of the agreement are not being met.

(e) Recipients, and any organization acting on the Recipient's behalf, will permit the STF Agency, the Division, the Secretary of State of the State of Oregon, or their authorized representatives, upon reasonable notice, access to all data and records relating to the transportation system supported in whole or part by the STF, and will allow inspection of the Projects supported in whole or part by the STF including, but not limited to, the physical premises and Capital Items used to deliver transportation services.

(f) The Division may terminate or suspend an agreement between itself and a STF Agency, and may require repayment of funds, if the STF Agency fails to take action against a Recipient failing to comply with OAR 732-005-0000 through 732-030-0035.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0066

STF Agency Joint Management of the STF and STO Programs

(1) Two or more STF agencies may jointly manage their STF and STO Programs. Joint Management means two or more STF Agencies joining together to manage their STF and STO Programs by consultation and acting independently, or by jointly managing the functions of the STF program.

(a) Joint management through consultation does not require an agreement between the parties.

(b) Joint management of the functions including, and not limited to, pooling STF and STO moneys and jointly allocating funds to Projects, requires an agreement between the STF Agencies.

(2) When two or more STF Agencies jointly manage the functions of the STF and STO programs, they will:

(a) Designate a lead STF Agency who will perform all of the functions of the program as defined in this rule;

(b) Ensure that the Advisory Committee appointed by the lead STF Agency is representative of each of the participating STF Agencies; and

(c) Meet together for consultation and review of the jointly managed STF and STO funded Program at least once per year.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0076

Recipient Qualifications

(1) To be eligible to receive STF and STO moneys for a Project, a Recipient will meet, or have the capacity to meet, the following qualifications, as applicable to the type of Project being funded. A Recipient will:

(a) Be an entity eligible to enter into agreements;

(b) Have the legal, managerial and operational capacity to perform the Project;

(c) Not be debarred or suspended from federal grants;

(d) Maintain compliance with federal, state and local laws and regulations including, and not limited to, those pertaining to passenger transportation, civil rights, labor, insurance, safety and health, as applicable;

(e) Comply with the laws or rules of this program;

(f) Properly use STF and STO moneys; and

(g) Perform the Project in a safe, prudent and timely manner.

(h) If a Recipient is identified as ineligible to receive other funds offered by the state or federal government resulting from a failure to meet the criteria identified in subsection (a) through (g) of this section, the Recipient may be ineligible to receive STF and STO moneys.

(2) A STF Agency may require additional eligibility qualifications of Recipients as necessary to implement its STF and STO funded Program.

(3) The Division may require additional eligibility qualifications of Recipients as necessary to implement the Discretionary Program.

(4) The STF Agency will confirm the eligibility of a Recipient prior to awarding STF moneys and entering into an agreement.

(5) The STF Agency will ensure that Recipients maintain eligibility while receiving STF moneys.

(6) A Recipient found by the STF Agency or Division to be ineligible may be required to repay moneys received during the period of ineligibility.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

Hist.: PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-005-0081

STF Plan

(1) A STF Agency will develop, adopt, and regularly update a written STF Plan:

(a) The purpose of the STF Plan is to set out the long term vision for public transportation in the STF Agency's service area, and guide investment of STF and STO moneys to maximize benefit to the Elderly and People with Disabilities within that area.

(b) The STF Agency will adopt its first plan no later than June 30, 2007.

(c) The STF Plan will:

(A) Cover at least a three year period;

(B) Counties will consider the transportation needs of the Elderly and People with Disabilities residing within the county;

(C) Districts will consider the transportation needs of the Elderly and People with Disabilities residing in the in-district and out-of-district areas of the county(ies); and

(D) Indian Tribes will consider the needs of tribal members and other Elderly and People with Disabilities served by the tribe and residing in the area served by the tribe.

(2) The STF Plan shall include, and is not limited to, the following types of information:

(a) Inventory of transportation services and capital resources currently available for the Elderly and People with Disabilities, without regard to how they are funded;

(b) Identify current and forecast county and tribal population and demographics;

(c) Inventory of current and future needs for transportation services and programs. The inventory may include, and is not limited to, changes in employment opportunities, housing, access to medical services, and special issues affecting access to public transportation services for the Elderly and People with Disabilities;

(d) Identify unmet needs related to the Transportation System and Services;

(e) Identify opportunities to coordinate transportation services within the county, District, or tribal area and with other agencies and areas to improve efficiency and effectiveness of service; and

(f) Identify time-based, quantified goals, benchmarks, and performance measures to assess the progress of Recipients in achieving the STF Agency's vision over time.

(3) STF Agencies may join together, and with other agencies serving the Elderly and People with Disabilities, for mutual benefit to meet these requirements.

(4) Prior to adopting a STF Plan, the STF Agency will consult with the STF Advisory Committee and the public. The purpose of this consultation is to ensure that the Elderly and People with Disabilities, representatives of the Elderly and People with Disabilities, transportation Providers, and other interested parties have the opportunity to review and comment on the proposed plan.

(5) A STF Agency will review its STF Plan at least biennially, and update it to reflect changes in the service area, demographics, funding levels, service availability or other factors, as needed.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

ADMINISTRATIVE RULES

Hist.: PTD 2-2004, f. 12-16-04, cert. ef. 1-1-05; PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-030-0005

STO Program

- (1) Revenues from the STO Program are made available annually.
- (2) STF Agencies may apply for STO funds during an application period defined by the division.
- (3) STO funds are paid to the STF Agency upon approval of its application and submission of reports required by OAR 732-005-0051.
- (4) In order to be eligible to receive STO moneys, the STF Agency must have Projects eligible for funding, as specified by OAR 732-005-0016(4).
- (5) The amount of STO money awarded to each STF Agency will be determined by the sum of the costs for the projects approved by the Division, and will not exceed the amount of STO moneys for which each STF Agency is eligible.

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009
Hist.: PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-030-0010

Fund Distribution

- (1) The Division will distribute STO moneys regularly, and at least quarterly.
- (2) Each January, prior to the beginning of each state biennium, the Division will estimate the STO moneys to be distributed during the next biennium. The estimate will include the reconciliation of STO receipts from prior years and funds unclaimed by STF Agencies.
- (3) Moneys will be made available to each STF Agency on the basis of formula distribution defined by the Division.

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009
Hist.: PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-030-0015

Application Procedures for STO Moneys

- (1) The Division will inform each STF Agency of the amount of STO moneys for which they are eligible.
- (2) To apply for STO moneys, the STF Agency will submit a completed application on forms supplied by the Division.
- (3) The information required in the application will be sufficient to ensure that the requirements of these rules are met.
- (4) An authorized official of the STF Agency will sign the application.

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009
Hist.: PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-030-0020

Application Review

- (1) The Division will review and approve STO fund applications:
 - (a) The Division will consider material submitted in the application as the basis for application approval; and
 - (b) The Division may ask for further information or clarification.
- (2) The Division may disapprove the application and, if disapproved, will inform the STF Agency of the reason for disapproval.

(a) Reasons for disapproval may include, and are not limited to, the following:

- (A) No Advisory Committee or improper membership;
- (B) Advisory Committee failure to meet and confer;
- (C) STF Agency failure to confer with the Advisory Committee;
- (D) A Recipient that is ineligible;
- (E) The use of STO moneys to supplant the STF Agency's local appropriation currently used to provide transportation services benefiting the Elderly and People with Disabilities; and
- (F) Proposed Projects are not eligible for funding.

(b) Disapproved formula program applications may be improved and resubmitted by the STF Agency.

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009
Hist.: PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-030-0025

Submission of Amended STO Applications

- (1) The STF Agency may amend their application at any time by filing an amended application with the Division.

(2) The STF Agency will retain authority over costs and allocations within its jurisdiction and may shift funds among Recipients and Projects identified in the executed agreement between the Division and STF Agency as necessary for the desired services.

(3) The STF Agency will submit an amended application if the number of Recipients or Projects changes.

(4) Changes in the distribution of funds among already approved Recipients and Projects do not require Division approval. The STF Agency will notify the Division of any changes.

(5) Changes in the Advisory Committee do not require an amended application.

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009
Hist.: PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-030-0030

Disbursement of STO Moneys

(1) Upon approval of the application for the STO moneys, the Division will enter into an agreement with the STF Agency.

(2) After the agreement is signed by both parties, the Division will disburse the moneys.

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009
Hist.: PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

732-030-0035

STF Agency's Distribution of STO Moneys

(1) The STF Agency will determine the purposes for which the STO moneys will be used, in accordance with their STF Plan.

(2) The STF Agency may use procedures of its choice to distribute STO moneys.

(3) The STF Agency that is a District is responsible for funding Projects benefiting the Elderly and People with Disabilities both within its boundaries and outside them in the surrounding county(ies).

Stat. Auth.: ORS 184.616, 184.619 & 391.810
Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009
Hist.: PTD 1-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; PTD 1-2009 f. & cert. ef. 1-29-10

Employment Department Chapter 471

Rule Caption: Adopts criminal records checks and fitness determinations as part of the agency's hiring process.

Adm. Order No.: ED 1-2010

Filed with Sec. of State: 1-29-2010

Certified to be Effective: 1-31-10

Notice Publication Date: 9-1-2009

Rules Adopted: 471-007-0200, 471-007-0210, 471-007-0220, 471-007-0230, 471-007-0240, 471-007-0250, 471-007-0260, 471-007-0270, 471-007-0280, 471-007-0285, 471-007-0290, 471-007-0300, 471-007-0310

Rules Repealed: 471-007-0200(T), 471-007-0210(T), 471-007-0220(T), 471-007-0230(T), 471-007-0240(T), 471-007-0250(T), 471-007-0260(T), 471-007-0270(T), 471-007-0280(T), 471-007-0285(T), 471-007-0290(T), 471-007-0300(T), 471-007-0310(T)

Subject: Adopts the criminal records checks and fitness determination process as required part of the Oregon Employment Department's hiring process.

Rules Coordinator: Janet Orton—(503) 947-1679

471-007-0200

Statement of Purpose and Statutory Authority

(1) **Purpose.** These rules control the Department's acquisition of information about a subject individual's criminal history through criminal records checks or other means and its use of that information to determine whether the subject individual is fit to provide services to the Department as an employee, contractor, subcontractor, vendor or volunteer in a position or assignment covered by OAR 471-007-0220(1)(a)-(d). The fact that the Department approves a subject individual as fit does not guarantee the individual a position as a Department employee.

(2) **Authority.** These rules are authorized under ORS 181.534, 181.537.

Stat. Auth.: ORS 181.534 & 181.537
Stats. Implemented: ORS 181.534(9)

ADMINISTRATIVE RULES

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0210

Definitions

As used in OAR chapter 471, division 007, unless the context of the rule requires otherwise, the following definitions apply:

(1) "Approved" means that a criminal records check and any required fitness determination have been completed on a subject individual and an authorized designee has determined that the subject individual is fit to be an employee in a position, or contractor, subcontractor, vendor, or volunteer covered by OAR 471-007-0220(1)(a)-(d).

(2) "Authorized Designee" means a Department employee authorized to obtain and/or review criminal offender information and other records about a subject individual through criminal records checks and other means, and to conduct a fitness determination in accordance with these rules.

(3) "Conviction" means that a court of law has entered a final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere (no contest) against a subject individual in a criminal case.

(4) "Criminal Offender Information" includes records and related data as to physical description and vital statistics, fingerprints received and compiled by the Oregon Department of State Police Bureau of Criminal Identification for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.

(5) "Crime Relevant to a Fitness Determination" means a crime listed or described in OAR 471-007-0250.

(6) "Criminal Records Check and Fitness Determination Rules" or "These Rules" means OAR chapter 471, division 007.

(7) "Criminal Records Check" or "CRC" means one of three processes undertaken to check the criminal history of a subject individual:

(a) A check of criminal offender information conducted through use of the Law Enforcement Data System (LEDS) maintained by the Oregon Department of State Police, in accordance with the rules adopted and procedures established by the Oregon Department of State Police (LEDS Criminal Records Check);

(b) A check of Oregon criminal offender information, including through fingerprint identification, conducted by the Oregon Department of State Police at the Department's request (Oregon Criminal Records Check); or

(c) A nationwide check of federal criminal offender information, including through fingerprint identification, conducted by the Oregon Department of State Police through the Federal Bureau of Investigation or otherwise at the Department's request (Nationwide Criminal Records Check).

(8) "Denied" means that a criminal records check and subsequent fitness determination have been completed on a subject individual, and an authorized designee has determined that the subject individual is not fit to be an employee, contractor, subcontractor, vendor or volunteer in a position covered by OAR 471-007-0220(1)(a)-(d).

(9) "Department" means the Oregon Employment Department (OED) or any subdivision thereof.

(10) "False Statement" means that, in association with an activity governed by these rules, a subject individual either: (a) provided the Department with materially false information about his or her criminal history, such as, but not limited to, materially false information about his or her identity or conviction record, or (b) failed to provide to the Department information material to determining his or her criminal history.

(11) "Fitness Determination" means a determination made by an authorized designee pursuant to the process established 471-007-0240 that a subject individual is or is not fit to be a Department employee in a position covered by OAR 471-007-0220(1)(a)-(d).

(12) "Family Member" means a spouse, domestic partner, natural parent, foster parent, adoptive parent, stepparent, child, foster child, adopted child, stepchild, sibling, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

(14) "Subject Individual" means an individual identified in OAR 471-007-0220 as someone from whom the Department may require fingerprints for the purpose of conducting a criminal records check.

Stat. Auth.: ORS 181.534, 181.537, 184.340 & 184.365

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0220

Subject Individual

(1) For purposes of criminal records checks, including fingerprint-based criminal records checks, "Subject Individual" means a person who:

(a) Is employed by OED;

(b) Has applied for or been offered employment by OED;

(c) Is offered temporary employment by OED;

(d) Is a contractor, subcontractor, vendor or volunteer over whom

OED has direction and control when providing services to or on behalf of OED, or as a participant in an internship program or an individual who volunteers on a recurring basis.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0230

Criminal Records Check Process

(1) Disclosure of Information by Subject Individual.

(a) Preliminary to a criminal records check, a subject individual, if requested, shall complete and sign the Employment Department Criminal Records Request form and, if requested by the Department, a fingerprint card.

(b) The Department shall not request a fingerprint card from a subject individual under the age of 18 years unless the Department also requests the written consent of a parent or guardian. In such case, such parent or guardian must be informed that they are not required to consent. Failure to consent, however, may be construed as a refusal to consent under OAR 471-007-0240(3)(c)(B).

(c) Within a reasonable period of time as established by an authorized designee, a subject individual shall disclose additional information as requested by the Department in order to resolve any issues hindering the completion of a criminal records check.

(2) When a Criminal Records Check Is Conducted. An authorized designee may conduct or request that the Oregon Department of State Police conduct a Criminal Records Check when:

(a) An individual meets the definition of "subject individual"; or

(b) Required by federal law or regulation, by state law or administrative rule, or by contract or written agreement with the Department.

(3) Which Criminal Records Check(s) Is Conducted. When an authorized designee determines under subsection (2) of this rule that a criminal records check is needed, the authorized designee shall proceed as follows:

(a) LEDS Criminal Records Check. The authorized designee may conduct a LEDS criminal records check as part of any fitness determination conducted in regard to a subject individual.

(b) Oregon Criminal Records Check. The authorized designee may request that the Oregon Department of State Police conduct an Oregon criminal records check when:

(A) The authorized designee determines that an Oregon criminal records check is warranted after review of the information provided by the subject individual, the results of a LEDS criminal records check, or review of any other information deemed relevant to the inquiry; or

(B) The authorized designee requests a nationwide criminal records check.

(c) Nationwide Criminal Records Check. The authorized designee may request that the Oregon Department of State Police conduct a nationwide criminal records check when:

(A) A subject individual has lived outside Oregon for 60 or more consecutive days during the previous three (3) years;

(B) Information provided by the subject individual or the results of a LEDS or Oregon criminal records check provide reason to believe, as determined by an authorized designee, that the subject individual has a criminal history outside of Oregon;

(C) As determined by an authorized designee, there is reason to question the identity of, or information provided by, a subject individual. Reasonable grounds to question the information provided by a subject individual include, but are not limited to: the subject individual fails to disclose a Social Security Number, discloses a Social Security Number that appears to be invalid, or does not have an Oregon driver's license or identification card; or

(D) A check is required by federal law or regulation, by state law or administrative rule, or by contract or written agreement with the Department.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

ADMINISTRATIVE RULES

471-007-0240

Fitness Determination

(1) If the Department elects to conduct a criminal records check, an authorized designee shall make a fitness determination about a subject individual based on information provided by the subject individual under OAR 471-007-0230(1), the criminal records check(s) conducted, if any, and any false statements made by the subject individual.

(2) In making a fitness determination about a subject individual, an authorized designee shall consider the factors in subsections (a)–(f) in relation to information provided by the subject individual under OAR 471-007-0230(1), any LEDS report or criminal offender information obtained through a criminal records check, and any false statement made by the subject individual. To assist in considering these factors, the authorized designee may obtain any other information deemed relevant from the subject individual or any other source, including law enforcement agencies or courts within or outside of Oregon. To acquire other relevant information from the subject individual, an authorized designee may request to meet with the subject individual, to receive written materials from him or her, or both. The subject individual shall meet with the authorized designee if requested and provide additional information within a reasonable period of time, as established by the authorized designee. The authorized designee will use all collected information in considering:

(a) Whether the subject individual has been arrested, pled nolo contendere (or no contest) to, been convicted of, found guilty except for insanity (or a comparable disposition) of, or has a pending indictment for a crime listed in OAR 471-007-0250;

(b) The nature of any crime(s) identified under subsection (a);

(c) The facts that support the arrest, conviction, finding of guilty except for insanity, or pending indictment;

(d) The facts that indicate the subject individual made a false statement;

(e) The relevance, if any, of a crime identified under subsection (a) or of a false statement made by the subject individual to the specific requirements of the subject individual's present or proposed position, services or employment; and

(f) The following intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the services or employment for which the fitness determination is being made:

(A) The passage of time since the commission or alleged commission of a crime identified under subsection (a);

(B) The age of the subject individual at the time of the commission or alleged commission of a crime identified under subsection (a);

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another crime listed in OAR 471-007-0250;

(E) Whether a conviction identified under subsection (a) has been set aside or pardoned, and the legal effect of setting aside the conviction or of a pardon; and

(F) A recommendation of an employer.

(3) Possible Outcomes of a Fitness Determination.

(a) Automatic Approval. An authorized designee shall approve as fit a subject individual if the information described in sections (1) and (2) shows none of the following:

(A) Evidence that the subject individual has pled nolo contendere (or no contest) to, been convicted of, or found guilty except for insanity (or comparable disposition) of a crime listed in OAR 471-007-0250;

(B) Evidence that the subject individual has a pending indictment for a crime listed in OAR 471-007-0250;

(C) Evidence that the subject individual has been arrested for any crime listed in OAR 471-007-0250;

(D) Evidence that the subject individual made a false statement; or

(E) Any discrepancies between the criminal offender information and other information obtained from the subject individual.

(b) Evaluative Approval. If a fitness determination under this rule shows evidence of any of the factors identified in paragraphs (3)(a)(A)–(E) of this rule, an authorized designee may approve the subject individual only if, in evaluating the information described in sections (1) and (2), the authorized designee determines: (i) that the evidence is not credible; or (ii) that the subject individual acting in the position for which the fitness determination is being conducted would not pose a risk of harm to the Department, its client entities, the State, or members of the public.

(c) Denial.

(A) If a fitness determination under this rule shows credible evidence of any of the factors identified in paragraphs (3)(a)(A)–(E) of this rule and,

after evaluating the information described in sections (1) and (2) of this rule, an authorized designee concludes that the subject individual acting in the position for which the fitness determination is being conducted would pose a risk of harm to the Department, its client entities, the State, or members of the public, the authorized designee shall deny the subject individual as not fit for the position.

(B) Refusal to Consent. If a subject individual refuses to submit or consent to a criminal records check including fingerprint identification, the authorized designee shall deny the subject individual as not fit without further assessment under the fitness determination process. A subject individual may not appeal any determination made based on a refusal to consent.

(C) If a subject individual is denied as not fit, then the subject individual may not be employed by or provide services to the Department.

(4) Under no circumstances shall a subject individual be denied under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and ORS 419A.262.

(5) Final Order. A completed fitness determination is final unless the affected subject individual appeals by requesting either a contested case hearing as provided by OAR 471-007-0280(2)(a) or an alternative appeals process as provided by OAR 471-007-0280(6).

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0250

Crimes Relevant to a Fitness Determination

(1) Crimes Relevant to a Fitness Determination

(a) All felonies;

(b) All Class A misdemeanors;

(c) All Class B misdemeanors;

(d) Any United States Military crime or international crime;

(e) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this subsection (1) pursuant to ORS 161.405, 161.435, or 161.450;

(f) Any crime based on criminal liability for conduct of another person pursuant to ORS 161.555, when the underlying crime is listed in this subsection (1);

(2) Evaluation Based on Oregon and Other Laws. An authorized designee shall evaluate a crime on the basis of Oregon laws and, if applicable, federal laws or the laws of any other jurisdiction in which a criminal records check indicates a subject individual may have committed a crime, as those laws are in effect at the time of the fitness determination.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0260

Incomplete Fitness Determination

(1) The Department will close a fitness determination as incomplete when:

(a) Circumstances change so that a person no longer meets the definition of a "subject individual" under OAR 471-007-0220;

(b) The subject individual does not provide materials or information under OAR 471-007-0230(1) within the timeframes established under that rule;

(c) An authorized designee cannot locate or contact the subject individual;

(d) The subject individual fails or refuses to cooperate with an authorized designee's attempts to acquire other relevant information under OAR 471-007-0240(2);

(e) The Department determines that the subject individual is not eligible or not qualified for the position for a reason unrelated to the fitness determination process; or

(f) The position is no longer open.

(2) A subject individual does not have a right to a contested case hearing under OAR 471-007-0280 to challenge the closing of an incomplete fitness determination.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0270

Notice to Subject Individual of Fitness Determination

(1) An authorized designee shall provide written notice to a subject individual upon completion of a fitness determination, or upon the closing of a fitness determination due to incompleteness.

ADMINISTRATIVE RULES

(2) The authorized designee shall record on the notice the date on which the fitness determination was either closed as incomplete or completed. This shall include the mailing date.

(3) If the notice pertains to a completed fitness determination, it shall comply with the requirements of OAR 137-003-0505 and ORS 183.415.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0280

Appealing a Fitness Determination

(1) This rule sets forth a contested case hearing process by which a subject individual may appeal a fitness determination made under OAR 471-007-0240 that he or she is fit or not fit to be a department employee, contractor, subcontractor, vendor or volunteer in a position covered by 471-007-0220(1)(a)-(d). Section (8) of this rule identifies an alternative appeal process available only to current OED employees.

(2) The Attorney General's Model Rules of Procedure, OAR 137-003-0001 through 137-003-0092, apply unless the department refers the contested case hearing to an appropriate Administrative Law Judge. At the sole discretion of the Director, the matter may be referred to the Office of Administrative Hearings to assign an Administrative Law Judge. If the department refers the matter to the Office of Administrative Hearings, 137-003-0501 through 137-003-0700 shall apply.

(3) Process.

(a) To request a contested case hearing under this rule, the subject individual or the subject individual's legal representative must submit a timely written request to the department's Office of Human Resources. To be considered timely, the request must be received by the department's Office of Human Resources within five working days of the postmark of the notice of fitness determination letter.

(b) Upon timely receipt of a request for a hearing pursuant to section (3)(a), the Director shall appoint a hearing officer and schedule a hearing.

(4) The hearings officer will establish the time and place of the hearing. Notice of the hearing shall be served on the department's Office of Human Resources authorized designee and participants at least five working days in advance of the hearing date.

(5) No Public Attendance. Contested case hearings conducted pursuant to this rule are closed to non-participants.

(6) A fitness determination made under OAR 471-007-0240 becomes final when:

(a) A subject individual fails to file a timely request for hearing; or

(b) A subject individual withdraws a hearing request, notifies the agency or the hearings officer that the subject individual will not appear, or fails to appear for the hearing.

(7) The hearings officer will issue a proposed order within five working days following a hearing. Exceptions, if any, must be received by the department within 10 working days after the service of the proposed order.

(8) After considering exceptions, if any, to the proposed order, the Director shall issue a final order.

(9) A subject individual who is currently employed by the department and who is determined to be unfit pursuant to a final fitness determination may appeal the fitness determination either under the contested case process made available by this rule or through a process available under applicable personnel rules, policies and collective bargaining agreements. A subject individual's decision to appeal a fitness determination through applicable personnel rules, policies, and collective bargaining agreements is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process pursuant to sections 3 through 8 of this rule.

(10) The only remedy that the department is required to award under this rule, is a determination that the subject individual is fit or not fit. Under no circumstances shall the department be required to place a subject individual in any position, nor shall the department be required to accept services or enter into a contractual agreement with a subject individual.

(11) A subject individual may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation. Challenges to the accuracy or completeness of information identified in this section (11), must be made pursuant to the rules of the agency that provided the information.

(12) Nothing under these rules shall be construed as requiring the department to delay, postpone, or suspend its hiring process or employment

decisions pending an appeal of a fitness determination, or criminal offender information pursuant to the rules of the agency that provided the information, or a request for a new criminal records check and re-evaluation of the original fitness determination.

Stat. Auth.: ORS 181.534, 181.537 & 657.610

Stats. Implemented: ORS 181.534(9) & 181.534

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0285

Agency Representation

The Director shall designate an authorized representative of the department to participate in hearings conducted pursuant to these rules.

Stat. Auth.: ORS 181.534 & 657.610

Stats. Implemented: ORS 181.534(9) & 181.534

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0290

Recordkeeping and Confidentiality

(1) An authorized designee shall document a fitness determination, or the closing of a fitness determination due to incompleteness, in writing.

(2) Records Received from the Oregon Department of State Police.

(a) Records the Department receives from the Oregon Department of State Police resulting from a criminal records check, including but not limited to LEDS reports and state or federal criminal offender information originating with the Oregon Department of State Police or the Federal Bureau of Investigation, are confidential pursuant to ORS 181.534(15) and federal laws and regulations.

(b) Only the Department's authorized designees shall have access to records the Department receives from the Oregon Department of State Police resulting from a criminal records check.

(c) An authorized designee shall have access to records received from the Oregon Department of State Police in response to a criminal records check only if the authorized designee has a demonstrated and legitimate need to know the information contained in the records.

(d) Authorized designees shall maintain and disclose records received from the Oregon Department of State Police resulting from a criminal records check in accordance with applicable requirements and restrictions in ORS Chapter 181 and other applicable federal and state laws, rules adopted by the Oregon Department of State Police pursuant thereto (see OAR chapter 257, division 15), these rules, and any written agreement between the Department and the Oregon Department of State Police.

(e) If a fingerprint-based criminal records check was conducted with regard to a subject individual, the Department shall permit that subject individual to inspect his or her own state and federal criminal offender information, unless prohibited by federal law.

(f) If a subject individual with a right to inspect criminal offender information under subsection (e) requests, the Department shall provide the subject individual with a copy of the individual's own state and federal criminal offender information, unless prohibited by federal law. The Department shall require sufficient identification from the subject individual to determine his or her identity before providing this criminal offender information to him or her. The Department shall require that the subject individual sign a receipt confirming his or her receipt of the criminal offender information.

(3) Other Records.

(a) The Department shall treat all records received or created under these rules that concern the criminal history of a subject individual, other than records covered under section (2) of this rule, including OED Criminal Records Request forms and fingerprint cards, as confidential pursuant to ORS 181.534(15).

(b) Only authorized designees shall have access to the records identified under subsection (a).

(c) An authorized designee shall have access to records identified under subsection (a) only if the authorized designee has a demonstrated and legitimate need to know the information contained in the records.

(d) A subject individual shall have access to records identified under subsection (a) pursuant to and only to the extent required by the terms of the Public Records Law.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0300

Authorized Designees

(1) Appointment.

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(a) The Department Director or the Director's designee shall designate positions within the Department as including the responsibilities of an authorized designee.

(b) Appointment to one of the designated positions shall be contingent upon an individual being approved under the Department's criminal records check and fitness determination process.

(c) Appointments shall be made by the Department Director or the Director's designee at his or her sole discretion.

(2) The Department Director and Deputy Director may also serve as authorized designees, contingent on being approved under the Department's criminal records check and fitness determination process.

(3) Conflict of Interests. An authorized designee shall not participate in a fitness determination or review any information associated with a fitness determination for a subject individual if either of the following is true:

(a) The authorized designee is a family member of the subject individual; or

(b) The authorized designee has a financial or close personal relationship with the subject individual. If an authorized designee is uncertain of whether a relationship with a subject individual qualifies as a financial or close personal relationship under this subsection (b), the authorized designee shall consult with his or her supervisor prior to taking any action that would violate this rule if such a relationship were determined to exist.

(4) Termination of Authorized Designee Status.

(a) When an authorized designee's employment in a designated position ends, his or her status as an authorized designee is automatically terminated.

(b) The Department shall suspend or terminate a Department employee's appointment to a designated position within the Department, and thereby suspend or terminate his or her status as an authorized designee, if the employee fails to comply with OAR 471-007-0200 through 471-007-0290 in conducting criminal records checks and fitness determinations.

(c) An authorized designee shall immediately report to his or her supervisor if he or she is arrested for or charged with, is being investigated for, or has an outstanding warrant or pending indictment for a crime listed in OAR 471-007-0250. Failure to make the required report is grounds for termination of the individual's appointment to a designated position within the Department, and thereby termination of his or her status as an authorized designee.

(d) The Department will review and update an authorized designee's eligibility for service in a designated position within the Department. As part of a review or update, a new criminal records check and fitness determination may be required:

(A) Every three years; or

(B) At any time the Department has reason to believe that the authorized designee has violated these rules or no longer is eligible to serve in his or her current position within the Department.

(5) A denial under OAR 471-007-0240(3) related to a designated position within the Department is subject to the appeal rights provided under OAR 471-007-0290.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

471-007-0310

Fees

(1) The Department may charge a fee for acquiring criminal offender information for use in making a fitness determination. In any particular instance, the fee shall not exceed the fee(s) charged the Department by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain criminal offender information on the subject individual.

(2) The Department may charge the fee to the subject individual on whom criminal offender information is sought, or, if the subject individual is an employee of a Department contractor or vendor and is undergoing a fitness determination in that capacity, the Department may charge the fee to the subject individual's employer.

(3) The Department shall not charge a fee if the subject individual is a Department employee or an applicant for employment with the Department.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; ED 1-2010, f. 1-29-10, cert. ef. 1-31-10

Land Conservation and Development Department Chapter 660

Rule Caption: Adopt statutorily required rules implementing HB 2228 (OR Laws 2009, Ch. 636), Transfer of Development Rights Pilot Program.

Adm. Order No.: LCDD 1-2010

Filed with Sec. of State: 1-28-2010

Certified to be Effective: 1-28-10

Notice Publication Date: 12-1-2009

Rules Adopted: 660-028-0010, 660-028-0020, 660-028-0030

Subject: House Bill 2228 (2009) established the Oregon Transfer of Development Rights Pilot Program, to be implemented by the Department of Land Conservation and Development (DLCD) working with local governments, the Oregon Department of Forestry, the Oregon Department of Agriculture and other state agencies. Under this pilot program, the Land Conservation and Development Commission (LCDC) may select up to three local government initiated "pilot projects" that would provide for the transfer of development rights (TDRs) — from forest land to land in another location that is either (1) inside an urban growth boundary (UGB); (2) in an "exception area" adjacent to a UGB; or, (3) in an incorporated community designated in the county plan as either a "rural community" or an "urban unincorporated community."

HB 2228 requires LCDC to adopt rules to implement the pilot program that "establish a process for selecting pilot projects from among potential projects nominated by local governments." The selection process must require local governments to nominate potential projects by submitting a concept plan for each proposed pilot project, including proposed amendments to the comprehensive plan and land use regulations necessary to implement the pilot project. The proposed rules may provide other requirements and criteria under which LCDC will select up to three qualifying pilot projects.

Rules Coordinator: Casaria Tuttle—(503) 373-0050, ext. 322

660-028-0010

Definitions

For purposes of this division, the definitions contained in ORS 197.015 and the Statewide Land Use Planning Goals (OAR chapter 660, division 15) apply. In addition, the following definitions apply:

(1) "Conservation easement" has the meaning provided in ORS 271.715.

(2) "Local Government" means a city, county, metropolitan service district or state agency as defined in ORS 171.133.

(3) "Receiving area" means a designated area of land to which a holder of development rights generated from a sending area may transfer the development rights, and in which additional residential uses or development, not otherwise allowed, are allowed by reason of the transfer.

(4) "Sending area" means a designated area of resource land from which development rights generated from forgone development are transferable, for residential uses or development not otherwise allowed, to a receiving area.

(5) "Transferable development right or TDR" means a severable residential development interest in real property that can be transferred from a lot, parcel or tract in a sending area to a lot, parcel or tract in a receiving area. This term has the same meaning as "transferable development credit" under Oregon Laws 2009, chapter 504, section 2(10), except that, for purposes of this division and the Oregon Transfer of Development Rights Pilot Program, "severable development interests" are limited to residential uses, including ancillary uses subordinate to residential uses.

Stat. Auth.: ORS 197.040

Stats. Implemented: OL 2009, ch 636, § 6

Hist.: LCDD 1-2010, f. & cert. ef. 1-28-10

660-028-0020

Selection of Pilot Projects

(1) This rule establishes the process for the commission to select up to three TDR pilot projects from among projects nominated by one or more local governments.

(2) A proposed TDR pilot project will be considered by the department and the commission if the local governments with land use jurisdiction over the proposed sending and receiving areas submit, on or before June 1, 2010:

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- (a) A completed application form;
- (b) A letter of interest along with the owner(s) of at least fifty percent of the land in the proposed sending area;
- (c) A concept plan consistent with the requirements of OAR 660-028-0030 that describes the proposed TDR pilot project and that includes:

(A) Proposed amendments to the local government comprehensive plan and land use regulations necessary to implement the pilot project, a tentative schedule for adoption of the amendments, and a description of any other proposed actions intended to implement the proposed TDR pilot project;

(B) Maps and other pertinent information describing the proposed sending areas and receiving areas;

(C) Proposed transfer ratios as specified in OAR 660-028-0030(5) and other incentives for participation; and

(D) A letter from a qualified entity as defined in ORS 271.715 expressing interest in holding and monitoring any conservation easement or similar restriction to ensure that development rights are transferred off of the proposed sending area.

(3) The commission may extend the deadline in subsection (2) of this rule if it finds that additional time is necessary to ensure a satisfactory pool of applications for consideration under this program.

(4) The department will review applications and submit its recommendations for review by the commission within 120 days of the deadline established under section (2) or (3) of this rule. The department will base its recommendations on its assessment of:

(a) The beneficial qualities and attributes of the lands in the proposed sending area for forest management and the degree of risk that those qualities and attributes will be lost in the absence of the proposed project based on information in the proposal and other available information provided by the State Forestry Department and others;

(b) The location, attributes, size and configuration of proposed sending and receiving areas, including the quality of the forest land intended to be conserved under the proposed TDR pilot project;

(c) The demonstrated intent and ability of the local government and other participants to implement the proposed TDR pilot project within a reasonable timeframe; and

(d) The likelihood that the proposed TDR pilot project will succeed and achieve the purposes and requirements of the Oregon TDR Pilot Program expressed in Oregon Laws 2009, chapter 636.

(5) Upon review of the applications, the commission may select up to three qualified TDR pilot projects for inclusion in the Oregon TDR Pilot Program. In deciding which TDR pilot projects to select, the commission must consider the department's recommendations, the written applications and concept plans, and any other available and pertinent information it deems relevant to its decision.

(6) When selecting a TDR pilot project the commission must find that the pilot project will comply with the requirements specified in OAR 660-028-0030 and other requirements of law, and that the pilot project is:

(a) Reasonably likely to provide a net benefit to the forest economy or the agricultural economy of this state and achieve the purposes and requirements of the Oregon TDR Pilot Program expressed in Oregon Laws 2009, chapter 636;

(b) Designed to avoid or minimize adverse effects on transportation, natural resources, public facilities and services, nearby urban areas and nearby farm and forest uses; and

(c) Designed so that new development authorized in a receiving area as a result of the transferred development rights will not conflict with:

(A) Significant Goal 5 resources, including natural, scenic, and historic resources, open spaces and other resources and resource areas inventoried in accordance with Goal 5 and OAR chapter 660, division 23 or OAR chapter 660, division 16; or

(B) Areas identified as conservation opportunity areas in the Oregon Department of Fish and Wildlife's 2006 "Oregon Conservation Strategy."

Stat. Auth.: ORS 197.040
Stats. Implemented: OL 2009, ch 636, § 6
Hist.: LCDD 1-2010, f. & cert. ef. 1-28-10

660-028-0030

Requirements for TDR Pilot Projects

(1) At the time the local government(s) submits an application for a proposed TDR pilot project, the proposed sending area must be planned and zoned for forest use, may not exceed 10,000 acres, and must contain four or fewer dwelling units per square mile.

(2) At the time the local government(s) submits an application for a proposed TDR pilot project, the proposed receiving area or areas may not be located within 10 miles of the Portland metropolitan area urban growth

boundary. The receiving area or areas must be only the appropriate size necessary to accommodate the anticipated development rights that will reasonably be generated and transferred from the sending area, with consideration of uses and density to be authorized under the proposed amendments to the local government comprehensive plan and land use regulations to implement the proposed TDR pilot project if it is selected.

(3) In proposing a receiving area for a TDR pilot project, the local government must select the area based on consideration of the following priorities:

(a) First priority is lands within an urban growth boundary;

(b) Second priority is lands that are adjacent to an urban growth boundary and that are subject to an exception to Goal 3 or Goal 4;

(c) Third priority is lands that are within a designated urban unincorporated community or rural community, as defined in OAR chapter 660, division 22, in an acknowledged comprehensive plan.

(4) With respect to the priority of receiving areas described in subsection (3) of this rule, the commission may authorize a local government to select lower priority lands over higher priority lands for a receiving area in a TDR pilot project only if the local government has established, to the satisfaction of the commission, that selecting higher priority lands as the receiving area is not likely to result in the severance and transfer of a significant proportion of the development interests in the sending area within five years after the receiving area is established.

(5) The ratio of transferable development rights to severed residential development interests in a sending area must be calculated to protect lands planned and zoned for forest use and to create incentives for owners of land in the sending and receiving areas to participate in the TDR pilot project. The ratio may not exceed one transferable development right to one severed development interest if the receiving area is outside of an urban growth boundary, except that this maximum ratio does not apply to an exception area described in subsection (3)(b) of this rule provided the TDR pilot project concept plan ensures the inclusion of the receiving area within an urban growth boundary, either under applicable requirements of Goal 14 and other laws or the alternative provisions in section (11) of this rule. The concept plan may allow the transfer of development rights authorized in this subsection prior to the inclusion of the receiving area in an acknowledged urban growth boundary provided the amended comprehensive plan and land use regulations ensure that the transferred rights cannot be exercised at a higher ratio than specified in this rule until the receiving area is included in the urban growth boundary.

(6) Within one year after the commission has approved a proposed concept plan, the local governments having land use jurisdiction over the affected sending and receiving areas must adopt overlay zone provisions and corresponding amendments to the comprehensive plan and land use regulations to implement the concept plan and to identify and authorize the additional residential development allowed through participation in the pilot project. The local governments must submit and the commission must review the comprehensive plan and land use regulation amendments in the manner of periodic review under ORS 197.628 to 197.650. Transfer of development interests may not occur prior to the commission's acknowledgment of the comprehensive plan and land use regulation amendments.

(7) The comprehensive plan and land use regulation amendments required by section (6) of this rule must specify the type and density of the additional residential development to be transferred and allowed in a receiving area through participation in a TDR pilot project, in accordance with the concept plan approved by the commission and other applicable requirements of this rule.

(8) In addition to the requirements of section (6) of this rule, before any development rights may be exercised in the receiving area, the participating owners of land in a sending area must:

(a) Grant a conservation easement pursuant to ORS 271.715 to 271.795 or otherwise ensure on a permanent basis that additional residential development does not occur in the sending area; and

(b) Allow reasonable public access to the property. The commission may agree to limits on public access in the event the landowner demonstrates there are significant risks to forest resources or management practices that would result without such limits.

(9) If the receiving area for a TDR pilot project is within an urban growth boundary expansion area approved under section (11) of this rule, or is in an exception area described in subsection (3)(b) and section (10) of this rule, the amended comprehensive plan and land use regulations required by section (6) of this rule must authorize a residential density of at least 10 dwelling units per net acre for the receiving area.

(10) Notwithstanding contrary provisions of statewide land use planning Goals 11 and 14 and related rules, and notwithstanding ORS 215.700

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to 215.780, if the commission approves a TDR pilot project, a local government may amend its comprehensive plan and land use regulations to allow transferred rights under an approved TDR pilot project to develop as urban level residential development, with urban levels of public facilities and services, including transportation, in a receiving area that consists of land adjacent to an urban growth boundary and subject to an exception to Goal 3 or Goal 4, consistent with subsection (3)(b) and section (9) of this rule. The concept plan described under OAR 660-028-0020(2)(b) must indicate whether a local government intends to change comprehensive plan and land use regulations to allow urban level of development and urban levels of public facilities and services in the receiving area and must include an agreement to rezone the receiving area to authorize a residential density of at least 10 dwelling units per net acre as provided in section (9) of this rule.

(11) Notwithstanding ORS 197.296 and 197.298, statewide land use planning Goal 14 and its implementing rules (OAR chapter 660, division 24), a local government may amend its urban growth boundary to include land that is in a receiving area of a selected TDR pilot project and that is adjacent to an urban growth boundary and subject to an exception to Goal 3 and Goal 4. The proposed concept plan described under OAR 660-028-0020(2)(c) must indicate whether a local government intends to include adjacent exception lands in a receiving area approved as a pilot project under this program, and must include an agreement to rezone the receiving area to authorize a residential density of at least 10 dwelling units per net acre as provided in section (9) of this rule.

(12) Local governments or other entities may establish a development rights bank or other system to facilitate the transfer of development rights.

Stat. Auth.: ORS 197.040
Stats. Implemented: OL 2009, ch 636, § 6
Hist.: LCDD 1-2010, f. & cert. ef. 1-28-10

Rule Caption: Amend rules to implement HB 3225 (2009) and affects review under Measure 49 (2007) of about 400 new Measure 49 claims.

Adm. Order No.: LCDD 2-2010

Filed with Sec. of State: 2-9-2010

Certified to be Effective: 2-9-10

Notice Publication Date: 12-1-2009

Rules Amended: 660-041-0000, 660-041-0020, 660-041-0080

Subject: The rules will be codified in Division 041, under Oregon Administrative Rules (OAR) chapter 660, and will facilitate additional review under HB 3225 and Measure 49 (M49) for about 400 Measure 37 (M37) claims. Division 041 was adopted in 2004 in order to implement 2004 Ballot Measure 37. HB 3225 enables certain categories of landowners with otherwise ineligible M37 claims to make M49 elections and revises certain criteria that were the cause for denial for additional categories of claimants. House Bill 3225 and the proposed rules also require affected claimants to pay a \$175 fee to help defray costs of further processing their claims. The claims affected by the proposed rules will be completed during the time-frame between July 1, 2010 and (no later than) December 31, 2010.

Rules Coordinator: Casaria Tuttle—(503) 373-0050, ext. 322

660-041-0000

Purpose and Applicability

(1) The purpose of OAR 660-041-0000 to 660-041-0150 is to implement Chapter 424, Oregon Laws 2007 (2007 Oregon Ballot Measure 49) by establishing procedures for Supplemental Review of Measure 37 Claims. These rules also contain requirements for notice of applications and decisions regarding Measure 37 Permits, and clarify when a DLCD Measure 37 Waiver was required in addition to a waiver from a city or county. Finally, these rules also explain the effect of Measure 49 on DLCD Measure 37 Waivers.

(2) OAR 660-041-0010 applies to all Claims, Measure 37 Permits and DLCD Measure 37 Waivers that are subject to OAR 660-041-0020 to 660-041-0160, as well as to the Supplemental Review of Measure 37 Claims under OAR 660-041-0080 to 660-041-0160.

(3) OAR 660-041-0020 applies only to Claims that were received by DAS after December 4, 2006 and before December 6, 2007, and that are based on one or more DLCD Regulations and that are not described in section 3 of Chapter 855, Oregon Laws 2009.

(4) OAR 660-041-0030 applies to applications for and decisions on a Measure 37 Permit filed or made on or after February 20, 2007.

(5) OAR 660-041-0040 to 660-041-0070 apply to all DLCD Measure 37 Waivers.

(6) OAR 660-041-0080 to 660-041-0160 apply to the Supplemental Review of a Claim by DLCD.

Stat. Auth.: ORS 197.040, 197.065 & 2007 OL Ch. 424
Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & 2007 OL Ch. 424
Hist.: LCDD 10-2006(Temp), f. 12-1-06, cert. ef. 12-4-06 thru 6-2-07; LCDD 1-2007, f. 2-5-07, cert. ef. 2-9-07; LCDD 2-2007(Temp), f. & cert. ef. 12-10-07 thru 6-7-08; LCDD 2-2008(Temp), f. & cert. ef. 2-21-08 thru 6-10-08; LCDD 4-2008, f. & cert. ef. 5-23-08; LCDD 3-2009(Temp), f. & cert. ef. 8-18-09 thru 2-14-10; LCDD 2-2010, f. & cert. ef. 2-9-10

660-041-0020

Contents of a Measure 37 Claim Based on a DLCD Regulation

(1) Unless otherwise described in section 3 of Chapter 855, Oregon Laws 2009, when a Claim was received by DAS after December 4, 2006 and was based on one or more Existing DLCD Regulations, then the Claim must:

(a) Demonstrate that a city, county, Metro, or an Agency applied one or more Existing DLCD Regulations, or applied one or more city, county or Metro land use regulations that implement Existing DLCD Regulations, as approval criteria to an application submitted by the Claimant; and

(b) Include one of the following:

(A) A copy of the final written decision by a city, a county, or Metro on a Land Use Application that included the Measure 37 Claim Property and that requested authorization for the specific use that the Claim is based on, in which the city, county, or Metro determined that one or more Existing DLCD Regulations or city, county or Metro Land Use Regulations that implement Existing DLCD Regulations were approval criteria for the decision; or

(B) A copy of the final written action by an Agency on a complete application to the Agency, in which the Agency determined that one or more Existing DLCD Regulations were approval criteria for the application.

(2) Unless otherwise described in section 3 of Chapter 855, Oregon Laws 2009, when a Claim was based on one or more New DLCD Regulations, then the Claim must:

(a) Have been received by DAS within two years of:

(A) The effective date of the New DLCD Regulation; or

(B) Within two years of the date the Claimant submitted a Land Use Application in which the Land Use Regulations were approval criteria, whichever was later; and

(b) If the Claim was submitted more than two years after the effective date of the New DLCD Regulation, the Claim must include a copy of the final written decision by a city, a county, or Metro on a Land Use Application that includes the Measure 37 Claim Property and that requested authorization for the specific use that the Claim was based on, in which the city, county, or Metro determined that the New DLCD Regulation or city or county or Metro Land Use Regulation that implemented the New DLCD Regulation were approval criteria for the decision.

(3) Unless otherwise described in section 3 of Chapter 855, Oregon Laws 2009, when a Claim was based on both Existing and New DLCD Regulations, the requirements of section (1) of this rule must be met with respect to the Existing DLCD Regulation, and the requirements of section (2) of this rule must be met with respect to the New DLCD Regulation.

(4) A DLCD Regulation was applied as an approval criterion for purposes of this rule and ORS 197.352(5) (2005) when a city, county or Metro made a final written decision on a Land Use Application, or when an Agency took final written action on an application to that Agency, and that final written decision or final written action denied the application or conditioned the approval of the application on the basis (in whole or in part) of the DLCD Regulation.

(5) This rule applies only to Claims that were received by DAS after December 4, 2006, and that were based on one or more DLCD Regulations, and that are not described in section 3 of Chapter 855, Oregon Laws 2009.

Stat. Auth.: ORS 197.040, 197.065 & 2007 OL Ch. 424
Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & 2007 OL Ch. 424
Hist.: LCDD 10-2006(Temp), f. 12-1-06, cert. ef. 12-4-06 thru 6-2-07; LCDD 1-2007, f. 2-5-07, cert. ef. 2-9-07; LCDD 2-2008(Temp), f. & cert. ef. 2-21-08 thru 6-10-08; LCDD 4-2008, f. & cert. ef. 5-23-08; LCDD 3-2009(Temp), f. & cert. ef. 8-18-09 thru 2-14-10; LCDD 2-2010, f. & cert. ef. 2-9-10

660-041-0080

Supplemental Information for Supplemental Review of Measure 37 Claims under Measure 49 and Fee under Chapter 855, Oregon Laws 2009

(1) If the record for the Claim does not include the information needed for DLCD to proceed with the Supplemental Review of the Claim,

ADMINISTRATIVE RULES

DLCD will request Supplemental Information from a Claimant or the Claimant's authorized agent.

(2) If the Claim is described in sections 2 through 5a or Section 13 of Chapter 855, Oregon Laws 2009 a Claimant or Claimant's authorized agent must submit a \$175 fee to DLCD. DLCD will request the fee from a Claimant or the Claimant's authorized agent.

(3) Supplemental Information or a \$175 fee requested by DLCD must be filed with DLCD within fifty-six (56) days of the date the request is sent and must be filed in the manner described in OAR 660-041-0100.

(4) For good cause shown, DLCD may extend the period for filing Supplemental Information or a \$175 fee beyond fifty-six (56) days.

(5) If DLCD fails to issue a final order on a Claim described in sections 2 through 5a, or Section 13 of Chapter 855, Oregon Laws 2009 by December 31, 2010, DLCD shall refund any \$175 fee submitted for that Claim.

(6) For purposes of this division, "Supplemental Review" means review by DLCD of a Claim under either section 6 or section 7 of Measure 49, and when applicable, sections 2 through 5a or Section 13 of Chapter 855, Oregon Laws 2009.

Stat. Auth.: ORS 197.040, 197.065 & 2007 OL Ch. 424
Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & 2007 OL Ch. 424
Hist.: LCDD 2-2008(Temp), f. & cert. ef. 2-21-08 thru 6-10-08; LCDD 4-2008, f. & cert. ef. 5-23-08; LCDD 3-2009(Temp), f. & cert. ef. 8-18-09 thru 2-14-10; LCDD 2-2010, f. & cert. ef. 2-9-10

Landscaping Contractors Board Chapter 808

Rule Caption: Clarifies continuing education reporting requirements; additional of civil penalties.

Adm. Order No.: LCB 1-2010

Filed with Sec. of State: 1-27-2010

Certified to be Effective: 1-27-10

Notice Publication Date: 11-1-2009

Rules Amended: 808-005-0020, 808-040-0020, 808-040-0060

Subject: 808-005-0020 — Adding penalty for failure to notify the LCB of a new or additional business name or personal surname for sole proprietors under which the business is conducted and failure to respond and submit continuing education documentation.

808-040-0020 — Amends rule to require a certification that the licensee has fulfilled the CEH requirement instead of a listing of classes taken.

808-040-0060 — Amends rule to require response to audit request and response to correction of deficiencies to 21 calendar days to be consistent.

Rules Coordinator: Kim Gladwill-Rowley—(503) 378-5909

808-005-0020

Schedule of Civil Penalties

The board may assess civil penalties according to the following schedule. Sections 1–4 may be adjusted per the terms of a settlement agreement for the first offense:

(1) Operating as a landscape contracting business in violation of ORS 671.530(1) or (3):

- (a) If the value of the work is \$500 or less; \$500; and
- (b) If the value of the work is more than \$500; \$1,000

(2) Operating as a landscape contracting business in violation of ORS 671.530(1) or (3), when a claim has been filed for damages arising out of that work, \$2,000.

(3) Operating as a landscape construction professional in violation of ORS 671.530(1), \$1,000.

(4) Advertising in violation of ORS 671.530(2), (4), or (5):

- (a) \$500 for the first offense; and
- (b) \$1,000 for subsequent offenses occurring after action taken on first offense.

(5) Advertising for landscaping work outside the scope of the landscape contracting business license in violation of OAR 808-003-0040:

(a) \$500 for the first offense; and

(b) \$1,000 for subsequent offenses occurring after action taken on first offense.

(6) Operating as a landscape contracting business in violation of ORS 671.530(1) or (3) when one or more previous violations have occurred after action taken on first offense, \$2,000.

(7) Operating as a landscaping contracting business without having at least one owner or employee who is a licensed landscape construction professional licensed within the phase of work performed, in violation of OAR 808-003-0040 and 808-003-0045:

(a) \$500 for the first offense; and

(b) \$1,000 for subsequent offenses occurring after action taken on first offense.

(8) Performing landscaping work while not subject to a written contract or failing to comply with minimum contract standards, in violation of ORS 671.625(2) and OAR 808-002-0020:

(a) \$200 for the first offense; and

(b) \$500 for subsequent offenses occurring after action taken on first offense.

(9) Failure to include the license number in all written advertising, in violation of OAR 808-003-0010:

(a) \$200 for the first offense; and

(b) \$500 for subsequent offenses occurring after action taken on first offense.

(10) Performing work outside the scope of the landscape contracting business license in violation of OAR 808-003-0040:

(a) \$500 for the first offense; and

(b) \$1,000 for subsequent offenses occurring after action taken on first offense.

(11) Installation of an irrigation backflow assembly or tapping into the potable water supply in violation of a written agreement with the Board as provided in OAR 808-003-0040, \$1,000 and suspension of the license until Backflow Prevention license is obtained.

(12) Failure to maintain the insurance required by ORS 671.565 or bond or other board accepted surety as required by ORS 671.690 in effect continuously throughout the license period:

(a) \$200 for the first offense; and

(b) \$500 for subsequent offenses occurring after action taken on first offense.

(13) Failure to conform to information provided on the application in violation of ORS 671.510 to 671.710:

(a) \$500 for the first offense and suspension of the license until the applicant provides the agency with proof of compliance with the statutes and rules; and

(b) \$1,000 for subsequent offenses occurring after action taken on first offense and suspension of the license until the applicant provides the agency with proof of compliance with the statutes and rules.

(14) Failure to comply with any part of ORS Chapters 316, 656, 657, and 671, as authorized by ORS 671.510 to 671.710:

(a) \$500 for the first offense and suspension of the license until the applicant provides the agency with proof of conformance with the application; and

(b) \$1,000 for subsequent offenses occurring after action taken on first offense and suspension of the license until the applicant provides the agency with proof of conformance with the application.

(15) Violating an order to stop work as authorized by ORS 671.510 to 671.710, \$1,000 per day.

(16) Failure to obtain a permit to tap into a potable water supply prior to the installation of an irrigation backflow assembly or failure to comply with applicable plumbing code requirements as required by OAR 808-003-0040(3)(a):

(a) \$200 for the first offense; and

(b) \$500 for subsequent offenses occurring after action taken on first offense.

(17) Failure to obtain the appropriate building code permit(s):

(a) \$200 for the first offense; and

(b) \$500 for subsequent offenses occurring after action taken on first offense.

(18) When as set forth in ORS 671.610(5), the number of licensed landscape contracting businesses working together on the same task on the same job site, where one of the businesses is licensed exempt under ORS 671.525(2)(b), exceeded two sole proprietors, one partnership, one corporation, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows:

(a) \$1,000 for the first offense;

(b) \$2,000 for the second offense;

(c) Six month suspension of the license for the third offense; and

(d) Three-year revocation of license for a fourth offense.

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(19) Failure of a landscape contracting business to notify the board of a change in the landscaping business' phase of license as required by OAR 808-003-0045(4):

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(20) Failure by the landscape construction professional to comply with the supervisory responsibilities as required by OAR 808-003-0018:

- (a) \$200 for the first offense;
- (b) \$500 for the second offense occurring after action taken on first offense; and
- (c) \$1,000 and six month suspension of the license for the third offense.

(21) Failure of the landscape construction professional to notify the Landscape Contractors Board of a change of address or employment in writing or on line at the LCB website as required by ORS 671.603 and OAR 808-003-0045:

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(22) Failure of a landscape contracting business to notify the board of a change in address in writing or on line at the LCB website as required by ORS 671.603:

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(23) Failure of a landscape contracting business to require the landscape construction professional to directly supervise unlicensed employees of the landscaping business performing landscaping work that is related to the landscape construction professional phase of license:

- (a) \$200 for the first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(24) Failure of a landscape contracting business to obtain the correct amount of surety bond or irrevocable letter of credit, as required by ORS 671.690(1):

(a) \$500 for the first offense and immediate suspension per ORS 671.610(2) until the proper bond is received in the State Landscape Contractors Board office;

(b) \$1,000 for the second offense occurring after action taken on the first offense and immediate suspension per ORS 671.610(2) until the proper bond is received in the State Landscape Contractors Board office.

(25) Failure to notify the LCB of a new business name (including any new assumed business name) or, in the case of a sole proprietor, any personal surname under which the business is conducted, in violation of OAR 808-003-0020:

- (a) \$200 for first offense; and
- (b) \$500 for subsequent offenses occurring after action taken on first offense.

(26) Failure to respond and submit CEH documentation as required by OAR 808-040-0060(3):

(a) \$200 and suspension of the license until the CEH documentation is received in the agency office for the first offense. For purposes of this subsection only, if the CEH documentation as required by OAR 808-040-0060(3) is received in the agency office on or before the 21st day after the date of the contested case notice, the contested case will be withdrawn without prejudice.

(b) \$500 and suspension of the license until the CEH documentation is received in the agency office for subsequent offenses occurring after action is taken on the first offense.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 671.670
Stats. Implemented: ORS 671.997

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 2-1991(Temp), f. 9-27-91, cert. ef. 9-29-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 2-2005, f. & cert. ef. 4-5-05; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCCB 3-2007, f. & cert. ef. 8-1-07; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 7-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 3-2008, f. & cert. ef. 4-11-08; LCB 10-2008, f. & cert. ef. 11-6-08; LCB 1-2010, f. & cert. ef. 1-27-10

808-040-0020

Continuing Education Biennial and Reporting Requirement

(1) Biennial CEH requirement. To maintain licensing, a landscape construction professional must complete 20 hours of continued education hours (CEH) every two years unless such requirement is waived by the Board under ORS 671.676(4)) and OAR 808-040-0070:

(a) Except as provided in subsection (c) of this rule the 20 CEH must be completed during the two-year period immediately preceding the renewal date of the landscape construction professional license.

(b) The 20 CEH must conform to OAR 808-040-0040 and include a minimum of 4 CEH in subjects related to landscape business practices and a minimum of 8 CEH in subjects related to the technical area of landscape construction. The remaining hours may be in either of the above subjects or in subjects including but not limited to workplace safety, environmental and sustainable landscape practices, and/or community service.

(c) All landscape construction professionals renewing on or before December 31, 2011 may complete and report CEH obtained since January 1, 2008.

(2) Reporting Requirement at Renewal. As a requirement of renewal of an active landscape construction professional license, licensees are required to certify that the licensee has fulfilled the CEH requirement.

(3) Licensees with Even Numbered Licenses must report the CEH requirement in even numbered years. All licensees holding even numbered licenses on or before January 1, 2009 shall complete and report ten (10) CEH requirement with the conditions of (1)(b) of this rule being prorated for their first renewal in 2010 and then report the full 20 CEH with the renewal every second (2nd) year thereafter.

(4) Licensees with Odd Numbered Licenses must report the CEH requirement in odd numbered years. All licensees holding odd-numbered licenses shall complete and report the 20 CEH requirement beginning with the renewal period in 2011 and every second (2nd) year thereafter. The 20 CEH requirement shall be completed as per (1)(b) of this rule.

(5) New Licensees. CEH requirements for new licensees are as follows:

(a) New licensees who receive an even numbered license in an odd numbered year after January 1, 2009 must report 10 CEH with the conditions of (1)(b) of this rule being prorated for their first renewal period and then report the full 20 CEH with the renewal every second (2nd) year thereafter. An example of this is an individual who receives an even numbered license in 2009 must report 10 CEH in 2010 and then 20 CEH in 2012.

(b) New licensees who receive an even numbered license in an even numbered year after January 1, 2009 will report the 20 CEH requirement every second (2nd) year thereafter.

(c) New licensees who receive an odd numbered license in an even numbered year after January 1, 2009 must report 10 CEH with the conditions of (1)(b) of this rule being prorated for their first renewal period and then report the full 20 CEH with the renewal every second (2nd) year thereafter. An example of this is an individual who receives an odd numbered license in 2010 must report 10 CEH in 2011 and then 20 CEH in 2013.

(d) New licensees who receive an odd numbered license in an odd numbered year after January 1, 2009 will report the 20 CEH requirement every second (2nd) year thereafter

(e) CEH obtained by new licensees during the two-year period immediately preceding the renewal date of the landscape construction professional license.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: 2007 OL Ch. 550

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2009(Temp), f. & cert. ef. 5-13-09 thru 11-9-09; LCB 10-2009, f. & cert. ef. 10-28-09; LCB 1-2010, f. & cert. ef. 1-27-10

808-040-0060

Continuing Education: Audit, Required Documentation and Sanctions

(1) To ensure adequate proof of continuing education course completion is available for audit or investigation by the Landscape Contractors Board the licensees shall maintain a record of attendance for two years following renewal.

(2) The Landscape Contractors Board will audit a select percentage of renewals determined by the Board to verify compliance with continued education hour requirement at intervals determined by the Board.

(3) Licensees notified of selection for audit of continuing education verification shall submit to the agency within 21 calendar days from the date of issuance of the notification, satisfactory evidence of completing the required continuing education outlined in OAR 808-040-0020.

(4) Documentation in the form of a certificate of attendance for a program or course provided by any institution, agency, professional organization or association, must include:

- (a) Name of sponsoring institution/association or organization;
- (b) Title of presentation;
- (c) Date of attendance;
- (d) Type of CEH as described on the renewal form;
- (e) Number of approved CEH; and

ADMINISTRATIVE RULES

(f) Instructor's, presenter's or sponsor's signature or official stamp signifying attendance and completion of the course.

(5) Documentation for independent study course, volunteering and other non-sponsored education must include:

- (a) Name of business or organization;
- (b) Date of educational event;
- (c) Names and contact information for a minimum of three (3) persons other than the licensee in attendance;
- (d) Type of CEH claimed;
- (e) Number of CEH approved by the Board; and
- (f) Signature of owner of the business; director of the organization or person leading the event.

(6) Misrepresentation of continuing education or failing to meet continuing education requirements may result in disciplinary action, which may include but is not limited to assessment of a civil penalty and suspension or revocation of the landscape construction professional license.

(7) The Board may perform an audit on any licensee at any time the board determines necessary to maintain compliance with the CEH requirement.

Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: Ch. 550 OL 2007
Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 1-2010, f. & cert. ef. 1-27-10

Oregon Business Development Department Chapter 123

Rule Caption: Clarifies the Safe Drinking Water Revolving Loan Fund.

Adm. Order No.: OBDD 4-2010

Filed with Sec. of State: 1-29-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 1-1-2010

Rules Amended: 123-049-0005, 123-049-0010, 123-049-0020, 123-049-0030, 123-049-0040, 123-049-0050, 123-049-0060

Subject: The Safe Drinking Water Revolving Fund rules are amended to include the Infrastructure Finance Authority brought by legislation through HB 2152 in the 2009 Legislation Session. Some definitions have been updated and the rules have been revised to comply with statute.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-049-0005

Purpose, Scope and Incorporated Documents

(1) This division of administrative rules implements a federally funded state revolving fund to provide financing to community and nonprofit non-community drinking water systems for planning, design, construction or improvement of drinking water facilities or systems needed to maintain or achieve compliance with drinking water standards and to further public health protection goals of the federal Safe Drinking Water Act Amendments of 1996 P.L. 104-182 and this state's Drinking Water Quality Act.

(2) In accordance with ORS 285A.213, this division of administrative rules governs the administration of the moneys awarded through this Safe Drinking Water Revolving Loan Fund by the Oregon Business Development Department through its Infrastructure Finance Authority in cooperation with the State of Oregon's Health Services of the Oregon Department of Human Services, but not activities of Health Services itself.

(3) "SAFE DRINKING WATER IN OREGON: Program Guidelines & Applicant's Handbook for the Federally Funded Safe Drinking Water Revolving Loan Fund & Drinking Water Protection Fund" (July 2009 and any subsequent amendments), including but not limited to its appendices, is:

- (a) The principal source of information on this program, as prepared by the Authority;
- (b) Available by contacting any of the Authority's regionally assigned staff;
- (c) Incorporated into and adopted as part of this division of administrative rules, by reference;
- (d) Subject to the same definitions as used in this division of administrative rules; and
- (e) Provides guidance specific to assistance for economic stimulus funding authorized by the American Recovery and Reinvestment Act of 2009 and allocated through the Safe Drinking Water Revolving Loan Fund Program.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 285A.075 & 285A.213(4)
Stats. Implemented: ORS 285A.213

Hist.: EDD 6-1999, f. & cert. ef. 8-26-99; EDD 11-2000(Temp), f. 7-20-00, cert. ef. 7-20-00 thru 1-16-01; EDD 1-2001, f. 1-11-01, cert. ef. 1-12-01; EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 2-2009(Temp), f. & cert. ef. 3-6-09 thru 9-1-09; EDD 7-2009, f. 8-31-09 cert. ef. 9-1-09; OBDD 4-2010, f. 1-29-10, cert. ef. 2-1-10

123-049-0010

Definitions

For the purposes of these rules additional definitions may be found in Procedural Rules, OAR 123-001. As used in this division of administrative rules, unless the context clearly indicates otherwise:

(1) "Act" means the Safe Drinking Water Act at 42 U.S.C. 300f et seq., including amendments of 1996 (Public Law 104-182), and any subsequent amendments

(2) "Applicant" means a community or nonprofit non-community water system that is applying for a loan from the Fund.

(3) "Community water system" means a public water system, other than one owned by an agency of the federal government, that:

- (a) Has 15 or more service connections used by year-round residents; or
- (b) Regularly serves 25 or more year-round residents.

(4) "Contract" means a legally binding agreement between the department and recipient that sets out the terms and conditions for award of project funds.

(5) "Fund" means the Safe Drinking Water Revolving Loan Fund and the Drinking Water Protection Fund, which are the financing programs managed by the Authority under this division of administrative rules to pay for infrastructure improvements to eligible public water systems, and which includes moneys originating directly from federal capitalization grants (apart from set-asides), this state's match of such grants, program loan repayments, interest earnings and any additional funds provided by this state.

(6) "Intended Use Plan" the description of how the state intends to use moneys awarded and loaned from the fund to meet the objectives of the Act, as annually prepared by Health Services pursuant to USEPA guidelines.

(7) "Nonprofit non-community water system" means a public water system that:

- (a) Is not a community water system;
- (b) Regularly serves at least 25 people, even if they are not year-around residents; and
- (c) Is recognized under Oregon law as a nonprofit corporation.

(8) "Project" means facility design construction activities or related/preceding tasks identified in the contract and loan agreement for which the recipient may expend, obligate or commit funds to address a drinking water problem or a documented health hazard.

(9) "Project priority list" means the comprehensive priority list of potential, eligible activities, as developed under the Intended Use Plan in response to letters of interest from community and nonprofit non-community water systems.

(10) A "public water system" means a system or infrastructure for the provision to the public of water for human consumption through pipe or other constructed conveyances, regardless of ownership, including but not limited to facilities for source of supply, filtration, treatment, storage, transmission or metering of that water.

(11) "Recipient" means a community or nonprofit non-community water system that has been awarded financing from the fund for a project.

(12) "USEPA" means the Environmental Protection Agency of the United States federal government.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 285A.075 & 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 6-1999, f. & cert. ef. 8-26-99; EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 7-2009, f. 8-31-09 cert. ef. 9-1-09; OBDD 4-2010, f. 1-29-10, cert. ef. 2-1-10

123-049-0020

Eligible Applicants and Activities

(1) All community water systems and nonprofit non-community water systems are eligible to apply for financing except those determined to be ineligible by the department because of prior nonperformance.

(2) Eligible and ineligible activities are defined in the Act and in USEPA's Drinking Water State Revolving Fund Program Guidelines, EPA 816-R-97-005 (February 1997), as well as subsequent revisions or editions of such guidelines.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 285A.075 & 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 6-1999, f. & cert. ef. 8-26-99; EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 7-2009, f. 8-31-09 cert. ef. 9-1-09; OBDD 4-2010, f. 1-29-10, cert. ef. 2-1-10

ADMINISTRATIVE RULES

123-049-0030

Program Information

(1) The Authority shall prepare program guidelines, application forms and other supplementary program information to help eligible applicants seek financing and prepare financing applications for the fund.

(2) Program guidelines as prepared under section (1) of this rule shall include an explanation of project eligibility, the project priority list, the Intended Use Plan, disadvantaged communities, types of financial assistance, loan rates and terms, borrowing limits, public notification process, contract administration, federal crosscutting requirements and environmental review process.

(3) In addition to this division of administrative rules, the Authority shall administer the fund in compliance with the requirements of the Act, as amended, and the Act's applicable rules, guidelines and requirements from USEPA.

(4) For purposes of land use coordination, any project activity paid for with financing from the Fund shall comply with the applicable requirements of division 8 of this chapter of administrative rules and OAR chapter 660.

Stat. Auth.: ORS 285A.075 & 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 6-1999, f. & cert. ef. 8-26-99; EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 2-2009(Temp), f. & cert. ef. 3-6-09 thru 9-1-09; EDD 7-2009, f. 8-31-09 cert. ef. 9-1-09; OBDD 4-2010, f. 1-29-10, cert. ef. 2-1-10

123-049-0040

Program Rights and Remedies

(1) The department may exercise certain rights and remedies in the event the recipient fails to comply with contract provisions and the recipient fails to correct the deficiencies within a reasonable time after the recipient is notified of the deficiencies. The circumstances that may warrant the department exercise of rights or remedies include, but are not limited to one or more of the following:

(a) None of the project activities have begun within six months after award;

(b) Any third party agreement relating to the project is not legally binding within six months of the award;

(c) Federal or state statutory or regulatory requirements have not been met;

(d) There is a significant deviation from the contract;

(e) The department finds that significant corrective actions are necessary to protect the integrity of the project funds, and those corrective actions are not, or will not, be made within a reasonable time; or

(f) A recipient defaults on loan payments, which may otherwise be made from any source of revenue at the recipient's disposal, including but not limited to General Fund revenue.

(2) One or more of the following rights and remedies may be exercised by the department if the recipient fails to comply with contract provisions and the recipient fails to correct the deficiencies within a reasonable time after recipient is notified of the deficiencies:

(a) Bar a recipient from applying for future department or Authority assistance;

(b) Revoke an existing department or Authority award;

(c) Withhold unexpended department or Authority funds;

(d) Require immediate return of unexpended department or Authority funds;

(e) Require repayment of expended department or Authority funds;

(f) Withhold other state funds otherwise due to the recipient, such as state-shared revenues; or

(g) Other remedies that may be incorporated into the contract.

(3) The remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the contract.

(4) The recipient shall be responsible for ensuring that any subcontractor complies with the applicable terms and conditions of the contract. Nothing in this rule shall restrict the department's right to enforce independently the terms of any contract or to recover any sums that may become due as the result of a breach of such contract.

Stat. Auth.: ORS 285A.075 & 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 6-1999, f. & cert. ef. 8-26-99; EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; OBDD 4-2010, f. 1-29-10, cert. ef. 2-1-10

123-049-0050

Private Ownership and Regulation of Subsidies for Public Benefit

(1) Only if a privately owned public water system is regulated under the jurisdiction of the State of Oregon Public Utility Commission (PUC) may it enjoy the benefits of a "disadvantaged community," pursuant to sec-

tion 1452(d) of the Act, in receiving financial assistance through the fund, including but not limited to principal forgiveness.

(2) The amount of subsidy shall not be treated as equity, but rather in all cases as a contingent liability on the balance sheet of the public water system receiving the financing and on the balance sheet of any entity that acquires that system or the assets financed by the Fund.

(3) If a water system is sold that was awarded subsidy by the fund, the value of the subsidy shall be effectively excluded from the purchase price, consistent with section (2) of this rule, such that the benefit of the principal forgiveness continues to accrue to the ratepayers or users of the system rather than to the seller. (This section also applies to the sale or lease of system assets financed by the loan, and it pertains but is not limited to the privatization of a publicly owned system)

(4) If section (2) or (3) of this rule is violated, then the water system shall repay the full amount of the subsidy into the fund. The Authority shall determine the schedule of such repayment, as it deems appropriate under the circumstances.

(5) The Oregon Public Utility Commission (PUC) has full authority to enforce the effects of this rule through applicable regulation of an affected water system.

(6) For non-PUC regulated privately-owned public water systems receiving financial assistance through the Fund under OAR 123-049-0005(3)(e), including but not limited to principle forgiveness, the amount of subsidy shall not be treated as equity, but rather in all cases as a contingent liability on the balance sheet of the public water system receiving the financing and on the balance sheet of any entity that acquires that system or the assets financed by the Fund. If the water system is sold that was awarded subsidy by the Fund, the value of the subsidy shall be effectively excluded from the purchase price, such that the benefit of the subsidy continues to accrue to the ratepayers or users of the system rather than to the seller. (This section also applies to the sale or lease of system assets financed by the Fund, and it pertains but is not limited to the privatization of a publicly owned system.) If this rule is violated, then the water system shall repay the full amount of the subsidy into the Fund. The Authority shall determine the schedule of such repayment, as it deems appropriate under the circumstances.

Stat. Auth.: ORS 285A.075 & 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 11-2000(Temp), f. 7-20-00, cert. ef. 7-20-00 thru 1-16-01; EDD 1-2001, f. 1-11-01, cert. ef. 1-12-01; EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 2-2009(Temp), f. & cert. ef. 3-6-09 thru 9-1-09; EDD 7-2009, f. 8-31-09 cert. ef. 9-1-09; OBDD 4-2010, f. 1-29-10, cert. ef. 2-1-10

123-049-0060

Drinking Water Protection Fund

(1) For purposes of implementing section 1452(k)(1) of the Act, the Authority shall administer loans and grants to public water systems for protecting surface and underground sources of drinking water, in order to solve or prevent health problems before the water is collected or treated by the system.

(2) The moneys for these loans and grants are derived from the "local assistance" set-aside of the federal capitalization grant, such that unused amounts will be transferred to the fund, and repayments shall be either added to the fund or placed in a dedicated account for further lending under this rule.

(3) The loans under this rule are distinct from the fund. Relevant provisions of this division of administrative rules, however, shall apply to the administration of such loans and grants(4) For purposes of this rule, administration includes underwriting assessments, loan awards, grant awards contract execution, disbursements, loan repayments and so forth.

(5) Health Services (Oregon Department of Human Services) and the Oregon Department of Environmental Quality shall handle determinations of eligibility, prioritization of loan grant recipients and related duties.

(6) More specific guidelines for the loans grant under this rule are available and included in the document incorporated by reference in OAR 123-049-0005(3).

Stat. Auth.: ORS 285A.075 & 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 7-2009, f. 8-31-09 cert. ef. 9-1-09; OBDD 4-2010, f. 1-29-10, cert. ef. 2-1-10

Rule Caption: These rules provide procedures for the Oregon Investment Advantage Act.

Adm. Order No.: OBDD 5-2010

Filed with Sec. of State: 1-29-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 1-1-2010

ADMINISTRATIVE RULES

Rules Amended: 123-155-0000, 123-155-0050, 123-155-0100, 123-155-0150, 123-155-0200, 123-155-0250, 123-155-0270, 123-155-0300, 123-155-0350, 123-155-0400

Subject: These rules update the procedures for certification under the Oregon Investment Advantage Act. The name of division has been changed to Oregon Investment Advantage. The rules have been updated to comply with HB 2152 and the department's name change. Language has been revised for clarity and definitions have been updated.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-155-0000

Purpose and Scope

The purpose of these administrative rules is to specify procedures and criteria necessary to guide certification under the Oregon Investment Advantage Act for the exemption on qualified facilities from State of Oregon business income or corporate excise taxation, as allowed under ORS 316.778 or 317.391. These exemptions of taxable income/profits encourage businesses to invest in new Oregon operations with new full-time employees (earning minimum compensation levels) at qualifying facilities in counties exhibiting the worst per capita income and unemployment rates statewide.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.500 - 285C.506, 316.778 & 317.391

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

123-155-0050

Preliminary Certification From 2006 Through 2010 (HB 3350 – '05)

(1) Requirements for annual compensation apply only to a Facility receiving preliminary certification after December 31, 2011.

(2) The Department may seek to expedite an application for preliminary certification submitted in the latter part of 2010, subject to feasibility and cooperation of the Municipal Corporations, if the proposed Facility is in a county that will not be eligible under ORS 285C.500(5)(b) (2005) (as amended by section 1, chapter 595, Oregon Laws 2005) on or before December 31, 2010.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.500 - 285C.506, 316.778, 317.391 & OL 2005, Ch. 595 1-3
Hist.: EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

123-155-0100

Definitions

For the purposes of these rules, additional definitions may be found in Procedural Rules, OAR 123-001. As used in this division of administrative rules, unless the context requires otherwise the following definitions apply:

(1) "Business firm" means a person operating or conducting one or more trades or businesses for profit, and does not include any governmental agency, municipal corporation or nonprofit corporation, other than a people's utility district or rural electric cooperative.

(2) "Facility" has the meaning given under ORS 285C.500(4).

(3) "Municipal Corporation" means the following with respect to the location of a Facility proposed in an application for preliminary certification:

(a) The county government of the county, the territory of which contains the Facility, regardless of whether the location is incorporated or not;

(b) A city government, if the Facility will be located within the corporate limits or urban growth boundary of the city; and

(c) A Port for which the Facility will be located within the territorial limits of the port district.

(4) "Qualified Location" means a site for a Facility as described in OAR 123-155-0150.

(5) "Unique Operations" has the meaning described in OAR 123-155-0175.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 285A.075(5) & 285B.110

Stats. Implemented: ORS 285C.500 & 285C.503

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

123-155-0150

Qualified Locations

A proposed Facility must be inside a county as determined according to section (1) of this rule, and located at a site satisfying the requirements of section (2) of this rule, at the time when application for preliminary certification is made:

(1) With respect to county eligibility:

(a) Effective July 1 of each year, the Department shall determine the counties fulfilling the criteria under ORS 285C.500 (or chapter 595, Oregon Laws 2005) based on county annual unemployment rates and per capita personal income levels for the three most recent years for which data are then available.

(b) This determination shall remain in effect until and including June 30 of the next year for purposes of any proposed Facility, for which the application for preliminary certification is submitted on or after the preceding July 1 (including those approved subject to OAR 123-155-0050), except in the event that the determination is modified to reflect official revisions in the data occurring during that annual period at least a month prior to the submission date.

(c) Revisions to data after the annual period described in subsection (b) of this section do not affect the eligibility of a county as determined for a preliminary certification application submitted during that annual period.

(2) The specific site of a proposed Facility must meet at least one of the following two requirements:

(a) The site is completely inside the urban growth boundary (UGB) of a city with a population of 15,000 or less (based on the most recent population estimates available from the Portland State University Center for Population Research and Census); or

(b) Regardless of being inside or outside of any city's UGB, the site consists entirely of land zoned for industrial use:

(A) Pursuant to effective municipal zoning ordinances that expressly and generally permit permanent facilities and private operations for heavy or light manufacturing, energy production, fabrication, warehousing, distribution, mineral/agricultural processing or similarly intensive, economic uses;

(B) In accordance with applicable state land-use laws, including but not limited to those for unincorporated communities, exceptions from state planning goals, or ORS 197.713, 197.714 or 197.719; and

(C) Such that the Facility's business operations must directly benefit a traded sector industry under ORS 285B.280, regardless of other uses permitted under the particular zoning code ordinance.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 285C.500 & 285C.503

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

123-155-0200

Preliminary Certification Application

For purposes of ultimately seeking the exemption under ORS 316.778 or 317.391:

(1) A business firm must complete an application for preliminary certification and file it with the Department, as follows:

(a) Using the form prescribed by the Department; and

(b) Before the following:

(A) Commencement of construction, installation or similar activities with respect to any new property or improvements comprising the proposed Facility; and

(B) Hiring of any employees to work at that location, who constitute the five or more required employees.

(2) A fee of \$500 must be included with the preliminary certification application in the form of a check or money order payable to the Department.

(3) Applications shall be submitted to: Recruitment Services, Business Development Department, State Lands Building Suite 200, 775 Summer Street NE, Salem OR 97301-1280.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 285B.105

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

123-155-0250

Determination of Preliminary Certification

Pursuant to a filing as described in OAR 123-155-0200

(1) The Department shall:

(a) Review the application for preliminary certification for completeness; and

(b) Determine whether the business firm and the applicant's proposed Facility:

(A) Is at a Qualified Location;

(B) Represents Unique Operations; and

(C) May be reasonably expected to satisfy the employment and other applicable requirements under ORS 285C.503(5).

(2) Not more than 30 days after receipt of the application for preliminary certification, the Department shall do the following:

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(a) Notify the applicant in writing whether the application is complete; and

(b) If it is sufficiently complete for purposes of the Municipal Corporations, send the following items to them, in such a way that the date of sending is recorded:

(A) A copy of the application; and

(B) A standardized form for each Municipal Corporation to complete and return in response to the business firm's application.

(3)(a) The Department shall complete the determination described in subsection (1)(b) of this rule, after receiving any:

(A) Additional information requested from the applicant; and

(B) Materials from the Municipal Corporations.

(b) This determination shall not be final sooner than 60 days from the date the copy of the application was sent to the Municipal Corporations, unless an official and conclusive response has already been received from all of them.

(4) Within 30 days after fulfillment of the steps in section (3) of this rule, the Department shall notify the applicant in writing of its decision, which shall include but is not limited to the following:

(a) In the event that preliminary certification is denied, the Department shall send either notice consistent with OAR 123-001-0725 or only a written statement of explanation if the denial results from an objection as described in OAR 123-155-0270(2).

(b) In the event that preliminary certification is approved, the Department shall send a letter conferring preliminary certification.

(5) The Department shall send written notification of the final determination on preliminary certification to relevant staff of the Department of Revenue and the Municipal Corporations.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.105

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05;

OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

123-155-0270

Local Objection and Relevant Preliminary Certification Requirements

(1) A Municipal Corporation may object to preliminary certification and furnish formal evidence of its objection; however:

(a) The Department must receive the objection and evidence within 60 days from the date the Department sent a copy of the application for preliminary certification to the governing body of a Municipal Corporation, as described in OAR 123-155-0250(2)(b).

(b) If the Department does not receive the objection and any necessary evidence or copy of an adopted resolution, the Municipal Corporation is deemed to agree to preliminary certification.

(2) In order for the objection to be automatic and not subject to appeal in a contested case, the objection under section (1) of this rule must:

(a) Take the form of a resolution that is adopted by the governing body during the 60-day period, in accordance with applicable local laws, government charter and practices;

(b) Contain a statement of the reason(s) for the objection under ORS 285C.503(4)(b) and information as described in section (5)(b) or (6) of this rule.

(3) If local officials believe that the proposed Facility does not satisfy a requirement under ORS 285C.503(5), the Municipal Corporation is encouraged and expected to timely furnish relevant information to the Department even if it does not adopt a resolution.

(4) In addition to information in the application, the Department shall rely primarily on the Municipal Corporations in determining whether:

(a) Health insurance coverage will be at least equal to that of Municipal Corporation employees, if applicable.

(b) Business operations will meaningfully compete with one or more existing local businesses operating in or employing persons from the city or county, including competition for:

(A) Local customers;

(B) Skilled workers or managers within the local labor pool;

(C) Other resources or input, for which local supplies and accessibility are critical but scarce or problematic; or

(D) Comparable circumstances, which always exclude general inter-firm rivalry within the larger marketplace.

(5) If local competition as described in subsection (4)(b) of this section is indicated, then it must also be:

(a) Supported with clear evidence furnished by the Municipal Corporation, pursuant to which the Department can independently make a determination under ORS 285C.503(5)(f); or

(b) Formally stated as an objection in the resolution adopted by the governing body of a Municipal Corporation that at a minimum identifies the type and basic nature of local competition that is expected to arise.

(6) In order for the Department to deny an application for preliminary certification based on local growth or development standards, the Municipal Corporation's adopted resolution must include information showing that the relevant standards were contained in municipal ordinances effective when the application was submitted to the Department.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.105

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05;

OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

123-155-0300

Annual Certification

For purposes of annual certification of a Facility for each tax year of the business firm, up to ten times under ORS 285C.506:

(1) A preliminarily certified business firm that owns or leases and operates the Facility must file the application for annual certification with the Department:

(a) On or before the 30th day after the end of the income or corporate excise tax year, for which it is seeking to claim or exercise the exemption under ORS 316.778 or 317.391; and

(b) Using the form prescribed by and available from the Department.

(2) A fee of \$100 must be submitted with each application in the form of a check or money order payable to the Department.

(3) Within 30 days after the date of filing, Department staff shall review the application, consider potential fact-finding about the Facility under ORS 285C.506(5) to (8), determine whether it satisfies the applicable requirements for annual certification and take the following action:

(a) If annual certification is denied, the Department shall send notice consistent with OAR 123-001-0725.

(b) If annual certification is approved, the Department shall send a letter conferring certification for the just concluded tax year.

(4) The Department shall also copy relevant staff at the Department of Revenue with items as described in section (3) of this rule.

Stat. Auth.: ORS 285A.075 & 285C.506(4)

Stats. Implemented: ORS 285C.506

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05;

OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

123-155-0350

Issues of Initial and Subsequent Annual Certifications

For purposes of annual certification as described in OAR 123-155-0300:

(1) The first such application for annual certification may not be filed with the Department until after the end of the tax year, in which:

(a) Business operations have commenced at the Facility;

(b) Relevant employees have been hired; and

(c) Facility property has been acquired or leased by the business firm and completed in terms of the construction, reconstruction, modification and installation of proposed property and improvements.

(2) For purposes of this first filing, the application shall show that after the date on which preliminary certification was approved:

(a) Business operations commenced at the Facility within 18 months, if involving major construction or reconstruction, or 6 months, if only acquiring existing buildings or structures; and

(b) Facility property did not remain in an unfinished state of construction, reconstruction, modification or installation for more than six months without significant progress toward completion of such activities.

(3) In order for the Facility to be certified with the first filing:

(a) The location and nature of the Facility's business operations must basically conform to what was indicated in the application for preliminary certification, for which the Department may issue an amended preliminary certification as appropriate, pursuant to formal receipt of revised information from the business before the end of the tax year. In determining the appropriateness of issuing an amended preliminary certification, the Department shall consider:

(A) Such criteria as described in section (5) of this rule; and

(B) Material implication for issues described under ORS 285C.503(4)(b), consulting with the Municipal Corporations beforehand as warranted.

(b) Subsection (2)(a) or (b) of this rule must be satisfied, except as allowed by Department staff through a written finding that the delay or interruption is reasonable and not excessive, given the nature and extent of the business firm's investment in the Facility or of inadvertent circumstances.

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Oregon Department of Education Chapter 581

(4) For purposes of an application for annual certification:

(a) Its approval shall not depend on any current issue of actual competition with other local businesses, Qualified Location or Unique Operations.

(b) The application may be denied if the Department discovers that when the application for preliminary certification was submitted, the Facility was not at a Qualified Location or did not represent Unique Operations, including but not limited to the case where the preliminary certification application contained false or incomplete information.

(c) The Department may approve the application, even if the nature of the Facility or the business firm/ownership changes after the first filing, including but not limited to changes in:

(A) The composition of Facility property or its exact location; or

(B) The corporate or ownership structure or organization of the business.

(5) To allow a change as described in section (4)(c) of this rule depends on:

(a) Direct, ongoing continuity with the original facility;

(b) Business operations remaining materially the same; and

(c) Relative to the location identified in the application for preliminary certification, the Facility is located at what was likewise a Qualified Location inside the same urban growth boundary or at a similarly proximate location.

(6) The business firm need not make its first such filing immediately following the tax year described in section (1) of this rule, and the business firm may miss or skip any of the ten opportunities to apply for annual certification; however:

(a) Neither postponement of the first filing nor failure to apply in any subsequent tax year shall modify or extend the period for which certification is otherwise allowed.

(b) The business firm may not claim or exercise the exemption under ORS 316.778 or 317.391 for any such tax year, after which timely application for annual certification is not made as described in OAR 123-155-0300. The firm may still use the exemption for any remaining, eligible tax year that is not more than nine consecutive tax years after the year described in section (1) of this rule, and for which the firm applies and is certified.

(c) If an application for annual certification is timely filed but denied by the Department, then the exemption is disallowed for not only that year, but also for all other remaining, eligible tax years (but without retroactive effect on any prior exemption).

Stat. Auth.: ORS 285A.075 & 285C.506(6)

Stats. Implemented: ORS 285C.506, 316.778 & 317.391

Hist.: EDD 9-2005, f. & cert. ef. 11-4-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

123-155-0400

Application Fees, Waivers

With respect to application fees as described in this division of administrative rules:

(1) The Department may excuse the fee or reduce the required amount:

(a) If a business firm's Facility readily qualifies for certification but is very small in size or has minimal employment, or the firm has modest revenue prospects and little likelihood of effectively realizing much benefit from the exemption on taxable income, as determined based on Department experience and expertise relative to general business activity in the county, region or statewide; or

(b) If it can be demonstrated that such a waiver will further the goals and objectives of the program and other relevant public policies, for example, when partial or non-imposition of the fee might promote business investments in areas of the state where the exemption the has not yet been used.

(2) The Department shall return or refund the amount collected to the applicant, if the application is rejected or the preliminary or annual certification is denied, pending a final order to that effect.

(3) The moneys collected are intended to defray administrative costs; in particular, they may be critical for offsetting legal expenses in the event of contested case appeal.

Stat. Auth.: ORS 285A.075, 285C.503(3), 285C.506(4)

Stats. Implemented: ORS 285C.503 & 285C.506

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10

Rule Caption: Modifies rule relating to digital, electronic and web-based instructional materials.

Adm. Order No.: ODE 1-2010

Filed with Sec. of State: 2-8-2010

Certified to be Effective: 2-8-10

Notice Publication Date: 12-1-2009

Rules Amended: 581-011-0087

Subject: ORS 337.090 directs the state board to enter into written contracts with each publisher that is approved by the board. The statute also requires that the board as part of the contracting process require publishers to have a good and sufficient bond or an irrevocable letter of credit. In the event of a breach of contract, the board may rescind the contract and bring the appropriate action or suit to enforce the bond or letter of credit. One result of an action or suit is monetary damages for the benefit of the Common School Fund.

The prior rule referred to the board assessing penalties when a publisher violates a contract by selling instructional materials at a higher price to school districts than agreed to in the contract. These "penalties" are not civil penalties instead they are monetary damages ("penalties") allowed under a contract with the publisher. The legislature directed the state board to bring appropriate action or suit to enforce the bond or letter of credit. One of these possible actions or suit is to collect monetary damages allowed in the contract from the publisher for the benefit of the Common School Fund.

The proposed rule amendment removes the term "penalties" from the rules and instead refers to the broader language used in the statute of "appropriate action or suit" which we believe may include the collection of monetary damages from the bond or letter of credit. This change clarifies that the state board is not assessing civil penalties while still allowing the state board to enforce the contracts as required by the statute.

Rules Coordinator: Diane Roth—(503) 947-5791

581-011-0087

Digital, Electronic, or Web-based Materials and Media

(1) As indicated in OAR 581-011-0050(1) and (2), Instructional materials are defined as any organized system which constitutes the major instructional vehicle for a given course of study, or any part thereof. Instructional Material may include digital content or software in a format such as electronic and internet or web-based materials or media.

(2) Contract, review, and evaluation process involving digital, electronic, or web-based materials and media shall be the same as print materials.

(3) As stated in ORS 581-011-0086, the State Board of Education must approve the request of a publisher to substitute a more recent edition or version of any officially adopted material. However, software updates that improve functionality, performance, or accuracy are allowed if approved by the Department of Education. New and revised editions or versions must be sold at the same or lower price as those previously approved.

(4) According to ORS 337.060 a publisher or other supplier who submits a proposal under 337.060 is required to pay a fee equal to the retail price expended by a school district during the length of the contract period, or \$50, whichever is greater, for each title or item of instructional material proposed by the publishers or supplier for review and adoption by the Board. Bid proposals must include available retail price structures such as per-student, per-computer, subscription and other unit price structures and may include models where the cost is divided over multiple years and paid annually (as opposed to a single payment). Bid proposal fees are payable prior to consideration of the proposal.

(5) Materials that comply with the interoperability standards can be considered for adoption according to ORS 337.075.

(6) Materials shall be accessible consistent with OAR 581-015-2060, 581-022-1640, 581-011-1185, 581-011-1186, 581-011-0052 and compliant with all state or federal laws regarding accessibility.

(7) Materials cannot include free or gratis equipment such as computer hardware, technology devices or equipment, which are intended to deliver or display the material but which are not instructional materials. This includes but is not limited to computers, laptops, handheld devices,

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microscopes, CD/DVD players, overhead or LCD projectors, electronic whiteboards, phone/music/transmitting and listening devices, and cameras.

(8) In accordance with ORS 337.090, if any publisher fails to carry out the provisions of the contract or with the intent to evade the provisions of the contract, sells any of the materials in this state at prices higher than specified in the contract of the publisher, the Board may, on behalf of the state, rescind the contract and notify the publisher thereof, or bring the appropriate action or suit to enforce the provisions of the publisher's bond or letter of credit, payable to the State of Oregon for the benefit of the Common School Fund.

Stat. Auth.: ORS 337.035
Stats. Implemented: ORS 337.035
Hist.: ODE 3-2009, f. & cert. ef. 6-29-09; ODE 1-2010, f. & cert. ef. 2-8-10

Rule Caption: Modifies rule relating to renewal of registration by private schools.

Adm. Order No.: ODE 2-2010

Filed with Sec. of State: 2-8-2010

Certified to be Effective: 2-8-10

Notice Publication Date: 12-1-2009

Rules Amended: 581-045-0500

Subject: The rule amendment clarifies that the act of renewing is when the department approves the renewal. The rule draft requires private schools to submit a registration renewal prior to July 1 to be considered for renewal on or before October 15. This change will allow the department time to review the renewal applications and complete the approval process prior to October 15.

Rules Coordinator: Diane Roth—(503) 947-5791

581-045-0500

Registration

(1) Registration of a private school is renewable annually on or before October 15. Registration not renewed by the Department of Education by October 15, shall be considered lapsed and may only be renewed in the manner required for initial registration. Private schools must submit a registration renewal application to the Department prior to July 1. A school will only be considered for renewal if the Department has received a renewal application from the school prior to July 1.

(2) Initial registrations received on or before March 31 shall be for the current school year. Initial registrations received after March, 31 will be processed for the next school year.

(3) Elementary and secondary private schools shall be any combination of Grades Pre-Kindergarten through 12 for purposes of registration.

Stat. Auth.: ORS 345.535
Stats. Implemented: ORS 345.515 & 345.525
Hist.: 1EB 109, f. 3-30-64; 1EB 256, f. & ef. 12-20-76; EB 5-1991, f. & cert. ef. 2-28-91; ODE 8-2009, f. & cert. ef. 6-29-09; ODE 2-2010, f. & cert. ef. 2-8-10

Rule Caption: Modifies provisions relating to private career schools.

Adm. Order No.: ODE 3-2010

Filed with Sec. of State: 2-8-2010

Certified to be Effective: 2-8-10

Notice Publication Date: 12-1-2009

Rules Adopted: 581-045-0003

Rules Amended: 581-045-0001, 581-045-0006, 581-045-0062

Subject: The 2009 legislature enacted HB 2108. The rules implement this legislation including provisions relating to initial licenses, conditional licenses, school ownership changes and criminal background checks of schools that enrolled persons under the age of 18.

Rules Coordinator: Diane Roth—(503) 947-5791

581-045-0001

Definitions

The following definitions apply to OAR 581-045-0006 through 581-045-0210, unless otherwise indicated by the context:

(1) "Advertising" means any form of public notice used in recruiting and promoting activities, however disseminated, including but not limited to print media, catalogs, and other school publications, signs, mailing pieces, radio or television ads, audiovisual material, and the internet on behalf of a licensed school.

(2) "Ability to benefit" is a determination made by the school through some form of assessment (e.g., entrance examination) that indicates the stu-

dent has a reasonable chance to succeed in the program and be employed in the profession for which the student is preparing.

(3) "Esthetics" has the meaning given in ORS 690.005.

(4) "Agent" has the meaning given in ORS 345.010(1).

(5) "Application" means a form, separate from the enrollment agreement, which is submitted by an applicant prior to the signing of the enrollment agreement and evaluated by the school for admission purposes. Schools may charge a non-refundable application fee; however, the fee must be clearly identified on the application.

(6) "Application fee" means any fee, however named, covering those expenses incurred by a school in evaluating admission of prospective students. At the school's option, the application fee may be non-refundable. The school shall not charge an application fee of more than \$25.00.

(7) "Approved" means accepted by the State Board of Education or by the Superintendent in matters relating to school licensing requirements.

(8) "Assessment" means a written, oral, and/or hands-on evaluation of an applicant's progress in the educational program.

(9) "At-risk" means the school demonstrates a pattern or history of one or more of the following conditions that the Superintendent determines, may cause potential serious problems for the continued successful and profitable operation of the organization:

(a) Failure to meet the standards of financial responsibility or reporting;

(b) Misrepresentation;

(c) Frequent substantiated complaints filed with the Department;

(d) A decrease in enrollment from the previous reporting period of 50 percent or more or 25 students, whichever is greater;

(e) Staff turnover from the previous reporting period of 50 percent or more or three staff, whichever is greater; and

(f) Conditions listed in subsections (9) (d) and (e) of this rule, caused by unusual circumstance or reason, shall be evaluated by the Superintendent and exceptions may be granted.

(10) "Auxiliary facility" means a facility that does not use or list its address as a school location and:

(a) Absorbs a temporary overload that the principal facility cannot accommodate; or

(b) Provides a specialized training facility away from the principal school location; or

(c) Provides training under contract that is not open to general enrollment; or

(d) Is a site approved by the Department of Education for teaching a short-term course that is taught by registered teachers from the principal facility.

(11) "Barbering" has the meaning given in ORS 690.005.

(12) "Board" means the State Board of Education.

(13) "Bona fide organization or group" means any body or entity that is nationally chartered or recognized by a national or state educational/occupational policy board that has operated or functioned in good faith without fraud or deceit for at least 25 years.

(14) "Chairperson" means the person who is responsible for overseeing the business of the advisory committee.

(15) "Class" means a scheduled meeting of persons for instructional purposes.

(16) "Clinic lab" means a place where students perform assigned instructional tasks identified in the approved curriculum on models or the general public.

(17) "Completion" means the student has satisfactorily finished all the requirements of the program in which enrolled, has fulfilled the terms of the enrollment agreement, and has been awarded an appropriate certificate, diploma, or completion document.

(18) "Continuing education" means the enrollment in and completion of ongoing, Department-approved instruction, outside the normal teaching schedule, which upgrades a teacher's skills and knowledge with the intent of making the teacher more proficient and current in subject matter taught.

(19) "Course" means an aggregation of classes to achieve a completed set of competencies.

(20) "Department" means the Oregon Department of Education.

(21) "Discrimination" means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on age, disability, national origin, race, color, marital status, religion, sex or sexual orientation.

(22) "Distance learning instruction" means education provided by written correspondence or any electronic medium for students enrolled in a

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private career school in pursuit of an identified occupational objective, but not attending classes at an approved school site or training establishment.

(23) "Enrollment" means a student agrees to the purchase of a course or program of instruction from a school and signs an enrollment agreement, instrument or note, however named that commits both the student and the school to a legal and binding obligation.

(24) "Fiscal reporting period" means the period of time for which the school provides the required financial information. The fiscal reporting period is identified by the school owner upon initial license application and must remain consistent unless a written request for a change is approved by the Superintendent. The fiscal reporting period may be the calendar year or another 12-month time period.

(25) "Fund" means the private career school Tuition Protection Fund (TPF).

(26) "Gross tuition income" means all direct tuition charges from programs for which the school is licensed under OAR 581-045-0001 through 581-045-0210, including any laboratory fee. Total gross tuition income does not include:

- (a) Tuition refund;
- (b) Registration and application fees; or
- (c) Costs for books, supplies, tools, and equipment purchased by students.

(27) "Hair design" has the meaning given in ORS 690.005.

(28) "In default" is defined in ORS 345.115(5) as "when a course or program is discontinued or canceled or the school closes prior to completion of contracted services."

(29) "License" means a license to operate a private career school.

(30) "Nail technology" has the meaning given in ORS 690.005.

(31) "On-site review" means a visit to the school by authorized Department staff who may review the facilities, classrooms, and school records; talk with students, staff, and administrators; and determine whether the school is in compliance with Oregon law.

(32) "Operating/operation" means any form of marketing, advertising, instruction, recruitment, or any other activity regulated under ORS Chapter 345 and OAR 581-045-0001 through 581-045-0210.

(33) "Placement" means the student has been employed in the occupation for which trained.

(34) "Probation" means that a school has been officially notified by the Superintendent that it has deficiencies that must be corrected within a specified time.

(35) "Program" means an aggregation of courses to meet an identified occupational objective.

(36) "Program advisory committee" means a representative group appointed by the school, which advises the school ownership and administration.

(37) "Program improvement plan" means a written outline or plan designed to describe how the school will resolve or comply with violations of state rule or regulation assessed by the Superintendent and/or correct any deficiencies identified by the Superintendent.

(38) "Pro rata" means in accordance with a fixed proportion.

(39) "Published Class Schedule" (for the purpose of calculating tuition charges) means the period of time between the commencement of classes and the student's last date of attendance as offered by the school and scheduled by the student.

(40) "Recruiting" means personally soliciting or attracting a person or persons by a school or its agent(s) with the intention of actively pursuing enrollment in the school. Recruiting does not include leaving materials at or near an office or other site for a person to pick up of his or her own accord or handing a brochure or other materials to a person.

(41) "Registration" means the process by which directors, agents, or teachers either request registration by the Superintendent to teach at the school or notify the Superintendent of their appointment of an agent to represent the school.

(42) "Registration fee" means any fee, however named, covering those expenses incurred by a school in processing the student enrollment agreement and establishing a student records system and so identified on the student enrollment agreement.

(43) "Reporting period" means the period of time that corresponds with the school's fiscal year on which the school bases all individual program student completion and placement reporting that must be submitted to the Department. The school's fiscal year may be the calendar year or another 12-month time period.

(44) "Resident instruction" means education provided at an approved school site or training establishment for students enrolled in and attending

classes at the school facility in pursuit of an identified occupational objective.

(45) "Revocation" as referenced in OAR 581-045-0012 means that the Superintendent has notified an employee of a licensed private career school that because of violations of OAR 581-045-0012(9)(a)-(c) the Department's approval of the employee's registration is permanently withdrawn. When notice of revocation is issued, the employee shall be notified and upon written request, shall be granted a contested case hearing under ORS 183.310(2).

(46) "Revoke" means the Superintendent terminates the school license. When the license is revoked, the school is not authorized to continue operating. Probation or suspension may, but is not required to, precede revocation.

(47) "Self-directed instruction" is a course/program with instructional materials and curriculum that is sufficient in design and scope to prepare a student for the program's occupational objectives. These objectives can be achieved without provision for regular interaction either by mail, telephone, or personally between the student and faculty employed by the school and do not require the school to measure attendance or lesson completion for satisfactory progress.

(48) "School" has the meaning given in ORS 345.010(4).

(49) "Short term course" means a course no longer than 16 clock hours in duration that is offered to prepare a student for a state examination or licensure, which is required to enter a profession.

(50) "State advisory committee" means a representative, statutory advisory committee appointed by the Superintendent of Public Instruction, consisting of members who shall serve for terms of three years ending June 30.

(51) "Structured work experience or externship" means a worksite educational activity that correlates the value of classroom training and on-site job performance, is an integral part of the student's training plan, and is supervised/evaluated by appropriate school personnel.

(52) "Superintendent" means the State Superintendent of Public Instruction or qualified designee.

(53) "Suspension" as referenced in OAR 581-045-0012 means that the Superintendent has notified an employee of a licensed private career school that because of violations of OAR 581-045-0012(9)(a)-(c) the Department's approval of the employee's registration is temporarily withdrawn. When notice of suspension is issued, the employee shall be notified and upon written request, shall be granted a contested case hearing under ORS 183.310(2).

(54) "Suspend" means the Superintendent has notified a school that because of deficiencies, it may not advertise, recruit, enroll students, or begin instruction of new students, but may remain open to complete training of currently enrolled students. Probation may, but is not required to precede suspension.

(55) "Teachout" means a defaulting school or the Department makes provisions for students enrolled at the time of the default to complete a comparable program at no additional cost beyond the original enrollment agreement with the defaulting school. Teachout arrangements, if made by the defaulting school, shall be approved in advance by the Superintendent and, if ongoing, approved annually by the Superintendent.

(56) "Transcript" means a written record that shall include, but is not limited to, name and address of student, first and last date of attendance, all programs or courses undertaken, grades achieved, whether the courses or programs were successfully completed, and signature of a school official.

(57) "Tuition" means money or other compensation paid or credited to a school by a student or on behalf of a student that is applied to the costs of instruction and training actually received or to be received by the student.

(58) "Withdrawal fee" means any fee, however named, covering those expenses incurred by a school in processing student paperwork relating to program changes (i.e., course additions/drops or transfers) or withdrawal from school and so identified on the student enrollment agreement.

Stat. Auth.: ORS 345.020

Stats. Implemented: ORS 345.030 & 345.325

Hist.: 1 EB 31-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 17-2003, f. 12-30-03, cert. ef. 1-1-04; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 13-2008, f. & cert. ef. 5-23-08; ODE 13-2008, f. & cert. ef. 5-23-08; ODE 3-2010, f. & cert. ef. 2-8-10

581-045-0003

Fingerprinting of Subject Individuals in Schools Accepting Enrollment of Minors

(1) Pursuant to ORS 345.030(6), subject individuals include:

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(a) Faculty, teachers, agents, and individuals who hold positions of authority and control in any career school accepting enrollment of persons under the age of 18 and

(b) Agents of career schools who have contact with persons under the age of 18 on behalf of a career school.

(2) Each application for a new school license or renewal of an existing school license shall be accompanied by:

(a) One completed FBI fingerprint card #USGPO 1990-262-201-2000 for each subject individual;

(b) A properly completed Department of Education criminal history information form; and

(c) A fee in an amount equal to the actual charges of conducting the criminal background check as allowed under ORS 181.534 (9)(f)(B)(g). Fee amount and distribution shall be as follows:

(A) Oregon State Police (OSP) — \$28;

(B) Federal Bureau of Investigation (FBI) — \$24;

(C) Oregon Department of Education (ODE) — \$10

(D) TOTAL — \$62

(3) An applicant school is not required to submit fingerprints for subject individuals if the Department of Education has conducted a criminal records check on the subject individual within the three years preceding the date of application.

(4) For the purposes of criminal background checks pursuant to ORS 345.030, conducted in relation to individuals subject to such criminal background verification, the following definitions of a crime applies;

(a) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.

(b) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining the individual committed a crime, which if done by an adult, would constitute a crime listed in ORS 342.143.

(c) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction. A later court order or other action relieving the individual of the sex offender registration/reporting requirement does not affect the status of the conduct as a conviction for purposes of this rule.

(d) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.

(e) A conviction exists for the purposes of this rule, regardless of whether a dismissal was later entered into the record in connection with diversion or on any sort of deferred adjudication or delayed entry of judgment.

(f) A conviction exists for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon. A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual.

(g) A conviction does not exist, except as noted above, only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is overturned by an appellate court of record and no later conviction, adjudication or plea indicating the individual committed the offense in question is on the record.

(5) Fingerprints may be collected by a local or state law enforcement agency.

(6) The Oregon Department of Education shall:

(a) Request criminal information from the Department of State Police in the manner prescribed by law;

(b) Review the criminal records of subject individual upon the submission of the required FBI and state forms and the Superintendent shall issue a statement of criminal history status and related impact on employment or contract qualification.

(c) Not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.

(7) Subject individuals who refuse to consent to the criminal records check or refuse to be fingerprinted shall be terminated from employment by the applicant school.

(8) Subject individuals who have been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, shall be refused employment or continued employment, or have employment terminated upon notification from the Superintendent.

(9) Subject individuals who have been convicted of any of the crimes listed in ORS 161.405 or an attempt to commit any of the crimes listed in ORS 324.143 shall be refused employment, continued employment, or have employment terminated by the applicant school upon notification from the Superintendent.

(10) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(11) Prior to making a determination that results in a notice and opportunity for hearing, as allowed under ORS 181.534, the Superintendent may cause an investigation to be undertaken. Subject individuals and applicant schools shall cooperate with the investigation and may be required to furnish oral or written statements by affidavit or under oath. If the Superintendent determines through investigation that a violation of this rule has not occurred, a written decision explaining the basis for the decision will be provided to the subject individual.

(12) Subject individuals may appeal a determination that prevents their employment or eligibility to contract with an applicant school as a contested case under ORS 183.413 to 183.470 to the Superintendent.

(13) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action.

(14) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

(a) Card sequence number;

(b) Name of applicant school submitting the cards;

(c) Date cards and Department forms were received;

(d) Date incomplete cards returned to applicant school (if applicable);

(e) Date completed cards sent to Oregon State Police;

(f) Date denial or probationary approval sent to applicant schools;

(g) Date FBI card returned to Department; and

(h) Date denial or final approval sent to applicant school.

Stat. Auth.: ORS 345.020

Stats. Implemented: ORS 345.030

Hist.: ODE 3-2010, f. & cert. ef. 2-8-10

581-045-0006

Application for Private Career School License

(1) Any person, partnership, association, corporation, or Limited Liability Company desiring to function as a private career school as defined in ORS 345.010 shall submit an application for its first approval year on forms provided by the Department. No person, partnership, association, corporation, or Limited Liability Company shall hold itself out to be a school, solicit students, or collect fees prior to the date of the license. A school requesting exemption from licensure must request such exemption from the Superintendent under the provision of ORS 345.015.

(2) An initial site inspection may be required prior to approval of the application. Any deficiencies must be corrected prior to issuance of a license.

(3) A license may be denied by the Superintendent, 60-days after the school has been notified of the application deficiencies, for failure to submit accurate and complete materials required by the application, or for other substantiated just cause.

(4) A separate license shall be required for each location of a school except those approved by the Superintendent as auxiliary sites. A license for the specific location must be issued prior to operating at that location.

(5) An initial license shall be granted after:

(a) Receipt of a complete application by the Superintendent;

(b) Completion of an interview with and approval by the Superintendent's designee for private career schools; and

(c) Correction of all deficiencies in the application, as communicated by the Department to the applicant school in writing or by verbal means during phone or in-person interviews. Alternatively, if circumstances warrant, the Superintendent may choose to issue a conditional license, pursuant to the provisions of ORS 345.030(8). The conditional license issued by the Department shall include the period and dates of effectiveness of the license.

(6) Except as provided in paragraph (b) of this section, each license shall be issued to the owner of an applicant school and shall be nontransferable.

(a) In the event of a change of ownership of a school due to sale or transfer of a majority interest in the school, and when continuous operation is desired, the buyer or majority interest holder must apply for and obtain approval of a new license prior to the completion of the sale. The buyer or

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majority interest holder must provide notice to the Department of the transfer of ownership at least 30 days prior to the transfer of notice.

(b) The Department may transfer a license or allow ownership of a school to transfer with less than 30 days notice if:

(A) The owner of the school dies, is incapacitated or is incarcerated; or

(B) The Superintendent determines that a successful and timely completion of the sale is critical to protect the financial viability of the school, or to mitigate disruption of the instruction of currently enrolled students, or for other reasons deemed appropriate by the Superintendent.

(c) In the event of a transfer of ownership, the Superintendent may choose to issue a conditional license, pursuant to the provisions of ORS 345.030(8). The conditional license issued by the Superintendent shall include the period and dates of effectiveness of the license.

(7) Prior to the completion of the sale, unless the owner dies or is incapacitated, the current owner of the school (seller) must submit to the Department a statement signed by both the seller and the buyer indicating who:

(a) Will acquire the school's assets, which are directly related to the school's educational activities;

(b) Will assume liability on the date the school is sold for the outstanding debts incurred as a direct result of the school's educational activities under previous ownership;

(c) Has authority to make all refunds that on the date the school is sold may be due to eligible persons;

(d) Has agreed to honor all student contracts that were signed or approved by the school's authorities before the effective date of the change of ownership; and

(e) Has responsibility to transfer all educational transcripts of former and current students to the possession of the new school owner.

(8) Failure of the seller to notify the Department prior to completion of the sale may result in the imposition of civil penalties established in OAR 581-045-0190.

(9) Before an individually-owned (commonly referred to as a sole proprietorship), Limited Liability Company, or partnership-owned school elects to incorporate or when there are changes in existing ownership that affect financial control of the school, the Superintendent shall be notified in writing, and a new license shall be required. Such notice shall occur prior to the ownership change. Control is affected when a new party or entity assumes ownership of more than 50 percent of the school's net worth. Instances in which control is affected and a new license is required include but are not limited to the following examples:

(a) Owner(s) sells more than 50 percent to another party;

(b) Partner(s) owning less than 50 percent buy out the other partner(s) interest; or

(c) The type of ownership is changing (i.e., individual, partnership, company, or corporation).

(10) Request for confidentiality regarding the purchase/sale of a school will be honored by the Department in accordance with the public records law.

(11) The initial application for licensure shall include:

(a) The name and address of the school, the names and addresses of its owners, governing body, officials, and faculty with attendant qualification forms;

(b) Course syllabi as required by OAR 581-045-0009(1)(b)(B)(C);

(c) School facility description as required by OAR 581-045-0022;

(d) Application for admissions form if used by the school;

(e) Enrollment agreement (contract) information and procedures, including a copy of the contract or enrollment agreement for only those courses offered by the schools that are licensed by the Oregon Department of Education;

(f) A copy of school policies and procedures relating to:

(A) Admissions standards,

(B) Ability to benefit examination. If an ability to benefit examination is used, it must be:

(i) Approved by the Superintendent; and

(ii) Proctored in a manner approved by the Superintendent.

(C) Enrollment and entrance dates;

(D) Credit for previous training;

(E) Attendance;

(i) Policy on attendance; and

(ii) A statement of how the school will monitor and report enrollment and attendance information as required by federal and/or state statutes.

(F) Grading policies;

(G) Make-up work;

(H) Tardiness;

(I) Satisfactory progress standard;

(J) Methods and frequency of reporting progress;

(K) Student conduct;

(L) Suspensions, terminations, re-entry;

(M) Leaves of absence;

(N) Students filing a grievance or complaint about the school or program;

(O) Safe, healthy environment; and

(P) Discriminatory behaviors.

(g) A statement explaining how the policies and the procedures in (11)(f)(A)–(P) of this rule are disseminated to all students and how they are monitored by the school;

(h) Information relating to tuition charges and all other fees or costs;

(i) Policy of the school relating to cancellations and refunds of unused tuition, fees, and other charges. The policy must be consistent with the schedules established by OAR 581-045-0036, 581-045-0037, and 581-045-0038;

(j) A copy of the buy/sell agreement if the submission of the initial application is a result of the purchase of a currently licensed private career school. The buy/sell agreement shall be kept confidential within the limits permitted by the public records law;

(k) A written plan designed to protect the contractual rights of students in the event the school closes or undergoes a change of status as described in OAR 581-045-0067;

(l) Labor market information showing current employment, replacement, and expansion data for regional, state, and national labor markets for the occupational area being served;

(m) A description of placement information provided to students;

(n) The school calendar;

(o) The signature of authorized officials of the school including each owner, partner, or member of the board. If the institution is incorporated, each owner of ten percent or more of stock must sign. If the institution is incorporated and the stock is publicly traded through a stock exchange, the president or chief executive officer of the corporation must sign. If the applicant is a nonprofit corporation, each member of the governing body must sign;

(p) Full disclosure by owners, directors, and teachers of any conviction or crime referenced under OAR 581-045-0012(12)(a), accompanied by the required form and fingerprint card to conduct a criminal background check as specified, and if applicable, under OAR 581-045-0003; and

(q) If information required by subsections (11)(a)–(n) of this rule is provided in the school catalog, references to catalog and page number will be acceptable.

(12) The application shall be accompanied by:

(a) The nonrefundable license fee required by ORS 345.080 (see OAR 581-045-0007);

(b) The initial capitalization payment for the student tuition protection plan required by ORS 345.110;

(c) A complete résumé of education and work experience for the school owner(s), corporate officer(s), directors, and teachers, including social security number, date of birth, home address, and telephone numbers;

(d) A draft of the proposed school catalog or brochure required by OAR 581-045-0019;

(e) A copy of proposed advertising and promotional information to be used by the school;

(f) Copies of program materials prescribed by OAR 581-045-0009(b), or relating to schools also regulated by another state agency as described in OAR 581-045-0014;

(g) All inspection documents required by OAR 581-045-0022(2);

(h) Copies of incorporation certificates, if applicable;

(i) A financial statement, which provides information required by OAR 581-045-0032. The financial statement shall be kept confidential within the limits permitted by the public records law;

(j) An enrollment agreement that is legally binding on both the school and the student, which shall include, but is not limited to:

(A) A description of the instructional program in which the student is enrolled;

(B) Beginning and ending dates;

(C) Length of program;

(D) Registration fee;

(E) Tuition cost (excluding the registration and other identified program fees or costs);

(F) All other program costs listed separately;

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(G) Total program cost (registration, tuition cost, and all other identified program fees or costs);

(H) Installment payment plan, if available;

(I) The state-specified refund schedule or one approved by the Superintendent as being more favorable to the students;

(J) A clear and conspicuous disclosure of the student's cancellation rights; and

(K) A statement informing students who have questions regarding the enrollment agreement that they may contact the Oregon Department of Education (use current address) Salem, Oregon.

(k) Schools implementing program changes cannot require students who are currently enrolled to complete the requirements of the revised program. Enrolled students are to be taught out under the program identified in their most current signed enrollment agreement and identified in the catalog in effect at the time of their enrollment. Exceptions may be allowed when and if the school and student mutually agree to the program change(s) and a new or amended enrollment agreement is negotiated, accepted, and signed by the student and school. Examples of program changes as used in this rule include, but are not limited to, increase or decrease of hours required, changes in the schedule of hours of instruction, adding or dropping required courses, increasing program costs or fees, changes in the payment plan.

(l) The school must maintain documentation signed by each student to substantiate that the student has received and read all information contained in subsection (12)(j) of this rule. The school must also indicate any special rules or publications that the student signature acknowledges. Additional information not listed in the enrollment agreement may be published in the current school catalog or catalog addendum.

(13) Out-of-state schools:

(a) Any private career school whose principal place of business is outside of Oregon shall obtain an Oregon private career school license whenever it maintains a physical presence in Oregon or when the Oregon occupational licensure board requires the school to be licensed;

(b) The Superintendent may consider the following factors to determine whether a school has established a physical presence in Oregon:

(A) Maintains an office in the state;

(B) Conducts any part of the instructional program from or in the state;

(C) Employs sales representatives, who reside or solicit students within the state;

(D) Canvasses for prospective students within the state;

(E) Operates career or information booths at fairs or other such public gatherings within the state;

(F) Presents school information at high school career days within the state; or

(G) Advertises in local media that originate in Oregon.

(c) Out-of-state schools shall submit upon initial application and annually thereafter:

(A) Out-of-state application form;

(B) Copy of the most recent licensure application for the state in which the school is located;

(C) Copy of current resident state license certificate;

(D) If accredited, copy of the report for the most recent school accreditation review;

(E) List of approved programs; and

(F) Copy of the school's most recent catalog to include the items listed below. If any of the following items do not appear in the body of the catalog but appear in other specific documents they must also be submitted.

(i) Name and address of the school;

(ii) Date of publication or other reference identifier such as year(s), volume, or edition or version numbers;

(iii) The educational or vocational objective of each course or program including the name and the level of occupations for which the course or programs purport to train;

(iv) The number of clock or credit hours of instruction in each course and the length of time in weeks or months normally required for completion;

(v) A complete listing and description of courses or programs offered specifying subjects included in each course or program that clearly identifies coverage of the training;

(vi) A description of the school's physical facilities, equipment available for student use, and the maximum or usual class size;

(vii) Policies relating to tardiness, absences, make-up work, conduct, termination, reentry, and other rules and regulations of the school, including the student appeals process;

(viii) The grading system, including definition of ratings and credit units, if any;

(ix) Refund policy;

(x) The requirements for graduation;

(xi) Statement describing certificates, diplomas, or degrees awarded upon graduation;

(xii) Information regarding any limitations on transfer of credits, and

(G) Teachers' education and experience requirements for employment at the school, including teacher registration forms and supporting documentation for any teachers providing training for any portion of the licensed programs within the State of Oregon. Information about individual teachers does not need to be submitted if:

(i) The teachers are licensed or approved in the state in which the school is located; and

(ii) Those teachers will not be providing training for any portion of the licensed programs of instruction within the State of Oregon.

(H) If the applicant school accepts enrollment of minors, and proposes to employ agents who will interact with persons under the age of 18 within the State of Oregon, employ persons in positions of authority or control who will carry out their function within the State of Oregon, or employ faculty or teachers who will provide training within the State or Oregon for any portion of the licensed programs of instruction, those agents and teachers will be subject to the provisions of 581-045-0003, regardless of the individuals' states of residence.

Stat. Auth.: ORS 345.030

Stats. Implemented: ORS 345.030

Hist.: 1EB 257, f. 1-3-77, ef. 7-1-77; 1EB 23-1978, f. 6-30-78, ef. 7-1-78; 1EB 30-1986, f. & ef. 7-23-86; EB 11-1990, f. & cert. ef. 2-1-90; EB 32-1991, f. & cert. ef. 12-18-91; EB 13-1996, f. & cert. ef. 7-26-96; ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 3-2010, f. & cert. ef. 2-8-10

581-045-0062

Application for Private Career School License Renewal

(1) Each school shall annually renew its license. At least 60 calendar days prior to the anniversary date of its license, the school must file with the Department a completed application for license renewal, including a current financial statement, certified true and accurate by the school's chief administrative officer. Any statements or materials on file that are no longer accurate must be amended on the application.

(2) If a school has been licensed for three years or more and there are no changes in the school's structure, the Superintendent may allow the school to submit an abbreviated renewal application that confirms the school's compliance with applicable Oregon Revised Statutes and Oregon Administrative Rules. Such abbreviated renewal application shall include the required renewal fee.

(3) The school must provide the following information on the application for the reporting period identified on the renewal:

(a) Number of students continuing from the prior enrollment period;

(b) Number of students who enrolled in the program during the reporting period;

(c) Number of students who left the program without completing it during the reporting period;

(d) Number of students who were graduated from the program during the reporting period; and

(e) Number of those who graduated and were placed or working in full-time directly related occupations during the reporting period.

(4) If the applicant school accepts enrollment of minors, or employs agents who have contact with persons under the age of 18 on behalf of the applicant school, the provisions of 581-045-0003 will apply to any subject individuals the school currently employs or proposes to hire.

(5) An application for renewal of license shall be considered late if not postmarked (or date stamped if hand delivered to the Department) before or on the due date. The Superintendent as allowed under ORS 345.995 may impose a late fee and OAR 581-045-0190(5) for each calendar day the renewal application is late. Such fees, where applicable, shall be included with the renewal application.

(6) The Superintendent may invoke immediate license suspension as defined in OAR 581-045-0001 and begin revocation procedures as described in ORS 183.413-497:

(a) When a school fails to submit the application for license renewal by the date of expiration; or

(b) If submitted, it does not include accurate or complete materials necessary for license renewal; or

(c) The school is on probation and not making satisfactory progress to comply with all provisions of the program improvement plan.

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(7) License renewal may be denied if the Superintendent determines that:

(a) The school's license has been suspended;

(b) The school is on probation and not making satisfactory progress to comply with all provisions of the program improvement plan. When notice of denial of license renewal is issued, the school shall be notified and, upon written request, shall be granted a contested case hearing under ORS 183.310(2);

(c) In such cases a school shall be granted a hearing, if requested, within 20 calendar days of the date of denial.

(8) The Superintendent may conditionally approve a license renewal providing a school agrees to a program improvement plan acceptable to the Superintendent. Conditional license approval shall be subject to the provisions of ORS 345.030(8). The conditional license issued by the Department shall include the period and dates of effectiveness of the license.

Stat. Auth.: ORS 345.030

Stats. Implemented: ORS 345.030

Hist.: EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0004 by ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; ODE 21-2002, f. 9-26-02 cert. ef. 10-1-02; ODE 15-2006, f. 12-11-06, cert. ef. 1-1-07; ODE 3-2010, f. & cert. ef. 2-8-10

Oregon Medical Board Chapter 847

Rule Caption: Adds fee to licensing renewal fee for the Electronic Prescription Monitoring Program.

Adm. Order No.: BME 1-2010

Filed with Sec. of State: 1-26-2010

Certified to be Effective: 1-26-10

Notice Publication Date: 10-1-2009

Rules Amended: 847-005-0005

Rules Repealed: 847-005-0005(T)

Subject: The rule amendment adds a \$25/year fee for the Electronic Prescription Monitoring Program for licensees (physicians, podiatric physicians and physician assistants) authorized to prescribe or dispense controlled substances. Licensees with Active, Locum Tenens, Telemonitoring, Teleradiology, Telemedicine and Emeritus status are included. Licensees with a limited license are not included.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-005-0005

Fees

(1) Fees to be effective upon adoption:

(a) Doctor of Medicine/Doctor of Osteopathy (MD/DO) Initial License Application — \$375

(b) MD/DO Registration: Active, Military/Public Health, and Teleradiology, Inactive, Locum Tenens, and Telemedicine — \$219/year**

(c) MD/DO Emeritus Registration — \$50/year

(d) Limited License, SPEX/COMVEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate, Special — \$185

(e) Acupuncture Initial License Application — \$245

(f) Acupuncture Registration: Active, Inactive, and Locum Tenens — \$140/year**

(g) Acupuncture Limited License, Special, Visiting Professor, Postgraduate — \$75

(h) Physician Assistant Initial License Application — \$245

(i) Physician Assistant Registration: Active, Inactive, and Locum Tenens — \$165/year**

(j) Physician Assistant Limited License, Special, Postgraduate — \$75

(k) Podiatrist Initial Application — \$340

(l) Podiatrist Registration: Active, Inactive, and Locum Tenens — \$219/year**

(m) Podiatrist Emeritus Registration — \$50/year

(n) Podiatrist Limited License, Special, Postgraduate — \$185

(o) Miscellaneous: All Fines and Late Fees:

(A) MD/DO Registration Renewal Late Fee — \$150

(B) Acupuncture Registration Renewal Late Fee — \$75

(C) Physician Assistant Registration Renewal Late Fee — \$75

(D) Podiatrist Registration Renewal Late Fee — \$150

(p) Electronic Prescription Monitoring Program — \$25/year per license***

(q) Dispensing MD/DO/DPM Failure to Register — \$150

(r) Oral Specialty or Competency Examination (\$1,000 deposit required) — Actual costs

(s) Affidavit Processing Fee for Reactivation — \$50

(t) Licensee Information Requests:

(A) Verification of Licensure-Individual Requests (1-4 Licenses) — \$10 per license

(B) Verification of Licensure-Multiple (5 or more) — \$7.50 per license

(C) Verification of MD/DO License Renewal — \$150 Biennially

(D) Malpractice Report — Individual Requests — \$10 per license

(E) Malpractice Report — Multiple (monthly report) — \$15 per report

(F) Disciplinary — Individual Requests — \$10 per license

(G) Disciplinary Report — Multiple (quarterly report) — \$15 per report

(u) Base Service Charge for Copying — \$5 + .20/page

(v) Record Search Fee (+ copy charges see section (z) of this rule):

(A) Clerical — \$20 per hour*

(B) Administrative — \$40 per hour*

(C) Executive — \$50 per hour*

(D) Medical — \$75 per hour*

(w) Data Order:

(A) Standard Data License Order — \$150 each

(B) Custom Data License Order — \$150.00 + \$40.00 per hour Administrative time

(C) Address Label Disk — \$100 each

(D) Active and Locum Tenens MD/DO list — \$75 each

(E) DPM, PA, or AC list — \$10 each

(F) Quarterly new MD/DO, DPM, PA, or AC list — \$10 each

(2) All Board fees and fines are non-refundable, and non-transferable.

*Plus photocopying charge above, if applicable.

**Collected biennially except where noted in the Administrative Rules. All active registration fees include annual assessments of \$45.00 for the Oregon Health Professionals Program and all active MD/DO registration fees include \$10.00 for the Oregon Health and Science University Library, and are collected biennially.

***Per SB 355 (2009), physician, podiatric physician and physician assistant licensees authorized to prescribe or dispense controlled substances in Oregon assessed \$25/year; funds transferred to the Department of Human Services, minus administrative costs, to support the Electronic Prescription Monitoring Program. Licensees with Active, Locum Tenens, Telemonitoring, Teleradiology, and Telemedicine status are included. Licensees with a limited license are not included. Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & cert. ef. 8-5-88; ME 14-1988, f. & cert. ef. 10-20-88; ME 1-1989, f. & cert. ef. 1-25-89; ME 5-1989 (Temp), f. & cert. ef. 2-16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. 7-8-99, cert. ef. 8-3-99; BME 14-1999, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03; BME 16-2003, f. & cert. ef. 10-23-03; BME 17-2004, f. & cert. ef. 9-9-04; BME 6-2005, f. & cert. ef. 7-20-05; BME 15-2006, f. & cert. ef. 7-25-06; BME 1-2007, f. & cert. ef. 1-24-07; BME 1-2008, f. & cert. ef. 1-22-08; BME 15-2008, f. & cert. ef. 7-21-08; BME 1-2009, f. & cert. ef. 1-22-09; BME 15-2009(Temp), f. & cert. ef. 9-11-09 thru 3-8-10; BME 1-2010, f. & cert. ef. 1-26-10

Rule Caption: Correct license type to Active-Telemonitoring.

Adm. Order No.: BME 2-2010

Filed with Sec. of State: 1-26-2010

Certified to be Effective: 1-26-10

Notice Publication Date: 12-1-2009

Rules Amended: 847-008-0023

Subject: The rule amendment corrects the license type to Active-Telemonitoring.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-008-0023

Telemonitoring Registration

(1) Telemonitoring is the intraoperative monitoring of data collected during surgery and electronically transmitted to a physician who practices in a location outside of Oregon via a telemedicine link for the purpose of allowing the monitoring physician to notify the operating team of changes that may have a serious effect on the outcome and/or survival of the patient. The monitoring physician is in communication with the operation team through a technician in the operating room.

(2) The facility where the surgery is to be performed must be a licensed hospital or ambulatory surgical center licensed by the Department of Human Services, must grant medical staff membership and/or clinical

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privileges to the monitoring physician, and must request the Oregon Medical Board grant Active-Telemonitoring status to the monitoring physician to perform intraoperative telemonitoring on patients during surgery.

(3) Physicians granted Active-Telemonitoring status may register and pay a biennial active registration fee. The physician with Active-Telemonitoring status desiring to have Active status to practice in Oregon must submit the Affidavit of Reactivation and processing fee, and satisfactorily complete the reactivation process before beginning active practice in Oregon.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: BME 1-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 8-2006, f. & cert. ef. 5-8-06; BME 2-2007, f. & cert. ef. 1-24-07; BME 8-2008, f. & cert. ef. 4-24-08; BME 2-2010, f. & cert. ef. 1-26-10

Rule Caption: Amend reporting rule per HB 2059 (2009).

Adm. Order No.: BME 3-2010

Filed with Sec. of State: 1-26-2010

Certified to be Effective: 1-26-10

Notice Publication Date: 12-1-2009

Rules Amended: 847-010-0073

Subject: The rule amendments are in response to House Bill 2059 (2009). Amendments require report to Board by licensee of any arrest for a felony crime or any conviction for a misdemeanor or felony and report to other health care licensing boards if licensee believes another state licensed health care professional has engaged in prohibited or unprofessional conduct and is not otherwise protected by state or federal laws relating to confidentiality or protection of health care information prohibiting disclosure.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-010-0073

Reporting Incompetent or Impaired Licensees to the Board

(1) Per ORS 677.415, 677.188, and 677.190 Board licensees and health care facilities must report to the Board as soon as possible, but not later than ten (10) days after official action taken against a Board licensee, to include any of the following:

(a) The licensee must report any arrest for a felony crime or any conviction for a misdemeanor or felony.

(b) If the licensee has reasonable cause to believe that another state licensed health care professional has engaged in prohibited or unprofessional conduct and is not protected by state or federal laws relating to confidentiality or protection of health care information prohibiting disclosure, licensee shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct.

(c) The licensee and health care facility must report any action brought against a licensee by the facility, based upon a finding of medical incompetence, unprofessional conduct or licensee impairment.

(2) For purposes of the statute, reporting to the Board means making a report to the Board's Investigation Unit or the Board's Executive Director or the Board's Medical Director. Making a report to the Board's Health Professionals Program (HPP) or HPP's Medical Director does not satisfy the duty to report to the Board.

(3) For the purposes of the statute, the terms medical incompetence, unprofessional conduct, and impaired licensee have the following meanings:

(a) Medical Incompetence: A licensee who is medically incompetent is one who is unable to practice medicine with reasonable skill or safety due to lack of knowledge, ability, or impairment. Evidence of medical incompetence shall include:

(A) Gross or repeated acts of negligence involving patient care.

(B) Failure to achieve a passing score or satisfactory rating on a competency examination or program of evaluation when the examination or evaluation is ordered or directed by a health care facility.

(C) Failure to complete a course or program of remedial education when ordered or directed to do so by a health care facility.

(b) Unprofessional conduct: Unprofessional conduct includes the behavior described in ORS 677.188(4) and is conduct which is unbecoming to a person licensed by the Board of Medical Examiners or detrimental to the best interest of the public and includes:

(A) Any conduct or practice contrary to recognized standards of ethics of the medical, podiatric or acupuncture professions or any conduct which does or might constitute a danger to the public, to include a violation of patient boundaries.

(B) Willful performance of any surgical or medical treatment which is contrary to acceptable medical standards.

(C) Willful and repeated ordering or performance of unnecessary laboratory tests or radiologic studies, administration of unnecessary treatment, employment of outmoded, unproved, or unscientific treatments, except as allowed in ORS 677.190(1)(b), failing to obtain consultations when failing to do so is not consistent with the standard of care, or otherwise utilizing medical service for diagnosis or treatment which is or may be considered unnecessary or inappropriate.

(D) Committing fraud in the performance of, or the billing for, medical procedures.

(E) Engaging in repeated instances of disruptive behavior in the health care setting that could adversely affect the delivery of health care to patients.

(F) Any conduct related to the practice of medicine that poses a danger to the public health or safety.

(G) Sexual misconduct: Licensee sexual misconduct is behavior that exploits the licensee-patient relationship in a sexual way. The behavior is non-diagnostic and non-therapeutic, may be verbal or physical, and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes but is not limited to:

(I) Sexual violation: Licensee-patient sex, whether or not initiated by the patient, and engaging in any conduct with a patient that is sexual or may be reasonably interpreted as sexual, including but not limited to:

(i) Sexual intercourse;

(ii) Genital to genital contact;

(iii) Oral to genital contact;

(iv) Oral to anal contact;

(v) Genital to anal contact

(vi) Kissing in a romantic or sexual manner;

(vii) Touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination or treatment, or where the patient has refused or has withdrawn consent;

(viii) Encouraging the patient to masturbate in the presence of the licensee or masturbation by the licensee while the patient is present;

(ix) Offering to provide practice-related services, such as medications, in exchange for sexual favors.

(II) Sexual impropriety: Behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to a patient or their family or associates, to include:

(i) Sexually exploitative behavior, to include taking, transmitting, viewing, or in any way using photos or any other image of a patient, their family or associates for the prurient interest of others.

(ii) Intentional viewing in the health care setting of any sexually explicit conduct for prurient interests.

(iii) Having any involvement with child pornography, which is defined as any visual depiction of a minor (a child younger than 18) engaged in sexually explicit conduct.

(c) Licensee Impairment: A licensee who is impaired is a licensee who is unable to practice medicine with reasonable skill or safety due to factors which include, but are not limited to:

(A) The use or abuse of alcohol, drugs, or other substances which impair ability.

(B) Mental or emotional illness.

(C) Physical deterioration or long term illness or injury which adversely affects cognition, motor, or perceptive skills.

(4) For the purposes of the reporting requirements of this rule and ORS 677.415, licensees shall be considered to be impaired if they refuse to undergo an evaluation for mental or physical competence or chemical impairment, or if they resign their privileges to avoid such an evaluation, when the evaluation is ordered or directed by a health care facility or by this Board.

(5) A report made by a board licensee or the Oregon Medical Association or other health professional association, to include the Osteopathic Physicians and Surgeons of Oregon, Inc, or the Oregon Podiatric Medical Association to the Board of Medical Examiners under ORS 677.415 shall include the following information:

(a) The name, title, address and telephone number of the person making the report;

(b) The information that appears to show that a licensee is or may be medically incompetent, is or may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with an impairment.

(6) A report made by a health care facility to the Board under ORS 677.415(5) and (6) shall include:

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(a) The name, title, address and telephone number of the health care facility making the report;

(b) The date of an official action taken against the licensee or the licensee's voluntary action withdrawing from practice, voluntary resignation or voluntary limitation of licensee staff privileges; and

(c) A description of the official action or the licensee's voluntary action, as appropriate to the report, including:

(A) The specific restriction, limitation, suspension, loss or denial of the licensee's medical staff privileges and the effective date or term of the restriction, limitation, suspension, loss or denial; or

(B) The fact that the licensee has voluntarily withdrawn from the practice of medicine or podiatry, voluntarily resigned from the staff of a health care facility or voluntarily limited the licensee's privileges at a health care facility and the effective date of the withdrawal, resignation or limitation.

(7) A report made under ORS 677.415 § 2 may not include any information that is privileged peer review data, see ORS 41.675.

(8) All required reports shall be made in writing.

(9) Any person who reports or provides information to the board under ORS 677.205 and 677.410 to 677.425 and who provides information in good faith shall not be subject to an action for civil damages as a result thereof.

Stat. Auth.: ORS 677.265, HB 2059 (2009)
Stats. Implemented: ORS 677.190, 677.265, HB 2059 (2009)
Hist.: BME 5-2004, f. & cert. ef. 4-22-04; BME 9-2006, f. & cert. ef. 5-8-06; BME 3-2007, f. & cert. ef. 1-24-07; BME 3-2008, f. & cert. ef. 1-22-08; BME 9-2009, f. & cert. ef. 5-1-09; BME 3-2010, f. & cert. ef. 1-26-10

Rule Caption: Expedited licensure by endorsement per HB 2435 (2009).

Adm. Order No.: BME 4-2010

Filed with Sec. of State: 1-26-2010

Certified to be Effective: 1-26-10

Notice Publication Date: 12-1-2009

Rules Adopted: 847-026-0000, 847-026-0005, 847-026-0010, 847-026-0015, 847-026-0020

Rules Repealed: 847-026-0000(T), 847-026-0005(T), 847-026-0010(T), 847-026-0015(T), 847-026-0020(T)

Subject: The adopted rules are in response to House Bill 2435 (2009) and outline the requirements for expedited licensure by endorsement.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-026-0000

Qualifications for License by Endorsement

(1) The Oregon Medical Board may issue a license by endorsement to a physician who:

(a) Meets the requirements for licensure as stated in OAR 847-020-0120, 847-020-0130, 847-020-0170, and 847-023-005;

(b) Has not had privileges at a hospital, clinic, or surgical center denied, reduced, restricted, suspended, revoked, terminated and has not been subject to staff disciplinary action or non-renewal of an employment contract for reasons in the Board's judgment related to medical practice or unprofessional conduct, or been requested to voluntarily resign or had privileges suspended while under investigation;

(c) Is eligible for primary source verification of medical education, post-graduate training and examination scores through the state in which the applicant was originally licensed. The Board may use current certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists as a proxy for verification of medical education, post-graduate training and examination scores from the initial state of licensure;

(d) Is in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his/her license in any state, district, territory, or jurisdiction where applicant is or has been licensed;

(e) Has no significant malpractice claim patterns or patient care issues as determined by the Board;

(f) Has one (1) year of current, active, unrestricted, unlimited clinical practice of medicine or surgery, or osteopathic medicine and surgery in their medical specialty, if any, as a licensee of a state, district, territory, or jurisdiction in the year preceding the physician's submission to the Board of an application to practice in Oregon, or if retired must have been retired for no more than one (1) calendar year preceding the physician's submission to the Board of an application to practice in Oregon. Clinical patient

practice will be documented by verification of staff privileges, or non-consulting medical employment. A year of accredited clinical fellowship in the applicant's medical specialty as a licensee of a state, district, territory or jurisdiction qualifies as a year of clinical practice.

(2) A physician is not eligible for endorsement if the Board finds that the applicant has engaged in conduct prohibited by ORS 677.190.

(3) An applicant ineligible for licensure by endorsement may make a full and complete application per the requirements of OAR 847-020, or 847-023.

Stat. Auth.: ORS 677.265, HB 2435 (2009)
Stats. Implemented: ORS 677.265, HB 2435 (2009)
Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10

847-026-0005

Application

The applicant must submit a completed application to the board on a form furnished by the Board with the required non-refundable application fee. The applicant must attest that all questions have been answered completely and all answers and statements are true and correct. Any false information is grounds for denial, limitation, suspension or revocation of licensure.

Stat. Auth.: ORS 677.265, HB 2435 (2009)
Stats. Implemented: ORS 677.265, HB 2435 (2009)
Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10

847-026-0010

Documents, Letters, Certifications Obtained by the Board

The Board will obtain the following documents, letters, certifications if any and results of queries of national databases required for licensure on behalf of the applicant:

(1) Verification of certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(2) Verification of re-certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(3) The results of a query of the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank; and

(4) The results of the query of the Federation of State Medical Boards' Board Action Data Bank.

Stat. Auth.: ORS 677.265, HB 2435 (2009)
Stats. Implemented: ORS 677.265, HB 2435 (2009)
Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10

847-026-0015

Documents and Forms to be Submitted for Licensure

(1) The following additional documents are required for a completed application and can be submitted by the applicant, the applicant's initial state of licensure, or the Federation of State Medical Boards' Federation Credentialing Verification Service Profile (FCVS):

(a) Birth Certificate: A copy of the applicant's birth certificate for proof of name and birth date, and any name change documentation if there has been a name change from birth name;

(b) Medical School Diploma: A copy of a diploma showing the applicant's graduation from an approved school of medicine, or a foreign school of medicine that meets the requirement of OAR 847-020-0130(2)(b)(D);

(c) Internship, Residency and Fellowship Certificates: A copy of official internship, residency and fellowship certificates showing the applicant's completion of all postgraduate training;

(2) The applicant must submit the following:

(a) An open-book examination on the Medical Practice Act and an open-book examination on the regulations of the Drug Enforcement Administration governing the use of controlled substances;

(b) The completed fingerprint card with the Identification Verification form.

Stat. Auth.: ORS 677.265, HB 2435 (2009)
Stats. Implemented: ORS 677.265, HB 2435 (2009)
Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10

847-026-0020

Letters and Official Grade Certifications to be Submitted for Licensure

The applicant must request official letters or verifications to be sent to the Board directly from the following:

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(1) The Executive Secretary of the State Boards in the United States or Canada where the applicant has been currently or most recently practicing. The currently dated original verification of license (copy is not acceptable) shall show license number, date issued, grades if applicable and status.

(2) The National Board of Medical Examiners (NBME), the National Board of Osteopathic Medical Examiners (NBOME), the Medical Council of Canada (LMCC), or the Federation of State Medical Boards (FLEX, USMLE) must provide an official grade certification if not available from the initial state of licensure;

(3) The Director or other official for practice and employment in hospitals, clinics and surgical centers in the United States and Canada. A verification form or letter with original signature must be submitted from the practice sites where the applicant was physically practicing which shall include an evaluation of overall performance and specific beginning and ending dates of practice and employment from the past five (5) years.

Stat. Auth.: ORS 677.265, HB 2435 (2009)

Stats. Implemented: ORS 677.265, HB 2435 (2009)

Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10

Rule Caption: Allow EMT-I and EMT-P to administer seasonal and pandemic influenza vaccinations.

Adm. Order No.: BME 5-2010

Filed with Sec. of State: 1-26-2010

Certified to be Effective: 1-26-10

Notice Publication Date: 12-1-2009

Rules Amended: 847-035-0030

Rules Repealed: 847-035-0030(T)

Subject: The rule amendment adds language to the EMT-I and EMT-P scopes of practice to distribute medications and to provide seasonal and pandemic influenza vaccinations to the general public as directed by the Oregon State Public Health Officer and/or the CDC Advisory Committee until June 30, 2010.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-035-0030

Scope of Practice

(1) The Oregon Medical Board has established a scope of practice for emergency and nonemergency care for First Responders and EMTs. First Responders and EMTs may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001(5).

(2) The scope of practice for First Responders and EMTs is not intended as statewide standing orders or protocols. The scope of practice is the maximum functions which may be assigned to a First Responder or EMT by a Board-approved supervising physician.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual EMT may be requested by the Board or Section and shall be furnished upon request.

(5) No EMT may function without assigned standing orders issued by Board-approved supervising physician.

(6) An Oregon-certified First Responder or EMT, acting through standing orders, shall respect the patient's wishes including life-sustaining treatments. Physician supervised First Responders and EMTs shall request and honor life-sustaining treatment orders executed by a physician, nurse practitioner or physician assistant if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) A First Responder may perform the following procedures without having signed standing orders from a supervising physician:

- (a) Conduct primary and secondary patient examinations;
- (b) Take and record vital signs;
- (c) Utilize noninvasive diagnostic devices in accordance with manufacturer's recommendation;
- (d) Open and maintain an airway by positioning the patient's head;
- (e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;
- (f) Provide care for soft tissue injuries;
- (g) Provide care for suspected fractures;
- (h) Assist with prehospital childbirth; and

(i) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior EMT with the transporting ambulance.

(8) A First Responder may perform the following additional procedures only when the First Responder is part of an agency which has a Board-approved supervising physician who has issued written standing orders to that First Responder authorizing the following:

- (a) Administration of medical oxygen;
- (b) Maintain an open airway through the use of:
 - (A) A nasopharyngeal airway device;
 - (B) A noncuffed oropharyngeal airway device;
 - (C) A Pharyngeal suctioning device.
- (c) Operate a bag mask ventilation device with reservoir;
- (d) Provision of care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia; and
- (e) Administer epinephrine by automatic injection device for anaphylaxis;
- (f) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the First Responder:

- (A) Has successfully completed a Section-approved course of instruction in the use of the automatic or semi-automatic defibrillator; and
- (B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Section.

(9) An Oregon-certified EMT-Basic may perform the following procedures:

- (a) Perform all procedures that an Oregon-certified First Responder can perform;
- (b) Ventilate with a non-invasive positive pressure delivery device;
- (c) Insert a cuffed pharyngeal airway device in the practice of airway maintenance. A cuffed pharyngeal airway device is:

(A) A single lumen airway device designed for blind insertion into the esophagus providing airway protection where the cuffed tube prevents gastric contents from entering the pharyngeal space; or

(B) A multi-lumen airway device designed to function either as the single lumen device when placed in the esophagus, or by insertion into the trachea where the distal cuff creates an endotracheal seal around the ventilatory tube preventing aspiration of gastric contents.

(d) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(e) Provide care for suspected shock, including the use of the pneumatic anti-shock garment;

(f) Provide care for suspected medical emergencies, including:

(A) Obtaining a capillary blood specimen for blood glucose monitoring;

(B) Administer epinephrine by subcutaneous injection or automatic injection device for anaphylaxis;

(C) Administer activated charcoal for poisonings; and

(D) Administer aspirin for suspected myocardial infarction.

(g) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(h) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(i) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician;

(j) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(k) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT-Basic is summoned to assist that patient; and

(l) In the event of a release of military chemical warfare agents from the Umatilla Army Depot, the EMT-Basic who is a member or employee of an EMS agency serving the DOD-designated Immediate Response Zone who has completed a Section-approved training program may administer atropine sulfate and pralidoxime chloride from a Section-approved pre-loaded auto-injector device, and perform endotracheal intubation, using protocols promulgated by the Section and adopted by the supervising physician. 100% of EMT-Basic actions taken pursuant to this section shall be reported to the Section via a copy of the prehospital emergency care report and shall be reviewed for appropriateness by Section staff and the Subcommittee on EMT Certification, Education and Discipline.

(m) In the event of a release of organophosphate agents the EMT-Basic, who has completed Section-approved training, may administer

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atropine sulfate and pralidoxime chloride by autoinjector, using protocols approved by the Section and adopted by the supervising physician.

(10) An Oregon-certified EMT-Intermediate may perform the following procedures:

(a) Perform all procedures that an Oregon-certified EMT-Basic can perform;

- (b) Initiate and maintain peripheral intravenous (I.V.) lines;
- (c) Initiate and maintain an intraosseous infusion;
- (d) Initiate saline or similar locks;
- (e) Draw peripheral blood specimens;
- (f) Administer the following medications under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician:

(A) Physiologic isotonic crystalloid solution.

(B) Vasoconstrictors:

(i) Epinephrine

(ii) Vasopressin;

(C) Antiarrhythmics:

(i) Atropine sulfate,

(ii) Lidocaine,

(iii) Amiodarone;

(D) Antidotes:

(i) Naloxone hydrochloride;

(E) Antihypoglycemics:

(i) Hypertonic glucose,

(ii) Glucagon;

(F) Vasodilators:

(i) Nitroglycerine;

(G) Nebulized bronchodilators:

(i) Albuterol,

(ii) Ipratropium bromide;

(H) Analgesics for acute pain:

(i) Morphine,

(ii) Nalbuphine Hydrochloride,

(iii) Ketorolac tromethamine,

(iv) Fentanyl;

(I) Antihistamine:

(i) Diphenhydramine;

(J) Diuretic:

(i) Furosemide;

(K) Intraosseous infusion anesthetic;

(i) Lidocaine;

(L) Anti-Emetic;

(i) Ondansetron;

(g) Administer immunizations in the event of an outbreak or epidemic as declared by the Governor of the state of Oregon, the State Public Health Officer or a county health officer, as part of an emergency immunization program, under the agency's supervising physician's standing order;

(h) Administer immunizations for seasonal and pandemic influenza vaccinations according to the CDC Advisory Committee on Immunization Practices (ACIP), and/or the Oregon State Public Health Officer's recommended immunization guidelines as directed by the agency's supervising physician's standing order until June 30, 2010.

(i) Distribute medications at the direction of the Oregon State Public Health Officer as a component of a mass distribution effort until June 30, 2010.

(j) Administer routine or emergency immunizations, as part of an EMS Agency's occupational health program, to the EMT's EMS agency personnel, under the supervising physician's standing order.

(k) Insert an orogastric tube;

(l) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, and if clear and understandable written and verbal instructions for such maintenance have been provided by the physician, nurse practitioner or physician assistant at the sending medical facility;

(m) Electrocardiographic rhythm interpretation;

(n) Perform cardiac defibrillation with a manual defibrillator.

(11) An Oregon-certified EMT-Paramedic may perform the following procedures:

(a) Perform all procedures that an Oregon-certified EMT-Intermediate can perform;

(b) Initiate the following airway management techniques:

(A) Endotracheal intubation;

(B) Tracheal suctioning techniques;

(C) Cricothyrotomy; and

(D) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway.

(c) Initiate a nasogastric tube;

(d) Provide advanced life support in the resuscitation of patients in cardiac arrest;

(e) Perform emergency cardioversion in the compromised patient;

(f) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

(g) Electrocardiographic interpretation.

(h) Initiate needle thoracentesis for tension pneumothorax in a pre-hospital setting;

(i) Initiate placement of a femoral intravenous line when a peripheral line cannot be placed;

(j) Initiate placement of a urinary catheter for trauma patients in a pre-hospital setting who have received diuretics and where the transport time is greater than thirty minutes; and

(k) Initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

(12) The Board has delegated to the Section the following responsibilities for ensuring that these rules are adhered to:

(a) Designing the supervising physician and agent application;

(b) Approving a supervising physician or agent; and

(c) Investigating and disciplining any EMT or First Responder who violates their scope of practice.

(d) The Section shall provide copies of any supervising physician or agent applications and any EMT or First Responder disciplinary action reports to the Board upon their request.

(13) The Section shall immediately notify the Board when questions arise regarding the qualifications or responsibilities of the supervising physician or agent of the supervising physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & cert. ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & cert. ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & cert. ef. 1-27-05; BME 5-2005, f. & cert. ef. 4-21-05; BME 9-2005, f. & cert. ef. 7-20-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 22-2006, f. & cert. ef. 10-23-06; BME 7-2007, f. & cert. ef. 1-24-07; BME 11-2007, f. & cert. ef. 4-26-07; BME 24-2007, f. & cert. ef. 10-24-07; BME 11-2008, f. & cert. ef. 4-24-08; BME 19-2008, f. & cert. ef. 7-21-08; BME 10-2009, f. & cert. ef. 5-1-09; BME 13-2009, f. & cert. ef. 7-20-09; BME 18-2009, f. & cert. ef. 10-23-09; BME 22-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 5-2010, f. & cert. ef. 1-26-10

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Oregon Medical Insurance Pool Chapter 443

Rule Caption: 0090: updating procedures & terms to reflect current processing procedures. 0070: updating year to reference 2010 materials.

Adm. Order No.: OMIPB 1-2010

Filed with Sec. of State: 2-9-2010

Certified to be Effective: 2-9-10

Notice Publication Date: 1-1-2010

Rules Amended: 443-002-0070, 443-002-0090

Subject: 443-002-0090: Enrollee Termination: Updated title from Member to Enrollee and replaced all references from member to enrollee. Also, amended the term will to may throughout rule. These amendments do not change the administration or program requirements and are only amended for house-keeping purposes only.

443-002-0070: Updates reference to benefits, benefit limitations, benefit exclusions and claims administration for the OMIP program to the plans, contract, application, enrollee handbook, and benefit and rate instructions as of January 1, 2010. These rules do not change the program requirements.

Rules Coordinator: Linnea Saris—(503) 378-5672

ADMINISTRATIVE RULES

443-002-0070

Benefits, Benefit Limitations, Benefit Exclusions and Claims Administration

Effective January 1, 2010, Benefits, Benefit Limitations, Benefit Exclusions and Claims Administration for the OMIP program are set forth in the OMIP individual benefit plan contracts as of January 1, 2010, the OMIP application as of January 1, 2010, the OMIP handbook as of January 1, 2010, the OMIP Premium Rates and Instructions pamphlet as of January 1, 2010, the OMIP Benefit Summary pamphlet as of January 1, 2010 and any applicable endorsements. These documents are hereby incorporated into this rule by reference.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 735.610(6) & 735.625

Stats. Implemented: ORS 735.600 - 735.650

Hist.: OMIPB 2-2004, f. 12-30-04, cert. ef. 1-1-05; OMIPB 2-2005, f. 12-30-05, cert. ef. 1-1-06; OMIPB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-5-08; OMIPB 1-2008, f. & cert. ef. 1-2-08; OMIPB 1-2008(Temp), f. & cert. ef. 2-12-09 thru 8-10-09; OMIPB 2-2009, f. 3-30-09, cert. ef. 4-15-09; OMIPB 1-2010, f. & cert. ef. 2-9-10

443-002-0090

Enrollee Termination

OMIP will terminate an enrollee's OMIP coverage if any of the following occurs:

(1) An enrollee ceases to be an Oregon resident. Termination will become effective at the end of the month in which the enrollee is no longer an Oregon resident as determined by OMIP.

(2) An enrollee reaches 65 years of age or is disabled and becomes eligible for Medicare. OMIP may terminate coverage effective on the date on which the enrollee's coverage under Medicare becomes effective.

(3) An enrollee becomes eligible for and enrolled in a comprehensive health care benefit package under ORS Chapter 414 (Medicaid). OMIP may terminate coverage effective on the date on which the enrollee's coverage under Medicaid becomes effective.

(4) OMIP discovers that a public entity, employer, health care provider, or any other entity has paid or is paying the premiums for the enrollee or reimburses him/her for premium payments for the purpose of reducing its own financial loss or obligation. Termination may take effect the date the public entity or health care provider began paying, or reimbursing the enrollee for, the OMIP premium.

(5) An enrollee is employed by a business with two or more eligible employees as defined by ORS 743.730 and applied for OMIP coverage at the direction of an insurance agent, insurance company, employer or any other entity for the purpose of separating the enrollee from health insurance benefits that the business offers or provides to its employees. Termination may take effect as of the effective date of OMIP coverage.

(6) OMIP discovers that an enrollee had substantially equivalent health care benefits as of the effective date of OMIP coverage. Termination may take effect back to the effective date of OMIP coverage. The enrollee may be responsible for reimbursing OMIP for any claims paid.

(7) OMIP has paid \$2 million in benefits on behalf of an enrollee.

(8) An enrollee becomes an inpatient or inmate at a State of Oregon correctional or mental institution as defined under ORS 179.321. Termination may take effect the date in which the enrollee became an inpatient or inmate.

(9) OMIP discovers that an enrollee made a material misrepresentation, omission on the application or at anytime during his/her enrollment, used fraudulent statements or misrepresentation, the coverage may terminate back to the effective date of coverage.

(10) An enrollee misuses the provider network by being disruptive, unruly or abusive in a way that threatens the physical health or well-being of health care staff and seriously impairs the ability of the carrier or its providers to provide service to that enrollee. Termination may take effect at the end of the month for which the enrollee has paid premium.

(11) An enrolled dependent turns 23 years of age and is not mentally or physically incapacitated. Termination will take effect at the end of the month in which the dependent reached his/her 23rd birthday.

(12) Termination may take effect at the end of the month in which an enrolled dependent under 23 years of age, marries, is no longer an Oregon resident as defined by OMIP, or is no longer a full-time student in an accredited institution of higher education.

(13) Coverage may terminate on the last day of the month for enrolled dependents if the contract holder turns 65 and is eligible for Medicare, or dies.

(14) An enrollee fails to pay the premium by the premium due date. Termination may take effect at the end of the month for which the enrollee has paid premium.

(15) An enrollee may voluntarily request that OMIP terminate coverage at the end of any period during which the enrollee has paid premiums. The enrollee must submit to the Administering Insurer a 30-day advance written notice to terminate.

Stat. Auth.: ORS 735.610(6) & 735.615

Stats. Implemented: ORS 735.600 - 735.650

Hist.: OMIPB 2-2004, f. 12-30-04, cert. ef. 1-1-05; OMIPB 2-2005, f. 12-30-05, cert. ef. 1-1-06; OMIPB 1-2010, f. & cert. ef. 2-9-10

Oregon Military Department, Office of Emergency Management Chapter 104

Rule Caption: Establish rules for the Uniform Tsunami Warning Signal for the Oregon Coast as enacted by the 2005 Legislative Assembly.

Adm. Order No.: OEM 1-2010

Filed with Sec. of State: 1-21-2010

Certified to be Effective: 1-21-10

Notice Publication Date: 11-1-2009

Rules Adopted: 104-030-0000, 104-030-0010, 104-030-0020, 104-030-0030, 104-030-0040, 104-030-0050, 104-030-0060, 104-030-0070, 104-030-0080

Subject: 104-030-0000, Purpose; 104-030-0010, Applicability; 104-030-0020, Definitions; 104-030-0030, Guidance on Tone, Signal, and Placement; 104-030-0040, Guidance on Testing; 104-030-0050, Guidance on Other Methods of Warning; 104-030-0060, Guidance on Visual Methods of Warning; 104-030-0070, Guidance on All Clear Signal; and 104-030-0080, Guidance on Location of Tsunami Warning Systems.

Rules Coordinator: Cherie Zastoupil—(503) 378-2911, ext. 22221

104-030-0000

Purpose

(1) The rules in this division seek to establish a Uniform Tsunami Warning Siren Signal for the Oregon coast (Oregon Senate Bill 557, Section 2).

(2) The objective of the tsunami statutes and these implementing rules is to reduce the risk of loss of life. Risk will be reduced by applying a uniform siren signal to inform the public of an approaching tsunami on the Oregon coast.

(3) Establish a Uniform Tsunami Warning Siren Signal standard.

(4) Require tsunami warning sirens to adhere to this standard.

Stat. Auth.: ORS 401.863 - 401.864

Stats. Implemented: ORS 401.863

Hist.: OEM 1-2010, f. & cert. ef. 1-21-10

104-030-0010

Applicability

(1) This rule applies to all Tsunami Warning sirens, including existing Tsunami Warning sirens.

(2) Existing Tsunami Warning sirens must comply within 5 years of the effective date of these rules.

(3) The siren signal is the "wail," a siren tone that oscillates up and down repeatedly from high to low over a period of three minutes.

(4) Voice broadcast may be included in addition to the wail, but not in replacement of the wail.

Stat. Auth.: ORS 401.863 - 401.864

Stats. Implemented: ORS 401.863

Hist.: OEM 1-2010, f. & cert. ef. 1-21-10

104-030-0020

Definitions

(1) "Tsunami Warning Siren signal" is the wail, a siren tone that oscillates up and down repeatedly from high to low over a period of three minutes.

(2) "Tsunami inundation zone" for the purpose of these rules means the area subject to tsunami inundation as depicted on maps adopted under OAR 632-005-0030 of these rules and intended for the implementation of ORS 455.446 and 455.447.

(3) A "Tsunami Warning Siren" is a siren or other audible warning device for the purpose of providing warning to the public within the Tsunami Inundation Zone of an approaching tsunami.

Stat. Auth.: ORS 401.863 - 401.864

Stats. Implemented: ORS 401.863

Hist.: OEM 1-2010, f. & cert. ef. 1-21-10

ADMINISTRATIVE RULES

104-030-0030

Guidance on Tone, Signal, and Placement

A rotating siren using a solid tone that produces the same effect as a fixed siren using a “wail” when observed from a stationary location and meets the intent of these rules.

Stat. Auth.: ORS 401.863 - 401.864
Stats. Implemented: ORS 401.863
Hist.: OEM 1-2010, f. & cert. ef. 1-21-10

104-030-0040

Guidance on Testing

(1) The siren test time is designed to roughly coincide with the weekly National Oceanic and Atmospheric Administration (NOAA) Weather Radio tests. Tsunami Warning Sirens will be tested on Wednesdays at 11:00 hours (a.m.) for routine testing of tsunami warning systems. Testing will be done on the first Wednesday of each month at 11:00 am.

(2) The recommended siren test duration is not to exceed 60-seconds excluding voice message, except during system coverage evaluations, unless using a unique sound for the test, such as Cows or Chimes.

(3) A sign or placard shall be affixed to each siren stating the routine test time and day.

Stat. Auth.: ORS 401.863 - 401.864
Stats. Implemented: ORS 401.863
Hist.: OEM 1-2010, f. & cert. ef. 1-21-10

104-030-0050

Guidance on Other Methods of Warning

(1) Recommend use of other methods for tsunami warning in conjunction with sirens.

(2) Work with emergency responders to provide alternative means such as weather radios, loudspeakers on beach vehicles, door-to-door notification and welfare-checks.

Stat. Auth.: ORS 401.863 - 401.864
Stats. Implemented: ORS 401.863
Hist.: OEM 1-2010, f. & cert. ef. 1-21-10

104-030-0060

Guidance on Visual Methods of Warning

Consider a visual warning signal recommendation used in conjunction with fixed siren facilities; such as the blue strobe or flashing light, the most commonly used visual warning.

Stat. Auth.: ORS 401.863 - 401.864
Stats. Implemented: ORS 401.863
Hist.: OEM 1-2010, f. & cert. ef. 1-21-10

104-030-0070

Guidance on All Clear Signal

The All Clear signal shall NOT be a Siren sound, either Solid or Wailing.

Stat. Auth.: ORS 401.863 - 401.864
Stats. Implemented: ORS 401.863
Hist.: OEM 1-2010, f. & cert. ef. 1-21-10

104-030-0080

Guidance on Location of Tsunami Warning Systems

Locate sirens in areas where there are either large concentrations of population within the inundation zone; or where other means of warning people is not available and/or practical, such as at parks and beach access areas.

Stat. Auth.: ORS 401.863 - 401.864
Stats. Implemented: ORS 401.863
Hist.: OEM 1-2010, f. & cert. ef. 1-21-10

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Rule Caption: Rule revisions for E9-1-1 Emergency Systems Program.

Adm. Order No.: OEM 2-2010

Filed with Sec. of State: 2-5-2010

Certified to be Effective: 2-5-10

Notice Publication Date: 12-1-2009

Rules Amended: 104-080-0000, 104-080-0010, 104-080-0020, 104-080-0021, 104-080-0022, 104-080-0024, 104-080-0025, 104-080-0026, 104-080-0027, 104-080-0030, 104-080-0040, 104-080-0050, 104-080-0060, 104-080-0070

Subject: 104-080-0000, Purpose; 104-080-0010, Definitions; 104-080-0020, Planning Considerations. 9-1-1 Automatic Telephone Number Identification: 104-080-0021, Purpose; 104-080-0022, Definitions; 104-080-0023, Use of 9-1-1 ATNI Information; 104-080-0024, Use of Non-Published or Non-Listed ATNI Information; 104-

080-0025, Official reports; 104-080-0026, DMS; 104-080-0027, reverse Query Without 9-1-1 Activation; 104-080-0028, Procedures for Obtaining ATNI Information Without 9-1-1 Activation; 104-080-0030, Administrative Considerations; 104-080-0040, Operations; 104-080-0050, Technical; 104-080-0060, Finding Considerations; and 104-080-0070, Variance.

Rules Coordinator: Cherie Zastoupil—(503) 378-2911, ext. 22221

104-080-0000

Purpose

The purpose of the E9-1-1 Emergency Telephone System Program is:

(1) To provide uniform statewide access to police, fire, or medical service through the emergency telephone number 9-1-1.

(2) To provide the continued operation of E9-1-1 telecommunications service statewide.

(3) To provide and monitor the distribution and expenditure of E9-1-1 telephone tax funds in all accounts to E9-1-1 jurisdictions who provide E9-1-1 emergency telephone system services in Oregon.

(4) To study the efficiency of E9-1-1 telecommunications services throughout the State of Oregon.

(5) To implement the requirements of ORS 401.710 to 401.790.

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented: ORS 401.710 - 401.790

Hist.: EMD 2-1992, f. & cert. ef. 4-17-92; EMD 3-1992(Temp), f. & cert. ef. 7-15-92; EMD 3-1993(Temp), f. & cert. ef. 1-15-93; EMD 1-1997, f. & cert. ef. 8-15-97; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0010

Definitions

(1) “Enhanced 9-1-1 (E9-1-1)” means the delivery of automatic number and location identification of a 9-1-1 call for service.

(2) “Automatic Location Identification (ALI)” means the automatic display at a public safety answering point of the subscriber telephone number, the service address for the telephone and supplementary information.

(3) “Automatic Number Identification (ANI)” means the automatic display at a public safety answering point of the subscriber telephone number. “Pseudo-ANI (pANI)” means the number assigned to a wireless 9-1-1 call identifying the tower or sector from which the call originated. It is used for the routing of 9-1-1 Wireless calls to the designated E9-1-1 Primary PSAP.

(4) “CAD” includes Computer Aided Dispatch; Computer Assisted Dispatch.

(5) “Geographic Information Systems” (GIS) means a mapping system utilized in support of E9-1-1 for the manipulation and display of mapping data at the PSAP.

(6) “Data Base” includes:

(a) The data required to direct network routing of an emergency call to the primary public safety answering point responsible for the emergency service zone of the calling party;

(b) The data used to identify the jurisdictional boundaries within an E9-1-1 service area for each associated public or private safety agency;

(c) The data required to transfer an emergency call from a primary public safety answering point to either another primary public safety answering point or a secondary public safety answering point; and

(d) The data required to assign default routing within Oregon to a designated public safety answering point at times of network routing failure.

(7) “Data Management System” means the combination of manual procedures and computer programs used to create, store, manipulate and update data required to provide selective routing and ALI/GALI.

(8) “Primary PSAP” means a primary public safety answering point or local E9-1-1 jurisdiction which is currently an enhanced entity. Primary PSAPs are the only entities for which continued E9-1-1 will be deployed for purposes of these rules.

(9) “Emergency Service Zone” means a defined geographical territory consisting of a specific combination of law enforcement, fire and EMS coverage areas.

(10) “Geographic Automatic Location Identification (GALI)” means the automatic display at a primary public safety answering point of the positional location of the subscriber, ten-digit ANI for the device and supplementary information.

(11) “Interoperability” means deployment of E9-1-1 technologies having been engineered to allow full functionality when providers’ resources are shared by two or more PSAPs or where a PSAPs’ E9-1-1 telecommunications service is derived from two or more utilities regardless of whether the call is received directly from the calling party or by transfer from a contiguous PSAP.

ADMINISTRATIVE RULES

(12) "Master Street Address Guide (MSAG)" means a database of street names containing address ranges with their associated communities that denotes emergency service numbers for E9-1-1 purposes.

(13) "Network" includes:

(a) A series of connecting points which can be joined to create communications channels intended to allow public access into the E9-1-1 emergency reporting system;

(b) Connecting points which include all Oregon providers, facility and services required to complete the emergency call; and

(c) Provider based connection of both switched and dedicated channels ultimately terminating upon station terminal equipment within each primary public safety answering point.

(14) "Network Exchange Services" includes:

(a) Intrastate telecommunications services required to deliver E9-1-1;

(b) Any telecommunications service in which the information transmitted originates and terminates within the boundaries of the State of Oregon.

(15) "On-Premises Equipment (Also referred to as Customer Premise Equipment or CPE)" includes:

(a) Those devices required to decode network signaling allowing the display of ALI/GALI;

(b) The station terminal equipment required for display of decoded signaling and voice contact with the calling party in a synchronous manner.

(16) "Open Systems" includes but is not limited to:

(a) System Application Program Interface (ISO/IEC 9945-1:1990);

(b) Information technology-Portable Operating System Interface (POSIX) (IEEE Std1003.1-1990).

(17) "P.01 Grade of Service" means emergency telecommunications service in which no more than one call in 100 attempts will receive a busy signal on the first attempt during the average busiest hour.

(18) "Positional Location" means:

(a) The means by which to describe a point on the surface of the Earth usually termed an "x, y" coordinate;

(b) "x, y" coordinate information will be provided in decimal degrees with six places of accuracy based on the North American datum (NAD) 83-91;

(c) "x, y" shall also include a "z" element when available. "z" is intended to reflect elevation in feet from Mean Sea Level.

(19) "Primary Utility" means:

(a) A utility having an exchange boundary that contains a primary PSAP point and is therefore responsible for providing network access;

(b) The utility responsible as the first point of contact for coordination of network maintenance and repair.

(20) "Provisioning" means the process of providing or obtaining needed equipment or services.

(21) "Selective Routing" means the capability of routing an E9-1-1 call from a central office to a designated PSAP based upon the telephone number and/or the location of the calling party.

(22) "Automatic Telephone Number Identification (ATNI)" means:

(a) All forms of Automatic Number Identification (ANI), Automatic Location Identification (ALI), and database information used in the processing of an E9-1-1 emergency telephone call;

(b) ATNI refers to the utility customer's telephone number, the customer's main telephone service location and the name of the utility customer required pursuant to OAR 104-080-0050(11)(a) to be supplied to the primary PSAP or E9-1-1 jurisdiction through an E9-1-1 telephone system. This reference to ATNI does not include Wireless E9-1-1 services;

(c) ATNI information may be displayed either on a video monitor or hard copy printer.

(23) "Private Switch ALI (PS/ALI)" means a service option which provides E9-1-1 features for telephone stations behind private switches. e.g. PBXs.

(24) "DMS" means Data Management System as defined in OAR 104-080-0010 (7).

(25) "Official Report" means;

(a) A final document, created by a PSAP or other public safety agency, for incident reporting purposes;

(b) After all confidential data received from the (NP) or (NL) data source are edited or deleted in compliance with ORS 401.765 (2) and this rule; and

(c) Which is incident specific and is not co-mingled with other related incidents.

(26) "Official report" does not mean:

(a) An intermediate or temporary record;

(b) An automatic electronic display, and hard copy or electronic storage of ATNI;

(c) Call logs, either manual or automated, unless separated by incident;

(d) Computer Aided Dispatch records, unless separated by incident;

(e) Call detail voice and log recorders;

(f) ATNI, ANI, or ALI display units and printers.

NOTE: Unless otherwise noted above, terms used in these rules are defined in ORS 401.710(1) through (19), and OAR 104-080-0010(1) through (26)

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented: ORS 401.710 - 401.790

Hist.: EMD 2-1992, f. & cert. ef. 4-17-92; EMD 3-1992 (Temp), f. & cert. ef. 7-15-92; EMD 3-1993(Temp), f. & cert. ef. 1-15-93; EMD 1-1997, f. & cert. ef. 8-15-97; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0020

Planning Considerations

(1) The division shall maintain a file of PSAP disaster recovery plans for each E9-1-1 jurisdiction per ORS 401.775. Annual review of plans will be conducted by the E9-1-1 jurisdiction responsible for each plan. Revisions shall be submitted to the division immediately upon completion.

(2) The division shall maintain a file of the description and/or documentation from the primary utility that the E9-1-1 system within the jurisdiction is designed to a P.01 grade of service. A plan to monitor and maintain this grade of service must be included by the primary utility and reviewed annually by the division.

(3) The division shall maintain a listing of the non-emergency 24-hour published number for each PSAP or E9-1-1 jurisdiction and each participating Public and Private Safety Agency.

(4) The division shall maintain a listing of primary and secondary PSAP(s) 7 or 10-digit 24-hour emergency numbers.

(5) The division shall maintain an itemized listing of the primary PSAP(s) on-premise equipment that is necessary to maintain the Enhanced 9-1-1 system. The listing shall include the appropriate equipment lifespan and update schedule.

(6) The division shall maintain a list of costs of the Network Exchange Services necessary to provide the minimum of P.01 grade of service, provided by the serving Utility and approved within a tariff schedule by the Oregon PUC.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented: ORS 401.710 - 401.790

Hist.: EMD 2-1992, f. & cert. ef. 4-17-92; EMD 3-1992(Temp), f. & cert. ef. 7-15-92; EMD 3-1993(Temp), f. & cert. ef. 1-15-93; EMD 1-1997, f. & cert. ef. 8-15-97; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0021

Purpose

The standards and procedures set out in this rule will be followed to insure the calling party's right to confidentiality is not breached in violation of ORS 401.765(2).

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented:

Hist.: EMD 1-1993, f. & cert. ef. 1-15-93; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0022

Definitions

(1) "Automatic Telephone Number Identifications (ATNI)" means:

(a) All forms of Automatic Number Identification (ANI), Automatic Location Identification (ALI), and database information used in the processing of an E9-1-1 emergency telephone call.

(b) ATNI refers to the utility customer's telephone number, the customer's main telephone service location and the name of the utility customer required pursuant to OAR 104-080-0050(11)(a) to be supplied to the primary PSAP or E9-1-1 jurisdiction through an E9-1-1 telephone system. This reference to ATNI does not include Wireless 9-1-1 service.

(c) ATNI information may be displayed either on a video monitor or hard-copy printer.

(2) "DMS" means Data Management System as defined in OAR 104-080-0010(7).

(3) "Official Report" means a final document, created by a PSAP or other public safety agency, for incident reporting purposes:

(a) After all confidential data received from the (NP) or (NL) data source are edited or deleted in compliance with ORS 401.765(2), this rule; and

(b) Which is incident specific and is not co-mingled with other unrelated incidents.

(4) "Official Report" does not mean:

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- (a) An intermediate or temporary record;
- (b) An automatic electronic display, and hard copy or electronic storage of ATNI;
- (c) Call logs, either manual or automated, unless separated by incident;
- (d) Computer Aided Dispatch records, unless separated by incident;
- (e) Call detail voice and log recorders;
- (f) ATNI, ANI or ALI display units and printers.

NOTE: Unless otherwise noted above, terms used in these rules are defined in ORS 401.710(1) through (19), and OAR 104-080-0010(1) through (26).

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented:

Hist.: EMD 1-1993, f. & cert. ef. 1-15-93; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0024

Use of Non-Published or Non-Listed ATNI Information

(1) When a telecommunicator has determined that the automatic display ATNI is derived from a non-published (NP) or non-listed (NL) data source, the telecommunicator shall obtain from the calling party permission to disclose the information to the general public before it is used in an official report. Permission shall be deemed to have been granted only if the calling party identifies him or herself as the person listed in the NP or NL data source and indicates that it is acceptable that the NP or NL ATNI information may be disclosed to the general public. However, any information obtained from a calling party in a 9-1-1 call may be used for emergency dispatch purposes without restriction. The utilities shall provide a NP or NL designation with the ID in their data sources and shall notify their customers of privacy limitations associated with calls placed to 9-1-1.

(2) All records and reports relating to the call shall be reviewed for confidential information prior to public release and disclosure. Upon determination that confidential information exists, disclosure shall take place only after all data received from the (NP) or (NL) data source are edited or deleted in compliance with ORS 401.765(2).

(3) Upon receipt of ID with a (NP) or (NL) designation, when transferring the ID to the dispatcher or a public or private safety agency, the PSAP operator or E9-1-1 jurisdiction telecommunicator shall identify the information as having been received from a non-published or non-listed data source.

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented:

Hist.: EMD 1-1993, f. & cert. ef. 1-15-93; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0025

Official Reports

(1) A PSAP is not required to write an official report. Should an E9-1-1 jurisdiction or primary PSAP choose not to write an official report, all of its records must be kept confidential and are not subject to disclosure until an official report is written by another public or private safety agency.

(2) As defined in the Oregon Public Records Law, ORS 192.430, all records of a public body including PSAPs are "public records" and are subject to public disclosure unless otherwise expressly prohibited by law or withheld from disclosure in whole or in part by an agency pursuant to an express exemption from the Oregon Public Records Law. ORS 401.765(2) establishes an exception.

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented:

Hist.: EMD 1-1993, f. & cert. ef. 1-15-93; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0026

DMS

The DMS used by the PSAP or E9-1-1 jurisdiction must be approved as part of the primary PSAP's final plan.

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented:

Hist.: EMD 1-1993, f. & cert. ef. 1-15-93; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0027

Reverse Query Without 9-1-1 Activation

(1) Nothing in these rules shall be interpreted as allowing "reverse query" of any utility supplied Automatic Location Information DMS unless and until a primary PSAP has received a live 9-1-1 call from the public or received a 9-1-1 call from the public providing a telephone number to an unknown location where threat to life or property is eminent, and then only for the purpose of identifying the customer name, address and phone num-

ber of the phone from which the call was made or where the threat is located.

(2) Reverse query includes any ability to search the utility DMS regardless of the technological ability of the Customer Premises Equipment.

(3) Reverse query may be conducted at the discretion of the PSAP management for the purpose of testing equipment, connection, and training of personnel only.

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented:

Hist.: EMD 1-1993, f. & cert. ef. 1-15-93; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0030

Administrative Considerations

(1) Except as otherwise provided by local agreement that has been approved by the Division, 9-1-1 callers shall first be routed to the primary PSAP serving the caller's primary law enforcement agency.

(2) Transfers shall be kept to an absolute minimum. As a standard, a 9-1-1 call should not be transferred more than once. 9-1-1 calls subject to multiple transfers shall be allowed only when absolutely necessary. Any deviation from this section shall be subject to division approval.

(3) Auto-dialing alarms and/or automated voice announcers shall not be allowed to access 9-1-1 telephone lines unless utilized to meet the requirements of the Americans with Disabilities Act.

(4) All 9-1-1 calls generated within the State of Oregon, shall be answered in the State of Oregon, to the extent telecommunications technology will allow. Exceptions to this rule shall be granted subject to conditions in 104-080-0070(2).

(5) No E9-1-1 emergency reporting system shall use on-premises equipment designed to offer a 9-1-1 caller a choice of options for determining the disposition of their 9-1-1 call without the assistance of a 9-1-1 call taker. Devices specifically prohibited are known generically as "Automated Call Attendant" or "Voice Mail." The use of unintended/overload cell call screening systems may be utilized with prior approval from the division.

(6) Allowable devices are limited to pre-recorded messages informing the 9-1-1 caller that all call taking positions are currently busy and to remain on the line. These "queue" devices shall be capable of sequencing calls in a manner that forces the oldest call in the queue to be answered first by the next available call taker.

(7) All telecommunicators, as defined in OAR 104-060-0010, should not rely solely on the automatic display of ATNI information to determine the location of the call unless no other information is available.

(8) The telecommunicator, to the extent practicable under the circumstances existing at the time of the call, should confirm the accuracy of the ATNI information, and the identity of the calling party because the calling party and the utility customer whose name is displayed may not be presumed to be the one-in-the-same person.

(9) A PSAP replacing E9-1-1 call taking equipment will only be authorized E9-1-1 telephone positions equal to those currently in use. A PSAP may request an increase of E9-1-1 telephone positions subject to approval of the Division. All requests shall be in writing and based on the following criteria:

(a) Population increase of PSAP service area;

(b) Increased 9-1-1 call volume;

(c) PSAP consolidation.

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented: ORS 401.710 - 401.790

Hist.: EMD 2-1992, f. & cert. ef. 4-17-92; EMD 3-1992(Temp), f. & cert. ef. 7-15-92; EMD 3-1993(Temp), f. & cert. ef. 1-15-93; EMD 1-1997, f. & cert. ef. 8-15-97; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0040

Operations

(1) TTY equipment required. Each PSAP shall be equipped with a Telephone Typewriter (TTY) for which it is possible to connect an incoming TTY call on any line to the TTY. TTY access shall meet all Federal requirements outlined in the American Disabilities Act of 1990.

(2) Logging recorder equipment is recommended;

(a) It is recommended each PSAP have a logging recorder in operation equipped to record all voice conversations of each call as well as the date and time of each call;

(b) It is recommended each call taker station be equipped with an instant playback type of recorder to record each incoming 9-1-1 call. At least 10 minutes of storage capacity should be included. It is highly recommended that the recorder be of a digital voice storage type with no moving parts.

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(3) Back-up power equipment is recommended:

(a) It is recommended each primary PSAP have a gasoline, diesel, propane or other powered motor generator set for powering the primary PSAP during long term power outages;

(b) Each primary public safety answering point shall have a battery powered Uninterruptible Power Supply (UPS) which should be capable of powering the essential customer premise equipment at the primary PSAP for a period sufficiently long to enable the motor generator recommended in subsection (3)(a) of this rule to start and stabilize. No calls shall be lost during the transition to the UPS.

(4) Each primary PSAP shall have building security to restrict intentional disruption of operations. All 9-1-1 processing and control equipment shall be accessible only to authorized personnel. Display and printing equipment shall be located so that the information is limited to those with a need to know.

(5) All exposed 9-1-1 circuit facilities and E9-1-1 customer premise equipment (CPE) rooms at the primary PSAP shall be protected and internally marked to prevent accidental damage or tampering. For this section "protected" includes maintaining the ambient room temperature per the CPE manufacturers' requirements.

(6) A primary PSAP call taker station shall consist of an operator position equipped with (minimum):

- (a) Telephone device;
- (b) ANI display; and
- (c) ALI display.

(7) Any equipment, supplies and services purchased from the Enhanced 9-1-1 Subaccount shall be for the provisioning of Enhanced 9-1-1 telecommunications services.

Stat. Auth.: ORS 401.730(1)(a)
Stats. Implemented: ORS 401.710 - 401.790
Hist.: EMD 2-1992, f. & cert. ef. 4-17-92; EMD 3-1992(Temp), f. & cert. ef. 7-15-92; EMD 3-1993(Temp), f. & cert. ef. 1-15-93; EMD 1-1997, f. & cert. ef. 8-15-97; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0050

Technical

(1) All plans or contracts submitted for State review will be approved by the Division on the basis of service and cost for the E9-1-1 service area impacted.

(2) Subscriber information data shall be the responsibility of the providers and made available through a Data Management System (DMS) to the requesting primary PSAP at time of receipt of an Enhanced 9-1-1 call.

(3) Unless approved by the division no primary utility shall require any primary PSAP to query more than one Data Management System for all E9-1-1 calls.

(4) The primary PSAP, primary utility, and the Division shall mutually identify the need for selective routing and the associated devices through which all calls for service are to be processed.

(5) Where interoperability requires the affected telephone utility to share its automatic location identification, a Division approved method shall be implemented.

(6) Provisioning on-premise equipment is subject to approval by the Division and must meet open systems requirements:

(a) Two methods of provisioning on-premise equipment will be considered by the Division:

(A) Provided by the primary utility and billed as non-recurring charges with monthly maintenance included; and

(B) Customer Owned And Maintained.

(b) On-premises equipment shall perform the following minimal functions:

(A) Line hold and line indicator for E9-1-1 service;

(B) Common control equipment and, when determined necessary by the Division, Automatic Call Distribution equipment and call sequencers;

(C) Telephone sets as indicated for primary interrogation and dispatch positions only;

(D) Automatic Number Identification controller(s) and associated display(s) as indicated for primary interrogation and dispatch positions only;

(E) Automatic Location Identification controller(s), data device(s), data channel(s) and display(s) as indicated for primary interrogation and dispatch positions only;

(F) Call detail recorder defined as a character print device;

(G) Holdover battery supply for paragraphs (A) through (E) of this subsection;

(H) An Uninterrupted Power Supply (UPS) shall be allowed in lieu of battery holdover when prior approval is received from the Division. Any

allowed UPS device shall be only for the purpose of supporting a PSAP's E9-1-1 CPE.

(c) When a primary PSAP elects to purchase CPE that is intended to be Customer Owned and Maintained the primary PSAP shall comply with the following:

(A) The equipment must be compatible with and functionally equivalent to the primary utility provided E9-1-1 network;

(B) Mean time to repair must be equal or better to that provided by the primary utility;

(C) Equipment must be FCC approved and provide noiseless supervised transfer and conferencing.

(d) All Customer Owned and Maintained equipment is the responsibility of the primary PSAP regarding maintenance and provisioning of these standards.

(9) All installations shall be capable of both analog and digital receipt of incoming E9-1-1 calls. Digital compatibility for voice includes, but is not limited to, Signaling System 7, Feature group "X" and ISDN. Digital compatibility for data includes the ability to accept location information on a single digital transport provided by the prime utility.

(10) Every utility providing Automatic Location Identification shall present uniform data streams as required for contiguous primary PSAP operations. Such data streams may be transmitted in such a manner to allow each primary PSAP's station terminal equipment to display automatic location identification in a predetermined manner. Unless otherwise approved by the division, every provider will adhere to the statewide data format. Any vendor supplied data management system shall search other vendors' data management system to respond to an ALI request from a PSAP when the requested data does not reside on the vendors' system.

(11) Each Automatic Location Identification data set shall include at a minimum:

(a) Area Code and Telephone number, ten digit ANI when available;

(b) Class of service;

(c) Time in 24-hour format;

(d) Date;

(e) Subscriber name or non-published;

(f) House number;

(g) House number suffix;

(h) Prefix and or Post directional;

(i) Street name including type;

(j) Emergency Service Number location;

(k) Postal community;

(l) State;

(m) Emergency Service Number;

(n) Pilot number;

(o) Emergency Service Number translation;

(p) Latitude & Longitude of wireless caller location for Phase II wireless, or that of the cell tower for Phase I.

(12) Each utility shall provide to the primary PSAP a Master Street Address Guide in either printed or electronic format as agreed to within the plan.

(13) Ownership of the Master Street Address Guide shall be jointly held between the primary PSAP, the utility, and Division.

(14) Each utility shall provide an updated Master Street Address Guide to the primary PSAP on a quarterly basis or as agreed upon within the contract for service upon each primary PSAP's installation and thereafter at intervals agreed upon between the Division and providers.

(15) The provider of each Data Management System shall be responsible for the provider based Master Street Address Guide process including compilation and continued maintenance. Submitted changes from a primary PSAP shall be incorporated into the MSAG within 72 hours of such change. Exception may be granted by the division with proper justification.

(16) The selective routing database contained within each approved selective routing device shall be maintained by the vendor(s) of such selective routers in such a manner as to accurately reflect the most recent issuance or change of address, service or service account datum within 48 hours of such change.

(17) The Division shall approve all Emergency Service Numbers assigned by a primary PSAP and primary utility. The Division will make a reasonable attempt to prevent duplication of these Emergency Service Numbers. The Division may, as required, assign or direct reassignment of Emergency Service Numbers to prevent unnecessary duplication or confusion. All geographic information data provided or produced from Enhanced 9-1-1 Sub-Account funding shall be jointly owned between the primary PSAP and the Division.

Stat. Auth.: ORS 401.730(1)(a)
Stats. Implemented: ORS 401.710 - 401.790

ADMINISTRATIVE RULES

Hist.: EMD 2-1992, f. & cert. ef. 4-17-92; EMD 1-1997, f. & cert. ef. 8-15-97; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0060

Funding Considerations

- (1) Emergency Communications Account:
 - (a) Telephone tax funds shall be distributed in January, April, July and October of each year;
 - (b) Cities and Counties shall determine the appropriate E9-1-1 jurisdiction to which their distribution shall be directed;
 - (c) E9-1-1 jurisdictions shall receive telephone tax funds directly from their respective city(s) and county(s) within 45 days from the date city(s) and county(s) receive tax funds from the division unless prior arrangements have been made and approved by the Division;
 - (d) The Division shall maintain a current listing of recognized E9-1-1 jurisdictions eligible to receive and expend E9-1-1 telephone tax funds;
 - (e) Allowable Emergency Communications Account expenditures at the primary PSAP include only:
 - (A) E9-1-1 call taking personnel;
 - (B) E9-1-1 telephone line charges;
 - (C) E9-1-1 telephone system for call processing of 9-1-1 calls;
 - (D) Transfer and relay telephone line charges to secondary PSAPs;
 - (E) Fifty percent funding of radio base stations necessary to notify responders of a 9-1-1 call for service;
 - (F) E9-1-1 telephone system maintenance costs;
 - (G) Receive only pagers if this is primary means of notifying responders of 9-1-1 call for service;
 - (H) Fifty percent funding of transmit/receive pagers, portable or mobile radios and repeater stations when used as primary means of notification of responding agencies of a 9-1-1 call for service;
 - (I) Training expenses for E9-1-1 call takers;
 - (J) 9-1-1 answering contracts for primary PSAPs;
 - (K) Telephone and radio recording equipment used to record 9-1-1 telephone calls and notifications of responding agencies of 9-1-1 calls for service;
 - (L) Uninterruptible power supply systems for E9-1-1 telephone systems;
 - (M) Pllectrons and encoders if this is the primary means of notifying responding agencies of a 9-1-1 call for service;
 - (N) Public education regarding 9-1-1 use and availability;
 - (O) Computer data links to responding agencies if this is the means used to notify responding agencies of 9-1-1 calls for service;
 - (P) Rural addressing;
 - (Q) Base rate charges for seven or ten digit emergency and non-emergency PSAP reporting numbers.
 - (R) Emergency Notification System or "reverse 9-1-1 systems".
 - (f) The following items are allowed on a percentage basis of funding with Emergency Communications Account funds with prior approval of the Division as to the percentage allowed:
 - (A) Computer aided dispatch systems that handle E9-1-1 call processing and notification of responding agencies of 9-1-1 calls for service;
 - (B) Telephone and radio consoles;
 - (C) Administration and overhead (rent, utilities, and maintenance) of a multi-use PSAP that includes dispatching of public safety services;
 - (D) Backup power systems (generators);
 - (E) Alternate PSAP sites and circuit routing when used for disaster recovery;
 - (F) Planning costs for the preliminary and final plan preparation for E9-1-1 Plans required in Section 6 and 7, chapter 743, Oregon Laws 1991.
 - (g) Any other items not covered by these rules that after application by the primary PSAP and concurrence of the Division are necessary in providing E9-1-1 services in the primary PSAP service area;
 - (h) Secondary PSAPs are not eligible for funding from this account.
- (2) Enhanced 9-1-1 Sub-Account: The following costs of providing E9-1-1 telephone service shall be reimbursed from the Enhanced 9-1-1 Sub-Account of the Emergency Communications Account, subject to available funds and the following requirements, to those 9-1-1 Planning Committees that have been issued an E9-1-1 Service Plan Approval by the Division:
 - (a) Costs of the Network Exchange Services necessary to provide the minimum grade of service defined in ORS 401.720(4)(d);
 - (b) Costs for on-premises equipment:
 - (A) Allowances for Customer Owned and Maintained on-premises equipment will be limited to the estimated cost of the primary utility supplied solution or actual costs, whichever is less;

(B) Integration of Automatic Number Identification and Automatic Location Identification into a Computer Aided Dispatch system in use by a primary PSAP may be compensated in lieu of on-premise display equipment with the exception that one Automatic Number Identification display and one Automatic Location Identification display must be actively in use on-site. Compensation will be limited to the cost of such displays as provided by the primary utility;

(C) On-going maintenance costs following the warranty period, if any, for on-premises equipment;

(D) Payment of costs for on-going maintenance of the on-premises equipment following the expiration of the warranty period for the equipment shall be made by submitting a copy of the maintenance contract with an itemized listing of hourly labor rates and equipment costs to the Division for approval;

(E) The Division shall make payment directly to the vendor upon verification that the charges are for the E9-1-1 on-premises equipment and services originally contracted for and that the vendor's hourly labor rate does not exceed the prevailing labor rate for similar communication equipment and services.

(c) Database, MSAG, GIS development and maintenance based on the hourly wage including benefits of employee(s) doing this work for the primary PSAP and the number of hours the employee(s) devotes to this process as approved by the Division;

(d) Payment of costs for consulting related to E9-1-1 shall be made by the Division directly to the consultant, but only after verification that:

(A) The need and proposed cost of consulting services were identified in either the original E9-1-1 Service Plan; and

(B) A copy of the consultant's contract and fees have been submitted and approved by the Division.

(C) Units of local government not directly providing PSAP operation and having investments as defined in Chapter 533, Section 20(2) of Oregon Laws 1981 as amended shall first expend such investments.

(3) Equipment Replacement Sub-Account: The Equipment Replacement Sub-Account was established to replace E9-1-1 customer premises equipment currently in service that does not accomplish the functional requirements for processing E9-1-1 calls as determined by the Division and may include:

(a) Maintenance issues based on the age of the equipment, and the availability of the parts;

(b) Ability to meet open systems requirements of the State of Oregon;

(c) Ability to migrate to new technologies developed for E9-1-1 services.

(4) The Division shall work with a PSAP that has requested CPE replacement to determine the need for equipment replacement and will make the final determination whether or not to replace the CPE.

(5) The process for provisioning replacement CPE will follow the same process outlined in OAR 104-080-0050(6), and is required to have Division approval.

(6) Funding from the Equipment Replacement Sub-Account will only be authorized for those PSAPs that comply with these rules.

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented: ORS 401.710 - 401.790

Hist.: EMD 2-1992, f. & cert. ef. 4-17-92; EMD 1-1997, f. & cert. ef. 8-15-97; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

104-080-0070

Variance

(1) The mediation of disputes between a governing body, E9-1-1 jurisdiction and public or private safety agency regarding an E9-1-1 system, not otherwise resolved in accordance with a written agreement, shall be undertaken as provided in ORS 401.785.

(2) Any deviation from these guidelines is subject to approval by the Division. Requests for deviation shall identify which section(s) are affected and include supporting documentation of the device or process involved. The Division may require additional clarification at its discretion.

(3) Primary PSAPs geographically situated in such a manner that interoperability with another primary PSAP is believed to be an unreasonable goal, shall request a variance from the applicable provisions of these rules.

Stat. Auth.: ORS 401.730(1)(a)

Stats. Implemented: ORS 401.710 - 401.790

Hist.: EMD 2-1992, f. & cert. ef. 4-17-92; EMD 1-1997, f. & cert. ef. 8-15-97; OEM 1-2003, f. & cert. ef. 1-15-03; OEM 2-2010, f. & cert. ef. 2-5-10

ADMINISTRATIVE RULES

Oregon State Lottery Chapter 177

Rule Caption: Suspends rule regarding performance bond requirement no longer required by statute.

Adm. Order No.: LOTT 1-2010(Temp)

Filed with Sec. of State: 1-20-2010

Certified to be Effective: 1-20-10 thru 7-1-10

Notice Publication Date:

Rules Suspended: 177-036-0200

Subject: The Oregon Lottery has initiated permanent rulemaking to repeal, and is temporarily suspending, OAR 177-036-0200, which requires that only a performance bond can be posted as security for performance of a Lottery contract. This will permit the Lottery to allow other forms of performance security to be posted as authorized by ORS 461.430, such as cash or irrevocable letters of credit.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-036-0200

Performance Bond

(1) **General:** A successful Offeror for a Major Procurement, as defined in OAR 177-037-0000(2), shall promptly execute and deliver to the Lottery a performance bond in the amount specified in the Solicitation Document or Contract as provided in ORS 461.430. A successful Offeror shall also promptly execute and deliver to the Lottery a performance bond for other procurements, as required by the Solicitation Document or Contract, when the Lottery determines a performance bond is necessary to protect the interests of the Lottery.

(2) **Authorized Surety:** The performance bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in the State of Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance bond must be payable to the Lottery as specified in the Solicitation Document or Contract, and must be in a form approved by the Lottery.

(3) **Emergency Procurement:** In cases of an Emergency procurement, the requirement of furnishing a performance bond for the performance of a Major Procurement Contract may be excused by the Lottery if a declaration of such Emergency is made in accordance with OAR 177-036-0040(6).

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05; Suspended by LOTT 1-2010(Temp), f. & cert. ef. 1-20-10 thru 7-1-10

Rule Caption: Amends rules to clarify when prize claim period ends when the Lottery is closed.

Adm. Order No.: LOTT 2-2010

Filed with Sec. of State: 1-29-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 12-1-2009

Rules Amended: 177-050-0027, 177-020-0100, 177-070-0025, 177-200-0020

Subject: The Oregon State Lottery initiated permanent rulemaking to amend the above referenced administrative rules. The amendments clarify the last day to claim a prize in the event the final date of the prize claim period falls on a day when the Oregon Lottery Headquarters is closed to the general public.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-050-0027

Ticket Validation Requirements

(1) **General:** Besides meeting all of the other requirements in OAR Chapter 177 and as may be printed on each ticket, the following validation requirements apply to Scratch-itSM game tickets.

(2) **Requirements:** Except as provided in section (3) of this rule and OAR 177-050-0025(3), to be a valid Scratch-itSM game ticket, all of the following requirements must be met:

(a) **Play Symbols:** Where applicable, each of the play symbols must have a play symbol caption underneath, and each play symbol must agree with its play symbol caption.

(b) **Legibility:** Where applicable, each of the play symbols and play symbol captions must be present in its entirety and be legible.

(c) **Specifications:** Each of the play symbols and its play symbol caption must be printed according to game specifications.

(d) **Completeness of Information:** The game number, pack number, ticket number, bar code, bar code number, and VIRN number must be present and all information must correspond with the Lottery's computer records.

(e) **Printing Order:** The play symbols, play symbol captions, game number, pack-ticket number, and VIRN number must be right-side-up and not reversed in any manner.

(f) **Pack-Ticket Number:** The ticket must have exactly one pack-ticket number.

(g) **VIRN:** The VIRN number of an apparent high-tier winning ticket must appear on the Lottery's official record of winning ticket VIRN numbers, and a ticket with that VIRN number must not have been paid previously.

(h) **Artwork:** Each of the following must correspond to the artwork on file at the Lottery: Play symbols on the ticket, play symbol captions, pack-ticket numbers, display printing, game numbers, retailer validation code, and ticket VIRN number.

(i) **Multi-Page Tickets:** In the case of Scratch-itSM tickets consisting of multiple pages designed to remain intact, the individual pages must not be detached from each other. Such separated multi-page tickets will be considered damaged tickets.

(3) **Lost, Damaged, or Destroyed Tickets for Prizes Greater than \$600:** If a player of a Scratch-itSM prize of more than \$600 cannot submit an intact winning ticket because a Scratch-itSM game retailer lost, damaged, or destroyed the ticket while attempting to perform validation procedures on the game ticket, a prize claim based on the lost, damaged, or destroyed ticket may still be validated as set forth in OAR 177-050-0025(3), provided the claim is made before the end of the one year claim period after the end of the game as described in OAR 177-050-0100.

(a) **Payment Process:** When a prize payment is authorized by the Director under this section, the prize payment shall be validated as set forth in OAR 177-050-0025(3).

(b) **Payment Restriction:** Payments of prize claims submitted under this section are restricted to the prize amount.

(4) **Damaged Tickets:** Notwithstanding OAR 177-046-0090 and section (2) of this rule, the Director may pay the prize on a winning Scratch-itSM ticket that is inadvertently or accidentally damaged so that it cannot be validated either through the Lottery's central computer system or because it is missing information required under section (2) of this rule, if the ticket is readable and is validated as a winning ticket by the Lottery's Security Section. For purposes of this rule, a Scratch-itSM ticket is unreadable if there is insufficient information remaining on the ticket for the Lottery's Security Section to reconstruct and validate the ticket.

(a) **Validation Process:** When a prize payment is authorized by the Director under this section, the prize payment shall be validated as follows:

(A) **Evidence:** The player shall obtain, complete, and sign a winner claim form and a claim affidavit furnished by the Lottery. The player shall submit the two completed forms along with the damaged ticket, (including, but not limited to, all pages of a game book in the player's possession) to the Lottery at the addresses listed in section OAR 177-050-0025(1)(b), either by mail (registered mail is recommended) or in person at the Lottery's Headquarters in Salem during Lottery business hours.

(B) **Investigation:** The Assistant Director for Security will conduct an investigation to determine if the claim and winning game ticket are valid.

(C) **Director's Determination:** Based upon all the facts and information available, the Director shall make a determination whether prize payment is warranted and authorized. The Director may require that such determination be made on the last day of the one year claim period following the end of the game, as described in OAR 177-050-0100. If the final date of the prize claim period falls on a date when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period will be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public. Following validation, the Lottery shall issue the prize payment in the usual course of Lottery business.

(D) **Payment of Prize:** Upon the Director's determination that the ticket submitted under this section is a valid, winning ticket, and that the player is the proper person to whom a prize is payable, the Lottery shall present or mail a check to the player in payment of the appropriate prize amount less any applicable tax withholding.

(E) **Notification of Denial:** If the ticket is determined to be invalid or a non-winning ticket or the claim is invalid, the claim shall be denied and the player notified.

ADMINISTRATIVE RULES

(b) **Payment Restriction:** Payment of a prize claim submitted under this section is restricted to the prize amount less any applicable tax withholding.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.250

Hist.: LC 7-1987, f. & ef. 4-29-87; LC 4-1988, f. & cert. ef. 1-26-88; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 7-1995, f. & cert. ef. 7-7-95; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 1-1997, f. 1-31-97, cert. ef. 2-1-97; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 13-2004(Temp), f. & cert. ef. 11-29-04 thru 5-27-05; LOTT 3-2005, f. 4-27-05, cert. ef. 4-28-05; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 9-2008, f. 11-21-08, cert. ef. 12-1-08; LOTT 2-2010, f. 1-29-10, cert. ef. 2-1-10

177-050-0100

Official End of Scratch-itSM Ticket Games and Last Date to Claim a Prize or to Receive Credit for Unsold Scratch-itSM Tickets

(1) **Director's Determination:** The Director shall determine the official ending date of a Scratch-itSM ticket game.

(2) **Notice:** The Director shall announce the official ending date of each Scratch-itSM ticket game by any reasonable means, which may include: Notice on the Lottery's website, media advertisements, or notice through Lottery retail sales sites.

(3) **Last Date to Claim a Prize:** In accordance with ORS 461.250(7), the last date to claim a prize is one calendar year from the official ending date of the game, unless the Lottery Commission defines a shorter time period to claim a prize in a particular Scratch-itSM ticket game. A prize must be claimed by 5:00 p.m. on the last date to claim a prize and if not claimed by that date is an unclaimed prize. If the final date of the claim period falls on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public.

(4) **Unsold Returns:** To receive a credit after a game has ended for unsold Scratch-itSM tickets in any ticket pack activated by the retailer, the retailer must return the unsold tickets to the Lottery within six calendar months from the date Lottery will no longer activate tickets for that game. Lottery will announce to the Lottery retail sales sites the date the tickets will no longer be activated. Upon a showing of good cause by the retailer, the Director may authorize credit for unsold Scratch-itSM tickets returned beyond this six-month period.

Stat. Auth.: ORS 461 & Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250, & 461.260
Hist.: LOTT 9-2008, f. 11-21-08, cert. ef. 12-1-08; LOTT 3-2009, f. 2-27-09, cert. ef. 3-1-09; LOTT 2-2010, f. 1-29-10, cert. ef. 2-1-10

177-070-0025

Payment of Prizes

(1) **Prizes of \$600 or Less:** To claim a Draw game prize of \$600 or less, the claimant may present the winning Draw game ticket to any Draw game retailer, a Lottery kiosk, or to the Lottery Headquarters in Salem, Oregon:

(a) **Retailer Payment:** If the claim is presented to a Draw game retailer, the retailer shall validate the claim and, if determined to be a winning ticket, shall make payment of the amount due the claimant during the prize redemption hours agreed upon between the retailer and the Lottery. The retailer may pay prizes in cash or check, or any combination thereof. If the retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person.

(b) **Lottery Payment:** The claimant may submit a winning ticket, either by mail or in person to the Lottery for payment at the addresses listed in section (2)(a) below or to a Lottery kiosk. Upon validation that the ticket is a winning ticket under OAR 177-070-0035, the Lottery shall pay the amount of the prize to the claimant. Payment may be made by check, cash card, or in cash, or any combination thereof. If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the claimant notified.

(A) **Lottery Headquarters:** Cash prize payments are limited to \$50 per person per day. Any prize payment balance remaining above \$50 shall be paid by check. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(B) **Lottery Kiosk:** Cash prize payments made at Lottery kiosks are limited to \$100 per transaction. Any prize payment balance remaining above \$100 shall be paid by cash card.

(2) **Prizes Greater than \$600:**

(a) **Winner Claim Form:** To claim a Draw game prize of more than \$600, the claimant shall obtain and complete a "Winner Claim Form." The

claimant may submit the Winner Claim Form with the winning ticket in person to Lottery Headquarters, Player Services Office, 500 Airport Road SE, Salem, Oregon. A claimant may mail a winning ticket and Winner Claim Form to the Lottery Headquarters, P.O. Box 14515, Salem, Oregon 97309 (registered mail recommended).

(b) **Prize Payment:** Upon validation of a winning ticket, the Lottery shall present or mail a check to the claimant in payment of the amount due, less any applicable tax withholding. The amount due shall be calculated according to the rules adopted for the particular Draw game. If the ticket is determined to be a non-winning ticket or invalid, the claim shall be denied and the claimant notified. Non-winning or invalid tickets will not be returned to the claimant.

(c) **Prize Payment of Lost, Damaged, or Destroyed Tickets:**

(A) When a prize payment is authorized by the Director under OAR 177-070-0035(4), the prize payment shall be validated through the Lottery's central computer system on the last day of the eligible prize claim period. If the prize claim period expires on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public. Following validation, the Lottery shall issue the prize payment in the usual course of Lottery business.

(B) Prize payments made under this subsection shall be restricted to the prize amount under the prize structure for the Draw game in which the ticket was purchased.

(3) **Last Date to Claim a Prize:** The last date to claim a prize is one calendar year from the date the drawing results become official and final, unless the Lottery Commission defines a shorter time period to claim a prize in a particular Draw game. A prize must be claimed by 5:00 p.m. on the last date to claim a prize and if not claimed by that date is an unclaimed prize. If the final date of the claim period falls on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.260

Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 5-1986, f. & ef. 3-5-86; LC 20-1987, f. 10-26-87, ef. 11-2-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LC 7-1995, f. & cert. ef. 7-7-95; LOTT 4-2000(Temp), f. 6-15-00, cert. ef. 6-15-00 thru 12-12-00; LOTT 7-2000, f. & cert. ef. 10-4-00; LOTT 15-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 26-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 2-2010, f. 1-29-10, cert. ef. 2-1-10

177-200-0020

Payment of Video LotterySM Game Cash Slips

(1) **Original Cash Slip:** Except as set forth in sections (5) and (6) of this rule, an original cash slip is the only valid receipt for claiming prizes or for redeeming credits remaining on a terminal. A copy of a cash slip has no pecuniary or prize value and does not constitute evidence of a cash slip.

(2) **Retailer Validation Requirements:** A retailer shall pay a cash slip only if:

(a) The player presents the cash slip for payment at the retailer location that issued the cash slip.

(b) The player is a person 21 years of age or older and authorized to play under these rules or Oregon statutes.

(c) The cash slip is presented to the retailer within 28 days of the date it was properly issued.

(d) It is intact and legible and meets all the Lottery's security requirements.

(e) It is not stolen, counterfeit, fraudulent, lacking the correct captions, altered, or tampered with in any manner.

(f) The information appearing on the cash slip corresponds with the computer record of the cash slip data recorded in the Lottery's central computer system.

(g) It has not been previously paid.

(3) **Retailer Validation Exception:** If a cash slip is presented for payment, and the cash slip meets the requirements of sections (1) and (2) of this rule, except the cash slip is not intact or legible, the cash slip may nevertheless be paid by the retailer as follows:

(a) **Software Validation:** Upon notification by a player that a video lottery terminal issued a cash slip that is not intact or legible, the retailer shall request a validation number from the terminal. If the retailer is able to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player, then the retailer shall validate the cash slip through the validation terminal and pay the player.

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(A) **Software Validation Report:** If the retailer pays the player pursuant to section (3)(a) of this rule, the retailer must complete a Retailer Software Validation Report signed by the player and the retailer. The retailer must retain the report for one year. The retailer must group the reports by month and make them available for audit by the Lottery immediately upon request. The retailer must retain and attach the damaged or illegible cash slips to the reports.

(b) **Validation Number Unavailable:** If the retailer is unable to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player as required by subsection (3)(a), the player may request payment of the cash slip from the Lottery as provided in section (5) of this rule.

(4) **Retailer Payment of Cash Slip:** Upon validation of a cash slip as set forth in sections (2) and (3) of this rule, a retailer may pay the amount due in cash or check, or any combination thereof.

(a) If a retailer's check is dishonored, the player may seek payment from the Lottery by presenting a copy of the dishonored check to Lottery Headquarters, Player Services Office, 500 Airport Road SE, Salem, Oregon during Lottery business hours, or by mailing a copy of the dishonored check with a winner claim form to Lottery Headquarters, P.O. Box 14515, Salem, Oregon 97309. If the Lottery determines that payment of the cash slip is authorized, the retailer has not paid the cash slip, and it is unlikely that the retailer will pay the cash slip, the Lottery may then issue a check to the claimant in the amount of the cash slip.

(b) A retailer that pays a cash slip with a check that is dishonored may be subject to termination of the Lottery Retailer Contract.

(5) **Lottery Validation and Payment of Cash Slips:** Payment of a cash slip may be made at Lottery Headquarters, Player Services, 500 Airport Road SE, Salem, Oregon. The cash slip presented for payment must meet all of the requirements in sections (1) and (2) of this rule and must be delivered to the Lottery in person or by mail at P.O. Box 14515, Salem, Oregon 97309 (registered mail recommended) before 5:00 P.M. within one year of the date that the cash slip was issued. If the final day of the one-year claim period falls on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public. Upon validation of a cash slip, the Lottery will pay the amount of the credits showing on the cash slip. For cash slips of \$600 or less, payment may be made by check or in cash, or any combination thereof. Cash prize payments are limited to \$50 per person per day. For cash slips of more than \$600, payment will be made by check. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(6) **Lack of Cash Slip or Validation Number:** If a player does not have a cash slip, or a retailer was unable to obtain a validation number, the Lottery will conduct an investigation of a claim presented for payment to the Lottery. The investigation will determine the reasons or causes for the failure of the terminal to produce a cash slip or to print an intact and legible cash slip, and why the retailer was unable to obtain a validation number.

(a) **Payment:** The Lottery may pay the claim if the Lottery can determine from its investigation that the credit was on the terminal identified by the player at the time claimed, and that no cash slip has been paid on the claim.

(b) **Signed Statement:** The Lottery will not pay any such claim without a signed statement by a player. The player's statement must contain game play information that can be compared to data in the Lottery's central computer system that substantiates that the player won a prize in the amount and at the time claimed, and information from which the Lottery reasonably can determine that the claim has not been paid.

(7) **Lottery Validation Exceptions:** If a cash slip cannot be validated because the cash slip data is not recorded on the Lottery's central computer system, the Director may still authorize payment if:

(a) The Lottery conducts an investigation of the claim, and

(b) The Director concludes that the claimant was an authorized player and that the absence of a record of the cash slip data in the Lottery's central computer system was the result of either a technical problem in the video lottery terminal or a communications problem that prevented the recording of the credits in the Lottery's central computer system.

(8) **Subsequent Claims:** If a cash slip paid by a retailer is later submitted for payment to the Lottery, the Lottery may pay the cash slip and debit the retailer's account for the amount of the cash slip. The Lottery will conduct an investigation in accordance with section (6) of this rule to determine that the Lottery properly may make payment.

(9) **Withholding of Payment:** The Lottery may withhold payment of any cash slip claim presented to it until the expiration of the 28-day prize claim period at the retailer's location or until the completion of any investigation by the Lottery to determine if payment is proper.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LC 9-1993, f. 11-18-93, cert. ef. 12-1-93; LC 9-1994, f. 8-19-94, cert. ef. 9-1-94; LC 1-1995, f. 1-25-95, cert. ef. 3-1-95; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 4-1997, f. & cert. ef. 4-25-97; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 2-2010, f. 1-29-10, cert. ef. 2-1-10

Rule Caption: Changes the percentage of gross Keno sales allocated to the Keno Jackpot Bonus.

Adm. Order No.: LOTT 3-2010

Filed with Sec. of State: 1-29-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 1-1-2010

Rules Amended: 177-099-0100

Rules Repealed: 177-099-0100(T)

Subject: The Oregon State Lottery has repealed a temporary rule and adopted the above referenced administrative rule to amend the percentage of gross Keno sales allocated to the Keno Jackpot Bonus prizes.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-099-0100

Keno Jackpot Bonus

(1) General: In addition to the prizes described in OAR 177-099-0080 and 177-099-0090, 2.60% of gross Keno sales (excluding sales of the Keno Multiplier option) for each drawing is allocated among three prize pools held in reserve as an additional prize for winners of the top prize in the 6, 7, and 8 spot categories, i.e., 6 out of 6, 7 out of 7, and 8 out of 8. A Jackpot Bonus prize is awarded when a ticket wins the top prize for either the 6, 7, or 8 spot under OAR 177-099-0080 or 177-099-0090. If the Jackpot Bonus prize pool for a specific spot is not won, the Jackpot Bonus prize pool for that spot continues to grow. The percentage of gross Keno sales used to calculate bonus prize money allocated to the prize pools described in this section shall apply to Keno Jackpot bonus prize pool allocations beginning 5:00 a.m. November 6, 2006.

(2) Automatic Entry: If a game play on a ticket is for a 6, 7, or 8 spot, the ticket is automatically playing for the Jackpot Bonus prize, as well as a prize under either OAR 177-099-0080 or 177-099-0090. For example, if a Keno ticket with a 6 spot game play is the only Keno or Special Keno ticket to match 6 out of 6 of the winning numbers, that ticket, subject to ticket validation requirements, would win the top prize for the 6 spot under OAR 177-099-0080 (\$1,600) and the accumulated Jackpot Bonus prize for the 6 spot.

(3) Division of Jackpot Bonus Prize Pool: The prize money in the Jackpot Bonus prize pool for a specific spot for any given drawing is divided by the number of tickets winning the top prize for that spot under either OAR 177-099-0080 or 177-099-0090. The Jackpot Bonus prize pool is divided among those winning tickets on a pro-rata basis determined by the amount that each winning ticket played in the drawing in which the Jackpot Bonus prize was won. For example, if one Keno ticket wins the top prize for the 8 spot (\$15,000) in a drawing, and was purchased for ten drawings at \$3 per drawing, and one Special Keno ticket wins the top prize for the 8 spot (\$25,000) in the same drawing, and was purchased for one drawing at \$1, the holder of the Keno ticket would receive 75% of the prize in the Jackpot Bonus prize pool for the 8 spot and the holder of the Special Keno ticket would receive the remaining 25% of the prize in that Jackpot Bonus prize pool.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 3-2002(Temp) f. & cert. ef. 2-4-02 thru 8-2-02; LOTT 7-2002, f. & cert. ef. 4-29-02; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03; LOTT 4-2009(Temp), f. & cert. ef. 8-26-09 thru 2-18-10; LOTT 3-2010, f. 1-29-10, cert. ef. 2-1-10

Oregon State Treasury Chapter 170

Rule Caption: Revise Division Administrative Fees for Private Activity Bonds and Conduit Revenue Bonds and Creates Waiver.

ADMINISTRATIVE RULES

Adm. Order No.: OST 2-2010(Temp)

Filed with Sec. of State: 1-26-2010

Certified to be Effective: 1-26-10 thru 7-24-10

Notice Publication Date:

Rules Amended: 170-061-0015

Subject: Amendments to this rule reduce the Debt Management Division's (DMD) fees for its activities related to (1) the issuance of smaller denomination, private placement conduit revenue bonds; and (2) the processing certain types of Private Activity Bond (PAB) allocations. In addition, the amendment allows the Debt Management Division to waive or reduce administrative fees on various services it provides to state and local governments based on compelling financial circumstances.

Currently, DMD charges a one-time processing fee of \$5,000 when it issues private placement, conduit revenue bonds with a denomination at or below \$5 million, while all other transactions in this category pay the standard \$15,000 per transaction. Generally, these types of transactions are conducted for non-profits, small businesses, and low-income multi-family housing developments. The amended rule would reduce DMD's one-time processing fee on private placement, conduit revenue bonds sized between \$5 million and \$10 million from \$15,000 to \$10,000, in an effort to help keep down overall issuance costs for these relatively smaller-sized transactions.

The Division now charges a one-time \$10,000 fee for the processing of all private activity bond allocations by the Private Activity Bond Committee. This amendment reduces the one-time processing fee to \$2,000 when PAB allocations are made to first-time homebuyer Mortgage Credit Certificate (MCC) programs. Normally, DMD staff must track PAB allocations for up to four years in order to determine if PAB bonds are actually issued, at which time an allocation is considered "spent" under Federal tax law. On-going tracking of MCC allocations by staff is not required, however, as they are considered "spent" upon allocation under Federal tax law. The reduced fee therefore reflects the reduced amount of DMD staff work involved in processing these types of PAB allocations.

Rules Coordinator: Sally Wood—(503) 378-4990

170-061-0015

Fees Charged by the Debt Management Divisions

(1) State agencies. The OST shall charge the following fees in connection with the services, duties and activities of the OST related to bonds issued for state agencies by the State Treasurer:

(a) Agency Bond Issues of \$15 million or less. For a single series bond sale of \$15 million or less, a state agency will be charged \$15,000 per sale. For a bond sale of \$15 million or less by a single state agency with multiple series, the state agency will be charged the greater of (i) \$15,000 or (ii) \$6,000 per series. For a bond sale of \$15 million or less by two or more state agencies, each agency will be charged the greater of (i) \$7,500 or (ii) \$6,000 for each series sold for the agency. This subsection does not apply if the bond sale is a private placement conduit sale of \$5 million or less as described below in subsection (c).

(b) Agency Bond Issues of more than \$15 million. For a single series bond sale of more than \$15 million, a state agency will be charged \$20,000. For a bond sale of more than \$15 million by a single state agency with multiple series, the state agency will be charged the greater of (i) \$20,000 or (ii) \$7,000 per series. For a bond sale of more than \$15 million by two or more state agencies, each agency will be charged the greater of (i) \$10,000 or (ii) \$7,000 for each series sold for the state agency. This subsection does not apply if the bond sale is a private placement conduit sale described below in subsection (c).

(c) Conduit Bond Sales. A state agency will be charged: (i) \$5,000 for conduit bond sales of \$5 million or less, (ii) \$10,000 for conduit bond sales of greater than \$5 million but less than \$10 million, or (iii) \$15,000 for conduit bond sales of \$15 million or greater, that are payable solely from moneys owed by a party other than the State of Oregon, with no recourse for payment to the State of Oregon, and when the bonds are sold by a private placement, with no publicly disseminated official statement or other offering circular, to one or more sophisticated investors, accredited investors or qualified institutional buyers.

(d) Advance refunding plan application and review. The fee for review and approval of an advance refunding plan is \$3,000 per sale of refunding bonds for sales of \$2 million or less, and \$5,000 per sale of refunding bonds

for sales exceeding \$2 million. If the plan is not approved or the refunding not completed the review and approval fee will not be charged. When necessary to review complex proposals, OST may consult recognized experts whose fees will be charged to the agency, whether or not the refunding is approved or completed.

(e) Tax Anticipation Notes. A state agency shall be charged \$30,000 for each sale of tax anticipation notes.

(f) Interest Rate Exchange Agreements. In addition to any other fee, \$25,000 will be charged for the review and approval of a state agency's first executed interest rate exchange agreement for a specific bond program of the agency. After the first agreement, a fee of \$10,000 will be charged for each executed interest rate exchange agreement subsequently entered into by the agency for the same bond program or indenture. These charges do not include costs such as interest rate exchange advisor fees, rating agency charges or printing costs which are payable by the agency or authority for whom the cost is incurred.

(2) Public Bodies. OST shall charge the fees set forth below in connection with the services, duties and activities of the OST related to bonds issued by public bodies in Oregon; expenses incurred in reviewing refunding and defeasance plans may be charged against the bond proceeds or may be paid by the public body from such other funds as may be available:

(a) Advance refunding plan application and review. The application fee for submission of an advance-refunding plan is \$350. The fee for review and approval of an advance refunding plan is \$3,000 per sale of refunding bonds for sales of \$2 million or less, and \$5,000 per sale of refunding bonds for sales exceeding \$2 million. If the plan is not approved or the refunding not completed the review and approval fee will not be charged.

(b) Oregon School Bond Guarantee Program. School Districts that submit an application for participation in the Oregon School Bond Guarantee Program shall submit an application fee of \$200 to OST at the time their application is submitted. School Districts whose bonds are guaranteed by the state shall submit to OST, within 10 business days of closing of any guaranteed bonds, a fee equal to .03% (.0003) of the total principal and interest due, assuming the bonds are paid on their regularly scheduled maturity or redemption dates. If bonds are issued as "Qualified Bonds" under OAR 170-063-000 that may be converted to an interest bearing format over and above interest payments that may be due and payable under the original terms of bonds, the fee for such Qualified Bonds shall be equal to .045% (.00045) of the total principal and interest due, assuming the bonds are paid on their regularly scheduled maturity or redemption dates and that there is no conversion to a different interest bearing format than the original terms of the bonds.

(3) Municipal Debt Advisory Commission. OST shall charge the following fees in connection with the services, duties and activities of the OST as staff to the Municipal Debt Advisory Commission.

(a) Overlapping debt report. Report length, complexity and the time required to produce an overlapping debt report is determined by the number of districts which overlap the district for which the report is generated and the number of such districts which have issued debt. A base fee of \$200 shall be charged for all overlapping debt reports. An additional \$5 shall be charged for each overlapping indebted district up to ten districts; then an additional \$2.50 for each overlapping indebted district up to thirty districts; then an additional \$1 for each overlapping indebted district over thirty districts.

(b) Other fees and charges. Fees for specialized reports and services shall be determined by the number of hours spent producing such specialized report or service times the rate of \$115 per hour.

(4) Private Activity Bonds.

(a) Current Year Allocation. State agencies or public bodies that submit an application for allocation of the state's private activity bond volume limit ("CAP") for the current year to the Private Activity Bond Committee under OAR 170-071-0005 shall submit an application fee of \$200 to OST when their application is submitted. State agencies or public bodies who receive CAP shall pay to OST: (i) for a bond sale of \$10 million or less, a fee equal to \$3,000, payable within 10 business days of the closing bond sale, (ii) for a bond sale of more than \$10 million, a fee equal to \$10,000 payable within 10 business days of the closing bond sale, or (iii) for a Mortgage Credit Certificate program, a fee equal to \$2,000, payable within 10 business days of the date of the notice of allocation by OST.

(b) Carry Forward Allocation. State agencies or public bodies that submit an application for carry forward CAP allocation under OAR 170-071-0005(10) shall submit an application fee of \$200 to OST when their application is submitted. State agencies or public bodies who receive carry forward CAP shall pay to OST:

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(i) for a bond sale of \$10 million or less, a fee equal to \$3,000 of which the first \$500 is payable within 10 days of the date of the notice of allocation by OST, with the balance payable within 30 days of the closing of the first bond sale associated with the allocation, (ii) for a bond sale of more than \$10 million, a fee equal to \$10,000 of which the first \$2,000 is payable within 10 days of the date of the notice of allocation by OST, with the balance payable within 30 days of the closing of the first bond sale associated with the allocation, or (iii) for a Mortgage Credit Certificate program, a fee equal to \$2,000, payable within 10 business days of the date of the notice of allocation by OST.

(5) OST may, at its discretion, waive or reduce any fee outlined in sections (1) to (4) based on compelling financial reasons.

Stat. Auth.: ORS 286A.014, 287A.370 & 287A.634

Stats. Implemented: ORS 287A & 286A

Hist.: TD 3-1990, f. & cert. ef. 12-21-90; TD 2-1994, f. & cert. ef. 9-9-94; OST 1-1999, f. & cert. ef. 2-1-99; OST 1-2005, f. & cert. ef. 4-22-05; OST 5-2006, f. & cert. ef. 10-25-06; OST 7-2008, f. & cert. ef. 12-29-08; OST 2-2009, f. & cert. ef. 4-22-09; OST 3-2009, f. & cert. ef. 7-21-09; OST 5-2009(Temp), f. & cert. ef. 10-30-09 thru 4-27-10; OST 1-2010 f. & cert. ef. 1-15-10; OST 2-2010(Temp), f. & cert. ef. 1-26-10 thru 7-24-10

Rule Caption: Modify requirement of Municipal Debt Advisory Commission Form 2 submission from five to seven days.

Adm. Order No.: OST 3-2010

Filed with Sec. of State: 2-2-2010

Certified to be Effective: 2-2-10

Notice Publication Date: 1-1-2010

Rules Amended: 170-061-0000

Subject: The amendment is to align the Municipal Debt Advisory Commission (MDAC) reporting deadline from five to seven days so that it conforms with SEC Rule 15(c)2-12. This will allow a bond issuing municipality to submit both an MDAC Form 2 and a Final Official Statement for a bond offering at the same time to MDAC. This modification may encourage the submission of more Final Official Statements than the MDAC normally receives from local Oregon jurisdictions when they file their MDAC Form 2 upon completion of a bond sale.

Rules Coordinator: Sally Wood—(503) 378-4990

170-061-0000

Notice and Reporting Requirements by Public Bodies When Issuing Bonds

(1) Terms used in OAR 170-061 shall have the meanings given in ORS chapters 286A and 287A unless otherwise specifically defined herein.

(2) Definitions.

(a) “MDAC” means the Oregon Municipal Debt Advisory Commission.

(b) “OST” means the Office of the State Treasurer.

(c) “Bond marketing date” is the date the public body and underwriter or placement agent agree on the market terms of the bonds. For competitive bid bonds this is the date bids are opened and the bonds are awarded to public bidders pursuant to a published notice of bond sale. For negotiated sales or private placements this means the date the public body gives the verbal award to the underwriter or placement agent.

(d) “Called bonds” are bonds for which the public body has exercised the option or requirement to redeem before the stated maturity date. The call date is the date the bond may be redeemed.

(e) “Closing” means the date the bonds are delivered to the initial bond purchaser and the public body receives payment for the bonds.

(f) “Delivery date” means the date shown by the United States Postal Service or other delivery services’ cancellation mark or, if provided electronically, the delivery date is the date shown as electronically received by the OST.

(g) “Governing body” means the person, board, commission, council, officer or other body authorized to direct the issuance of bonds.

(h) “Issuer” means a public body or the State Treasurer.

(i) “Official statement” means the document published by a state agency or public body that discloses material information on the issue of bonds including the purposes of the issue, repayment methods, and the financial, economic and social characteristics of the issuing government. A final official statement is printed after the final terms of the bonds are available.

(j) “Paying officer” means the public officer, other than a fiscal or paying agent, to who bonds may be presented for payment.

(k) “State agency” means a related agency defined in ORS 286A.001(8).

(l) “True Interest Cost” (TIC) means the annual discount rate that, when used to discount all debt service payments on the issue to the date of initial delivery of the issue, using a compounding interval equal to the interest payment periods for the issue, results in the aggregate present value of such debt service payments being equal to the original purchase price (including accrued interest) of the issue.

(3) **Notice of bond sales.** Public bodies shall provide notice of bond sales to MDAC by submitting MDAC Form 1 as set forth in OAR 170-055-0001(4). Notice must include preliminary bond sale information such as: the issuing entity, type of bond, anticipated bond marketing date, bond par amount, project or purpose of the bond issue, source of revenues used to repay the bonds, anticipated closing date, bond counsel, financial advisor and other summary information identified on MDAC Form 1.

(4) **Timing.** The public body shall provide notice of the bond sale not less than 10 days preceding the bond marketing date.

(5) **Confirmation of notice.** After receipt of notice the MDAC shall provide a letter verifying such. The letter includes a statement that the notice complies with OAR 170-061-0000 and is conclusive evidence of such compliance. Compliance letters are sent to bond counsel. Noncompliance letters state the reason for non-compliance and are sent to the public body and its bond counsel.

(6) **Postponement.** For postponed or changed bond sales the public body complies with notice requirements when, on a best efforts basis, it submits an updated MDAC Form 1 to the MDAC as set forth in OAR 170-055-0001(4).

(7) **Reporting results.** Any public body issuing bonds shall report bond sale results by submitting MDAC Form 2, and a public body preparing an official statement shall provide a final copy of such official statement, to the MDAC within seven business days after the bond marketing date. Sale results must include all of the information identified on MDAC Form 2. The public body and its bond counsel will receive written notice of non-compliance if sale results are not reported.

(8) **Exceptions.** The MDAC, at its discretion, may waive any or all provisions of this rule.

Stat. Auth.: ORS 287A.634 & 287A.640

Stats. Implemented: ORS 287A.634 & ORS 287A.640

Hist.: TD 2-1981(Temp), f. & ef. 12-23-81; TD 1-1982(Temp), f. & ef. 1-11-82; TD 2-1982(Temp), f. & ef. 1-27-82; TD 4-1982, f. & ef. 7-7-82; TD 1-1985, f. & ef. 1-24-85; TD 2-1994, f. & cert. ef. 9-9-94; TD 1-1995, f. 6-29-95, cert. ef. 7-3-95; TD 2-1995, f. & cert. ef. 12-26-95; OST 7-2008, f. & cert. ef. 12-29-08; OST 3-2010, f. & cert. ef. 2-2-10

Oregon University System Chapter 580

Rule Caption: To establish 2010 summer session tuition and fee rates, including room and board.

Adm. Order No.: OUS 1-2010

Filed with Sec. of State: 1-19-2010

Certified to be Effective: 1-19-10

Notice Publication Date: 12-1-2009

Rules Amended: 580-040-0035

Subject: To establish tuition and fee rates for the summer session 2010, including room and board rates.

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-040-0035

Summer Session Fee Book

The document entitled “Summer Session Fee Book” dated January 09, 2009, is hereby amended by reference as a permanent rule. All prior adoptions of summer session fee documents are hereby repealed except as to rights and obligations previously acquired or incurred thereunder.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 2-1978, f. & ef. 5-16-78; HEB 3-1979, f. & ef. 4-27-79; HEB 4-1980, f. & ef. 4-18-80; HEB 3-1981, f. & ef. 6-4-81; HEB 3-1982, f. & ef. 4-20-82; HEB 2-1983, f. & ef. 2-11-83; HEB 2-1984, f. & ef. 3-21-84; HEB 3-1985, f. & ef. 3-4-85; HEB 9-1986, f. & ef. 4-7-86; HEB 3-1987, f. & ef. 3-9-87; HEB 3-1988, f. & cert. ef. 3-16-88; HEB 2-1989, f. & cert. ef. 2-14-89; HEB 3-1990, f. & cert. ef. 2-13-90; HEB 2-1991, f. & cert. ef. 3-12-91; HEB 1-1992, f. & cert. ef. 2-12-92; HEB 2-1993, f. & cert. ef. 2-5-93; HEB 2-1994, f. 2-9-94, cert. ef. 2-15-94; HEB 1-1995, f. & cert. ef. 2-23-95; HEB 1-1996, f. & cert. ef. 2-5-96; HEB 1-1997, f. & cert. ef. 1-28-97; OSSHE 1-1998, f. & cert. ef. 1-27-98; OSSHE 7-1998, f. & cert. ef. 12-23-98; OSSHE 7-1999, f. & cert. ef. 12-22-99; OSSHE 5-2000, f. & cert. ef. 12-21-00; OSSHE 1-2002, f. & cert. ef. 1-2-02; OSSHE 6-2003, f. & cert. ef. 12-24-03; OSSHE 2-2005, f. & cert. ef. 2-15-05; OSSHE 2-2007, f. & cert. ef. 1-11-07; OSSHE 1-2008, f. & cert. ef. 1-14-08; OSSHE 1-2009, f. & cert. ef. 1-22-09; OUS 1-2010, f. & cert. ef. 1-19-10

Rule Caption: To adopt tuition and fees for the 2009–10 Academic Year, including rooms and board rates.

ADMINISTRATIVE RULES

Adm. Order No.: OUS 2-2010
Filed with Sec. of State: 2-11-2010
Certified to be Effective: 2-11-10
Notice Publication Date: 10-1-2009
Rules Amended: 580-040-0040
Rules Repealed: 580-040-0040(T)

Subject: To establish tuition and fees for the 2009–10 Academic Year, including rooms and board rates. The fee book, as approved, is available at: http://www.ous.edu/dept/budget/files/AY09-10%20%20Fee%20Book_2-3-10.pdf

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-040-0040 Academic Year Fee Book

Through this action, the document entitled “Academic Year Fee Book” dated January 8, 2010, is hereby amended by reference as a permanent rule. All prior adoptions of academic year fee documents are hereby repealed except as to rights and obligations previously acquired or incurred there under. The Chancellor or designated staff are permitted to make revisions as needed to comport with any subsequent legislative actions as well as to authorize minor adjustments to the final document, if necessary.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 4-1978, f. & ef. 6-15-78; HEB 5-1979, f. & ef. 7-20-79; HEB 11-1979, f. & ef. 8-22-79; HEB 1-1980, f. & ef. 4-18-80; HEB 7-1980, f. & ef. 6-18-80; HEB 11-1980, f. & ef. 8-20-80; HEB 4-1981(Temp), f. & ef. 6-30-81, ef. 7-1-81; HEB 5-1981, f. & ef. 8-18-81; HEB 15-1981(Temp), f. & ef. 12-18-81; HEB 5-1982, f. & ef. 7-14-82; HEB 4-1983, f. & ef. 7-29-83; HEB 4-1984, f. & ef. 6-20-84; HEB 5-1985, f. & ef. 8-12-85; HEB 12-1986, f. & ef. 7-30-86; HEB 6-1987, f. & ef. 8-4-87; HEB 8-1988, f. & cert. ef. 8-5-88; HEB 10-1988, f. & cert. ef. 11-16-88; HEB 3-1989, f. & cert. ef. 11-27-89; HEB 6-1989, f. & cert. ef. 7-28-89; HEB 7-1990, f. & cert. ef. 6-4-90; HEB 8-1990(Temp), f. & cert. ef. 7-26-90; HEB 12-1990, f. & cert. ef. 10-3-90; HEB 5-1991, f. & cert. ef. 8-15-91; HEB 8-1992, f. & cert. ef. 7-31-92; HEB 2-1993, f. & cert. ef. 2-5-93; HEB 5-1993, f. & cert. ef. 8-11-93; HEB 7-1994, f. & cert. ef. 8-4-94; HEB 3-1995, f. & cert. ef. 8-1-95; HEB 3-1996, f. & cert. ef. 8-8-96; HEB 5-1996, f. & cert. ef. 12-18-96; HEB 3-1997, f. & cert. ef. 7-24-97; OSSHE 4-1998, f. & cert. ef. 7-22-98; OSSHE 5-1998(Temp), f. & cert. ef. 8-21-98 thru 1-31-99; OSSHE 9-1998, f. & cert. ef. 12-23-98; OSSHE 3-1999(Temp), f. & cert. ef. 7-22-99 thru 1-14-00; OSSHE 4-1999, f. & cert. ef. 9-16-99; OSSHE 3-2000, f. & cert. ef. 7-26-00; OSSHE 4-2001, f. & cert. ef. 7-27-01; OSSHE 8-2002, f. & cert. ef. 8-14-02; OSSHE 2-2003, f. & cert. ef. 8-4-03; OSSHE 6-2004, f. & cert. ef. 6-15-04; OSSHE 2-2006, f. & cert. ef. 6-8-06; OSSHE 3-2007, f. & cert. ef. 6-21-07; OSSHE 6-2008(Temp), f. & cert. ef. 3-20-08 thru 9-1-08; OSSHE 8-2008, f. & cert. ef. 6-17-08; OSSHE 2-2009(Temp), f. & cert. ef. 2-20-09 thru 6-30-09; OSSHE 4-2009(Temp), f. & cert. ef. 3-13-09 thru 6-30-09; Administrative correction 7-21-09; OSSHE 5-2009(Temp), f. & cert. ef. 7-20-09 thru 1-8-10; OSSHE 6-2009(Temp), f. & cert. ef. 10-1-09 thru 1-8-10; Administrative correction 1-25-10; OUS 2-2010, f. & cert. ef. 2-11-10

Oregon University System, Western Oregon University Chapter 574

Rule Caption: Revisions to special course fees and general services fees.

Adm. Order No.: WOU 1-2010
Filed with Sec. of State: 1-27-2010
Certified to be Effective: 1-27-10
Notice Publication Date: 1-1-2010
Rules Amended: 574-050-0005

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general service fees.

Rules Coordinator: Debra L. Charlton—(503) 838-8597

574-050-0005 Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

[Publications: Publications referenced are available from the Office of the Vice President for Finance and Administration at Western Oregon University.]

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. & ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. & cert. ef. 9-5-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert.

ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. & cert. ef. 3-15-02; WOU 2-2002, f. & cert. ef. 8-2-02; WOU 3-2002, f. & cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 1-2004, f. & cert. ef. 3-24-04; WOU 2-2004, f. & cert. ef. 8-4-04; WOU 1-2005, f. & cert. ef. 3-8-05; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 3-2005, f. & cert. ef. 8-12-05; WOU 1-2006, f. & cert. ef. 3-2-06; WOU 2-2006, f. & cert. ef. 8-7-06; WOU 1-2007, f. & cert. ef. 3-5-07; WOU 2-2007, f. & cert. ef. 7-31-07; WOU 4-2007, f. & cert. ef. 11-1-07; WOU 1-2008, f. & cert. ef. 2-1-08; WOU 2-2008, f. & cert. ef. 9-3-08; WOU 1-2009, f. & cert. ef. 2-13-09; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 1-2010, f. & cert. ef. 1-27-10

Oregon Youth Authority Chapter 416

Rule Caption: Offender prohibited behavior and processing behavior violations in OYA facilities.

Adm. Order No.: OYA 1-2010
Filed with Sec. of State: 2-12-2010
Certified to be Effective: 2-19-10
Notice Publication Date: 1-1-2010

Rules Amended: 416-470-0000, 416-470-0010, 416-470-0020, 416-470-0030, 416-470-0040, 416-470-0050

Rules Repealed: 416-470-0060, 416-470-0070, 416-470-0080, 416-470-0090, 416-470-0100

Subject: The rules address OYA’s offender behavior management system which promotes responsible offender behavior. The behavior management system provides incentives and reinforcement for responsible behavior and consistent options for negative behavior. The rules reflect current national standards for juvenile correctional facilities. Rule repeals results from presenting prohibited behaviors and authorized refocus options in matrix form rather than separating the items into various rules.

Rules Coordinator: Winifred Skinner—(503) 373-7570

416-470-0000 Policy

(1) Offender responsibilities while in an Oregon Youth Authority (OYA) facility include completion of school, treatment, and work program goals; compliance with the facility behavior rules; and achievement of other program goals set in each offender’s individual case plan.

(2) OYA has an offender behavior management system to promote responsible offender behavior. The behavior management system must provide incentives and reinforcement for responsible behavior and consistent Refocus Options for negative behavior.

(3) The rules in OAR chapter 416, division 470 apply to all OYA close custody facilities.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-470-0010 Definitions

(1) Isolation: Confinement of an offender alone in a locked room because of the offender’s behavior or conduct.

(2) Major Behavior Violation: Offender behavior that is prohibited and unacceptable within the facility or program and is immediately threatening to life, health, or facility safety, security or good order.

(3) Minor Behavior Violation: Offender behavior that is prohibited and unacceptable within the facility or program but is not immediately threatening to life, health, or facility safety, security or good order.

(4) Refocus Option: An authorized response to, or sanction imposed for, an offender’s inappropriate behavior.

(5) Special Program Placement: Placement of an offender on a special program for the offender’s safety or the safety of others to regulate the offender’s routine activities (e.g. meals, recreation, school, treatment and other programs) and help the offender regain adequate behavior control.

(6) Special Management Unit: A living unit with special procedures different from the facility’s general population units where offenders are placed to assure they receive specialized treatment, increased or more intensive levels of supervision, are managed by staff with specialized training, and are protected from harm.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

ADMINISTRATIVE RULES

416-470-0020

Prohibited Behaviors and Refocus Options

(1) Prohibited Offender Behaviors and appropriate Refocus Options are listed on an Offender Behavior Refocus Option Matrix (Exhibit 1). The Refocus Options imposed must reflect the severity of the prohibited behavior.

(a) Levels Zero, One, and Two Offender Prohibited Behaviors listed on the Offender Behavior Refocus Option Matrix are major behavior violations.

(b) Level Three Offender Prohibited Behaviors listed on the Offender Behavior Refocus Option Matrix are minor behavior violations.

(2) Aiding another offender to commit, attempting to commit, or making plans to commit any prohibited offender behavior is considered the same as engaging in the behavior itself for purposes of imposing Refocus Options.

(3) Any deviation from the Refocus Options for major behavior violations listed on the Offender Behavior Refocus Option Matrix must be reasonable, authorized by the superintendent, camp director, or designee, and documented in writing.

(4) The Offender Behavior Refocus Option Matrix must be given to each offender upon initial admission into a facility. When a literacy or language barrier prevents an offender from understanding the written document, a staff member or interpreter will assist the offender in understanding.

(5) A current Offender Behavior Refocus Option Matrix must be posted in each OYA facility living unit.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-470-0030

Behavior Violation Incident Reports

(1) Staff must prepare an incident report when they have reasonable belief that an offender has committed a Major Behavior Violation.

(2) Staff may resolve Minor Behavior Violations informally without preparing an incident report.

(3) Incident reports prepared by staff must include, but are not limited to, the following information:

(a) The specific prohibited behavior committed;

(b) Any unusual offender behavior;

(c) Any witnesses;

(d) Any physical evidence and its disposition;

(e) Any immediate action taken, including the use of physical intervention;

(f) Any injury to an offender or staff; and

(g) The reporting staff's name, date, and time of the report.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-470-0040

Behavior Violation Incident Review

A review must occur after an incident report is written alleging that an offender has committed a Major Behavior Violation.

(1) The superintendent, camp director, or designee must review a behavior violation incident report within 24 hours, excluding weekends and holidays, of the time the violation report is written. The review must be completed without unreasonable delay unless there are exceptional circumstances for delaying the review.

(2) The reviewer must be a staff member who was not involved in the incident.

(3) The reviewer may investigate or cause an investigation of the related incident if, in the reviewer's opinion, the Refocus Option appears excessive or inappropriate, or to clarify reported facts.

(4) Administrative notifications of the related incident must be made according to OYA policy and procedure.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

416-470-0050

Offender Notification and Hearing Process

(1) In addition to OAR 416-470-0020(4), staff must notify each offender in writing promptly after the offender's initial arrival at an OYA facility of the following:

(a) The offender's rights and responsibilities;

(b) The process to access the OYA complaint hotline; and

(c) Locations of offender grievance and communication forms.

(2) When an offender is placed in Isolation for more than 24 consecutive hours, the offender must be granted the option of an Isolation hearing by the superintendent, camp director, or designee. The Isolation hearing must be held within 24 hours after the offender's initial placement in Isolation.

(3) To ensure objectivity, the Isolation hearing must be conducted by a staff member who was not directly involved in the incident that resulted in the offender's placement in Isolation.

(4) Isolation hearings must afford offenders the following:

(a) A written notice of the reason(s) for placement in Isolation;

(b) A staff representative as determined by the superintendent, camp director, or designee, to assist the offender in the hearing process;

(c) The right to be present at their hearing unless the offender waives that right in writing or the offender's presence at the hearing will unduly jeopardize facility safety;

(d) The right to make a statement, present documentary evidence and call witnesses on the offender's behalf unless doing so will unduly jeopardize facility safety; and

(e) A written statement as to the evidence relied upon and the reasons for the decision.

(5) An offender may appeal any Refocus Option imposed on the offender, incident report, or Isolation hearing decision through the Offender Grievance Process described in OAR 416, division 20.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 1-2010, f. 2-12-10, cert. ef. 2-19-10

Rule Caption: Use of Time-out, Isolation, Special Program placement, Physical Intervention, and restraints in OYA facilities.

Adm. Order No.: OYA 2-2010

Filed with Sec. of State: 2-12-2010

Certified to be Effective: 2-19-10

Notice Publication Date: 1-1-2010

Rules Adopted: 416-490-0031, 416-490-0032, 416-490-0033, 416-490-0034, 416-490-0035

Rules Amended: 416-490-0000, 416-490-0010, 416-490-0020, 416-490-0030, 416-490-0050

Rules Repealed: 416-490-0040

Subject: This rule division provides guidance and direction in the use of time-out, isolation, special program placement, physical intervention, and restraint by OYA staff in the performance of their duties. The rules are written to minimize the risk of an injury to offenders and staff, prevent serious destruction of state property, and meet the mission of OYA. When time-out, isolation, special program placement physical intervention, or restraint is authorized, the type, amount, and manner of use authorized are further specified in these rules and OYA policy. The rules were updated to reflect current national standards for juvenile correctional agencies and facilities. Some of the proposed new rules result from a rule division restructuring to clarify the differences in interventions authorized by the agency. The repeal of 416-490-0040 is due to the rule being an agency directive that does not rise to the level of a rule.

Rules Coordinator: Winifred Skinner—(503) 373-7570

416-490-0000

Purpose

(1) The purpose of this rule is to provide guidance and direction in the use of Time-out, Isolation, Special Program Placement, Physical Intervention, and restraint by OYA staff in the performance of their duties. The rule is written to minimize the risk of injury to offenders and staff, prevent serious destruction of state property, and meet the mission of OYA.

(2) It is the policy of the OYA to authorize different Interventions in circumstances specified in these rules. When a Time-out, Isolation or Special Program Placement, Physical Intervention, or restraint is authorized, the type, amount, and manner of use authorized are specified in these rules and OYA policy.

(3) The use of Physical Intervention and restraint by OYA staff is authorized by the Director.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 8-2000(Temp), f. 9-28-00, cert. ef. 9-28-00 thru 2-26-01; OYA 2-2001, f. & cert. ef. 2-27-01; OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

ADMINISTRATIVE RULES

416-490-0010

Definitions

(1) Administrative Hold: Any instance when an offender is separated from the general population for reasons other than behavioral Intervention, which may include Isolation.

(2) Case Plan: A case plan is a formal plan with prescribed Interventions and documentation requirements and is a tool to assist staff in managing cases, setting goals and reviewing offenders' Interventions and progress. A case plan constitutes and fulfills the requirements of the Reformation Plan as defined in ORS 420A.005, 420A.125 and 420A.010 and is created and maintained in the statewide Juvenile Justice Information System (JJIS).

(3) Hard Restraints: Metal devices used to restrict physical activity. Hard restraints include, but are not limited to, handcuffs and leg irons.

(4) Intervention: The means by which an offender's inappropriate behavior is redirected to a more acceptable level. Staff Interventions are designed to alter the environment to allow the individual offender to regain self-control and choose the way in which to change. The type of Intervention used directly correlates to the behavior change needed.

(5) Isolation: Any instance when an offender is confined alone in a locked room because of the offender's behavior or conduct.

(6) Physical Intervention: Direct physical contact where reasonable force is applied to an offender against resistance, either to restrict movement or mobility or to disengage from harmful behavior. Examples of harmful behavior and the need for this Intervention include, but are not limited to, escape-related behavior; significant destruction of property; violence directed toward others; violence as a result of panic, distress or confusion; and self-directed violence or self-injury.

(7) Special Program Placement: Any instance when an offender is placed in a special program for the offender's safety or the safety of others to regulate the offender's routine activities and help the offender regain adequate behavior control.

(8) Time-out: Any instance when an offender is separated from other offenders for a limited time to another location (chair or table), unlocked room, or sleeping area to help the offender regain adequate behavior control.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2000(Temp), f. 5-26-00, cert. ef. 5-26-00 thru 9-15-00; OYA 7-2000, f. & cert. ef. 9-22-00; OYA 8-2000(Temp), f. & cert. ef. 9-28-00 thru 2-26-01; OYA 2-2001, f. & cert. ef. 2-27-01; OYA 7-2001(Temp), f. & cert. ef. 11-16-01 thru 5-15-02; OYA 10-2002, f. & cert. ef. 5-16-02; OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0020

Exemptions

The following types of procedures are part of ordinary and customary supervision of offenders and are not subject to these rules:

(1) Hard restraints used to escort offenders between units within a facility or to transport outside the secure perimeter of the facility; and

(2) An Administrative Hold that separates an offender from the general population for reasons other than behavioral Intervention. Examples include, but are not limited to, protective custody, intake processes, investigation, area searches, or medical purposes. However, whenever an offender is placed on Administrative Hold, staff will follow facility procedures to ensure the safety and wellbeing of the offender, including the conditions in Isolation identified in OAR 416-490-0032.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0030

General Provisions

(1) Staff Intervention on an offender's inappropriate behavior is designed to alter the offender's environment to allow the offender to regain self-control and choose the way in which to change his or her behavior. The type of Intervention used must directly correlate to the behavior change needed.

(2) Isolation, restraint, or Physical Intervention must only be used when an offender is a danger to him- or herself or others or an immediate threat to safety, security, and order (e.g. to prevent an escape, imminent danger of significant property destruction).

(3) Isolation, restraint, or Physical Intervention is viewed as an exceptional or extreme practice.

(4) Once initiated, the Intervention must be as limited in time as possible.

(5) All staff expected to have a role in restraint and Physical Intervention must be trained and demonstrate competency.

(6) Managers are held accountable at all times for initiating, using, and terminating Isolation, restraint, or Physical Intervention procedures. Accountability is a component of performance improvement efforts and staff competency evaluations.

(7) Each offender's case plan must identify specific Interventions to be used to avoid Time-outs, Isolation or Special Program Placements, restraint, or Physical Interventions, and address the offender's strengths and cultural issues.

(8) Decisions to initiate Isolation procedures, planned restraint or Physical Interventions must include an assessment of the offender's history of sexual and physical abuse, violence, developmental disability, and medical or psychiatric issues pertinent to the decision.

(9) Mental health services staff must be notified when offenders with either mental health or developmental disability issues are placed in Isolation or a special program, restrained, or involved in Physical Interventions.

(10) After an incident, offenders and staff must be involved in a clinically-timed post-procedure debriefing to determine how future incidents can be prevented.

(11) Offender dignity must be maintained to the extent possible.

(12) Time-out, special program or Isolation placements, restraint, or Physical Intervention must not be initiated or maintained as a substitute for treatment, as punishment, or for staff convenience.

(13) Isolation, Physical Intervention, and restraint are emergency safety Interventions, not therapeutic techniques and are implemented in a manner designed to protect the offender's safety, dignity, and emotional wellbeing.

(14) Staff must reinforce the offender's positive behaviors and strengths, and remain sensitive to cultural issues.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0031

Time-Out

(1) The purpose of a Time-out Intervention is to separate an offender from the facility's general population due the offender's inappropriate behavior until the offender regains self-control. Time-out must occur in an unlocked room, or area, within sight of the general population.

(2) Time-out must not be used as punishment, as a convenience or substitute for staff supervision, or a substitute for individualized treatment.

(3) Staff must monitor the offender every 15 minutes for wellbeing and possible return to the general population.

(4) Staff must interview the offender at least every two hours to determine whether the offender may return to the general population. The results of the interview must be documented in writing.

(5) Incidents of Time-out that continue into the general population's normal sleeping hours must only be continued as incidents of Isolation or Administrative Hold, and must adhere to OAR 416-490-0032.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0032

Isolation

(1) The purpose of an Isolation Intervention is to remove an offender from the facility's general population to give the offender an opportunity to self-regulate his or her behavior, and return to the general population as soon as possible.

(a) Isolation must occur in a locked, individual room.

(b) Isolation must only be used when an offender is a danger to him- or herself or other people, or is an immediate threat to the safety, security, or order of the facility.

(c) Isolation placement must be authorized by a facility manager.

(2) Isolation must not be used as punishment, as a convenience or substitute for staff supervision, or a substitute for individualized treatment.

(3) Staff must monitor the offender every 15 minutes for wellbeing and possible return to the general population. The monitoring must be documented in writing.

(4) Isolation must only be used until the offender regains self-control and can return to a less restrictive setting in accordance with OYA policy. An incident of Isolation must not exceed five consecutive days.

(5) In some situations, staff may assess that the appropriate level of Intervention requires the placement of the offender in restraint devices. Offenders in restraint devices must be continually observed by staff.

(6) If an offender is placed in Isolation for more than 24 consecutive hours, the following must occur:

ADMINISTRATIVE RULES

(a) The placement must be reviewed by the superintendent, camp director, or designee. The person reviewing the placement must not have been involved in the incident or in the placement of the offender in Isolation.

(b) The offender must be granted the option of an Isolation hearing by the superintendent, camp director, or designee as described in OAR 416-470-0050; and

(c) Daily visits by at least one member of the offender's treatment team.

(7) For offenders who have been identified with severe or the highest mental health treatment needs, a clinical interview will be conducted and documented by a mental health care practitioner upon notification of the offender's placement in Isolation. Requests for psychological intervention by a mental health care practitioner may also be initiated by staff, or by an offender in Isolation.

(8) Offenders in Isolation will be afforded the same opportunity to maintain health and dignity as afforded offenders in the general population consistent with requirements for the program and in accordance with OYA policy.

(9) Searches: Upon entering Isolation, the offender will be searched according to agency policy.

(a) Every item of material or equipment (books, magazines, etc.) must be inspected.

(b) All rooms must be searched upon staff assessment that a search is warranted, and before and after each occupancy. Unauthorized items must be removed from the room.

(10) Exceptions:

(a) Offenders may be placed in an Isolation room without bedding, hygiene supplies, mail or reading material for up to two hours after initially occupying the room.

(b) When an offender is placed in Isolation for two hours or longer, an offender may only be denied an article of clothing, bedding, hygiene supplies, mail, or reading material under the following conditions:

(A) The offender abused or misused the item;

(B) There exists a substantial threat of imminent misuse of the item;

or

(C) The item is considered by staff to pose a threat to the offender.

(c) The reason for denying the offender an item must be documented in writing.

(d) If an item has been denied after an offender has been in Isolation for two hours or longer, staff must evaluate returning the item at least once every 24 hours. If upon evaluation the item continues to be denied, the rationale for continued denial must be documented in writing.

(e) Staff have a continued obligation to assure basic hygiene, sanitation, and offender dignity despite the removal of items.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0033

Special Program

(1) The purpose of a special program Intervention is to manage an offender's behavior when other Interventions have been exhausted and ineffective in managing the offender's behavior within the facility's general population. A special program Intervention may use a combination of Time-out and Isolation incidents to modify routine activities such as meals, recreation, school, treatment, and other programs. All incidents of Time-out and Isolation must follow OARs 416-490-0031 and 416-490-0032.

(2) A special program plan must identify the routine activities to be controlled that will allow an offender to manage the offender's behavior. The special program plan must include at least the following:

(a) Identified modified activities;

(b) When the offender will engage in the modified activities;

(c) Where the offender will engage in the modified activities; and

(d) How the offender will engage in the modified activities.

(3) A special program plan must be developed by the offender's treatment team and authorized by the facility superintendent or camp director.

(4) An offender's placement in a special program must be reviewed at least every 30 days by the facility superintendent or camp director for placement need and policy compliance.

(a) Special Program Placements may not exceed 60 consecutive days, unless approved by the appropriate OYA assistant director.

(b) Reviews and resulting decisions must be documented in writing.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0034

Physical Intervention

Staff will use the least restrictive Physical Intervention with an offender to obtain the desired behavior change.

(1) The following types of Physical Intervention are prohibited:

(a) The use of Interventions as coercion, punishment, or retaliation; and

(b) Physical Intervention techniques that are applied for the purpose of inflicting physical pain, undue physical discomfort, or to restrict blood circulation or breathing.

(2) Recognizing that out-of-control behavior generally escalates; staff will identify offenders who are having difficulty controlling their behavior and provide early Interventions.

(3) Before using Physical Intervention, OYA staff must attempt to gain control of the offender using verbal de-escalation techniques. Unless there is imminent danger to the staff member, other offenders, or staff, staff will delay the use of Physical Intervention until another staff is able to assist.

(4) When Physical Intervention is used, staff must ensure that:

(a) Offenders are examined by a health-trained person as soon as safely practicable, whether or not injury is visible. Staff will immediately provide a written summary and photograph, in color, of any visible injury; and

(b) A report is made by each staff member involved in the Intervention, including staff witnesses.

(5) The facility superintendent, camp director, or designee, and health services personnel will review all reports. If there are any incidents that appear to violate OYA training, rules or policy, administrative staff will further investigate or cause an investigation to be completed.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0035

Restraint

(1) OYA staff must not use the following restraint positions or devices on any offender:

(a) The placement of an offender in a prone position with arm(s) and leg(s) restrained behind the back ("hogtie" position);

(b) Restraint positions or techniques that are designed to inflict physical pain, undue physical discomfort, or to restrict blood circulation or breathing; or

(c) Chemical agents.

(2) The use of restraint to punish an offender, or as a convenience to or substitute for staff supervision is prohibited.

(3) Offenders must not restrain or assist in restraining any person.

(4) Offenders in restraint devices must be continually observed by staff.

(5) The OYA Director must approve all restraint devices and techniques prior to their uses on offenders.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

416-490-0050

Reviews

(1) Preliminary Review:

(a) All use of Physical Intervention and restraint incidents require a preliminary review within 48 hours, excluding weekends and holidays, of the incident and may include facility administration, security and health services staff.

(b) A preliminary review requires the accumulation of all relevant information, such as reports and documents of involved persons and witnesses, with a review for complete information and compliance of administrative directives. Interviews may be necessary to clarify or obtain relevant information.

(c) A preliminary review report with relevant information must be submitted by the reviewing staff to the superintendent, camp director, or designee with one of the following recommendations:

(A) The action was in compliance with OYA rules and policies and requires no further review; or

(B) The action was in compliance with OYA rules and policies and requires a full review; or

(C) The action was not in compliance with OYA rules and policies and requires a full review.

(d) The superintendent, camp director or designee may forward the preliminary review report to the Director's Office to be considered for a full review.

ADMINISTRATIVE RULES

(2) Full Review:

(a) A full review is required when an offender or staff is seriously injured during an incident of Physical Intervention or restraint. Examples of serious injury include, but are not limited to, a break in skin requiring suture, bruising accompanied by swelling or extreme pain, broken bones, internal injury; any injury requiring medical treatment beyond routine first aid, or time off from work.

(b) When a preliminary review of an incident of Physical Intervention or restraint is forwarded to the Director's Office for a possible full review, the Director will make the decision regarding the need for a full review.

(c) If a full review is required, the Deputy Director, or designee, will convene an impartial Review Committee. Review Committee members must not have any personal involvement in the incident being reviewed.

(A) Individuals may be selected from external and internal stakeholders and experts as indicated by the incident to be reviewed.

(B) This process will not take the place of any legal investigation process or any judicial procedures or remedies.

(C) The Review Committee will prepare a final report for the Director no later than 10 working days following the completion of their review. Any exception to the timeline must be reasonable and documented in writing. The report will include:

(i) The degree to which the action taken was in compliance with OYA rules and policies; and

(ii) Any recommendations to enhance staff and offender safety during Physical Interventions or restraints.

(D) A copy of the final report must be forwarded to the superintendent or camp director, and the living unit manager.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.105 & 420A.108

Hist.: OYA 10-2005, f. & cert. ef. 4-20-05; OYA 2-2010, f. 2-12-10, cert. ef. 2-19-10

Parks and Recreation Department Chapter 736

Rule Caption: General Park Area Rules are being amended to allow commercial hunting in Cottonwood Canyon State Park in accordance with past practice until park master plan is developed and adopted.

Adm. Order No.: PRD 2-2010(Temp)

Filed with Sec. of State: 2-3-2010

Certified to be Effective: 2-3-10 thru 7-30-10

Notice Publication Date:

Rules Amended: 736-010-0055

Subject: The General Park Area Rules are being amended on a temporary basis to allow continued hunting on the OPRD-acquired property known as Cottonwood Canyon Park, in accordance with past practice allowed by previous owner until such time as the Cottonwood Canyon State Park Master Plan can be developed and adopted. Without this amendment, hunting would have to be stopped in the middle of this hunting season and the past practice of allowing hunting on this land would have to cease.

Rules Coordinator: Joyce Merritt—(503) 986-0756

736-010-0055

Cultural, Historic, Natural and Wildlife Resources

(1) A person may not disturb or remove any archaeological, cultural, or historical material from a park area, unless authorized by the director as defined in ORS 390.235.

(2) A person may not, except with the written permission of the park director or park manager:

(a) Dig up, or remove any soil, rock, or fossil materials;

(b) Roll any stones, logs or other objects that may endanger a person or damage park resources; or

(c) Pick, cut, mutilate or remove plants or natural resources of any type from any park area, except as allowed by sections (3) to (5) and (7) of this rule.

(3) A person may collect limited-souvenirs of agate and gem stone rock materials within the boundaries of Succor Creek State Recreation Area away from the developed public use areas and roadways of the park under the following conditions:

(a) No commercial digging, quarrying, or removal of rock is allowed;

(b) No excavating or rock collecting is allowed within a distance of 500 feet from any developed public use picnic area or campground, or 200 feet from an improved highway or park road within the park area; or within the area of an archeological site;

(c) Excavation is restricted to standard hand tools including a hand pick, shovel, or hammer;

(d) The use of mechanical excavators including, but not limited to bulldozers, backhoes, scoops, tractors, or the use of other power tools to excavate or remove materials is prohibited;

(e) Excavation of rock or soil materials around the root zone of trees and shrubs is prohibited.

(4) Notwithstanding section (2) or (3), a person must comply with existing state and federal rules and regulations concerning mining or the protection of public archeological features or artifacts on the state and federal lands of this area.

(5) A person may gather for personal consumption berries, fruits, mushrooms, or similar edibles. A person may not uproot living plants, and roots, tubers, flowers, and stems may not be collected except with a written permit and only for scientific collection or research purposes, or by a Native American for personal consumption as part of their traditional cultural heritage. Driftwood may be taken in small amounts in accordance with OAR 736-026-0010.

(6) A person may not give or offer food items to any wildlife within a park area except when authorized by the park manager.

(7) A person may not hunt, pursue, trap, kill, injure, or molest any wildlife or disturb their habitats within a park area, except under the following provisions:

(a) In those park areas where hunting and trapping is allowed, a person must comply with the rules and regulations of the Oregon Department of Fish and Wildlife.

(b) In those park areas where hunting is allowed, dogs being used for hunting game birds or unprotected wildlife or being trained for hunting or tracking shall be in the handler's control at all times.

(c) Seasonal hunting of waterfowl is allowed in the following park areas:

(A) Bowers Rock State Park;

(B) That portion of Elijah Bristow State Park located north of the main channel of the Middle Fork of the Willamette River;

(C) Portions of Fort Stevens State Park adjacent to Trestle Bay as posted;

(D) That portion of La Pine State Park located on the northeast boundary, beginning 4,135 feet down river from the Deschutes River Home Sites #6 bridge (survey point at N43 46.989, W121 31.015) to a point 950 feet up river of the Fall River confluence (survey point at N43 47.204, W121 30.705);

(E) That portion of Willamette Mission State Park located on Grand Island in Yamhill County;

(F) That portion of Government Island State Recreation Area including the perimeter of both Government and Lemon Islands, not above the mean high water mark as posted;

(G) That portion of Rooster Rock State Park which includes Sand Island as well as the bank which runs parallel to the south of the island. Hunting will not be allowed during the special waterfowl hunting season which starts in September as posted;

(H) That portion of Benson State Recreation Area at Dalton Point, north of I-84, starting 300' east of the boat ramp running to the eastern most tip of the property at river mile 134 as posted;

(I) That portion of Starvation Creek State Park, north of I-84, river mile 159.6 to 160.2 as posted;

(J) That portion of Mayer State Park including the entire Salisbury Slough area and the pond 800' Northwest of the boat ramp as posted.

(d) Seasonal hunting of game wildlife is allowed within Deschutes River State Recreational Area south of the stream gauge cable crossing line and parallel extensions of the cable crossing line to the east and west park boundaries.

(e) Seasonal hunting of deer is allowed in portions of La Pine State Recreation Area north of the east-west power line road, approximately one mile north of the campground booth.

(f) Seasonal hunting permitted at Cottonwood Canyon State Park on the John Day River, excluding land within the J.S. Burres State Park boundaries, subject to change upon the adoption of the Cottonwood Canyon State Park Master Plan.

(g) Seasonal hunting of upland game birds is allowed in Succor Creek State Park, except within 500 feet of camping areas located near the Succor Creek Bridge and posted Safety Zones.

(h) Trapping is allowed only by permit from the department in Bowers Rock State Park, Deschutes State Recreation Area, Elijah Bristow State Park, and Willamette Mission State Park.

ADMINISTRATIVE RULES

(I) Hunting is allowed with shotguns or bows and arrows only, during authorized seasons in all Willamette River Greenway Corridor parcels, except in those parcels described below, where all hunting is prohibited:

(A) Wapato Access (Virginia Lake), River Mile 17.0–18.0, Multnomah Channel, Right bank when facing downstream;

(B) Crown Zellerbach, River Mile 21.3, Main Channel, Left Bank when facing downstream;

(C) Merrell (Mary S. Young State Park), River Mile 23.6, Main Channel, Left Bank when facing downstream;

(D) Willamette Shores, Inc. (Mary S. Young State Park), Main Channel, River Mile 24.0, Main Channel, Left Bank when facing downstream;

(E) Meldrum Bar Park (City of Gladstone) River Mile 24.2–24.4, Main Channel, Right Bank when facing downstream;

(F) Hattan-Fisher, River Mile 24.3, Main Channel, Left Bank when facing downstream;

(G) Dahl Park (City of Gladstone) River Mile 24.7, Main Channel, Right Bank when facing downstream;

(H) Coalca Landing, River Mile 30.7, Main Channel, Right Bank when facing downstream;

(I) Lang, River Mile 30.7, Main Channel, Left Bank when facing downstream;

(J) Pete's Mountain Landing, River Mile 30.8, Main Channel, Left Bank when facing downstream;

(K) Peach Cove Landing, River Mile 31.5, Main Channel, Left Bank when facing downstream;

(L) Brandborg, River Mile 32.0, Main Channel, Left Bank when facing downstream;

(M) Asche, River Mile 34.1, Main Channel, Left Bank when facing downstream;

(N) Molalla River State Park, River mile 34.6–36.1, Main Channel, Right Bank when facing downstream;

(O) Willamette Meridian Landing, River Mile 37, Main Channel, Left Bank when facing downstream;

(P) French Prairie Access, River Mile 41.0, Main Channel, Right Bank when facing downstream;

(Q) Parrett Mountain Access, River Mile 45.5–46.0, Main Channel, Left Bank when facing downstream;

(R) Hess Creek Landing, River Mile 53, Main Channel, Left Bank when facing downstream;

(S) San Salvador Access, River Mile 56.7, Main Channel, Right Bank when facing downstream;

(T) Lincoln Access, River Mile 76.2–77.0, Main Channel, Left Bank when facing downstream;

(U) Lincoln Access (Doak's Ferry) River Mile 77.6, Main Channel, Left Bank when facing downstream;

(V) Darrow Rocks Access, River Mile 78.1, Main Channel, Left Bank when facing downstream;

(W) Ross Island Sand & Gravel (Salem Waterfront), River Mile 82.8, Main Channel, Right Bank when facing downstream;

(X) Hall's Ferry Access, River Mile 91.3, Main Channel, Right Bank when facing downstream;

(Y) Springfill Access, River Mile 113.8, Main Channel, Left Bank when facing downstream;

(Z) Takenah Landing (City of Albany), River Mile 118.5, Main Channel, Left Bank when facing downstream (Closed only for 500 feet west of parking area);

(AA) Jasper Bridge, River Mile 195.2, Middle Fork, Right Bank when facing downstream;

(BB) Minshall, Eller, River Mile 119.9, Main Channel, Left Bank when facing downstream;

(CC) Jones, Lanham, River Mile 120.1, Main Channel, Left Bank when facing downstream;

(DD) F. Schmidt, P. Schmidt, River Mile 120.3, Main Channel, Left Bank when facing downstream;

(EE) Truax Island Access, River Mile 168.7, Main Channel, Left Bank when facing downstream (closed only for 500 feet west of parking area);

(FF) Marshall Island Access (Banton), River Mile 168.7, Main Channel, Left Bank when facing downstream;

(GG) Log Jam Access, River Mile 194.4–194.8, Middle Fork, Left Bank when facing downstream;

(HH) Pengra Access, River Mile 195.2, Middle Fork, Right Bank when facing downstream;

(II) Cougar Mountain Access, River Mile 15.5, Coast Fork, Right Bank when facing downstream; and

(JJ) Lynx Hollow Access, River Mile 17.2, Coast Fork, Left Bank when facing downstream (Closed except for 100 foot strip along river-bank);

(j) Trapping is allowed only with written authorization from the department in the Willamette River Greenway Corridor parcels closed to hunting, as listed above. Trapping is allowed in all other Willamette River Greenway Corridor parcels.

Stat. Auth.: ORS 390.124

Stat. Implemented: ORS 390.111, 498.002 & 498.006

Hist.: 1 OTC 2-1980, f. & ef. 1-4-80; PR 9-1981, f. & ef. 4-6-81; PR 10-1991, f. & cert. ef. 6-18-91; Renumbered from 736-015-0065, 736-015-0072, 736-015-0080, 736-015-0090, 736-015-0095, 736-015-0100, 736-015-0130, 736-015-0135, 736-015-0150 & 736-015-0160, PRD 4-2005, f. & cert. ef. 5-5-05; PRD 11-2008, f. & cert. ef. 12-15-08; PRD 11-2009, f. & cert. ef. 6-18-09; PRD 2-2010(Temp), f. & cert. ef. 2-3-10 thru 7-30-10

Rule Caption: Rules governing Marine Reserves designated by State Land Board on portions of the ocean shore and areas adjacent to state parks.

Adm. Order No.: PRD 3-2010

Filed with Sec. of State: 2-3-2010

Certified to be Effective: 6-30-11

Notice Publication Date: 10-1-2009

Rules Adopted: 736-029-0010, 736-029-0030, 736-029-0040, 736-029-0050

Subject: These rules provide governance and protection to Marine Reserves as designated by the State Land Board along the Oregon ocean shore and areas adjacent to state parks protected from all extractive activities, including the removal or disturbance of living and non-living marine resources, except as necessary for monitoring or research to evaluate reserve condition, effectiveness, or impact of stressors. Having Marine Reserves provides an additional tool to help protect, sustain or restore the nearshore marine ecosystem, its inhabitants, and species for the values they represent to present and future generations.

Rules Coordinator: Joyce Merritt—(503) 986-0756

736-029-0010

Purpose

(1) This division governs the use of portions of the ocean shore as well as areas adjacent to state parks that the State Land Board has designated as a Marine Reserve or Marine Protected Area (OAR chapter 141, division 142). The Fish and Wildlife Commission has adopted prohibitions and allowances on harvest of fish and wildlife resources (OAR chapter 635, division 12). The Department of State Lands (DSL) has adopted rules regarding authorized uses within the marine reserves and marine protected areas.

(2) This division shall go into effect on June 30, 2011 to coincide with the effective date of Oregon Department of Fish and Wildlife (ODFW) prohibitions and allowances.

Stat. Auth.: ORS 390.124 & 390.660

Stats. Implemented: ORS 390.635; 390.660 & 2009 OL Ch. 847

Hist.: PRD 3-2010, f. 2-3-10, cert. ef. 6-30-11

736-029-0030

Definitions

For purposes of this division, unless the context requires otherwise, the following definitions apply:

(1) "Commission" means the State Parks and Recreation Commission.

(2) "Department" means the State Parks and Recreation Department, known as Oregon Parks and Recreation Department (OPRD).

(3) "Director" means the State Parks and Recreation Director.

(4) "Marine Reserve" means the area established by the State Land Board and identified in OAR chapter 141, division 142.

(5) "Marine Protected Area" means the area established by the State Land Board and identified in OAR chapter 141, division 142.

(6) "Natural Product" means living or non-living natural products on the ocean shore, including but not limited to marine plants, minerals, shells, rocks, and sand.

(7) "Personal Use" means use that is directly by the individual for purposes other than monetary reward and not involving sale, barter, resale, or exchange for money.

(8) "Ocean Shore" as provided in ORS 390.605(2), means the land lying between extreme low tide of the Pacific Ocean and the statutory

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vegetation line as described by 390.770 or the line of established upland shore vegetation, whichever is farther inland."Ocean shore" does not include an estuary as defined in 196.800.

(9) "Ocean Shore Permit" means: a permit under ORS 390.640 for a structure, appurtenance or other addition, modification or alteration, including habitat restoration, constructed, placed or made on the ocean shore; a permit under 390.715 for a pipeline, cable line, or conduit placed or made across or under the ocean shore; or a permit under 390.725 for the removal of products from the ocean shore.

(10) "Salvage" or "Salvageable Object" means any object, thing or material, exclusive of drift logs, which is not in its natural state, and is not a "natural product of the ocean shore", which is washed up or deposited on the ocean shore.

(11) "Souvenirs" include a small quantity of agates, driftwood, and similar non-living items collected for non-commercial personal use.

Stat. Auth.: ORS 390.124 & 390.660
Stats. Implemented: ORS 390.635, 390.660, 390.725(4) & 2009 OL Ch. 847
Hist.: PRD 3-2010, f. 2-3-10, cert. ef. 6-30-11

736-029-0040

General Restrictions

(1) In addition to all other regulations pertaining to the ocean shore, within an area designated as a Marine Reserve or Marine Protected Area, a person may not:

- (a) Collect, pick, cut, mutilate or remove living or non-living natural products from the ocean shore except as allowed under section (6);
- (b) Give or offer food items to any wildlife;
- (c) Pursue, injure, or molest any wildlife or disturb their habitats;
- (d) Dig up or remove any soil, sand, rock, or fossil materials; or
- (e) Disturb or remove any archaeological, cultural, or historical material.

(2) In addition to all other regulations pertaining to the ocean shore, within an area designated as a Marine Protected Area, a person may not engage in any activity prohibited in section (1) except as expressly allowed in the rules establishing and regulating the Marine Protected Area.

(3) The Director may issue a written permit to a person to engage in one or more activities prohibited under section (1) or (2):

(a) If the person seeks to engage in a prohibited activity for scientific research or monitoring purposes that are consistent with the purposes of the Marine Reserve or Marine Protected Area;

(b) If the person seeks to engage in a prohibited activity to enforce prohibitions necessary to the purposes of the Marine Reserve or Marine Protected Area;

(c) If the person seeks to engage in a prohibited activity to provide for public education consistent with the purposes of the Marine Reserve or Marine Protected Area;

(d) If the person is a tribal member of a federally recognized Indian Tribe in Oregon collecting as part of their traditional cultural heritage in accordance with procedures established by the Department and in state rules, including OAR 635-041-0500.

(e) If the person seeks to engage in activity prohibited under subsection (1)(e) that is:

(A) Otherwise consistent with the purposes of the Marine Reserve or Marine Protected Area; and

(B) Authorized by a permit issued by the Department under ORS 390.235.

(4) Pursuant to ORS 390.725(4), the Department will not issue any permits for the collection of natural products within a Marine Reserve or Marine Protected Area for the purpose of trade, sale or resale.

(5) In addition to regulations regarding "salvage" and "salvageable objects," the Department will consider consistency with the purposes of the Marine Reserve or Marine Protected Area in taking any action under OAR chapter 736, division 27 within such area(s).

(6) The Director or designee may allow periodic and emergency removal of driftwood, beached marine mammals, marine and upland debris, and other items; and removal of souvenirs; if the Director determines the removal is:

(a) Necessary to assure the protection of natural resources or the safety of, access to, or recreational use of the ocean shore, and

(b) Otherwise consistent with the scientific research, monitoring, enforcement or protection of the Marine Reserve or Marine Protected Area.

(7) Any valid preexisting Ocean Shore Permit granted by the Department as provided in OAR chapter 736, division 20 within an area designated as a Marine Reserve or Marine Protected Area shall remain in effect if the holder of that permit is and continues to be in full compliance with the terms and conditions of the permit. The Department will consider

consistency with the purposes of the Marine Reserve or Marine Protected Area in addition to the standards provided in OAR chapter 736, division 20, in considering an ocean shore permit modification application, including but not limited to repairs and extensions.

(8) The Department will consider consistency with the purposes of the Marine Reserve or Marine Protected Area in addition to the standards under OAR chapter 736, division 20, including but not limited to review by other state and federal agencies under OAR 736-020-0003(11), in reviewing any conditional Ocean Shore Permit within or adjacent to a Marine Reserve or Marine Protected Area.

Stat. Auth.: ORS 390.124 & 390.660
Stats. Implemented: ORS 390.635, 390.660, 390.725(4) & 2009 OL Ch. 847
Hist.: PRD 3-2010, f. 2-3-10, cert. ef. 6-30-11

736-029-0050

Penalties

A violation of OAR 736-029-0040 is as an ocean shore violation subject to fines as provided in OAR 736-021-0050.

Stat. Auth.: ORS 390.660
Stats. Implemented: ORS 390.050 & 390.124
Hist.: PRD 3-2010, f. 2-3-10, cert. ef. 6-30-11

Rule Caption: Historic Preservation Officer rules being amended to incorporate changes to process for special assessment of historic properties.

Adm. Order No.: PRD 4-2010

Filed with Sec. of State: 2-3-2010

Certified to be Effective: 2-3-10

Notice Publication Date: 11-1-2009

Rules Adopted: 736-050-0112

Rules Amended: 736-050-0001, 736-050-0100, 736-050-0105, 736-050-0120, 736-050-0125, 736-050-0135, 736-050-0140

Rules Repealed: 736-050-0002, 736-050-0005, 736-050-0110, 736-050-0115, 736-050-0130, 736-050-0150, 736-050-0112(T), 736-050-0120(T), 736-050-0125(T), 736-050-0130(T), 736-050-0135(T), 736-050-0140(T), 736-050-0150(T)

Subject: The rules governing the process for applying for and being granted a special assessment of historic property are being amended to streamline the procedures in accordance with Senate Bill 192, 75th Legislative Assembly.

Rules Coordinator: Joyce Merritt—(503) 986-0756

736-050-0001

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the State Historic Preservation Officer in accordance with ORS 358.545.

(2) Purpose: These rules clarify the statutory requirement for participation in the Special Assessment of Historic Property program as provided in ORS 358.480 to 358.545.

(3) Policy: One of the goals of the State Historic Preservation Officer is to maintain, preserve and rehabilitate properties of Oregon historical significance through historic preservation incentive programs, thereby creating a positive partnership between the public good and private property that promotes economic development, tourism, energy and resource conservation, neighborhood, downtown, and rural revitalization, efficient use of public infrastructure, and civic pride in our shared historical and cultural foundations.

Stat. Auth.: ORS 358.545
Stats. Implemented: ORS 358.480 - 358.545
Hist.: HPO 2, f. & ef. 9-10-76; PRD 14-2009(Temp), f. & cert. ef. 9-28-09 thru 3-26-10; PRD 4-2010, f. & cert. ef. 2-3-10

736-050-0100

Special Assessment of Historic Property

ORS 358.480 to 358.545 provide the process for applying for a special assessment of historic property.

Stat. Auth.: ORS 358.545
Stats. Implemented: ORS 358.487
Hist.: PR 7-1984, f. & ef. 12-6-84; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 14-2009(Temp), f. & cert. ef. 9-28-09 thru 3-26-10; PRD 4-2010, f. & cert. ef. 2-3-10

736-050-0105

Definitions

As used in this division, unless the context requires otherwise:

(1) "Continuing Qualification Review" means a review of a property special assessment by SHPO in response to a request by a county assessor,

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local landmark commission or governing body to determine if the property continues to qualify for a special assessment.

(2) "National Register" means the National Register of Historic Places maintained by the United States Department of the Interior.

(3) "Preservation Plan" is defined in ORS 358.480(16).

(4) "SHPO" means the State Historic Preservation Officer appointed by the Governor pursuant to ORS 358.565 or the State Historic Preservation Office, depending on the context.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.480

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06; PRD 14-2009(Temp), f. & cert. ef. 9-28-09 thru 3-26-10; PRD 4-2010, f. & cert. ef. 2-3-10

736-050-0112

Requirement for Owner Expenditure

Under ORS 358.487(2)(a) the 10 percent expenditure requirement can include the value of donated materials, labor and/or services, provided the SHPO is satisfied there is legitimate justification for the values claimed.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.487

Hist.: PRD 14-2009(Temp), f. & cert. ef. 9-28-09 thru 3-26-10; PRD 4-2010, f. & cert. ef. 2-3-10

736-050-0120

Owner and SHPO Responsibilities

(1) An owner of specially-assessed property is responsible for maintaining the property in good condition. Noticeable deterioration of a property, or a failure to complete rehabilitation or other work required in a Preservation Plan during the time period designated, unless otherwise amended, may be sufficient cause for the SHPO to seek mandatory remedial action and/or to initiate removal of the property's special assessment pursuant to OAR 736-050-0135.

(2) An owner of specially assessed property is responsible for providing the SHPO with a current mailing address and other contact information.

(3) The SHPO shall monitor owner compliance with program requirements by requesting such information from owners as is directly related to matters set forth in ORS 358.475 to 358.545 or in this division. If an owner does not respond to the request by providing the required information within the specified time, the SHPO may seek mandatory remedial action and/or initiate removal of the property's special assessment pursuant to OAR 736-050-0135.

(4) Participants who entered the program prior to September 28, 2009:

(a) Must submit Preservation Plan updates to the SHPO in the 5th, 10th and 14th year of the 15-year benefit period in lieu of the reporting schedule in ORS 358.500(1); and

(b) Are exempt from the requirement to submit a report by the end of the fifth year demonstrating compliance with the expenditure commitment under the Preservation Plan as described in ORS 358.487(2)(a).

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.480, 358.500, & 358.515

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06; PRD 2-2007, f. & cert. ef. 2-8-07; PRD 3-2007, f. & cert. ef. 4-13-07; PRD 14-2009(Temp), f. & cert. ef. 9-28-09 thru 3-26-10; PRD 4-2010, f. & cert. ef. 2-3-10

736-050-0125

Changes and Alterations to Properties Approved for Special Assessment

(1) Pursuant to ORS 358.565, the SHPO delegates special assessment application and design review approval authority to the Deputy State Historic Preservation Officer (DSHPO). The DSHPO shall rely on the expertise of qualified staff in making program decisions.

(2) Owners shall apply in writing on forms provided by the SHPO or the governing body, whichever is appropriate, for review and written approval before undertaking any work on specially-assessed property.

(3) Additional material may include photos, drawings, as well as product and work descriptions.

(4) A change permissible in one circumstance does not necessarily constitute justification or a precedent for a similar change in another circumstance. The SHPO shall evaluate proposed changes on a case-by-case basis.

(5) Governing bodies approved by the SHPO for conducting historic reviews must have:

(a) A historic preservation ordinance or historic design guidelines based on the historic rehabilitation standards, as defined in ORS 358.480(12); and

(b) Demonstrated expertise interpreting and implementing the historic rehabilitation standards.

(6) Governing bodies shall address in their decision-making process, and in the written record of their decision, any recommendations provided to them by the SHPO as part of its review, including justification for either accepting or rejecting those recommendations.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.487, 358.490 & 358.565

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06; PRD 14-2009(Temp), f. & cert. ef. 9-28-09 thru 3-26-10; PRD 4-2010, f. & cert. ef. 2-3-10

736-050-0135

Removal of Special Assessments

(1) The SHPO may investigate a property's continued qualification for special assessment by its own initiative or at the request of other parties as described in ORS 358.509. SHPO may contact the property owner informally to determine the basic merits of the concerns.

(2) If changes to the property have been approved by the local governing body in accordance with ORS 358.500(4) and are part of the approved Preservation Plan, then SHPO cannot disqualify the property, and no further investigation will be pursued.

(3) If, in the opinion of SHPO, further investigation is warranted, SHPO shall contact the property owner in a timely manner by certified letter to request a report as authorized by ORS 358.500(3), and, if deemed appropriate, a site inspection. The letter shall include:

- (a) Property identification;
- (b) Reason for request of information;
- (c) Request for a detailed response; and
- (d) Information on appeal process.

(4) The property owner must submit a written report to SHPO within 30 days of receipt of the letter addressing all of the issues outlined in the letter. Failure to respond or to address all of the issues may be grounds for disqualification of the property from special assessment.

(5) SHPO shall respond to the property owner's report within 30 days with one of the following determinations:

- (a) Continues to qualify;
 - (b) Continues to qualify with conditions (if the conditions are not met within the specified time, SHPO may initiate disqualification without further notice); or
 - (c) No longer qualifies.
- (6) The determination by SHPO shall be in writing and shall be sent to the property owner, the county assessor, and the governing body.

(7) A property owner may appeal the SHPO determination to the Historic Assessment Review Committee (HARC) (ORS 358.511) in accordance with the appeal process described in OAR 736-050-0140.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.500, 358.509, 358.515 & 358.525

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06; PRD 14-2009(Temp), f. & cert. ef. 9-28-09 thru 3-26-10; PRD 4-2010, f. & cert. ef. 2-3-10

736-050-0140

Appeal Process

(1) The Historic Assessment Review Committee (HARC) is the appeals body for all decisions made by the SHPO. The HARC will establish procedures for an appeal.

(2) An owner may appeal a ruling by requesting a contested case hearing pursuant to the provisions of ORS 183.411 to 183.425 and 183.440 to 183.470. A contested case hearing request must be filed no later than 30 calendar days after the date a decision is served by the HARC.

Stat. Auth.: ORS 358.545

Stats. Implemented: ORS 358.545

Hist.: PR 7-1984, f. & ef. 12-6-84; PR 2-1992, f. & cert. ef. 5-1-92; PR 11-1995, f. & cert. ef. 12-21-95; PRD 4-2002, f. & cert. ef. 4-10-02; PRD 3-2006, f. & cert. ef. 5-8-06; PRD 14-2009(Temp), f. & cert. ef. 9-28-09 thru 3-26-10; PRD 4-2010, f. & cert. ef. 2-3-10

Secretary of State, Corporation Division Chapter 160

Rule Caption: Procedural rules.

Adm. Order No.: CORP 1-2010

Filed with Sec. of State: 1-22-2010

Certified to be Effective: 2-1-10

Notice Publication Date: 1-1-2010

Rules Amended: 160-001-0000

ADMINISTRATIVE RULES

Subject: This amended rule removes specific names to which rules notices are mailed to, and changes it to persons who request notices in writing.

Rules Coordinator: Karen Hutchinson—(503) 986-2364

160-001-0000

Notice of Intent to Adopt, Amend or Repeal Rules

Prior to the adoption, amendment or repeal of any permanent rule under ORS Chapters 56, 58, 60, 62, 63, 65, 68, 70, 79, 80, 87, 128, 194, 554, 647, 648, 649 and 661 the Secretary of State shall give notice of the proposed adoption, amendment, or repeal at least 21 days prior to the effective date.

(1) By placing a notice in the Secretary of State's Bulletin referred to in ORS 183.360;

(2) By mailing a copy of the notice to persons on the Division mailing list established pursuant to ORS 183.335(7); and

(3) By mailing a copy of the proposed rule to other persons who request such in writing.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 79, 80, 87, 128, 183, 554, 647, 648, 649 & 661

Stats. Implemented: ORS 183.335

Hist.: CC 2-1985, f. & ef. 3-6-85; Renumbered from 815-050-0001; PRD 1-1988, f. & cert. ef. 2-5-88; Renumbered from former paragraphs 164-001-0000(3)(b)(A) - (K) & (c)(A) - (M); CC 2-1988, f. 9-28-88, cert. ef. 10-3-88; CORP 1-1991, f. & cert. ef. 1-22-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-2004, f. & cert. ef. 5-3-04; CORP 1-2010, f. 1-22-10 cert. ef. 2-1-10

Rule Caption: Official notary seal requirements for vendor.

Adm. Order No.: CORP 2-2010

Filed with Sec. of State: 1-22-2010

Certified to be Effective: 2-3-10

Notice Publication Date: 1-1-2010

Rules Amended: 160-100-0100

Subject: This rule clarifies the requirements for the official notary seal for vendors. It specifically indicates how the date of expiration is to appear on the seal.

Rules Coordinator: Karen Hutchinson—(503) 986-2364

160-100-0100

Description of Imprint of Official Seal

(1) An outline of an imprint of an official seal of a notary public shall be a rectangle measuring 3/4 inch high and 2-3/8 inches long formed by a continuous solid or braided line.

(2) The imprint of an official seal of a notary public shall contain within the outline border:

(a) The state seal, as described in ORS 186.020, measuring one half inch in diameter and located in the upper left corner of the official seal;

(b) The following words, in descending order, centered in the official seal to the right of the state seal:

(A) The words "Official Seal". The words shall be printed in not less than 8 point sized type and in capital letters;

(B) The name of the notary public. The name shall be printed in not less than 8 point sized type, bold print, and in capital letters;

(C) The words "Notary Public — Oregon". The words shall be printed in 8 point sized type and in capital letters;

(D) The words "Commission No." immediately followed by the commission number. This information shall be printed in not less than 8 point sized type and in capital letters;

(E) The words "My Commission Expires", immediately followed by the notary public's expiration date, expressed in terms of the month, by name not abbreviated, two-digit date and complete year. This information shall be printed in not less than 8 point sized type and in capital letters.

(3) The imprint of an official seal of a notary public shall be made with permanent black ink.

EXAMPLES: [Examples not included. See ED. NOTE.]

[ED. NOTE: Examples referenced are available from the agency.]

Stat. Auth.: ORS 194.031

Stats. Implemented: ORS 194.031

Hist.: SD 7-1978, f. & ef. 8-10-78; Renumbered from 165-027-0010; SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0100; CORP 2-2010, f. 1-22-10 cert. ef. 2-3-10

Rule Caption: UCC Statutory Lien and EFS Filing Fees.

Adm. Order No.: CORP 3-2010(Temp)

Filed with Sec. of State: 2-3-2010

Certified to be Effective: 2-27-10 thru 8-26-10

Notice Publication Date:

Rules Amended: 160-050-0140, 160-050-0215

Subject: This rule amends the Uniform Commercial Code statutory lien and EFS filing fees from \$10 to \$15.

Rules Coordinator: Karen Hutchinson—(503) 986-2364

160-050-0140

Statutory Lien Filing and Search Fees

(1) The Statutory Lien filing fees are:

(a) Agricultural Services Lien:

(A) Notice of Claim of Agricultural Services Lien — \$15 per form;

(B) Certificate of Satisfaction — No Charge;

(C) Cessation — \$15 per form.

(b) Agricultural Produce Lien:

(A) Notice of Claim of Agricultural Produce Lien — \$15 per form;

(B) Certificate of Satisfaction of Agricultural Produce Lien — No

Charge.

(c) Grain Producer's Lien:

(A) Notice of Claim of Grain Producer's Lien — \$15 per form;

(B) Certificate of Satisfaction — No Charge.

(d) Hazardous Waste Lien: Notice of Claim of Lien for Environmental

Cleanup of Hazardous Waste — \$15 per form.

(2) The Statutory Lien search fees are:

(a) Lien Search — \$10 per name;

(b) Requested Lien Copy(ies) — \$5;

(c) Certificate (State seal) — \$10 per cert.

Stat. Auth.: ORS 87.246(3), 87.767, 177.130 & 192.440

Stats. Implemented: ORS 87.246, 87.736, 87.767, 177.130 & 192.440

Hist.: PRD 4-1988, f. & cert. ef. 3-17-88; Renumbered from 164-010-0030; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-1995, f. 2-8-95, cert. ef. 9-1-95; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02; CORP 3-2010(Temp), f. 2-3-10, cert. ef. 2-27-10 thru 8-26-10

160-050-0215

Filing fees

(1) The fee for filing a Form EFS-1 is \$15 for the first debtor name. Additional debtors may be added at no charge. The filing fee is required to be submitted with the EFS.

(2) If the Form EFS-3 is not accompanied by the filing fee, it will be rejected;

(3) The filing fees of Form EFS-3 transactions are set out in paragraphs (a) through (d) of this subsection as follows:

(a) Amendments: The filing fee for an amendment is \$15 for the first debtor name. Additional debtors may be added at no charge.

(b) Assignment: The filing fee for an assignment is \$15 for the first debtor name. Additional debtors may be added at no charge.

(c) Continuation: The filing fee for a continuation is \$15 for the first debtor name. Additional debtors may be added at no charge.

(d) Termination: There is no filing fee for filing a termination/lapse statement.

Stat. Auth.: ORS 80.106 & 80.115

Stats. Implemented: ORS 80.115

Hist.: CORP 1-2008, f. & cert. ef. 1-15-08; CORP 3-2010(Temp), f. 2-3-10, cert. ef. 2-27-10 thru 8-26-10

Teacher Standards and Practices Commission

Chapter 584

Rule Caption: Amends rule to include omitted language adopted on August 5, 2009.

Adm. Order No.: TSPC 1-2010

Filed with Sec. of State: 1-28-2010

Certified to be Effective: 1-28-10

Notice Publication Date: 6-1-2009

Rules Amended: 584-060-0014

Subject: Amends 584-060-0015 *Initial Teaching License for Out-of-State Candidate First Application*: Amends rule to add adopted language inadvertently omitted when the rule was filed on 10/5/09.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-060-0014

Initial Teaching License for Out-of-State Candidate First Application

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant who is applying for licensure in Oregon for the first time and has completed an out-of-state

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approved teacher-education program may be granted an Initial Teaching License for eighteen (18) months.

(2) The Initial Teaching License is valid for regular teaching at one or more designated authorization levels in one or more designated specialties and for substitute teaching at any level in any specialty. (See 584-060-0051 for Teaching Authorization Levels.)

(3) To be eligible for an Initial Teaching License, an out-of-state applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator; and

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure; and

(c) Complete an initial teacher education program in any U.S. jurisdiction, or complete a foreign program evaluated as satisfactory by an Oregon institution approved to offer the corresponding program as evidenced by a license from another state or jurisdiction, including but not limited to the U.S. Department of Defense, valid for unrestricted full-time teaching; and

(d) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(4) Upon expiration of the Initial Teaching License the applicant must apply for any of the following:

(a) An Initial I Teaching License: Qualified applicants will be issued an Initial I Teaching License for 18 months plus time to the applicant's next birthday. The fee for the Initial I granted pursuant to this rule is \$50.

(b) An Initial II Teaching License: Qualified applicants will be issued an Initial II Teaching License for three years plus time to the applicant's next birthday. The fee for the Initial II Teaching License is \$100.

(c) A Continuing Teaching License: Qualified applicants will be issued a Continuing Teaching License for five years plus time to the applicant's next birthday. The fee for the Continuing Teaching License is \$100.

(5) To be eligible for an Initial I Teaching License, an applicant must:

(a) Receive a passing score as currently specified by the commission on a test of basic verbal and computational skills; and (See, 584-060-0002(7) for definition of Basic Skills Tests;)

(b) Receive a passing score as currently specified by the commission on each of one or more tests of subject-matter mastery for licensure endorsement or authorization;

(A) Any subject-matter test, except the basic skills tests, may be waived if the applicant demonstrates special academic preparation satisfactory to the commission together with five years of experience teaching the specific subject matter on a license valid for the assignment in a public school or regionally accredited private school in a U.S. jurisdiction before holding any Oregon license. The five years of experience must be acquired entirely outside of the state of Oregon and must be obtained while holding an out-of-state license valid for the assignment; or

(B) Some applicants may be eligible for alternative assessment for waiver of the subject-matter tests only. (See OAR 584-052-0030 to 584-052-0033 regarding Alternative Assessment guidelines and regulations.)

(c) Receive a passing score on a test of knowledge of U.S. and Oregon civil rights laws.

(d) See, OAR 584-060-0012(5) for Initial I Teaching License renewal requirements.

(6) To be eligible for an Initial II Teaching License, an applicant must:

(a) Meet all the requirements for the Initial I Teaching License; and

(b) Meet the requirements for the Initial II Teaching License. (See, OAR 584-060-0013.)

(c) See OAR 584-060-0013(4) for Initial II Teaching License renewal requirements.

(7) To be eligible for a Continuing Teaching License, an applicant must:

(a) Meet all the requirements for the Initial I and the Initial II Teaching License; and

(b) Meet the requirements for a Continuing Teaching License. (See, OAR 584-060-0022.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.165, 342.136, 342.223 - 342.232

Hist.: TSPC 1-2007(Temp), f. & cert. ef. 3-30-07 thru 9-26-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; TSPC 5-2009, f. & cert. ef. 10-5-09; TSPC 1-2010, f. & cert. ef. 1-28-10

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104-030-0020	1-21-2010	Adopt	3-1-2010	111-050-0080(T)	2-1-2010	Repeal	3-1-2010
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125-249-0200	1-1-2010	Amend	2-1-2010	137-048-0210	1-1-2010	Amend	1-1-2010
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137-045-0052	1-1-2010	Amend	1-1-2010	137-050-0335	1-4-2010	Repeal	1-1-2010
137-045-0060	1-1-2010	Amend	1-1-2010	137-050-0340	1-4-2010	Repeal	1-1-2010
137-045-0070	1-1-2010	Amend	1-1-2010	137-050-0350	1-4-2010	Repeal	1-1-2010
137-046-0110	1-1-2010	Amend	1-1-2010	137-050-0360	1-4-2010	Repeal	1-1-2010
137-046-0210	1-1-2010	Amend	1-1-2010	137-050-0370	1-4-2010	Repeal	1-1-2010
137-047-0250	1-1-2010	Amend	1-1-2010	137-050-0390	1-4-2010	Repeal	1-1-2010
137-047-0255	1-1-2010	Amend	1-1-2010	137-050-0400	1-4-2010	Repeal	1-1-2010
137-047-0260	1-1-2010	Amend	1-1-2010	137-050-0405	1-4-2010	Repeal	1-1-2010
137-047-0261	1-1-2010	Amend	1-1-2010	137-050-0410	1-4-2010	Repeal	1-1-2010
137-047-0262	1-1-2010	Amend	1-1-2010	137-050-0420	1-4-2010	Repeal	1-1-2010
137-047-0263	1-1-2010	Amend	1-1-2010	137-050-0430	1-4-2010	Repeal	1-1-2010
137-047-0270	1-1-2010	Amend	1-1-2010	137-050-0450	1-4-2010	Repeal	1-1-2010
137-047-0280	1-1-2010	Amend	1-1-2010	137-050-0455	1-4-2010	Repeal	1-1-2010

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137-050-0475	1-4-2010	Repeal	1-1-2010	141-085-0510	1-1-2010	Amend	1-1-2010
137-050-0485	1-4-2010	Repeal	1-1-2010	141-085-0515	1-1-2010	Amend	1-1-2010
137-050-0490	1-4-2010	Repeal	1-1-2010	141-085-0530	1-1-2010	Amend	1-1-2010
137-050-0700	1-4-2010	Adopt	1-1-2010	141-085-0534	1-1-2010	Adopt	1-1-2010
137-050-0700	2-12-2010	Amend(T)	3-1-2010	141-085-0535	1-1-2010	Amend	1-1-2010
137-050-0710	1-4-2010	Adopt	1-1-2010	141-085-0545	1-1-2010	Amend	1-1-2010
137-050-0710	2-12-2010	Amend(T)	3-1-2010	141-085-0550	1-1-2010	Amend	1-1-2010
137-050-0715	1-4-2010	Adopt	1-1-2010	141-085-0555	1-1-2010	Amend	1-1-2010
137-050-0715	2-12-2010	Amend(T)	3-1-2010	141-085-0565	1-1-2010	Amend	1-1-2010
137-050-0720	1-4-2010	Adopt	1-1-2010	141-085-0570	1-1-2010	Am. & Ren.	1-1-2010
137-050-0725	1-4-2010	Adopt	1-1-2010	141-085-0575	1-1-2010	Amend	1-1-2010
137-050-0730	1-4-2010	Adopt	1-1-2010	141-085-0585	1-1-2010	Amend	1-1-2010
137-050-0735	1-4-2010	Adopt	1-1-2010	141-085-0590	1-1-2010	Amend	1-1-2010
137-050-0740	1-4-2010	Adopt	1-1-2010	141-085-0665	1-1-2010	Amend	1-1-2010
137-050-0745	1-4-2010	Adopt	1-1-2010	141-085-0670	1-1-2010	Repeal	1-1-2010
137-050-0750	1-4-2010	Adopt	1-1-2010	141-085-0675	1-1-2010	Amend	1-1-2010
137-050-0755	1-4-2010	Adopt	1-1-2010	141-085-0680	1-1-2010	Amend	1-1-2010
137-050-0760	1-4-2010	Adopt(T)	1-1-2010	141-085-0685	1-1-2010	Amend	1-1-2010
137-050-0760	1-8-2010	Amend(T)	2-1-2010	141-085-0690	1-1-2010	Amend	1-1-2010
137-050-0760	2-12-2010	Adopt(T)	3-1-2010	141-085-0700	1-1-2010	Amend	1-1-2010
137-050-0760(T)	1-8-2010	Suspend	2-1-2010	141-085-0705	1-1-2010	Amend	1-1-2010
137-050-0760(T)	2-12-2010	Suspend	3-1-2010	141-085-0720	1-1-2010	Amend	1-1-2010
137-050-0765	1-4-2010	Adopt	1-1-2010	141-085-0725	1-1-2010	Amend	1-1-2010
137-055-1020	1-4-2010	Amend	2-1-2010	141-085-0730	1-1-2010	Amend	1-1-2010
137-055-1070	1-4-2010	Amend(T)	2-1-2010	141-085-0735	1-1-2010	Amend	1-1-2010
137-055-1090	1-4-2010	Amend	2-1-2010	141-085-0745	1-1-2010	Amend	1-1-2010
137-055-1120	1-4-2010	Amend	2-1-2010	141-085-0750	1-1-2010	Amend	1-1-2010
137-055-1140	1-4-2010	Amend	2-1-2010	141-089-0095	1-1-2010	Adopt	1-1-2010
137-055-1145	1-4-2010	Amend	2-1-2010	141-089-0350	1-1-2010	Repeal	1-1-2010
137-055-2160	1-4-2010	Amend(T)	2-1-2010	141-089-0355	1-1-2010	Repeal	1-1-2010
137-055-2360	1-4-2010	Amend	2-1-2010	141-089-0360	1-1-2010	Repeal	1-1-2010
137-055-2380	1-4-2010	Amend	2-1-2010	141-089-0365	1-1-2010	Repeal	1-1-2010
137-055-3020	1-4-2010	Amend	2-1-2010	141-089-0370	1-1-2010	Repeal	1-1-2010
137-055-3080	1-4-2010	Amend	2-1-2010	141-089-0375	1-1-2010	Repeal	1-1-2010
137-055-3220	1-4-2010	Amend	2-1-2010	141-089-0380	1-1-2010	Repeal	1-1-2010
137-055-3260	1-4-2010	Amend	2-1-2010	141-089-0385	1-1-2010	Repeal	1-1-2010
137-055-3300	1-4-2010	Amend	2-1-2010	141-089-0390	1-1-2010	Repeal	1-1-2010
137-055-3340	1-4-2010	Amend(T)	2-1-2010	141-142-0010	12-15-2009	Adopt	1-1-2010
137-055-3340	1-12-2010	Amend(T)	2-1-2010	141-142-0015	12-15-2009	Adopt	1-1-2010
137-055-3340(T)	1-12-2010	Suspend	2-1-2010	141-142-0020	12-15-2009	Adopt	1-1-2010
137-055-3400	1-4-2010	Amend	2-1-2010	141-142-0025	12-15-2009	Adopt	1-1-2010
137-055-3420	1-4-2010	Amend	2-1-2010	141-142-0030	12-15-2009	Adopt	1-1-2010
137-055-3435	1-4-2010	Adopt	2-1-2010	141-142-0035	12-15-2009	Adopt	1-1-2010
137-055-3660	1-4-2010	Amend	2-1-2010	141-142-0040	12-15-2009	Adopt	1-1-2010
137-055-4210	1-4-2010	Adopt	2-1-2010	150-118.225	1-1-2010	Amend	2-1-2010
137-055-4420	1-4-2010	Amend	2-1-2010	150-305.220(1)	1-1-2010	Amend	2-1-2010
137-055-4450	1-4-2010	Amend	2-1-2010	150-305.220(2)	1-1-2010	Amend	2-1-2010
137-055-4455	1-4-2010	Amend	2-1-2010	150-305.290	1-1-2010	Repeal	2-1-2010
137-055-4620	1-4-2010	Amend	2-1-2010	150-306.126(2)	1-1-2010	Amend	2-1-2010
137-055-4640	1-4-2010	Amend	2-1-2010	150-307.250(1)(b)	1-1-2010	Am. & Ren.	2-1-2010
137-055-5110	1-4-2010	Amend	2-1-2010	150-307.270(1)-(A)	1-1-2010	Amend	2-1-2010
137-055-5220	1-4-2010	Amend	2-1-2010	150-307.330	1-1-2010	Amend	2-1-2010
137-055-6022	1-4-2010	Amend	2-1-2010	150-307.547	1-1-2010	Adopt	2-1-2010
137-055-6024	1-4-2010	Amend	2-1-2010	150-308.875-(A)	1-1-2010	Amend	2-1-2010
137-055-6260	1-4-2010	Amend	2-1-2010	150-309.100-(D)	1-1-2010	Adopt	2-1-2010

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150-311.668(1)(a)-(B)	1-1-2010	Amend	2-1-2010	165-001-0050	12-31-2009	Amend	2-1-2010
150-311.688	1-1-2010	Amend	2-1-2010	165-001-0055	12-31-2009	Amend	2-1-2010
150-311.689	1-1-2010	Amend	2-1-2010	165-001-0065	12-31-2009	Repeal	2-1-2010
150-311.691	1-1-2010	Amend	2-1-2010	165-001-0080	12-31-2009	Amend	2-1-2010
150-311.706	1-1-2010	Amend	2-1-2010	165-002-0010	12-31-2009	Amend	2-1-2010
150-314.280-(N)	1-1-2010	Amend	2-1-2010	165-002-0020	12-31-2009	Amend	2-1-2010
150-314.610(4)	1-1-2010	Repeal	2-1-2010	165-005-0130	12-31-2009	Amend	2-1-2010
150-315.204-(A)	1-1-2010	Amend	2-1-2010	165-007-0035	12-31-2009	Amend	2-1-2010
150-315.262	1-1-2010	Amend	2-1-2010	165-007-0290	12-31-2009	Amend	2-1-2010
150-317.097	1-1-2010	Amend	2-1-2010	165-007-0300	12-4-2009	Adopt	1-1-2010
150-317.326	1-1-2010	Repeal	2-1-2010	165-007-0310	12-31-2009	Adopt	2-1-2010
150-323.500(9)	1-1-2010	Adopt	2-1-2010	165-010-0005	12-31-2009	Amend	2-1-2010
150-323.500(9)(T)	1-1-2010	Repeal	2-1-2010	165-010-0120	12-31-2009	Repeal	2-1-2010
150-358.505	1-1-2010	Adopt	2-1-2010	165-012-0005	12-31-2009	Amend	2-1-2010
160-001-0000	2-1-2010	Amend	3-1-2010	165-012-0050	12-31-2009	Amend	2-1-2010
160-005-0008	1-1-2010	Adopt	2-1-2010	165-012-0240	12-31-2009	Amend	2-1-2010
160-010-0200	1-1-2010	Amend	2-1-2010	165-013-0010	12-31-2009	Amend	2-1-2010
160-010-0210	1-1-2010	Adopt	2-1-2010	165-013-0020	12-31-2009	Amend	2-1-2010
160-010-0220	1-1-2010	Adopt	2-1-2010	165-014-0005	12-31-2009	Amend	2-1-2010
160-010-0230	1-1-2010	Adopt	2-1-2010	165-014-0100	12-31-2009	Amend	2-1-2010
160-010-0240	1-1-2010	Adopt	2-1-2010	165-014-0280	12-31-2009	Amend	2-1-2010
160-040-0103	1-1-2010	Amend	2-1-2010	165-020-0005	12-31-2009	Amend	2-1-2010
160-040-0104	1-1-2010	Amend	2-1-2010	165-020-0020	12-31-2009	Amend	2-1-2010
160-040-0311	1-1-2010	Amend	2-1-2010	165-020-0050	12-31-2009	Amend	2-1-2010
160-040-0507	1-1-2010	Adopt	2-1-2010	165-020-0060	12-31-2009	Amend	2-1-2010
160-050-0140	2-27-2010	Amend(T)	3-1-2010	166-150-0035	12-23-2009	Amend	2-1-2010
160-050-0215	2-27-2010	Amend(T)	3-1-2010	170-040-0110	11-19-2009	Adopt	1-1-2010
160-100-0040	1-1-2010	Amend	2-1-2010	170-061-0000	2-2-2010	Amend	3-1-2010
160-100-0100	2-3-2010	Amend	3-1-2010	170-061-0015	1-15-2010	Amend	2-1-2010
160-100-0400	1-1-2010	Amend	2-1-2010	170-061-0015	1-26-2010	Amend(T)	3-1-2010
160-100-0610	1-1-2010	Amend	2-1-2010	170-061-0015(T)	1-15-2010	Repeal	2-1-2010
160-100-0700	1-1-2010	Adopt	2-1-2010	170-063-0000	1-15-2010	Amend	2-1-2010
161-002-0000	1-1-2010	Amend(T)	1-1-2010	170-063-0000(T)	1-15-2010	Repeal	2-1-2010
161-010-0010	2-1-2010	Amend(T)	3-1-2010	177-020-0100	2-1-2010	Amend	3-1-2010
161-010-0020	2-1-2010	Amend(T)	3-1-2010	177-036-0200	1-20-2010	Suspend	3-1-2010
161-010-0055	2-1-2010	Suspend	3-1-2010	177-050-0027	2-1-2010	Amend	3-1-2010
161-010-0085	2-1-2010	Amend(T)	3-1-2010	177-070-0025	2-1-2010	Amend	3-1-2010
161-015-0000	2-1-2010	Amend(T)	3-1-2010	177-099-0100	2-1-2010	Amend	3-1-2010
161-015-0010	2-1-2010	Amend(T)	3-1-2010	177-099-0100(T)	2-1-2010	Repeal	3-1-2010
161-015-0025	2-1-2010	Amend(T)	3-1-2010	177-200-0020	2-1-2010	Amend	3-1-2010
161-015-0030	2-1-2010	Amend(T)	3-1-2010	213-003-0001	1-1-2010	Amend	2-1-2010
161-020-0005	2-1-2010	Amend(T)	3-1-2010	213-003-0001(T)	1-1-2010	Repeal	2-1-2010
161-020-0110	2-1-2010	Amend(T)	3-1-2010	213-017-0004	12-13-2009	Amend	1-1-2010
161-020-0130	2-1-2010	Amend(T)	3-1-2010	213-017-0004	1-1-2010	Amend	2-1-2010
161-020-0150	2-1-2010	Amend(T)	3-1-2010	213-017-0004(T)	12-13-2009	Repeal	1-1-2010
161-025-0025	2-1-2010	Amend(T)	3-1-2010	213-017-0005	1-1-2010	Amend	2-1-2010
161-025-0030	2-1-2010	Amend(T)	3-1-2010	213-017-0006	12-13-2009	Amend	1-1-2010
161-025-0060	1-1-2010	Amend(T)	1-1-2010	213-017-0006	1-1-2010	Amend	2-1-2010
161-030-0000	2-1-2010	Amend(T)	3-1-2010	213-017-0006(T)	12-13-2009	Repeal	1-1-2010
161-050-0000	2-1-2010	Amend(T)	3-1-2010	213-017-0009(T)	1-1-2010	Suspend	1-1-2010
161-050-0050	2-1-2010	Amend(T)	3-1-2010	213-018-0022	12-13-2009	Adopt	1-1-2010
165-001-0015	12-31-2009	Amend	2-1-2010	213-018-0022(T)	12-13-2009	Repeal	1-1-2010
165-001-0025	12-31-2009	Amend	2-1-2010	213-018-0058	1-1-2010	Adopt	2-1-2010
165-001-0035	12-31-2009	Amend	2-1-2010	250-010-0154	1-15-2010	Amend	2-1-2010
165-001-0040	12-31-2009	Amend	2-1-2010	250-010-0650	1-5-2010	Amend(T)	2-1-2010

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250-010-0650(T)	1-15-2010	Suspend	2-1-2010	274-006-0020	1-1-2010	Adopt	2-1-2010
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250-030-0030	1-15-2010	Amend(T)	2-1-2010	291-084-0020	11-20-2009	Repeal	1-1-2010
255-062-0005	1-5-2010	Adopt(T)	2-1-2010	291-084-0030	11-20-2009	Repeal	1-1-2010
255-062-0010	1-5-2010	Adopt(T)	2-1-2010	291-084-0040	11-20-2009	Repeal	1-1-2010
255-062-0015	1-5-2010	Adopt(T)	2-1-2010	291-097-0005	11-20-2009	Amend	1-1-2010
255-062-0020	1-5-2010	Adopt(T)	2-1-2010	291-097-0010	11-20-2009	Amend	1-1-2010
255-062-0025	1-5-2010	Adopt(T)	2-1-2010	291-097-0015	11-20-2009	Amend	1-1-2010
255-062-0030	1-5-2010	Adopt(T)	2-1-2010	291-097-0020	11-20-2009	Amend	1-1-2010
255-070-0001	1-1-2010	Amend	2-1-2010	291-097-0023	11-20-2009	Adopt	1-1-2010
257-001-0005	1-1-2010	Amend(T)	2-1-2010	291-097-0025	11-20-2009	Amend	1-1-2010
257-045-0010	1-1-2010	Adopt(T)	2-1-2010	291-097-0040	11-20-2009	Amend	1-1-2010
257-045-0020	1-1-2010	Adopt(T)	2-1-2010	291-097-0080	11-20-2009	Amend	1-1-2010
257-045-0030	1-1-2010	Adopt(T)	2-1-2010	291-097-0100	11-20-2009	Amend	1-1-2010
257-045-0040	1-1-2010	Adopt(T)	2-1-2010	291-180-0274	1-4-2010	Adopt(T)	2-1-2010
257-045-0050	1-1-2010	Adopt(T)	2-1-2010	309-033-0270	12-17-2009	Amend	2-1-2010
257-050-0020	1-1-2010	Amend(T)	2-1-2010	309-035-0155	12-17-2009	Amend	2-1-2010
257-050-0040	1-1-2010	Amend(T)	2-1-2010	309-035-0380	12-17-2009	Amend	2-1-2010
257-050-0050	1-1-2010	Amend(T)	2-1-2010	309-040-0410	1-29-2010	Amend	3-1-2010
257-050-0060	1-1-2010	Amend(T)	2-1-2010	309-040-0410(T)	1-29-2010	Repeal	3-1-2010
257-050-0070	1-1-2010	Amend(T)	2-1-2010	309-041-0550	12-9-2009	Renumber	1-1-2010
257-050-0090	1-1-2010	Amend(T)	2-1-2010	309-041-0560	12-9-2009	Renumber	1-1-2010
257-050-0095	1-1-2010	Amend(T)	2-1-2010	309-041-0570	12-9-2009	Renumber	1-1-2010
257-050-0100	1-1-2010	Amend(T)	2-1-2010	309-041-0580	12-9-2009	Renumber	1-1-2010
257-050-0110	1-1-2010	Amend(T)	2-1-2010	309-041-0590	12-9-2009	Renumber	1-1-2010
257-050-0115	1-1-2010	Amend(T)	2-1-2010	309-041-0600	12-9-2009	Renumber	1-1-2010
257-050-0125	1-1-2010	Amend(T)	2-1-2010	309-041-0610	12-9-2009	Renumber	1-1-2010
257-050-0130	1-1-2010	Amend(T)	2-1-2010	309-041-0620	12-9-2009	Renumber	1-1-2010
257-050-0140	1-1-2010	Amend(T)	2-1-2010	309-041-0630	12-9-2009	Renumber	1-1-2010
257-050-0145	1-1-2010	Amend(T)	2-1-2010	309-041-0640	12-9-2009	Renumber	1-1-2010
257-050-0150	1-1-2010	Amend(T)	2-1-2010	309-041-0650	12-9-2009	Renumber	1-1-2010
257-050-0155	1-1-2010	Amend(T)	2-1-2010	309-041-0660	12-9-2009	Renumber	1-1-2010
257-050-0157	1-1-2010	Amend(T)	2-1-2010	309-041-0670	12-9-2009	Renumber	1-1-2010
257-050-0170	1-1-2010	Amend(T)	2-1-2010	309-041-0680	12-9-2009	Renumber	1-1-2010
257-050-0180	1-1-2010	Amend(T)	2-1-2010	309-041-0690	12-9-2009	Renumber	1-1-2010
257-050-0200	1-1-2010	Amend(T)	2-1-2010	309-041-0700	12-9-2009	Renumber	1-1-2010
259-008-0000	12-15-2009	Amend	1-1-2010	309-041-0710	12-9-2009	Renumber	1-1-2010
259-008-0015	1-11-2010	Amend	2-1-2010	309-041-0715	12-9-2009	Renumber	1-1-2010
259-008-0025	12-15-2009	Amend	1-1-2010	309-041-0720	12-9-2009	Renumber	1-1-2010
259-008-0025(T)	12-15-2009	Repeal	1-1-2010	309-041-0730	12-9-2009	Renumber	1-1-2010
259-008-0060	1-11-2010	Amend	2-1-2010	309-041-0740	12-9-2009	Renumber	1-1-2010
259-008-0064	1-11-2010	Amend	2-1-2010	309-041-0750	12-9-2009	Renumber	1-1-2010
259-009-0005	12-15-2009	Amend(T)	1-1-2010	309-041-0760	12-9-2009	Renumber	1-1-2010
259-009-0062	12-15-2009	Amend(T)	1-1-2010	309-041-0770	12-9-2009	Renumber	1-1-2010
274-006-0001	1-1-2010	Adopt	2-1-2010	309-041-0780	12-9-2009	Renumber	1-1-2010
274-006-0002	1-1-2010	Adopt	2-1-2010	309-041-0790	12-9-2009	Renumber	1-1-2010
274-006-0004	1-1-2010	Adopt	2-1-2010	309-041-0800	12-9-2009	Renumber	1-1-2010
274-006-0005	1-1-2010	Adopt	2-1-2010	309-041-0805	12-9-2009	Renumber	1-1-2010
274-006-0010	1-1-2010	Adopt	2-1-2010	309-041-0810	12-9-2009	Renumber	1-1-2010
274-006-0011	1-1-2010	Adopt	2-1-2010	309-041-0820	12-9-2009	Renumber	1-1-2010
274-006-0012	1-1-2010	Adopt	2-1-2010	309-041-0830	12-9-2009	Renumber	1-1-2010
274-006-0013	1-1-2010	Adopt	2-1-2010	309-114-0005	12-28-2009	Amend	2-1-2010
274-006-0014	1-1-2010	Adopt	2-1-2010	330-001-0005	1-27-2010	Amend	3-1-2010
274-006-0015	1-1-2010	Adopt	2-1-2010	330-001-0025	1-27-2010	Adopt	3-1-2010

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330-075-0010	12-21-2009	Amend(T)	2-1-2010	333-092-0055	12-21-2009	Repeal	2-1-2010
330-075-0015	12-21-2009	Amend(T)	2-1-2010	333-092-0060	12-21-2009	Repeal	2-1-2010
330-075-0025	12-21-2009	Amend(T)	2-1-2010	333-092-0065	12-21-2009	Repeal	2-1-2010
330-075-0030	12-21-2009	Suspend	2-1-2010	333-092-0070	12-21-2009	Repeal	2-1-2010
330-075-0035	12-21-2009	Amend(T)	2-1-2010	333-092-0075	12-21-2009	Repeal	2-1-2010
330-090-0140	1-8-2010	Amend	2-1-2010	333-092-0080	12-21-2009	Repeal	2-1-2010
330-090-0140(T)	1-8-2010	Repeal	2-1-2010	333-092-0085	12-21-2009	Repeal	2-1-2010
331-705-0060	12-1-2009	Amend(T)	1-1-2010	333-092-0090	12-21-2009	Repeal	2-1-2010
333-011-0106	2-3-2010	Amend	3-1-2010	333-092-0095	12-21-2009	Repeal	2-1-2010
333-012-0500	1-14-2010	Amend	2-1-2010	333-270-0010	12-3-2009	Adopt	1-1-2010
333-015-0035	1-14-2010	Amend	2-1-2010	333-270-0020	12-3-2009	Adopt	1-1-2010
333-015-0040	1-14-2010	Amend	2-1-2010	333-270-0030	12-3-2009	Adopt	1-1-2010
333-015-0075	1-14-2010	Amend	2-1-2010	333-270-0040	12-3-2009	Adopt	1-1-2010
333-015-0085	1-14-2010	Amend	2-1-2010	333-270-0050	12-3-2009	Adopt	1-1-2010
333-015-0100	1-1-2010	Adopt	2-1-2010	333-270-0060	12-3-2009	Adopt	1-1-2010
333-015-0105	1-1-2010	Adopt	2-1-2010	333-270-0070	12-3-2009	Adopt	1-1-2010
333-015-0110	1-1-2010	Adopt	2-1-2010	333-270-0080	12-3-2009	Adopt	1-1-2010
333-015-0115	1-1-2010	Adopt	2-1-2010	333-300-0000	12-21-2009	Repeal	2-1-2010
333-015-0120	1-1-2010	Adopt	2-1-2010	335-070-0065	11-16-2009	Amend	1-1-2010
333-015-0125	1-1-2010	Adopt	2-1-2010	335-095-0060	11-16-2009	Amend	1-1-2010
333-015-0130	1-1-2010	Adopt	2-1-2010	339-005-0000	3-1-2010	Amend	2-1-2010
333-015-0135	1-1-2010	Adopt	2-1-2010	340-045-0033	1-22-2010	Amend	3-1-2010
333-015-0140	1-1-2010	Adopt	2-1-2010	340-071-0140	1-4-2010	Amend	2-1-2010
333-015-0145	1-1-2010	Adopt	2-1-2010	340-200-0040	12-16-2009	Amend	2-1-2010
333-015-0150	1-1-2010	Adopt	2-1-2010	340-209-0030	12-16-2009	Amend	2-1-2010
333-015-0155	1-1-2010	Adopt	2-1-2010	340-210-0100	12-16-2009	Amend	2-1-2010
333-015-0160	1-1-2010	Adopt	2-1-2010	340-210-0110	12-16-2009	Amend	2-1-2010
333-015-0165	1-1-2010	Adopt	2-1-2010	340-210-0120	12-16-2009	Amend	2-1-2010
333-029-0025	12-23-2009	Amend	2-1-2010	340-215-0050	1-1-2010	Adopt(T)	2-1-2010
333-029-0030	12-23-2009	Repeal	2-1-2010	340-216-0020	12-16-2009	Amend	2-1-2010
333-029-0045	12-23-2009	Amend	2-1-2010	340-216-0020	1-1-2010	Amend(T)	2-1-2010
333-029-0050	12-23-2009	Amend	2-1-2010	340-216-0060	12-16-2009	Amend	2-1-2010
333-029-0060	12-23-2009	Amend	2-1-2010	340-216-0062	12-16-2009	Adopt	2-1-2010
333-029-0070	12-23-2009	Amend	2-1-2010	340-216-0064	12-16-2009	Amend	2-1-2010
333-029-0080	12-23-2009	Amend	2-1-2010	340-220-0050	1-1-2010	Amend(T)	2-1-2010
333-029-0115	12-23-2009	Amend	2-1-2010	340-228-0606	12-16-2009	Amend	2-1-2010
333-050-0020	12-21-2009	Amend(T)	2-1-2010	340-228-0621	12-16-2009	Amend	2-1-2010
333-050-0050	12-21-2009	Amend(T)	2-1-2010	340-228-0623	12-16-2009	Amend	2-1-2010
333-050-0120	12-21-2009	Amend(T)	2-1-2010	340-228-0625	12-16-2009	Amend	2-1-2010
333-060-0125	12-23-2009	Amend	2-1-2010	340-228-0627	12-16-2009	Amend	2-1-2010
333-060-0128	12-23-2009	Adopt	2-1-2010	340-228-0639	12-16-2009	Adopt	2-1-2010
333-060-0505	12-23-2009	Amend	2-1-2010	340-238-0040	12-16-2009	Amend	2-1-2010
333-060-0510	12-23-2009	Amend	2-1-2010	340-244-0030	12-16-2009	Amend	2-1-2010
333-062-0100	12-23-2009	Amend	2-1-2010	340-244-0220	12-16-2009	Amend	2-1-2010
333-062-0103	12-23-2009	Adopt	2-1-2010	340-244-0238	12-16-2009	Amend	2-1-2010
333-092-0000	12-21-2009	Repeal	2-1-2010	340-244-0240	12-16-2009	Amend	2-1-2010
333-092-0005	12-21-2009	Repeal	2-1-2010	340-244-0242	12-16-2009	Amend	2-1-2010
333-092-0010	12-21-2009	Repeal	2-1-2010	340-244-0246	12-16-2009	Amend	2-1-2010
333-092-0015	12-21-2009	Repeal	2-1-2010	345-001-0010	11-24-2009	Amend	1-1-2010
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333-092-0025	12-21-2009	Repeal	2-1-2010	407-007-0000	1-1-2010	Amend	2-1-2010
333-092-0030	12-21-2009	Repeal	2-1-2010	407-007-0010	1-1-2010	Amend	2-1-2010
333-092-0035	12-21-2009	Repeal	2-1-2010	407-007-0020	1-1-2010	Amend	2-1-2010
333-092-0040	12-21-2009	Repeal	2-1-2010	407-007-0030	1-1-2010	Amend	2-1-2010
333-092-0045	12-21-2009	Repeal	2-1-2010	407-007-0040	1-1-2010	Amend	2-1-2010

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407-007-0060	1-1-2010	Amend	2-1-2010	410-121-0100	1-1-2010	Amend	1-1-2010
407-007-0065	1-1-2010	Adopt	2-1-2010	410-121-0135	1-1-2010	Amend	1-1-2010
407-007-0070	1-1-2010	Amend	2-1-2010	410-121-0145	2-5-2010	Amend	3-1-2010
407-007-0075	1-1-2010	Adopt	2-1-2010	410-121-0420	1-1-2010	Amend	1-1-2010
407-007-0080	1-1-2010	Amend	2-1-2010	410-122-0182	1-1-2010	Amend	1-1-2010
407-007-0090	1-1-2010	Amend	2-1-2010	410-122-0203	1-1-2010	Amend	1-1-2010
407-007-0100	1-1-2010	Amend	2-1-2010	410-122-0660	1-1-2010	Amend	1-1-2010
407-007-0200	1-1-2010	Amend	2-1-2010	410-122-0662	1-1-2010	Amend	1-1-2010
407-007-0210	1-1-2010	Amend	2-1-2010	410-123-1000	1-1-2010	Amend	1-1-2010
407-007-0220	1-1-2010	Amend	2-1-2010	410-123-1160	1-1-2010	Amend	1-1-2010
407-007-0230	1-1-2010	Amend	2-1-2010	410-123-1220	1-1-2010	Amend	1-1-2010
407-007-0240	1-1-2010	Amend	2-1-2010	410-123-1260	1-1-2010	Amend	1-1-2010
407-007-0250	1-1-2010	Amend	2-1-2010	410-136-0245	1-1-2010	Adopt	1-1-2010
407-007-0280	1-1-2010	Amend	2-1-2010	410-138-0009	1-1-2010	Amend	1-1-2010
407-007-0290	1-1-2010	Amend	2-1-2010	410-138-0020	1-1-2010	Amend	1-1-2010
407-007-0300	1-1-2010	Amend	2-1-2010	410-138-0300	11-16-2009	Amend(T)	1-1-2010
407-007-0315	1-1-2010	Adopt	2-1-2010	410-138-0300	1-1-2010	Amend	1-1-2010
407-007-0320	1-1-2010	Amend	2-1-2010	410-138-0300(T)	1-1-2010	Repeal	1-1-2010
407-007-0325	1-1-2010	Adopt	2-1-2010	410-138-0320	1-1-2010	Repeal	1-1-2010
407-007-0330	1-1-2010	Amend	2-1-2010	410-138-0340	11-16-2009	Suspend	1-1-2010
407-007-0340	1-1-2010	Amend	2-1-2010	410-138-0340	1-1-2010	Repeal	1-1-2010
407-007-0350	1-1-2010	Amend	2-1-2010	410-138-0360	11-16-2009	Amend(T)	1-1-2010
407-007-0355	1-1-2010	Repeal	2-1-2010	410-138-0360	1-1-2010	Amend	1-1-2010
407-007-0370	1-1-2010	Amend	2-1-2010	410-138-0360(T)	1-1-2010	Repeal	1-1-2010
407-007-0440	1-8-2010	Adopt(T)	2-1-2010	410-138-0380	11-16-2009	Amend(T)	1-1-2010
407-043-0010	1-1-2010	Amend	2-1-2010	410-138-0380	1-1-2010	Amend	1-1-2010
407-043-0010(T)	1-1-2010	Repeal	2-1-2010	410-138-0380(T)	1-1-2010	Repeal	1-1-2010
407-045-0260	1-1-2010	Amend(T)	2-1-2010	410-138-0390	11-16-2009	Adopt(T)	1-1-2010
407-045-0290	1-1-2010	Amend(T)	2-1-2010	410-138-0390	1-1-2010	Adopt	1-1-2010
407-045-0350	1-1-2010	Amend(T)	2-1-2010	410-138-0390(T)	1-1-2010	Repeal	1-1-2010
409-026-0100	1-1-2010	Adopt	2-1-2010	410-138-0520	1-1-2010	Repeal	1-1-2010
409-026-0110	1-1-2010	Adopt	2-1-2010	410-138-0560	1-1-2010	Amend	1-1-2010
409-026-0120	1-1-2010	Adopt	2-1-2010	410-138-0620	1-1-2010	Repeal	1-1-2010
409-026-0120	1-1-2010	Adopt	2-1-2010	410-138-0680	1-1-2010	Amend	1-1-2010
409-026-0140	1-1-2010	Adopt	2-1-2010	410-138-0720	1-1-2010	Repeal	1-1-2010
409-040-0100	1-1-2010	Adopt	2-1-2010	410-140-0050	1-1-2010	Amend	1-1-2010
409-040-0105	1-1-2010	Adopt	2-1-2010	410-140-0115	1-1-2010	Repeal	1-1-2010
409-040-0110	1-1-2010	Adopt	2-1-2010	410-140-0140	1-1-2010	Amend	1-1-2010
409-040-0115	1-1-2010	Adopt	2-1-2010	410-140-0160	1-1-2010	Amend	1-1-2010
410-120-0030	1-1-2010	Amend	1-1-2010	410-140-0200	1-1-2010	Amend	1-1-2010
410-120-0030(T)	1-1-2010	Repeal	1-1-2010	410-140-0260	1-1-2010	Amend	1-1-2010
410-120-1200	1-1-2010	Amend	1-1-2010	410-141-0000	1-1-2010	Amend	1-1-2010
410-120-1210	1-1-2010	Amend	1-1-2010	410-141-0261	1-1-2010	Amend	1-1-2010
410-120-1230	1-1-2010	Amend	1-1-2010	410-141-0263	1-1-2010	Amend	1-1-2010
410-120-1295	12-4-2009	Amend(T)	1-1-2010	410-141-0264	1-1-2010	Amend	1-1-2010
410-120-1295	1-1-2010	Amend	1-1-2010	410-141-0405	1-1-2010	Amend	1-1-2010
410-120-1295(T)	12-4-2009	Suspend	1-1-2010	410-141-0420	1-1-2010	Amend	1-1-2010
410-120-1340	1-1-2010	Amend	1-1-2010	410-141-0520	1-1-2010	Amend(T)	1-1-2010
410-120-1380	1-1-2010	Amend	1-1-2010	410-141-0520	1-15-2010	Amend(T)	2-1-2010
410-120-1570	1-1-2010	Amend	1-1-2010	410-141-0520(T)	1-1-2010	Suspend	1-1-2010
410-120-1600	1-1-2010	Amend	1-1-2010	410-141-0520(T)	1-15-2010	Suspend	2-1-2010
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410-121-0030	1-1-2010	Amend	1-1-2010	410-146-0085	1-1-2010	Amend	1-1-2010
410-121-0032	1-1-2010	Amend	1-1-2010	410-146-0240	1-1-2010	Amend	1-1-2010
410-121-0040	1-1-2010	Amend	1-1-2010	410-146-0340	1-1-2010	Repeal	1-1-2010

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410-147-0320	1-1-2010	Amend	1-1-2010	411-070-0110	12-1-2009	Amend	1-1-2010
410-147-0400	1-1-2010	Amend	1-1-2010	411-070-0125	12-1-2009	Amend	1-1-2010
410-147-0620	1-1-2010	Repeal	1-1-2010	411-070-0130	12-1-2009	Amend	1-1-2010
410-149-0000	1-1-2010	Repeal	1-1-2010	411-070-0300	12-1-2009	Amend	1-1-2010
410-149-0020	1-1-2010	Repeal	1-1-2010	411-070-0350	12-1-2009	Amend	1-1-2010
410-149-0040	1-1-2010	Repeal	1-1-2010	411-070-0359	12-1-2009	Amend	1-1-2010
410-149-0060	1-1-2010	Repeal	1-1-2010	411-070-0415	12-1-2009	Amend	1-1-2010
410-149-0080	1-1-2010	Repeal	1-1-2010	411-070-0417	12-1-2009	Amend	1-1-2010
410-150-0080	1-1-2010	Amend	1-1-2010	411-070-0430	12-1-2009	Amend	1-1-2010
410-150-0120	1-1-2010	Repeal	1-1-2010	411-070-0442	12-1-2009	Amend	1-1-2010
410-150-0160	1-1-2010	Repeal	1-1-2010	411-070-0442(T)	12-1-2009	Repeal	1-1-2010
410-150-0240	1-1-2010	Repeal	1-1-2010	411-070-0452	12-1-2009	Amend	1-1-2010
411-001-0100	1-1-2010	Amend	2-1-2010	411-070-0470	12-1-2009	Amend	1-1-2010
411-001-0110	1-1-2010	Amend	2-1-2010	411-085-0005	1-1-2010	Amend(T)	2-1-2010
411-001-0115	1-1-2010	Adopt	2-1-2010	411-085-0020	1-1-2010	Amend	2-1-2010
411-001-0118	1-1-2010	Adopt	2-1-2010	411-085-0020	1-1-2010	Amend(T)	2-1-2010
411-001-0120	1-1-2010	Amend	2-1-2010	411-089-0030	1-1-2010	Amend(T)	2-1-2010
411-020-0002	1-1-2010	Amend(T)	2-1-2010	411-089-0075	1-1-2010	Adopt(T)	2-1-2010
411-020-0020	1-1-2010	Amend(T)	2-1-2010	411-089-0140	1-1-2010	Amend(T)	2-1-2010
411-020-0025	1-1-2010	Adopt(T)	2-1-2010	411-089-0150	1-1-2010	Suspend	2-1-2010
411-020-0030	1-1-2010	Amend(T)	2-1-2010	411-300-0110	1-1-2010	Amend(T)	2-1-2010
411-020-0085	1-1-2010	Adopt(T)	2-1-2010	411-300-0155	1-1-2010	Amend(T)	2-1-2010
411-020-0100	1-1-2010	Amend(T)	2-1-2010	411-300-0170	1-1-2010	Amend(T)	2-1-2010
411-020-0120	1-1-2010	Amend(T)	2-1-2010	411-300-0200	1-1-2010	Amend(T)	2-1-2010
411-031-0040	12-1-2009	Amend(T)	1-1-2010	411-300-0220	1-1-2010	Amend(T)	2-1-2010
411-050-0400	1-1-2010	Amend(T)	2-1-2010	411-305-0010	1-1-2010	Amend(T)	2-1-2010
411-050-0410	1-1-2010	Amend(T)	2-1-2010	411-305-0020	1-1-2010	Amend(T)	2-1-2010
411-050-0412	1-1-2010	Amend(T)	2-1-2010	411-305-0023	1-1-2010	Amend(T)	2-1-2010
411-050-0415	1-1-2010	Amend(T)	2-1-2010	411-305-0110	1-1-2010	Amend(T)	2-1-2010
411-050-0420	1-1-2010	Amend(T)	2-1-2010	411-305-0115	1-1-2010	Amend(T)	2-1-2010
411-050-0440	1-1-2010	Amend(T)	2-1-2010	411-305-0140	1-1-2010	Amend(T)	2-1-2010
411-050-0444	1-1-2010	Amend(T)	2-1-2010	411-308-0010	12-28-2009	Adopt	2-1-2010
411-050-0455	1-1-2010	Amend(T)	2-1-2010	411-308-0010(T)	12-28-2009	Repeal	2-1-2010
411-050-0460	1-1-2010	Amend(T)	2-1-2010	411-308-0020	12-28-2009	Adopt	2-1-2010
411-050-0480	1-1-2010	Amend(T)	2-1-2010	411-308-0020	1-1-2010	Amend(T)	2-1-2010
411-050-0481	1-1-2010	Amend(T)	2-1-2010	411-308-0020(T)	12-28-2009	Repeal	2-1-2010
411-050-0487	1-1-2010	Amend(T)	2-1-2010	411-308-0030	12-28-2009	Adopt	2-1-2010
411-054-0005	1-1-2010	Amend(T)	2-1-2010	411-308-0030	1-1-2010	Amend(T)	2-1-2010
411-054-0016	1-1-2010	Amend(T)	2-1-2010	411-308-0030(T)	12-28-2009	Repeal	2-1-2010
411-054-0025	1-1-2010	Amend(T)	2-1-2010	411-308-0040	12-28-2009	Adopt	2-1-2010
411-054-0065	1-1-2010	Amend(T)	2-1-2010	411-308-0040(T)	12-28-2009	Repeal	2-1-2010
411-054-0105	1-1-2010	Amend(T)	2-1-2010	411-308-0050	12-28-2009	Adopt	2-1-2010
411-054-0120	1-1-2010	Amend(T)	2-1-2010	411-308-0050(T)	12-28-2009	Repeal	2-1-2010
411-054-0133	1-1-2010	Adopt(T)	2-1-2010	411-308-0060	12-28-2009	Adopt	2-1-2010
411-070-0000	12-1-2009	Amend	1-1-2010	411-308-0060(T)	12-28-2009	Repeal	2-1-2010
411-070-0005	12-1-2009	Amend	1-1-2010	411-308-0070	12-28-2009	Adopt	2-1-2010
411-070-0005(T)	12-1-2009	Repeal	1-1-2010	411-308-0070(T)	12-28-2009	Repeal	2-1-2010
411-070-0010	12-1-2009	Amend	1-1-2010	411-308-0080	12-28-2009	Adopt	2-1-2010
411-070-0025	12-1-2009	Amend	1-1-2010	411-308-0080(T)	12-28-2009	Repeal	2-1-2010
411-070-0027	12-1-2009	Amend	1-1-2010	411-308-0090	12-28-2009	Adopt	2-1-2010
411-070-0029	12-1-2009	Amend	1-1-2010	411-308-0090	1-1-2010	Amend(T)	2-1-2010
411-070-0033	12-1-2009	Amend	1-1-2010	411-308-0090(T)	12-28-2009	Repeal	2-1-2010
411-070-0035	12-1-2009	Amend	1-1-2010	411-308-0100	12-28-2009	Adopt	2-1-2010
411-070-0040	12-1-2009	Amend	1-1-2010	411-308-0100	1-1-2010	Amend(T)	2-1-2010
411-070-0043	12-1-2009	Amend	1-1-2010	411-308-0100(T)	12-28-2009	Repeal	2-1-2010

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411-308-0110	1-1-2010	Amend(T)	2-1-2010	411-355-0010	1-1-2010	Amend(T)	2-1-2010
411-308-0110(T)	12-28-2009	Repeal	2-1-2010	411-355-0040	1-1-2010	Amend(T)	2-1-2010
411-308-0120	12-28-2009	Adopt	2-1-2010	411-355-0050	1-1-2010	Amend(T)	2-1-2010
411-308-0120(T)	12-28-2009	Repeal	2-1-2010	411-355-0060	1-1-2010	Amend(T)	2-1-2010
411-308-0130	12-28-2009	Adopt	2-1-2010	411-355-0090	1-1-2010	Amend(T)	2-1-2010
411-308-0130	1-1-2010	Amend(T)	2-1-2010	411-355-0120	1-1-2010	Amend(T)	2-1-2010
411-308-0130(T)	12-28-2009	Repeal	2-1-2010	411-360-0020	1-1-2010	Amend(T)	2-1-2010
411-308-0140	12-28-2009	Adopt	2-1-2010	411-360-0040	1-1-2010	Amend(T)	2-1-2010
411-308-0140(T)	12-28-2009	Repeal	2-1-2010	411-360-0050	1-1-2010	Amend(T)	2-1-2010
411-308-0150	12-28-2009	Adopt	2-1-2010	411-360-0090	1-1-2010	Amend(T)	2-1-2010
411-308-0150(T)	12-28-2009	Repeal	2-1-2010	411-360-0110	1-1-2010	Amend(T)	2-1-2010
411-320-0020	1-1-2010	Amend(T)	2-1-2010	411-360-0210	1-1-2010	Amend(T)	2-1-2010
411-320-0030	1-1-2010	Amend(T)	2-1-2010	411-360-0270	1-1-2010	Amend(T)	2-1-2010
411-320-0140	1-1-2010	Amend(T)	2-1-2010	413-010-0500	12-29-2009	Amend	2-1-2010
411-325-0020	1-1-2010	Amend(T)	2-1-2010	413-010-0505	12-29-2009	Adopt	2-1-2010
411-325-0100	1-1-2010	Amend(T)	2-1-2010	413-010-0510	12-29-2009	Adopt	2-1-2010
411-325-0160	1-1-2010	Amend(T)	2-1-2010	413-010-0515	12-29-2009	Adopt	2-1-2010
411-325-0190	1-1-2010	Amend(T)	2-1-2010	413-010-0520	12-29-2009	Adopt	2-1-2010
411-328-0560	1-1-2010	Amend(T)	2-1-2010	413-010-0525	12-29-2009	Adopt	2-1-2010
411-328-0610	1-1-2010	Amend(T)	2-1-2010	413-010-0530	12-29-2009	Adopt	2-1-2010
411-328-0670	1-1-2010	Amend(T)	2-1-2010	413-010-0535	12-29-2009	Adopt	2-1-2010
411-330-0010	1-1-2010	Amend(T)	2-1-2010	413-015-0415	1-1-2010	Amend(T)	2-1-2010
411-330-0020	1-1-2010	Amend(T)	2-1-2010	413-015-0420	2-12-2010	Amend(T)	3-1-2010
411-330-0060	1-1-2010	Amend(T)	2-1-2010	413-020-0200	12-29-2009	Amend	2-1-2010
411-330-0070	1-1-2010	Amend(T)	2-1-2010	413-020-0210	12-29-2009	Amend	2-1-2010
411-330-0100	1-1-2010	Amend(T)	2-1-2010	413-020-0230	12-29-2009	Amend	2-1-2010
411-330-0120	1-1-2010	Amend(T)	2-1-2010	413-020-0233	12-29-2009	Amend	2-1-2010
411-330-0140	1-1-2010	Amend(T)	2-1-2010	413-020-0236	12-29-2009	Amend	2-1-2010
411-330-0160	1-1-2010	Amend(T)	2-1-2010	413-020-0240	12-29-2009	Amend	2-1-2010
411-335-0020	1-1-2010	Amend(T)	2-1-2010	413-020-0245	12-29-2009	Amend	2-1-2010
411-335-0030	1-1-2010	Amend(T)	2-1-2010	413-020-0255	12-29-2009	Amend	2-1-2010
411-335-0100	1-1-2010	Amend(T)	2-1-2010	413-040-0000	12-29-2009	Amend	2-1-2010
411-340-0020	1-1-2010	Amend(T)	2-1-2010	413-040-0005	12-29-2009	Amend	2-1-2010
411-340-0030	1-1-2010	Amend(T)	2-1-2010	413-040-0006	12-29-2009	Amend	2-1-2010
411-340-0040	1-1-2010	Amend(T)	2-1-2010	413-040-0008	12-29-2009	Amend	2-1-2010
411-340-0050	1-1-2010	Amend(T)	2-1-2010	413-040-0009	12-29-2009	Amend	2-1-2010
411-340-0070	1-1-2010	Amend(T)	2-1-2010	413-040-0010	12-29-2009	Amend	2-1-2010
411-340-0080	1-1-2010	Amend(T)	2-1-2010	413-040-0011	12-29-2009	Amend	2-1-2010
411-340-0130	1-1-2010	Amend(T)	2-1-2010	413-040-0013	12-29-2009	Amend	2-1-2010
411-340-0140	1-1-2010	Amend(T)	2-1-2010	413-040-0016	12-29-2009	Amend	2-1-2010
411-340-0160	1-1-2010	Amend(T)	2-1-2010	413-040-0017	12-29-2009	Amend	2-1-2010
411-345-0020	1-1-2010	Amend(T)	2-1-2010	413-040-0024	12-29-2009	Amend	2-1-2010
411-345-0080	1-1-2010	Amend(T)	2-1-2010	413-040-0032	12-29-2009	Amend	2-1-2010
411-345-0100	1-1-2010	Amend(T)	2-1-2010	413-070-0600	12-29-2009	Amend	2-1-2010
411-345-0210	1-1-2010	Amend(T)	2-1-2010	413-070-0620	12-29-2009	Amend	2-1-2010
411-345-0230	1-1-2010	Amend(T)	2-1-2010	413-070-0625	12-29-2009	Amend	2-1-2010
411-345-0290	1-1-2010	Amend(T)	2-1-2010	413-070-0630	12-29-2009	Amend	2-1-2010
411-346-0110	1-1-2010	Amend(T)	2-1-2010	413-070-0640	12-29-2009	Amend	2-1-2010
411-346-0150	1-1-2010	Amend(T)	2-1-2010	413-070-0645	12-29-2009	Amend	2-1-2010
411-346-0180	1-1-2010	Amend(T)	2-1-2010	413-070-0900	12-16-2009	Amend(T)	2-1-2010
411-346-0220	1-1-2010	Amend(T)	2-1-2010	413-070-0905	12-16-2009	Amend(T)	2-1-2010
411-350-0020	1-1-2010	Amend(T)	2-1-2010	413-070-0905	2-1-2010	Amend(T)	3-1-2010
411-350-0050	1-1-2010	Amend(T)	2-1-2010	413-070-0905(T)	2-1-2010	Suspend	3-1-2010
411-350-0080	1-1-2010	Amend(T)	2-1-2010	413-070-0909	12-16-2009	Amend(T)	2-1-2010
411-350-0110	1-1-2010	Amend(T)	2-1-2010	413-070-0915	12-16-2009	Amend(T)	2-1-2010

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413-070-0919	12-16-2009	Adopt(T)	2-1-2010	413-100-0020	12-16-2009	Amend(T)	2-1-2010
413-070-0920	12-16-2009	Am. & Ren.(T)	2-1-2010	413-100-0335	12-16-2009	Adopt(T)	2-1-2010
413-070-0925	12-16-2009	Amend(T)	2-1-2010	413-100-0345	12-16-2009	Adopt(T)	2-1-2010
413-070-0925	2-1-2010	Amend(T)	3-1-2010	413-130-0000	12-29-2009	Amend	2-1-2010
413-070-0925(T)	2-1-2010	Suspend	3-1-2010	413-130-0010	12-29-2009	Amend	2-1-2010
413-070-0930	12-16-2009	Am. & Ren.(T)	2-1-2010	413-130-0020	12-29-2009	Amend	2-1-2010
413-070-0935	12-16-2009	Am. & Ren.(T)	2-1-2010	413-130-0030	12-29-2009	Amend	2-1-2010
413-070-0937	12-16-2009	Am. & Ren.(T)	2-1-2010	413-130-0040	12-29-2009	Amend	2-1-2010
413-070-0939	2-1-2010	Amend(T)	3-1-2010	413-130-0045	12-29-2009	Adopt	2-1-2010
413-070-0939(T)	2-1-2010	Suspend	3-1-2010	413-130-0050	12-29-2009	Amend	2-1-2010
413-070-0940	12-16-2009	Am. & Ren.(T)	2-1-2010	413-130-0060	12-29-2009	Amend	2-1-2010
413-070-0945	12-16-2009	Am. & Ren.(T)	2-1-2010	413-130-0070	12-29-2009	Amend	2-1-2010
413-070-0949	2-1-2010	Amend(T)	3-1-2010	413-130-0075	12-29-2009	Amend	2-1-2010
413-070-0949(T)	2-1-2010	Suspend	3-1-2010	413-130-0080	12-29-2009	Amend	2-1-2010
413-070-0955	12-16-2009	Am. & Ren.(T)	2-1-2010	413-130-0090	12-29-2009	Amend	2-1-2010
413-070-0960	12-16-2009	Am. & Ren.(T)	2-1-2010	413-130-0100	12-29-2009	Amend	2-1-2010
413-070-0964	2-1-2010	Amend(T)	3-1-2010	413-130-0110	12-29-2009	Amend	2-1-2010
413-070-0964(T)	2-1-2010	Suspend	3-1-2010	413-130-0115	12-29-2009	Amend	2-1-2010
413-070-0965	12-16-2009	Am. & Ren.(T)	2-1-2010	413-130-0120	12-29-2009	Repeal	2-1-2010
413-070-0969	12-16-2009	Adopt(T)	2-1-2010	413-130-0125	12-29-2009	Amend	2-1-2010
413-070-0970	12-16-2009	Amend(T)	2-1-2010	413-130-0127	12-29-2009	Repeal	2-1-2010
413-070-0974	2-1-2010	Amend(T)	3-1-2010	413-130-0130	12-29-2009	Amend	2-1-2010
413-070-0974(T)	2-1-2010	Suspend	3-1-2010	414-061-0000	1-1-2010	Amend(T)	2-1-2010
413-080-0000	12-29-2009	Repeal	2-1-2010	414-061-0010	1-1-2010	Amend(T)	2-1-2010
413-080-0010	12-29-2009	Repeal	2-1-2010	414-061-0020	1-1-2010	Amend(T)	2-1-2010
413-080-0020	12-29-2009	Repeal	2-1-2010	414-061-0030	1-1-2010	Amend(T)	2-1-2010
413-080-0030	12-29-2009	Repeal	2-1-2010	414-061-0040	1-1-2010	Amend(T)	2-1-2010
413-080-0040	12-29-2009	Amend	2-1-2010	414-061-0050	1-1-2010	Amend(T)	2-1-2010
413-080-0050	12-29-2009	Amend	2-1-2010	414-061-0060	1-1-2010	Amend(T)	2-1-2010
413-080-0052	12-29-2009	Amend	2-1-2010	414-061-0070	1-1-2010	Amend(T)	2-1-2010
413-080-0055	12-29-2009	Amend	2-1-2010	414-061-0080	1-1-2010	Amend(T)	2-1-2010
413-080-0059	12-29-2009	Amend	2-1-2010	414-061-0090	1-1-2010	Amend(T)	2-1-2010
413-080-0063	12-29-2009	Amend	2-1-2010	414-061-0100	1-1-2010	Amend(T)	2-1-2010
413-080-0067	12-29-2009	Amend	2-1-2010	414-061-0110	1-1-2010	Amend(T)	2-1-2010
413-090-0000	12-29-2009	Amend	2-1-2010	414-061-0120	1-1-2010	Amend(T)	2-1-2010
413-090-0005	12-29-2009	Amend	2-1-2010	414-205-0000	1-1-2010	Amend(T)	2-1-2010
413-090-0010	12-29-2009	Amend	2-1-2010	414-205-0010	1-1-2010	Amend(T)	2-1-2010
413-090-0021	12-29-2009	Adopt	2-1-2010	414-205-0020	1-1-2010	Amend(T)	2-1-2010
413-090-0030	12-29-2009	Amend	2-1-2010	414-205-0035	1-1-2010	Amend(T)	2-1-2010
413-090-0040	12-29-2009	Amend	2-1-2010	414-205-0040	1-1-2010	Amend(T)	2-1-2010
413-090-0050	12-29-2009	Amend	2-1-2010	414-205-0055	1-1-2010	Amend(T)	2-1-2010
413-090-0100	12-29-2009	Amend	2-1-2010	414-205-0065	1-1-2010	Amend(T)	2-1-2010
413-090-0110	12-29-2009	Amend	2-1-2010	414-205-0075	1-1-2010	Amend(T)	2-1-2010
413-090-0120	12-29-2009	Amend	2-1-2010	414-205-0085	1-1-2010	Amend(T)	2-1-2010
413-090-0130	12-29-2009	Amend	2-1-2010	414-205-0090	1-1-2010	Amend(T)	2-1-2010
413-090-0133	12-29-2009	Adopt	2-1-2010	414-205-0100	1-1-2010	Amend(T)	2-1-2010
413-090-0135	12-29-2009	Adopt	2-1-2010	414-205-0110	1-1-2010	Amend(T)	2-1-2010
413-090-0136	12-29-2009	Adopt	2-1-2010	414-205-0120	1-1-2010	Amend(T)	2-1-2010
413-090-0140	12-29-2009	Amend	2-1-2010	414-205-0130	1-1-2010	Amend(T)	2-1-2010
413-090-0150	12-29-2009	Amend	2-1-2010	414-205-0140	1-1-2010	Amend(T)	2-1-2010
413-090-0160	12-29-2009	Repeal	2-1-2010	414-205-0150	1-1-2010	Amend(T)	2-1-2010
413-090-0170	12-29-2009	Repeal	2-1-2010	414-205-0160	1-1-2010	Amend(T)	2-1-2010
413-090-0180	12-29-2009	Repeal	2-1-2010	414-205-0170	1-1-2010	Amend(T)	2-1-2010
413-090-0190	12-29-2009	Repeal	2-1-2010	414-300-0000	1-1-2010	Amend(T)	2-1-2010
413-090-0200	12-29-2009	Repeal	2-1-2010	414-300-0005	1-1-2010	Amend(T)	2-1-2010

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414-300-0015	1-1-2010	Amend(T)	2-1-2010	414-350-0115	1-1-2010	Amend(T)	2-1-2010
414-300-0020	1-1-2010	Amend(T)	2-1-2010	414-350-0120	1-1-2010	Amend(T)	2-1-2010
414-300-0030	1-1-2010	Amend(T)	2-1-2010	414-350-0130	1-1-2010	Amend(T)	2-1-2010
414-300-0040	1-1-2010	Amend(T)	2-1-2010	414-350-0140	1-1-2010	Amend(T)	2-1-2010
414-300-0050	1-1-2010	Amend(T)	2-1-2010	414-350-0150	1-1-2010	Amend(T)	2-1-2010
414-300-0060	1-1-2010	Amend(T)	2-1-2010	414-350-0160	1-1-2010	Amend(T)	2-1-2010
414-300-0070	1-1-2010	Amend(T)	2-1-2010	414-350-0170	1-1-2010	Amend(T)	2-1-2010
414-300-0080	1-1-2010	Amend(T)	2-1-2010	414-350-0180	1-1-2010	Amend(T)	2-1-2010
414-300-0090	1-1-2010	Amend(T)	2-1-2010	414-350-0190	1-1-2010	Amend(T)	2-1-2010
414-300-0100	1-1-2010	Amend(T)	2-1-2010	414-350-0200	1-1-2010	Amend(T)	2-1-2010
414-300-0110	1-1-2010	Amend(T)	2-1-2010	414-350-0210	1-1-2010	Amend(T)	2-1-2010
414-300-0115	1-1-2010	Amend(T)	2-1-2010	414-350-0220	1-1-2010	Amend(T)	2-1-2010
414-300-0120	1-1-2010	Amend(T)	2-1-2010	414-350-0230	1-1-2010	Amend(T)	2-1-2010
414-300-0130	1-1-2010	Amend(T)	2-1-2010	414-350-0235	1-1-2010	Amend(T)	2-1-2010
414-300-0140	1-1-2010	Amend(T)	2-1-2010	414-350-0240	1-1-2010	Amend(T)	2-1-2010
414-300-0150	1-1-2010	Amend(T)	2-1-2010	414-350-0250	1-1-2010	Amend(T)	2-1-2010
414-300-0160	1-1-2010	Amend(T)	2-1-2010	414-350-0375	1-1-2010	Amend(T)	2-1-2010
414-300-0170	1-1-2010	Amend(T)	2-1-2010	414-350-0380	1-1-2010	Amend(T)	2-1-2010
414-300-0180	1-1-2010	Amend(T)	2-1-2010	414-350-0390	1-1-2010	Amend(T)	2-1-2010
414-300-0190	1-1-2010	Amend(T)	2-1-2010	414-350-0400	1-1-2010	Amend(T)	2-1-2010
414-300-0200	1-1-2010	Amend(T)	2-1-2010	414-350-0405	1-1-2010	Adopt(T)	2-1-2010
414-300-0210	1-1-2010	Amend(T)	2-1-2010	415-052-0100	12-3-2009	Adopt	1-1-2010
414-300-0215	1-1-2010	Amend(T)	2-1-2010	415-052-0105	12-3-2009	Adopt	1-1-2010
414-300-0220	1-1-2010	Amend(T)	2-1-2010	415-052-0110	12-3-2009	Adopt	1-1-2010
414-300-0230	1-1-2010	Amend(T)	2-1-2010	415-060-0030	1-1-2010	Amend	1-1-2010
414-300-0240	1-1-2010	Amend(T)	2-1-2010	416-470-0000	2-19-2010	Amend	3-1-2010
414-300-0250	1-1-2010	Amend(T)	2-1-2010	416-470-0010	2-19-2010	Amend	3-1-2010
414-300-0260	1-1-2010	Amend(T)	2-1-2010	416-470-0020	2-19-2010	Amend	3-1-2010
414-300-0270	1-1-2010	Amend(T)	2-1-2010	416-470-0030	2-19-2010	Amend	3-1-2010
414-300-0280	1-1-2010	Amend(T)	2-1-2010	416-470-0040	2-19-2010	Amend	3-1-2010
414-300-0290	1-1-2010	Amend(T)	2-1-2010	416-470-0050	2-19-2010	Amend	3-1-2010
414-300-0295	1-1-2010	Amend(T)	2-1-2010	416-470-0060	2-19-2010	Repeal	3-1-2010
414-300-0300	1-1-2010	Amend(T)	2-1-2010	416-470-0070	2-19-2010	Repeal	3-1-2010
414-300-0310	1-1-2010	Amend(T)	2-1-2010	416-470-0080	2-19-2010	Repeal	3-1-2010
414-300-0320	1-1-2010	Amend(T)	2-1-2010	416-470-0090	2-19-2010	Repeal	3-1-2010
414-300-0330	1-1-2010	Amend(T)	2-1-2010	416-470-0100	2-19-2010	Repeal	3-1-2010
414-300-0340	1-1-2010	Amend(T)	2-1-2010	416-490-0000	2-19-2010	Amend	3-1-2010
414-300-0350	1-1-2010	Amend(T)	2-1-2010	416-490-0010	2-19-2010	Amend	3-1-2010
414-300-0360	1-1-2010	Amend(T)	2-1-2010	416-490-0020	2-19-2010	Amend	3-1-2010
414-300-0380	1-1-2010	Amend(T)	2-1-2010	416-490-0030	2-19-2010	Amend	3-1-2010
414-300-0390	1-1-2010	Amend(T)	2-1-2010	416-490-0031	2-19-2010	Adopt	3-1-2010
414-300-0400	1-1-2010	Amend(T)	2-1-2010	416-490-0032	2-19-2010	Adopt	3-1-2010
414-300-0410	1-1-2010	Amend(T)	2-1-2010	416-490-0033	2-19-2010	Adopt	3-1-2010
414-300-0415	1-1-2010	Adopt(T)	2-1-2010	416-490-0034	2-19-2010	Adopt	3-1-2010
414-350-0000	1-1-2010	Amend(T)	2-1-2010	416-490-0035	2-19-2010	Adopt	3-1-2010
414-350-0010	1-1-2010	Amend(T)	2-1-2010	416-490-0040	2-19-2010	Repeal	3-1-2010
414-350-0020	1-1-2010	Amend(T)	2-1-2010	416-490-0050	2-19-2010	Amend	3-1-2010
414-350-0030	1-1-2010	Amend(T)	2-1-2010	416-530-0090	12-16-2009	Amend	1-1-2010
414-350-0040	1-1-2010	Amend(T)	2-1-2010	436-001-0003	1-1-2010	Amend	1-1-2010
414-350-0050	1-1-2010	Amend(T)	2-1-2010	436-001-0019	1-1-2010	Amend	1-1-2010
414-350-0060	1-1-2010	Amend(T)	2-1-2010	436-001-0265	1-1-2010	Am. & Ren.	1-1-2010
414-350-0070	1-1-2010	Amend(T)	2-1-2010	436-001-0265	1-1-2010	Am. & Ren.	1-1-2010
414-350-0080	1-1-2010	Amend(T)	2-1-2010	436-001-0420	1-1-2010	Adopt	1-1-2010
414-350-0090	1-1-2010	Amend(T)	2-1-2010	436-001-0430	1-1-2010	Adopt	1-1-2010
414-350-0100	1-1-2010	Amend(T)	2-1-2010	436-001-0440	1-1-2010	Adopt	1-1-2010

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436-009-0070	1-1-2010	Amend	1-1-2010	436-110-0310	1-1-2010	Amend	1-1-2010
436-010-0008	1-1-2010	Amend	1-1-2010	436-110-0325	1-1-2010	Amend	1-1-2010
436-010-0240	1-1-2010	Amend	1-1-2010	436-110-0330	1-1-2010	Amend	1-1-2010
436-010-0265	1-1-2010	Amend	1-1-2010	436-110-0335	1-1-2010	Amend	1-1-2010
436-010-0280	1-1-2010	Amend	1-1-2010	436-110-0336	1-1-2010	Amend	1-1-2010
436-030-0002	1-1-2010	Amend	1-1-2010	436-110-0337	1-1-2010	Amend	1-1-2010
436-030-0003	1-1-2010	Amend	1-1-2010	436-110-0345	1-1-2010	Amend	1-1-2010
436-030-0005	1-1-2010	Amend	1-1-2010	436-110-0347	1-1-2010	Amend	1-1-2010
436-030-0007	1-1-2010	Amend	1-1-2010	436-110-0350	1-1-2010	Amend	1-1-2010
436-030-0009	1-1-2010	Repeal	1-1-2010	436-110-0900	1-1-2010	Amend	1-1-2010
436-030-0015	1-1-2010	Amend	1-1-2010	436-120-0004	1-1-2010	Amend	1-1-2010
436-030-0017	1-1-2010	Amend	1-1-2010	436-120-0005	1-1-2010	Amend	1-1-2010
436-030-0020	1-1-2010	Amend	1-1-2010	436-120-0007	1-1-2010	Amend	1-1-2010
436-030-0034	1-1-2010	Amend	1-1-2010	436-120-0008	1-1-2010	Amend	1-1-2010
436-030-0065	1-1-2010	Amend	1-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-030-0115	1-1-2010	Amend	1-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-030-0135	1-1-2010	Amend	1-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-030-0145	1-1-2010	Amend	1-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-030-0155	1-1-2010	Amend	1-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-030-0165	1-1-2010	Amend	1-1-2010	436-120-0320	1-1-2010	Am. & Ren.	1-1-2010
436-030-0185	1-1-2010	Amend	1-1-2010	436-120-0340	1-1-2010	Amend	1-1-2010
436-030-0580	1-1-2010	Amend	1-1-2010	436-120-0350	1-1-2010	Am. & Ren.	1-1-2010
436-060-0003	1-1-2010	Amend	1-1-2010	436-120-0350	1-1-2010	Am. & Ren.	1-1-2010
436-060-0008	1-1-2010	Amend	1-1-2010	436-120-0360	1-1-2010	Am. & Ren.	1-1-2010
436-060-0009	1-1-2010	Amend	1-1-2010	436-120-0410	1-1-2010	Amend	1-1-2010
436-060-0010	1-1-2010	Amend	1-1-2010	436-120-0440	1-1-2010	Amend	1-1-2010
436-060-0012	1-1-2010	Adopt	1-1-2010	436-120-0500	1-1-2010	Amend	1-1-2010
436-060-0015	1-1-2010	Amend	1-1-2010	436-120-0510	1-1-2010	Amend	1-1-2010
436-060-0017	1-1-2010	Amend	1-1-2010	436-120-0720	1-1-2010	Amend	1-1-2010
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436-060-0025	1-1-2010	Amend	1-1-2010	436-120-0820	1-1-2010	Amend	1-1-2010
436-060-0035	1-1-2010	Amend	1-1-2010	436-120-0830	1-1-2010	Amend	1-1-2010
436-060-0095	1-1-2010	Amend	1-1-2010	436-120-0840	1-1-2010	Amend	1-1-2010
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436-060-0135	1-1-2010	Amend	1-1-2010	436-120-0915	1-1-2010	Amend	1-1-2010
436-060-0137	1-1-2010	Amend	1-1-2010	436-150-0005	1-1-2010	Amend	1-1-2010
436-060-0140	1-1-2010	Amend	1-1-2010	436-150-0010	1-1-2010	Amend	1-1-2010
436-060-0147	1-1-2010	Amend	1-1-2010	436-150-0030	1-1-2010	Amend	1-1-2010
436-060-0150	1-1-2010	Amend	1-1-2010	436-160-0310	1-1-2010	Amend	1-1-2010
436-060-0153	1-1-2010	Amend	1-1-2010	436-160-0340	1-1-2010	Amend	1-1-2010
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436-105-0540	1-1-2010	Amend	1-1-2010	440-015-0110	2-1-2010	Adopt	3-1-2010
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441-710-0540	12-7-2009	Amend	1-1-2010	441-910-0010	1-1-2010	Amend	2-1-2010
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441-730-0246	12-7-2009	Amend	1-1-2010	441-910-0030	1-1-2010	Amend	2-1-2010
441-730-0246(T)	12-7-2009	Repeal	1-1-2010	441-910-0040	1-1-2010	Repeal	2-1-2010
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441-850-0042(T)	12-7-2009	Repeal	1-1-2010	441-910-0090	1-1-2010	Repeal	2-1-2010
441-850-0050	1-4-2010	Adopt	2-1-2010	441-910-0091	1-1-2010	Adopt	2-1-2010
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441-860-0030	1-1-2010	Amend	1-1-2010	441-910-0095	1-1-2010	Repeal	2-1-2010
441-860-0030	1-4-2010	Amend	2-1-2010	441-910-0099	1-1-2010	Adopt	2-1-2010
441-860-0040	1-4-2010	Amend	2-1-2010	441-910-0110	1-1-2010	Repeal	2-1-2010
441-860-0050	1-1-2010	Amend	1-1-2010	441-910-0120	1-1-2010	Repeal	2-1-2010
441-860-0050	1-4-2010	Amend	2-1-2010	441-910-0135	1-1-2010	Adopt	2-1-2010
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441-860-0080	1-4-2010	Amend	2-1-2010	441-910-0151	1-1-2010	Adopt	2-1-2010
441-860-0101	1-1-2010	Adopt	1-1-2010	441-910-0200	1-1-2010	Adopt	2-1-2010
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441-860-0400	1-1-2010	Adopt	1-1-2010	441-910-9001(T)	1-6-2010	Suspend	2-1-2010
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441-865-0050	1-4-2010	Amend	2-1-2010	443-002-0090	2-9-2010	Amend	3-1-2010
441-865-0080	1-4-2010	Amend	2-1-2010	459-017-0060	12-1-2009	Amend	1-1-2010
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461-120-0125	1-1-2010	Amend(T)	2-1-2010	461-155-0225	1-1-2010	Amend	2-1-2010
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461-120-0210	1-1-2010	Amend(T)	2-1-2010	461-155-0270	1-1-2010	Amend(T)	2-1-2010
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461-120-0345	1-1-2010	Amend	2-1-2010	461-155-0640	1-1-2010	Amend	2-1-2010
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461-120-0510	1-1-2010	Amend	2-1-2010	461-155-0670	1-1-2010	Amend	2-1-2010
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461-145-0405	1-1-2010	Amend	2-1-2010	461-195-0521	1-1-2010	Amend	2-1-2010
461-145-0550	11-24-2009	Amend(T)	1-1-2010	461-195-0531	1-1-2010	Repeal	2-1-2010

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461-195-0551	1-1-2010	Amend	2-1-2010	581-015-2000	12-10-2009	Amend	1-1-2010
461-195-0561	1-1-2010	Amend	2-1-2010	581-015-2090	12-10-2009	Amend	1-1-2010
471-007-0200	1-31-2010	Adopt	3-1-2010	581-015-2270	12-10-2009	Amend	1-1-2010
471-007-0200(T)	1-31-2010	Repeal	3-1-2010	581-015-2275	12-10-2009	Amend	1-1-2010
471-007-0210	1-31-2010	Adopt	3-1-2010	581-015-2440	12-10-2009	Amend	1-1-2010
471-007-0210(T)	1-31-2010	Repeal	3-1-2010	581-015-2570	12-10-2009	Amend	1-1-2010
471-007-0220	1-31-2010	Adopt	3-1-2010	581-015-2571	12-10-2009	Adopt	1-1-2010
471-007-0220(T)	1-31-2010	Repeal	3-1-2010	581-015-2572	12-10-2009	Adopt	1-1-2010
471-007-0230	1-31-2010	Adopt	3-1-2010	581-015-2573	12-10-2009	Adopt	1-1-2010
471-007-0230(T)	1-31-2010	Repeal	3-1-2010	581-015-2574	12-10-2009	Adopt	1-1-2010
471-007-0240	1-31-2010	Adopt	3-1-2010	581-015-2735	12-10-2009	Amend	1-1-2010
471-007-0240(T)	1-31-2010	Repeal	3-1-2010	581-016-0520	12-10-2009	Amend	1-1-2010
471-007-0250	1-31-2010	Adopt	3-1-2010	581-016-0526	12-10-2009	Amend	1-1-2010
471-007-0250(T)	1-31-2010	Repeal	3-1-2010	581-016-0536	12-10-2009	Amend	1-1-2010
471-007-0260	1-31-2010	Adopt	3-1-2010	581-016-0537	12-10-2009	Amend	1-1-2010
471-007-0260(T)	1-31-2010	Repeal	3-1-2010	581-016-0538	12-10-2009	Amend	1-1-2010
471-007-0270	1-31-2010	Adopt	3-1-2010	581-016-0541	12-10-2009	Amend	1-1-2010
471-007-0270(T)	1-31-2010	Repeal	3-1-2010	581-016-0560	12-10-2009	Amend	1-1-2010
471-007-0280	1-31-2010	Adopt	3-1-2010	581-016-0890	12-10-2009	Repeal	1-1-2010
471-007-0280(T)	1-31-2010	Repeal	3-1-2010	581-016-0900	12-10-2009	Repeal	1-1-2010
471-007-0285	1-31-2010	Adopt	3-1-2010	581-016-0910	12-10-2009	Repeal	1-1-2010
471-007-0285(T)	1-31-2010	Repeal	3-1-2010	581-016-0920	12-10-2009	Repeal	1-1-2010
471-007-0290	1-31-2010	Adopt	3-1-2010	581-016-0930	12-10-2009	Repeal	1-1-2010
471-007-0290(T)	1-31-2010	Repeal	3-1-2010	581-016-0940	12-10-2009	Repeal	1-1-2010
471-007-0300	1-31-2010	Adopt	3-1-2010	581-016-0950	12-10-2009	Repeal	1-1-2010
471-007-0300(T)	1-31-2010	Repeal	3-1-2010	581-016-0960	12-10-2009	Repeal	1-1-2010
471-007-0310	1-31-2010	Adopt	3-1-2010	581-016-0970	12-10-2009	Repeal	1-1-2010
471-007-0310(T)	1-31-2010	Repeal	3-1-2010	581-016-0980	12-10-2009	Repeal	1-1-2010
573-041-0005	1-11-2010	Repeal	2-1-2010	581-016-0990	12-10-2009	Repeal	1-1-2010
573-041-0010	1-11-2010	Repeal	2-1-2010	581-016-1000	12-10-2009	Repeal	1-1-2010
573-041-0020	1-11-2010	Repeal	2-1-2010	581-016-1010	12-10-2009	Repeal	1-1-2010
573-041-0025	1-11-2010	Repeal	2-1-2010	581-016-1020	12-10-2009	Repeal	1-1-2010
573-041-0027	1-11-2010	Repeal	2-1-2010	581-016-1030	12-10-2009	Repeal	1-1-2010
573-041-0030	1-11-2010	Repeal	2-1-2010	581-016-1040	12-10-2009	Repeal	1-1-2010
573-041-0035	1-11-2010	Repeal	2-1-2010	581-016-1050	12-10-2009	Repeal	1-1-2010
573-041-0036	1-11-2010	Repeal	2-1-2010	581-020-0301	12-10-2009	Amend(T)	1-1-2010
573-041-0037	1-11-2010	Repeal	2-1-2010	581-020-0333	12-10-2009	Adopt(T)	1-1-2010
573-041-0040	1-11-2010	Repeal	2-1-2010	581-020-0335	12-10-2009	Adopt(T)	1-1-2010
573-041-0045	1-11-2010	Repeal	2-1-2010	581-020-0337	12-10-2009	Adopt(T)	1-1-2010
573-041-0050	1-11-2010	Repeal	2-1-2010	581-020-0359	12-10-2009	Amend(T)	1-1-2010
573-041-0055	1-11-2010	Repeal	2-1-2010	581-020-0362	12-10-2009	Adopt(T)	1-1-2010
573-041-0060	1-11-2010	Repeal	2-1-2010	581-021-0037	12-10-2009	Amend	1-1-2010
573-041-0065	1-11-2010	Repeal	2-1-2010	581-021-0110	12-10-2009	Amend	1-1-2010
573-041-0085	1-11-2010	Repeal	2-1-2010	581-021-0500	12-10-2009	Amend	1-1-2010
573-041-0090	1-11-2010	Repeal	2-1-2010	581-021-0500	12-10-2009	Amend	1-1-2010
573-041-0095	1-11-2010	Repeal	2-1-2010	581-022-0610	12-10-2009	Amend	1-1-2010
573-041-0096	1-11-2010	Repeal	2-1-2010	581-022-0615	12-10-2009	Amend	1-1-2010
573-041-0100	1-11-2010	Repeal	2-1-2010	581-022-0615(T)	12-10-2009	Repeal	1-1-2010
574-050-0005	1-27-2010	Amend	3-1-2010	581-022-1130	12-10-2009	Amend	1-1-2010
575-031-0025	11-24-2009	Amend(T)	1-1-2010	581-022-1133	12-10-2009	Adopt	1-1-2010
579-020-0006	12-15-2009	Amend	1-1-2010	581-022-1134	12-10-2009	Amend	1-1-2010
580-040-0035	1-19-2010	Amend	3-1-2010	581-022-1135	12-10-2009	Amend	1-1-2010
580-040-0040	2-11-2010	Amend	3-1-2010	581-022-1215	12-10-2009	Adopt	1-1-2010
580-040-0040(T)	2-11-2010	Repeal	3-1-2010	581-022-1440	12-10-2009	Amend	1-1-2010
581-001-0053	12-10-2009	Amend	1-1-2010	581-023-0006	12-10-2009	Amend	1-1-2010

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581-045-0003	2-8-2010	Adopt	3-1-2010	603-052-0127	1-28-2010	Amend	3-1-2010
581-045-0006	2-8-2010	Amend	3-1-2010	603-052-0860	1-21-2010	Amend	3-1-2010
581-045-0062	2-8-2010	Amend	3-1-2010	603-052-0880	1-21-2010	Amend	3-1-2010
581-045-0500	2-8-2010	Amend	3-1-2010	603-052-1200	2-4-2010	Amend	3-1-2010
581-045-0522	12-10-2009	Amend	1-1-2010	603-052-1236	2-4-2010	Adopt	3-1-2010
581-045-0586	12-10-2009	Amend	1-1-2010	603-054-0024	1-28-2010	Amend	3-1-2010
584-010-0020	12-15-2009	Amend	1-1-2010	603-057-0160	12-7-2009	Amend	1-1-2010
584-017-0200	12-15-2009	Amend	1-1-2010	603-076-0101	1-15-2010	Adopt	2-1-2010
584-017-0201	12-15-2009	Amend	1-1-2010	603-076-0106	1-15-2010	Adopt	2-1-2010
584-021-0165	12-15-2009	Amend	1-1-2010	635-001-0035	1-1-2010	Amend	2-1-2010
584-036-0055	12-15-2009	Amend	1-1-2010	635-004-0016	1-1-2010	Amend(T)	2-1-2010
584-036-0081	12-15-2009	Amend	1-1-2010	635-004-0020	1-1-2010	Amend	2-1-2010
584-038-0300	12-15-2009	Amend	1-1-2010	635-004-0027	1-1-2010	Amend(T)	2-1-2010
584-050-0006	12-15-2009	Amend	1-1-2010	635-004-0033	1-1-2010	Amend	2-1-2010
584-050-0030	12-15-2009	Amend	1-1-2010	635-004-0036	1-1-2010	Amend	2-1-2010
584-050-0035	12-15-2009	Amend	1-1-2010	635-004-0066	1-1-2010	Adopt	2-1-2010
584-052-0015	12-15-2009	Amend	1-1-2010	635-004-0068	1-1-2010	Adopt	2-1-2010
584-060-0012	12-15-2009	Amend	1-1-2010	635-004-0070	1-1-2010	Amend	2-1-2010
584-060-0013	12-15-2009	Amend	1-1-2010	635-004-0080	1-1-2010	Amend	2-1-2010
584-060-0014	1-28-2010	Amend	3-1-2010	635-005-0005	1-1-2010	Amend	2-1-2010
584-060-0071	12-15-2009	Amend	1-1-2010	635-006-0001	1-1-2010	Amend	1-1-2010
584-060-0071	12-18-2009	Amend	2-1-2010	635-006-0020	1-1-2010	Amend	1-1-2010
584-060-0162	1-1-2010	Amend	1-1-2010	635-006-0232	1-13-2010	Amend	2-1-2010
584-060-0171	12-15-2009	Amend	1-1-2010	635-006-0850	1-1-2010	Amend	2-1-2010
584-060-0181	12-15-2009	Amend	1-1-2010	635-006-0890	1-1-2010	Amend	2-1-2010
584-060-0220	12-15-2009	Adopt	1-1-2010	635-006-0910	1-1-2010	Amend	1-1-2010
584-065-0030	12-15-2009	Repeal	1-1-2010	635-006-1025	1-1-2010	Amend	1-1-2010
584-065-0035	12-15-2009	Adopt	1-1-2010	635-006-1075	1-1-2010	Amend	1-1-2010
584-065-0040	12-15-2009	Repeal	1-1-2010	635-006-1085	1-1-2010	Amend	1-1-2010
584-070-0012	12-15-2009	Amend	1-1-2010	635-007-0605	1-1-2010	Amend	1-1-2010
584-070-0111	12-15-2009	Amend	1-1-2010	635-007-0910	1-1-2010	Amend	1-1-2010
584-070-0112	12-15-2009	Amend	1-1-2010	635-008-0145	1-1-2010	Amend	1-1-2010
584-070-0310	12-15-2009	Amend	1-1-2010	635-011-0100	1-1-2010	Amend	1-1-2010
584-080-0022	12-15-2009	Amend	1-1-2010	635-012-0020	6-30-2011	Adopt	2-1-2010
584-080-0151	12-15-2009	Amend	1-1-2010	635-012-0020	6-30-2011	Adopt	3-1-2010
584-080-0152	12-15-2009	Amend	1-1-2010	635-012-0030	6-30-2011	Adopt	2-1-2010
584-080-0153	12-15-2009	Amend	1-1-2010	635-012-0030	6-30-2011	Adopt	3-1-2010
584-080-0161	12-15-2009	Amend	1-1-2010	635-012-0040	6-30-2011	Adopt	2-1-2010
589-007-0700	12-14-2009	Adopt	1-1-2010	635-012-0050	6-30-2011	Adopt	2-1-2010
603-010-0056	1-7-2010	Adopt	2-1-2010	635-012-0050	6-30-2011	Adopt	3-1-2010
603-011-0700	2-10-2010	Amend	3-1-2010	635-012-0060	6-30-2011	Adopt	2-1-2010
603-011-0701	2-10-2010	Adopt	3-1-2010	635-012-0060	6-30-2011	Adopt	3-1-2010
603-011-0705	2-10-2010	Amend	3-1-2010	635-013-0003	1-1-2010	Amend	1-1-2010
603-011-0706	2-10-2010	Adopt	3-1-2010	635-013-0004	1-1-2010	Amend	1-1-2010
603-011-0725	2-10-2010	Amend	3-1-2010	635-014-0080	1-1-2010	Amend	1-1-2010
603-027-0410	1-1-2010	Amend	2-1-2010	635-014-0090	1-1-2010	Amend	1-1-2010
603-027-0410(T)	1-1-2010	Repeal	2-1-2010	635-016-0080	1-1-2010	Amend	1-1-2010
603-027-0420	1-1-2010	Amend	2-1-2010	635-016-0090	11-19-2009	Amend(T)	1-1-2010
603-027-0420(T)	1-1-2010	Repeal	2-1-2010	635-016-0090	1-1-2010	Amend	1-1-2010
603-027-0430	1-1-2010	Amend	2-1-2010	635-016-0090(T)	11-19-2009	Suspend	1-1-2010
603-027-0430(T)	1-1-2010	Repeal	2-1-2010	635-017-0080	1-1-2010	Amend	1-1-2010
603-027-0440	1-1-2010	Amend	2-1-2010	635-017-0090	1-1-2010	Amend	1-1-2010
603-027-0440(T)	1-1-2010	Repeal	2-1-2010	635-017-0095	1-1-2010	Amend	1-1-2010
603-027-0490	1-1-2010	Amend	2-1-2010	635-018-0080	1-1-2010	Amend	1-1-2010

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635-018-0090	4-1-2010	Amend(T)	3-1-2010	660-041-0020	2-9-2010	Amend	3-1-2010
635-019-0080	1-1-2010	Amend	1-1-2010	660-041-0080	2-9-2010	Amend	3-1-2010
635-019-0090	1-1-2010	Amend	1-1-2010	661-010-0015	1-1-2010	Amend	2-1-2010
635-021-0080	1-1-2010	Amend	1-1-2010	661-010-0038	1-1-2010	Amend	2-1-2010
635-021-0090	1-1-2010	Amend	1-1-2010	661-010-0050	1-1-2010	Amend	2-1-2010
635-023-0080	1-1-2010	Amend	1-1-2010	690-020-0021	1-1-2010	Am. & Ren.	1-1-2010
635-023-0090	1-1-2010	Amend	1-1-2010	690-020-0022	1-1-2010	Amend	1-1-2010
635-023-0090	1-1-2010	Amend(T)	2-1-2010	690-020-0025	1-1-2010	Amend	1-1-2010
635-023-0095	1-1-2010	Amend	1-1-2010	690-020-0029	1-1-2010	Amend	1-1-2010
635-023-0125	1-1-2010	Amend	1-1-2010	690-020-0035	1-1-2010	Amend	1-1-2010
635-023-0128	1-1-2010	Amend	1-1-2010	690-020-0039	1-1-2010	Am. & Ren.	1-1-2010
635-023-0130	1-1-2010	Amend	1-1-2010	690-020-0100	1-1-2010	Adopt	1-1-2010
635-023-0134	1-1-2010	Amend	1-1-2010	690-020-0200	1-1-2010	Adopt	1-1-2010
635-039-0080	1-1-2010	Amend	1-1-2010	690-180-0005	11-23-2009	Suspend	1-1-2010
635-039-0090	1-1-2010	Amend	1-1-2010	690-180-0010	11-23-2009	Suspend	1-1-2010
635-041-0065	2-3-2010	Amend(T)	3-1-2010	690-180-0100	11-23-2009	Suspend	1-1-2010
635-041-0065	2-11-2010	Amend(T)	3-1-2010	690-180-0200	11-23-2009	Suspend	1-1-2010
635-041-0065(T)	2-11-2010	Suspend	3-1-2010	690-190-0005	11-23-2009	Adopt	1-1-2010
635-042-0130	1-1-2010	Amend(T)	2-1-2010	690-190-0010	11-23-2009	Adopt	1-1-2010
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635-042-0130(T)	2-8-2010	Suspend	3-1-2010	690-190-0200	11-23-2009	Adopt	1-1-2010
635-042-0135	1-1-2010	Amend(T)	2-1-2010	690-340-0030	12-15-2009	Amend	1-1-2010
635-043-0105	1-12-2010	Amend	2-1-2010	690-382-0400	12-15-2009	Amend	1-1-2010
635-044-0051	1-1-2010	Adopt(T)	2-1-2010	731-005-0410	1-1-2010	Amend(T)	2-1-2010
635-048-0080	12-15-2009	Amend	1-1-2010	731-005-0470	1-1-2010	Amend(T)	2-1-2010
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635-055-0035	12-15-2009	Amend	1-1-2010	731-007-0210	1-1-2010	Amend(T)	2-1-2010
635-055-0037	12-15-2009	Amend	1-1-2010	731-007-0260	1-1-2010	Amend(T)	2-1-2010
635-055-0070	12-15-2009	Amend	1-1-2010	731-007-0290	1-1-2010	Amend(T)	2-1-2010
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635-058-0010	1-12-2010	Adopt	2-1-2010	731-035-0050	11-17-2009	Amend	1-1-2010
635-058-0020	1-12-2010	Adopt	2-1-2010	731-035-0060	11-17-2009	Amend	1-1-2010
635-059-0000	1-12-2010	Adopt	2-1-2010	731-035-0070	11-17-2009	Amend	1-1-2010
635-059-0010	1-12-2010	Adopt	2-1-2010	731-070-0010	12-22-2009	Amend	2-1-2010
635-059-0050	1-12-2010	Adopt	2-1-2010	731-070-0020	12-22-2009	Amend	2-1-2010
635-065-0765	1-25-2010	Amend(T)	3-1-2010	731-070-0030	12-22-2009	Amend	2-1-2010
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635-073-0000	2-1-2010	Amend	2-1-2010	731-070-0055	12-22-2009	Amend	2-1-2010
635-073-0065	2-1-2010	Amend	2-1-2010	731-070-0060	12-22-2009	Amend	2-1-2010
635-073-0070	2-1-2010	Amend	2-1-2010	731-070-0070	12-22-2009	Am. & Ren.	2-1-2010
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635-090-0050	1-1-2010	Amend	1-1-2010	731-070-0110	12-22-2009	Amend	2-1-2010
635-500-0703	1-1-2010	Amend	2-1-2010	731-070-0120	12-22-2009	Amend	2-1-2010
635-500-6550	2-8-2010	Adopt	3-1-2010	731-070-0130	12-22-2009	Amend	2-1-2010
635-600-0000	1-1-2010	Amend	1-1-2010	731-070-0140	12-22-2009	Amend	2-1-2010
635-600-0005	1-1-2010	Amend	1-1-2010	731-070-0160	12-22-2009	Amend	2-1-2010
635-600-0010	1-1-2010	Amend	1-1-2010	731-070-0170	12-22-2009	Amend	2-1-2010
635-600-0030	1-1-2010	Amend	1-1-2010	731-070-0180	12-22-2009	Amend	2-1-2010
635-600-0040	1-1-2010	Amend	1-1-2010	731-070-0190	12-22-2009	Amend	2-1-2010
660-028-0010	1-28-2010	Adopt	3-1-2010	731-070-0200	12-22-2009	Amend	2-1-2010
660-028-0020	1-28-2010	Adopt	3-1-2010	731-070-0210	12-22-2009	Amend	2-1-2010
660-028-0030	1-28-2010	Adopt	3-1-2010	731-070-0220	12-22-2009	Amend	2-1-2010
660-033-0120	12-7-2009	Amend	1-1-2010	731-070-0240	12-22-2009	Amend	2-1-2010
660-033-0130	12-7-2009	Amend	1-1-2010	731-070-0245	12-22-2009	Adopt	2-1-2010
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731-070-0270	12-22-2009	Repeal	2-1-2010	734-065-0015	11-17-2009	Amend	1-1-2010
731-070-0280	12-22-2009	Amend	2-1-2010	734-065-0020	11-17-2009	Amend	1-1-2010
731-070-0295	12-22-2009	Amend	2-1-2010	734-065-0025	11-17-2009	Amend	1-1-2010
731-070-0300	12-22-2009	Amend	2-1-2010	734-065-0030	11-17-2009	Repeal	1-1-2010
731-070-0320	12-22-2009	Amend	2-1-2010	734-065-0035	11-17-2009	Amend	1-1-2010
731-070-0350	12-22-2009	Amend	2-1-2010	734-065-0040	11-17-2009	Amend	1-1-2010
731-070-0360	12-22-2009	Amend	2-1-2010	734-065-0045	11-17-2009	Amend	1-1-2010
731-146-0010	1-1-2010	Amend(T)	2-1-2010	734-065-0050	11-17-2009	Amend	1-1-2010
731-147-0010	1-1-2010	Amend(T)	2-1-2010	735-020-0080	1-1-2010	Amend	2-1-2010
731-148-0010	1-1-2010	Amend(T)	2-1-2010	735-024-0075	1-1-2010	Amend(T)	2-1-2010
731-149-0010	1-1-2010	Amend(T)	2-1-2010	735-024-0080	1-1-2010	Suspend	2-1-2010
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732-005-0010	1-29-2010	Amend	3-1-2010	735-040-0097(T)	1-28-2010	Repeal	3-1-2010
732-005-0010(T)	1-29-2010	Repeal	3-1-2010	735-040-0098	1-28-2010	Adopt	3-1-2010
732-005-0016	1-29-2010	Amend	3-1-2010	735-040-0098(T)	1-28-2010	Repeal	3-1-2010
732-005-0016(T)	1-29-2010	Repeal	3-1-2010	735-046-0010	1-28-2010	Amend	3-1-2010
732-005-0021	1-29-2010	Amend	3-1-2010	735-046-0010(T)	1-28-2010	Repeal	3-1-2010
732-005-0021(T)	1-29-2010	Repeal	3-1-2010	735-046-0050	1-28-2010	Amend	3-1-2010
732-005-0027	1-29-2010	Amend	3-1-2010	735-046-0050(T)	1-28-2010	Repeal	3-1-2010
732-005-0027(T)	1-29-2010	Repeal	3-1-2010	735-050-0050	1-1-2010	Amend	2-1-2010
732-005-0031	1-29-2010	Amend	3-1-2010	735-050-0060	1-1-2010	Amend	2-1-2010
732-005-0031(T)	1-29-2010	Repeal	3-1-2010	735-050-0062	1-1-2010	Amend	2-1-2010
732-005-0036	1-29-2010	Amend	3-1-2010	735-050-0064	1-1-2010	Amend	2-1-2010
732-005-0036(T)	1-29-2010	Repeal	3-1-2010	735-050-0070	1-1-2010	Amend	2-1-2010
732-005-0046	1-29-2010	Amend	3-1-2010	735-050-0080	1-1-2010	Amend	2-1-2010
732-005-0046(T)	1-29-2010	Repeal	3-1-2010	735-050-0120	1-1-2010	Amend	2-1-2010
732-005-0051	1-29-2010	Amend	3-1-2010	735-062-0003	1-1-2010	Repeal	2-1-2010
732-005-0051(T)	1-29-2010	Repeal	3-1-2010	735-062-0007	1-1-2010	Amend	2-1-2010
732-005-0056	1-29-2010	Amend	3-1-2010	735-062-0010	1-1-2010	Amend	2-1-2010
732-005-0056(T)	1-29-2010	Repeal	3-1-2010	735-062-0015	1-1-2010	Amend	2-1-2010
732-005-0061	1-29-2010	Amend	3-1-2010	735-062-0020	1-1-2010	Amend	2-1-2010
732-005-0061(T)	1-29-2010	Repeal	3-1-2010	735-062-0035	1-1-2010	Amend	2-1-2010
732-005-0066	1-29-2010	Amend	3-1-2010	735-062-0070	1-28-2010	Amend	3-1-2010
732-005-0066(T)	1-29-2010	Repeal	3-1-2010	735-062-0090	1-1-2010	Amend	2-1-2010
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732-005-0076(T)	1-29-2010	Repeal	3-1-2010	735-062-0190	1-1-2010	Amend	2-1-2010
732-005-0081	1-29-2010	Amend	3-1-2010	735-062-0290	1-28-2010	Adopt	3-1-2010
732-005-0081(T)	1-29-2010	Repeal	3-1-2010	735-064-0100	1-1-2010	Amend	2-1-2010
732-030-0005	1-29-2010	Adopt	3-1-2010	735-064-0220	1-1-2010	Amend	2-1-2010
732-030-0005(T)	1-29-2010	Repeal	3-1-2010	735-070-0000	1-1-2010	Amend	2-1-2010
732-030-0010	1-29-2010	Adopt	3-1-2010	735-070-0043	1-1-2010	Repeal	2-1-2010
732-030-0010(T)	1-29-2010	Repeal	3-1-2010	735-070-0170	1-1-2010	Amend	2-1-2010
732-030-0015	1-29-2010	Adopt	3-1-2010	735-072-0035	1-1-2010	Amend	2-1-2010
732-030-0015(T)	1-29-2010	Repeal	3-1-2010	735-080-0020	1-1-2010	Amend	2-1-2010
732-030-0020	1-29-2010	Adopt	3-1-2010	735-080-0040	1-1-2010	Amend	2-1-2010
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732-030-0025	1-29-2010	Adopt	3-1-2010	735-090-0120	1-1-2010	Amend	2-1-2010
732-030-0025(T)	1-29-2010	Repeal	3-1-2010	735-090-0125	1-1-2010	Adopt	2-1-2010
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732-030-0035	1-29-2010	Adopt	3-1-2010	735-150-0042	1-1-2010	Adopt	2-1-2010
732-030-0035(T)	1-29-2010	Repeal	3-1-2010	735-150-0047	1-1-2010	Adopt	2-1-2010
734-020-0148	1-28-2010	Adopt(T)	3-1-2010	735-150-0110	1-1-2010	Amend	2-1-2010
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736-004-0015	12-8-2009	Amend	1-1-2010	736-140-0015	12-8-2009	Adopt	1-1-2010
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736-004-0030	12-8-2009	Amend	1-1-2010	736-146-0015	12-4-2009	Amend	1-1-2010
736-004-0035	12-8-2009	Adopt	1-1-2010	736-146-0020	12-4-2009	Amend	1-1-2010
736-004-0060	12-8-2009	Amend	1-1-2010	736-146-0025	12-4-2009	Repeal	1-1-2010
736-004-0062	12-8-2009	Amend	1-1-2010	736-146-0030	12-4-2009	Repeal	1-1-2010
736-004-0065	12-8-2009	Amend	1-1-2010	736-146-0040	12-4-2009	Repeal	1-1-2010
736-004-0080	12-8-2009	Repeal	1-1-2010	736-146-0050	12-4-2009	Amend	1-1-2010
736-004-0085	12-8-2009	Amend	1-1-2010	736-146-0060	12-4-2009	Amend	1-1-2010
736-004-0090	12-8-2009	Amend	1-1-2010	736-146-0070	12-4-2009	Amend	1-1-2010
736-004-0095	12-8-2009	Amend	1-1-2010	736-146-0080	12-4-2009	Amend	1-1-2010
736-004-0110	12-8-2009	Amend	1-1-2010	736-146-0090	12-4-2009	Amend	1-1-2010
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736-004-0120	12-8-2009	Adopt	1-1-2010	736-146-0110	12-4-2009	Amend	1-1-2010
736-004-0125	12-8-2009	Adopt	1-1-2010	736-146-0120	12-4-2009	Amend	1-1-2010
736-009-0005	12-8-2009	Repeal	1-1-2010	736-146-0130	12-4-2009	Amend	1-1-2010
736-009-0006	12-8-2009	Adopt	1-1-2010	736-146-0140	12-4-2009	Amend	1-1-2010
736-009-0010	12-8-2009	Repeal	1-1-2010	736-147-0010	12-4-2009	Amend	1-1-2010
736-009-0015	12-8-2009	Repeal	1-1-2010	736-147-0020	12-4-2009	Repeal	1-1-2010
736-009-0020	12-8-2009	Amend	1-1-2010	736-147-0030	12-4-2009	Amend	1-1-2010
736-009-0021	12-8-2009	Adopt	1-1-2010	736-147-0040	12-4-2009	Adopt	1-1-2010
736-009-0022	12-8-2009	Adopt	1-1-2010	736-147-0050	12-4-2009	Amend	1-1-2010
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736-009-0030	12-8-2009	Amend	1-1-2010	736-147-0070	12-4-2009	Adopt	1-1-2010
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736-015-0035	1-5-2010	Amend	2-1-2010	738-010-0025	1-7-2010	Amend(T)	2-1-2010
736-015-0040	1-5-2010	Amend	2-1-2010	738-010-0035	1-7-2010	Amend(T)	2-1-2010
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736-029-0050	6-30-2011	Adopt	3-1-2010	740-200-0045	1-1-2010	Amend	2-1-2010
736-050-0001	2-3-2010	Amend	3-1-2010	800-001-0020	2-1-2010	Amend	3-1-2010
736-050-0002	2-3-2010	Repeal	3-1-2010	800-010-0015	2-1-2010	Amend	3-1-2010
736-050-0005	2-3-2010	Repeal	3-1-2010	800-010-0017	2-1-2010	Amend	3-1-2010
736-050-0100	2-3-2010	Amend	3-1-2010	800-010-0025	2-1-2010	Amend	3-1-2010
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736-050-0110	2-3-2010	Repeal	3-1-2010	800-010-0040	2-1-2010	Amend	3-1-2010
736-050-0112	2-3-2010	Adopt	3-1-2010	800-010-0041	2-1-2010	Amend	3-1-2010
736-050-0112(T)	2-3-2010	Repeal	3-1-2010	800-010-0050	2-1-2010	Amend	3-1-2010
736-050-0115	2-3-2010	Repeal	3-1-2010	800-015-0005	2-1-2010	Amend	3-1-2010
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736-050-0130	2-3-2010	Repeal	3-1-2010	800-020-0065	2-1-2010	Amend	3-1-2010
736-050-0130(T)	2-3-2010	Repeal	3-1-2010	800-025-0020	2-1-2010	Amend	3-1-2010
736-050-0135	2-3-2010	Amend	3-1-2010	800-025-0023	2-1-2010	Amend	3-1-2010
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736-050-0140	2-3-2010	Amend	3-1-2010	800-025-0027	2-1-2010	Amend	3-1-2010

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800-025-0040	2-1-2010	Amend	3-1-2010	811-035-0015	12-22-2009	Amend	2-1-2010
800-025-0050	2-1-2010	Amend	3-1-2010	812-001-0200	1-1-2010	Amend	1-1-2010
800-030-0035	2-1-2010	Amend	3-1-2010	812-001-0200	2-1-2010	Amend	3-1-2010
800-030-0050	2-1-2010	Amend	3-1-2010	812-003-0120	1-1-2010	Amend	1-1-2010
801-001-0035	1-1-2010	Amend	1-1-2010	812-003-0140	1-1-2010	Amend	1-1-2010
801-005-0010	1-1-2010	Amend	1-1-2010	812-004-0320	1-1-2010	Amend	1-1-2010
801-010-0010	1-1-2010	Amend	1-1-2010	812-005-0800	2-1-2010	Amend	3-1-2010
801-010-0060	1-1-2010	Amend	1-1-2010	812-007-0000	2-1-2010	Amend	3-1-2010
801-010-0075	1-1-2010	Amend	1-1-2010	812-007-0010	2-1-2010	Repeal	3-1-2010
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801-010-0100	1-1-2010	Amend	1-1-2010	812-007-0025	2-1-2010	Adopt	3-1-2010
801-010-0120	1-1-2010	Amend	1-1-2010	812-007-0030	2-1-2010	Repeal	3-1-2010
801-010-0345	1-1-2010	Amend	1-1-2010	812-007-0040	2-1-2010	Repeal	3-1-2010
801-020-0690	1-1-2010	Amend	1-1-2010	812-007-0050	2-1-2010	Repeal	3-1-2010
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801-050-0005	1-1-2010	Amend	1-1-2010	812-007-0080	2-1-2010	Repeal	3-1-2010
801-050-0010	1-1-2010	Amend	1-1-2010	812-007-0090	2-1-2010	Repeal	3-1-2010
801-050-0020	1-1-2010	Amend	1-1-2010	812-007-0100	2-1-2010	Adopt	3-1-2010
801-050-0030	1-1-2010	Amend	1-1-2010	812-007-0110	2-1-2010	Adopt	3-1-2010
801-050-0035	1-1-2010	Amend	1-1-2010	812-007-0120	2-1-2010	Adopt	3-1-2010
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808-002-0775	1-1-2010	Adopt	2-1-2010	812-007-0300	2-1-2010	Adopt	3-1-2010
808-002-0808	1-1-2010	Adopt	2-1-2010	812-007-0310	2-1-2010	Adopt	3-1-2010
808-002-0882	1-1-2010	Adopt	2-1-2010	812-007-0320	2-1-2010	Adopt	3-1-2010
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808-002-0895	1-1-2010	Adopt	2-1-2010	812-007-0350	2-1-2010	Adopt	3-1-2010
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809-055-0000	12-11-2009	Amend	1-1-2010	812-030-0010	2-1-2010	Adopt	3-1-2010

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812-030-0200	2-1-2010	Adopt	3-1-2010	833-001-0015	1-5-2010	Amend	2-1-2010
812-030-0210	2-1-2010	Adopt	3-1-2010	833-001-0020	1-5-2010	Amend	2-1-2010
812-030-0220	2-1-2010	Adopt	3-1-2010	833-010-0001	1-5-2010	Amend	2-1-2010
812-030-0230	2-1-2010	Adopt	3-1-2010	833-020-0001	1-5-2010	Repeal	2-1-2010
812-030-0240	2-1-2010	Adopt	3-1-2010	833-020-0010	1-5-2010	Repeal	2-1-2010
812-030-0250	2-1-2010	Adopt	3-1-2010	833-020-0011	1-5-2010	Adopt	2-1-2010
812-030-0300	2-1-2010	Adopt	3-1-2010	833-020-0015	1-5-2010	Repeal	2-1-2010
813-007-0005	1-7-2010	Adopt	2-1-2010	833-020-0020	1-5-2010	Repeal	2-1-2010
813-007-0010	1-7-2010	Adopt	2-1-2010	833-020-0021	1-5-2010	Adopt	2-1-2010
813-007-0015	1-7-2010	Adopt	2-1-2010	833-020-0022	1-5-2010	Repeal	2-1-2010
813-007-0020	1-7-2010	Adopt	2-1-2010	833-020-0030	1-5-2010	Repeal	2-1-2010
813-007-0025	1-7-2010	Adopt	2-1-2010	833-020-0031	1-5-2010	Adopt	2-1-2010
813-007-0030	1-7-2010	Adopt	2-1-2010	833-020-0040	1-5-2010	Repeal	2-1-2010
813-007-0035	1-7-2010	Adopt	2-1-2010	833-020-0041	1-5-2010	Adopt	2-1-2010
813-007-0040	1-7-2010	Adopt	2-1-2010	833-020-0050	1-5-2010	Repeal	2-1-2010
813-007-0045	1-7-2010	Adopt	2-1-2010	833-020-0051	1-5-2010	Adopt	2-1-2010
813-007-0050	1-7-2010	Adopt	2-1-2010	833-020-0060	1-5-2010	Repeal	2-1-2010
813-007-0055	1-7-2010	Adopt	2-1-2010	833-020-0061	1-5-2010	Adopt	2-1-2010
813-007-0060	1-7-2010	Adopt	2-1-2010	833-020-0071	1-5-2010	Adopt	2-1-2010
813-007-0065	1-7-2010	Adopt	2-1-2010	833-020-0080	1-5-2010	Repeal	2-1-2010
813-007-0070	1-7-2010	Adopt	2-1-2010	833-020-0081	1-5-2010	Adopt	2-1-2010
813-041-0000	12-15-2009	Amend(T)	1-1-2010	833-020-0090	1-5-2010	Repeal	2-1-2010
813-041-0005	12-15-2009	Amend(T)	1-1-2010	833-020-0091	1-5-2010	Adopt	2-1-2010
813-041-0010	12-15-2009	Amend(T)	1-1-2010	833-020-0100	1-5-2010	Repeal	2-1-2010
813-041-0015	12-15-2009	Amend(T)	1-1-2010	833-020-0101	1-5-2010	Adopt	2-1-2010
813-041-0020	12-15-2009	Amend(T)	1-1-2010	833-020-0111	1-5-2010	Repeal	2-1-2010
813-041-0025	12-15-2009	Amend(T)	1-1-2010	833-020-0112	1-5-2010	Adopt	2-1-2010
813-041-0027	12-15-2009	Adopt(T)	1-1-2010	833-020-0120	1-5-2010	Repeal	2-1-2010
813-041-0030	12-15-2009	Amend(T)	1-1-2010	833-020-0140	1-5-2010	Repeal	2-1-2010
813-041-0035	12-15-2009	Adopt(T)	1-1-2010	833-020-0150	1-5-2010	Repeal	2-1-2010
813-044-0000	12-22-2009	Amend	2-1-2010	833-020-0155	1-5-2010	Repeal	2-1-2010
813-044-0010	12-22-2009	Amend	2-1-2010	833-020-0160	1-5-2010	Repeal	2-1-2010
813-044-0020	12-22-2009	Amend	2-1-2010	833-020-0164	1-5-2010	Repeal	2-1-2010
813-044-0030	12-22-2009	Amend	2-1-2010	833-020-0165	1-5-2010	Repeal	2-1-2010
813-044-0040	12-22-2009	Amend	2-1-2010	833-020-0201	1-11-2010	Adopt(T)	2-1-2010
813-044-0050	12-22-2009	Amend	2-1-2010	833-025-0001	1-5-2010	Repeal	2-1-2010
813-044-0060	12-22-2009	Adopt	2-1-2010	833-025-0005	1-5-2010	Repeal	2-1-2010
813-055-0001	12-22-2009	Adopt	2-1-2010	833-025-0006	1-5-2010	Repeal	2-1-2010
813-055-0010	12-22-2009	Adopt	2-1-2010	833-025-0050	1-5-2010	Repeal	2-1-2010
813-055-0020	12-22-2009	Adopt	2-1-2010	833-025-0060	1-5-2010	Repeal	2-1-2010
813-055-0030	12-22-2009	Adopt	2-1-2010	833-030-0001	1-5-2010	Repeal	2-1-2010
813-055-0040	12-22-2009	Adopt	2-1-2010	833-030-0005	1-5-2010	Repeal	2-1-2010
813-055-0050	12-22-2009	Adopt	2-1-2010	833-030-0010	1-5-2010	Repeal	2-1-2010
813-055-0060	12-22-2009	Adopt	2-1-2010	833-030-0011	1-5-2010	Adopt	2-1-2010
813-055-0070	12-22-2009	Adopt	2-1-2010	833-030-0015	1-5-2010	Repeal	2-1-2010
813-055-0080	12-22-2009	Adopt	2-1-2010	833-030-0020	1-5-2010	Repeal	2-1-2010
813-055-0090	12-22-2009	Adopt	2-1-2010	833-030-0021	1-5-2010	Adopt	2-1-2010
813-055-0100	12-22-2009	Adopt	2-1-2010	833-030-0031	1-5-2010	Adopt	2-1-2010
813-055-0110	12-22-2009	Adopt	2-1-2010	833-030-0041	1-5-2010	Adopt	2-1-2010
813-140-0096	1-7-2010	Amend	2-1-2010	833-030-0051	1-5-2010	Adopt	2-1-2010
813-300-0010	1-7-2010	Amend	2-1-2010	833-040-0001	1-5-2010	Repeal	2-1-2010
813-300-0100	1-7-2010	Amend	2-1-2010	833-040-0010	1-5-2010	Repeal	2-1-2010
817-040-0003	12-26-2009	Amend(T)	2-1-2010	833-040-0011	1-5-2010	Adopt	2-1-2010
833-001-0000	1-5-2010	Amend	2-1-2010	833-040-0020	1-5-2010	Repeal	2-1-2010

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833-040-0031	1-5-2010	Adopt	2-1-2010	833-100-0071	1-5-2010	Adopt	2-1-2010
833-040-0041	1-5-2010	Adopt	2-1-2010	833-110-0011	1-5-2010	Adopt	2-1-2010
833-040-0051	1-5-2010	Adopt	2-1-2010	833-110-0021	1-5-2010	Adopt	2-1-2010
833-050-0001	1-5-2010	Repeal	2-1-2010	833-120-0011	1-5-2010	Adopt	2-1-2010
833-050-0010	1-5-2010	Repeal	2-1-2010	833-120-0021	1-5-2010	Adopt	2-1-2010
833-050-0011	1-5-2010	Adopt	2-1-2010	833-120-0031	1-5-2010	Adopt	2-1-2010
833-050-0020	1-5-2010	Repeal	2-1-2010	833-120-0041	1-5-2010	Adopt	2-1-2010
833-050-0021	1-5-2010	Adopt	2-1-2010	836-009-0007	2-1-2010	Amend	2-1-2010
833-050-0025	1-5-2010	Repeal	2-1-2010	836-011-0000	12-9-2009	Amend	1-1-2010
833-050-0030	1-5-2010	Repeal	2-1-2010	836-012-0300	2-5-2010	Amend	3-1-2010
833-050-0031	1-5-2010	Adopt	2-1-2010	836-012-0310	2-5-2010	Amend	3-1-2010
833-050-0040	1-5-2010	Repeal	2-1-2010	836-012-0332	2-5-2010	Adopt	3-1-2010
833-050-0041	1-5-2010	Adopt	2-1-2010	836-014-0200	1-5-2010	Amend	2-1-2010
833-050-0051	1-5-2010	Adopt	2-1-2010	836-014-0205	1-5-2010	Adopt	2-1-2010
833-050-0061	1-5-2010	Adopt	2-1-2010	836-014-0210	1-5-2010	Amend	2-1-2010
833-050-0071	1-5-2010	Adopt	2-1-2010	836-014-0220	1-5-2010	Amend	2-1-2010
833-050-0081	1-5-2010	Adopt	2-1-2010	836-014-0226	1-5-2010	Adopt	2-1-2010
833-050-0091	1-5-2010	Adopt	2-1-2010	836-014-0240	1-5-2010	Amend	2-1-2010
833-050-0111	1-5-2010	Adopt	2-1-2010	836-014-0250	1-5-2010	Amend	2-1-2010
833-050-0121	1-5-2010	Adopt	2-1-2010	836-014-0260	1-5-2010	Amend	2-1-2010
833-050-0131	1-5-2010	Adopt	2-1-2010	836-014-0263	1-5-2010	Adopt	2-1-2010
833-050-0141	1-5-2010	Adopt	2-1-2010	836-014-0265	1-5-2010	Amend	2-1-2010
833-050-0151	1-5-2010	Adopt	2-1-2010	836-014-0270	1-5-2010	Amend	2-1-2010
833-050-0161	1-5-2010	Adopt	2-1-2010	836-014-0280	1-5-2010	Amend	2-1-2010
833-060-0011	1-5-2010	Repeal	2-1-2010	836-014-0285	1-5-2010	Adopt	2-1-2010
833-060-0012	1-5-2010	Adopt	2-1-2010	836-014-0290	1-5-2010	Amend	2-1-2010
833-060-0021	1-5-2010	Repeal	2-1-2010	836-014-0300	1-5-2010	Amend	2-1-2010
833-060-0022	1-5-2010	Adopt	2-1-2010	836-014-0310	1-5-2010	Amend	2-1-2010
833-060-0031	1-5-2010	Repeal	2-1-2010	836-014-0320	1-5-2010	Amend	2-1-2010
833-060-0032	1-5-2010	Adopt	2-1-2010	836-014-0325	1-5-2010	Adopt	2-1-2010
833-060-0041	1-5-2010	Repeal	2-1-2010	836-052-1000	12-18-2009	Amend	2-1-2010
833-060-0042	1-5-2010	Adopt	2-1-2010	836-053-0855	12-23-2009	Amend(T)	2-1-2010
833-060-0051	1-5-2010	Repeal	2-1-2010	836-053-0855	1-8-2010	Amend(T)	2-1-2010
833-060-0052	1-5-2010	Adopt	2-1-2010	836-053-0855(T)	1-8-2010	Suspend	2-1-2010
833-060-0061	1-5-2010	Repeal	2-1-2010	836-053-0860	12-23-2009	Amend(T)	2-1-2010
833-060-0071	1-5-2010	Repeal	2-1-2010	836-053-0860	1-8-2010	Amend(T)	2-1-2010
833-070-0011	1-5-2010	Adopt	2-1-2010	836-053-0860(T)	1-8-2010	Suspend	2-1-2010
833-070-0011	1-11-2010	Amend(T)	2-1-2010	836-053-0865	12-23-2009	Amend(T)	2-1-2010
833-070-0021	1-5-2010	Adopt	2-1-2010	836-053-0865	1-8-2010	Amend(T)	2-1-2010
833-070-0031	1-5-2010	Adopt	2-1-2010	836-053-0865(T)	1-8-2010	Suspend	2-1-2010
833-080-0011	1-5-2010	Adopt	2-1-2010	836-071-0101	2-1-2010	Amend	2-1-2010
833-080-0021	1-5-2010	Adopt	2-1-2010	836-071-0113	2-1-2010	Adopt	2-1-2010
833-080-0031	1-5-2010	Adopt	2-1-2010	836-071-0127	2-1-2010	Amend	2-1-2010
833-080-0041	1-5-2010	Adopt	2-1-2010	836-071-0130	2-1-2010	Amend	2-1-2010
833-080-0051	1-5-2010	Adopt	2-1-2010	836-071-0185	2-1-2010	Amend	2-1-2010
833-080-0061	1-5-2010	Adopt	2-1-2010	836-080-0240	1-1-2010	Amend	2-1-2010
833-090-0010	1-5-2010	Adopt	2-1-2010	837-040-0010	4-1-2010	Amend	1-1-2010
833-090-0020	1-5-2010	Adopt	2-1-2010	837-040-0010	7-1-2010	Amend(T)	3-1-2010
833-090-0030	1-5-2010	Adopt	2-1-2010	837-040-0020	7-1-2010	Amend(T)	3-1-2010
833-090-0040	1-5-2010	Adopt	2-1-2010	837-040-0140	4-1-2010	Amend	1-1-2010
833-100-0011	1-5-2010	Adopt	2-1-2010	837-040-0140	7-1-2010	Amend(T)	3-1-2010
833-100-0021	1-5-2010	Adopt	2-1-2010	837-040-0020	4-1-2010	Amend	1-1-2010
833-100-0031	1-5-2010	Adopt	2-1-2010	837-046-0000	11-21-2009	Adopt	1-1-2010
833-100-0041	1-5-2010	Adopt	2-1-2010	837-046-0020	11-21-2009	Adopt	1-1-2010
833-100-0051	1-5-2010	Adopt	2-1-2010	837-046-0040	11-21-2009	Adopt	1-1-2010

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837-046-0080	11-21-2009	Adopt	1-1-2010	839-025-0020(T)	1-1-2010	Repeal	1-1-2010
837-046-0100	11-21-2009	Adopt	1-1-2010	839-025-0030	1-1-2010	Amend	1-1-2010
837-046-0120	11-21-2009	Adopt	1-1-2010	839-025-0030(T)	1-1-2010	Repeal	1-1-2010
837-046-0140	11-21-2009	Adopt	1-1-2010	839-025-0035	1-1-2010	Amend	1-1-2010
837-046-0160	11-21-2009	Adopt	1-1-2010	839-025-0035(T)	1-1-2010	Repeal	1-1-2010
837-046-0180	11-21-2009	Adopt	1-1-2010	839-025-0085	1-1-2010	Amend	1-1-2010
837-085-0020	2-1-2010	Amend	3-1-2010	839-025-0085(T)	1-1-2010	Repeal	1-1-2010
837-085-0030	2-1-2010	Amend	3-1-2010	839-025-0200	1-1-2010	Amend	1-1-2010
837-085-0040	2-1-2010	Amend	3-1-2010	839-025-0200(T)	1-1-2010	Repeal	1-1-2010
837-085-0050	2-1-2010	Amend	3-1-2010	839-025-0210	1-1-2010	Amend	1-1-2010
837-085-0060	2-1-2010	Amend	3-1-2010	839-025-0210(T)	1-1-2010	Repeal	1-1-2010
837-085-0070	2-1-2010	Amend	3-1-2010	839-025-0530	1-1-2010	Amend	1-1-2010
837-085-0080	2-1-2010	Amend	3-1-2010	839-025-0530(T)	1-1-2010	Repeal	1-1-2010
837-085-0090	2-1-2010	Amend	3-1-2010	839-025-0700	11-23-2009	Amend	1-1-2010
837-085-0100	2-1-2010	Amend	3-1-2010	839-025-0700	1-1-2010	Amend	2-1-2010
837-085-0110	2-1-2010	Amend	3-1-2010	839-025-0700	1-12-2010	Amend	2-1-2010
837-085-0120	2-1-2010	Amend	3-1-2010	839-025-0700	1-13-2010	Amend	2-1-2010
837-085-0140	2-1-2010	Amend	3-1-2010	839-025-0700	1-19-2010	Amend	3-1-2010
837-085-0150	2-1-2010	Amend	3-1-2010	839-025-0700	1-27-2010	Amend	3-1-2010
837-085-0170	2-1-2010	Amend	3-1-2010	847-005-0005	1-26-2010	Amend	3-1-2010
837-085-0180	2-1-2010	Amend	3-1-2010	847-005-0005(T)	1-26-2010	Repeal	3-1-2010
837-085-0190	2-1-2010	Amend	3-1-2010	847-008-0023	1-26-2010	Amend	3-1-2010
837-085-0200	2-1-2010	Amend	3-1-2010	847-010-0073	1-26-2010	Amend	3-1-2010
837-085-0210	2-1-2010	Amend	3-1-2010	847-026-0000	1-26-2010	Adopt	3-1-2010
837-085-0220	2-1-2010	Amend	3-1-2010	847-026-0000(T)	1-26-2010	Repeal	3-1-2010
837-085-0230	2-1-2010	Amend	3-1-2010	847-026-0005	1-26-2010	Adopt	3-1-2010
837-085-0250	2-1-2010	Amend	3-1-2010	847-026-0005(T)	1-26-2010	Repeal	3-1-2010
837-085-0260	2-1-2010	Amend	3-1-2010	847-026-0010	1-26-2010	Adopt	3-1-2010
837-085-0270	2-1-2010	Amend	3-1-2010	847-026-0010(T)	1-26-2010	Repeal	3-1-2010
837-085-0280	2-1-2010	Amend	3-1-2010	847-026-0015	1-26-2010	Adopt	3-1-2010
837-085-0290	2-1-2010	Amend	3-1-2010	847-026-0015(T)	1-26-2010	Repeal	3-1-2010
837-085-0300	2-1-2010	Amend	3-1-2010	847-026-0020	1-26-2010	Adopt	3-1-2010
837-085-0305	2-1-2010	Amend	3-1-2010	847-026-0020(T)	1-26-2010	Repeal	3-1-2010
837-085-0310	2-1-2010	Amend	3-1-2010	847-035-0030	1-26-2010	Amend	3-1-2010
837-085-0340	2-1-2010	Amend	3-1-2010	847-035-0030(T)	1-26-2010	Repeal	3-1-2010
837-085-0350	2-1-2010	Amend	3-1-2010	850-060-0225	1-1-2010	Amend	1-1-2010
837-085-0380	2-1-2010	Amend	3-1-2010	850-060-0226	1-1-2010	Amend	1-1-2010
837-090-1145	11-18-2009	Amend	1-1-2010	851-002-0010	1-1-2010	Amend	2-1-2010
839-001-0495	1-1-2010	Amend	1-1-2010	851-002-0020	1-1-2010	Amend	2-1-2010
839-001-0496	1-1-2010	Amend	1-1-2010	851-002-0035	1-1-2010	Amend	2-1-2010
839-001-0515	1-1-2010	Amend	1-1-2010	851-002-0040	1-1-2010	Amend	2-1-2010
839-001-0520	1-1-2010	Amend	1-1-2010	851-010-0024	1-21-2010	Adopt(T)	3-1-2010
839-001-0700	1-1-2010	Amend	1-1-2010	851-050-0000	1-1-2010	Amend	2-1-2010
839-001-0750	1-1-2010	Repeal	1-1-2010	851-050-0001	1-1-2010	Amend	2-1-2010
839-002-0030	2-12-2010	Amend(T)	3-1-2010	851-050-0002	7-1-2010	Amend	2-1-2010
839-002-0040	2-12-2010	Amend(T)	3-1-2010	851-050-0004	1-1-2010	Amend	2-1-2010
839-002-0045	2-12-2010	Amend(T)	3-1-2010	851-050-0005	1-1-2010	Amend	2-1-2010
839-002-0050	2-12-2010	Amend(T)	3-1-2010	851-050-0006	7-1-2010	Amend	2-1-2010
839-021-0070	1-1-2010	Amend	1-1-2010	851-050-0008	1-1-2010	Adopt	2-1-2010
839-021-0280	1-1-2010	Amend	1-1-2010	851-050-0010	1-1-2010	Amend	2-1-2010
839-021-0290	1-1-2010	Amend	1-1-2010	851-050-0138	1-1-2010	Amend	2-1-2010
839-025-0010	1-1-2010	Amend	1-1-2010	851-050-0142	1-1-2010	Adopt	2-1-2010
839-025-0013	1-1-2010	Amend	1-1-2010	851-056-0000	1-1-2010	Amend	2-1-2010
839-025-0013(T)	1-1-2010	Repeal	1-1-2010	851-056-0006	1-1-2010	Amend	2-1-2010
839-025-0015	1-1-2010	Amend	1-1-2010	851-056-0010	1-1-2010	Amend	2-1-2010

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851-056-0020	1-1-2010	Amend	2-1-2010	858-010-0010	1-8-2010	Amend	2-1-2010
851-056-0024	1-1-2010	Amend	2-1-2010	858-010-0015	1-8-2010	Amend	2-1-2010
851-061-0090	12-17-2009	Amend	2-1-2010	858-010-0016	1-8-2010	Adopt	2-1-2010
851-063-0030	12-17-2009	Amend	2-1-2010	858-010-0017	1-8-2010	Adopt	2-1-2010
851-063-0035	12-17-2009	Amend	2-1-2010	858-010-0018	1-8-2010	Adopt	2-1-2010
851-063-0090	12-17-2009	Amend	2-1-2010	858-010-0020	1-8-2010	Amend	2-1-2010
852-005-0015	12-11-2009	Adopt	1-1-2010	858-010-0025	1-8-2010	Amend	2-1-2010
852-010-0080	12-11-2009	Amend	1-1-2010	858-010-0030	1-8-2010	Amend	2-1-2010
852-020-0035	12-11-2009	Amend	1-1-2010	858-010-0034	1-8-2010	Adopt	2-1-2010
852-020-0060	12-11-2009	Amend	1-1-2010	858-010-0036	1-8-2010	Amend	2-1-2010
852-050-0006	12-11-2009	Amend	1-1-2010	858-010-0037	1-8-2010	Adopt	2-1-2010
855-007-0010	12-24-2009	Amend	2-1-2010	858-010-0038	1-8-2010	Adopt	2-1-2010
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